



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0295-19
2. Advertiser :	Tabcorp Holdings Limited
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	25-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Wagering Code\2.1 Directed to Minors
AANA Wagering Code\2.8 Excess participation

DESCRIPTION OF ADVERTISEMENT

There are two versions of this television advertisement.

The first version features an image of people's feet, wearing formal shoes on grass. A voice-over states, "Looking the part. In fine form. But untested on a wet track." A woman wearing metallic stilettos walks into the frame, as she takes a step the heel of her shoe sinks into the ground and the sound effect of a camera shutter is heard. The words 'Long may we play' and the TAB logo are superimposed onto the screen.

The second version features someone on a ride-on mower, mowing a race track while a voice-over which sounds like race commentary can be heard in the background. The words 'Long may we play' and the TAB logo are superimposed onto the screen.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

The very idea of gambling being 'play' or 'playful' is what I object to the most. The inference is that when you make a bet you're 'playing' a game. This sets a dangerous



precedent in tone when in fact gambling and gambling addictions, are playing with people's lives. I feel that the description downplays the severity of gambling and the use of the term 'play' is something that would appeal to children and young adults (although I appreciate there are limitation time wise when they can play the adverts so as not to directly appeal to children).

My concern around the use of the word 'play' is that it is tantamount to an inducement - by reducing the severity of the action of gambling to something more innocent, which may cause people to be wilfully negligent in the way they bet and their betting behaviour as they're only 'playing'. The responsible gaming information is also less prominent than in other adverts (where a black tile is shown at the end with bold white writing referring the viewer to the responsible gaming tagline).

Finally, there is also an issue with the content, in that they are relating everyday activities to betting occasions. The example of a track worker on a mower. The voiceover is speaking in racing terminology relating the action to a horse race. The issue here is I feel it is standard knowledge that the best time to mow grass is in the early morning - meaning that the advert is championing a lifestyle where betting is acceptable early in the morning. It's also the very idea that 'everything' can be bet on - which is a dangerous statement to make and one that I feel infringes on the code of advertising as it normalises betting.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

We refer to your letter dated 9 September 2019 in relation to the complaint received by Ad Standards on 29 August 2019 in relation to two television advertisements (CAD Reference No. 2843546, CAD Rating "B") (CAD Reference No.2843549, Rating "B") (the Advertisements) that aired on various Free to Air television programs (the Complaint).

Description of the advertisement

The Advertisements are part of the "Long May We Play" campaign which aims to highlight the role that racing and sport plays in Australians' lives and their ability to bring us together.

The first advertisement shows a track worker on a lawn mower (First Advertisement). As the track worker is maintaining the race track, part of a race call (racing commentary) is playing in the background.

The second advertisement focusses on the footwear of a number of people on grass (Second Advertisement). In the background a voice over is playing and says "Looking the part. In fine form. But untested on a wet track." During the time the voice over is playing, a person wearing high heels can be seen walking into the middle of the picture, followed by the heel of the shoe sinking into the grass.



Consideration of Section 2 of the Code of Ethics

Our responses to each part of Section 2 of the AANA Advertiser Code of Ethics (the Code of Ethics) are outlined below:

- 1. Discrimination or vilification – The Advertisements do not contain any matter that could be considered discriminatory or that vilifies any members of the community, including women.*
- 2. Exploitative or degrading – The Advertisements do not employ sexual appeal in a manner that is exploitative or degrading of any individual or group of people.*
- 3. Violence – The Advertisements do not present or portray any form of violence.*
- 4. Sex, sexuality and nudity – The Advertisements do not refer to any matters of sex or nudity.*
- 5. Language – The Advertisements do not contain any strong or obscene language and is therefore appropriate in the circumstances.*
- 6. Health and Safety – The Advertisements do not depict images contrary to public health and safety with regards to the use of motor vehicles.*
- 7. Distinguishable as advertising – The Advertisements are clearly distinguishable as advertising, including because there is a call to action for TAB at the conclusion of the Advertisement.*

Consideration of Section 2 of the Wagering Code

We have reviewed Section 2 of the AANA Wagering Advertising and Marketing Communications Code (the Wagering Code) and note as follows:

- 1. Directed to Minors – The Advertisements are not directed primarily towards minors, including with respect to the Advertisements' themes, visuals and language. The First Advertisement relates to an adult track worker, and the Second Advertisement relates to adult footwear. None of these scenarios specifically relate to minors, and the manner in which these scenarios are depicted specifically appeal to minors. Additionally, our media buyer, OMD, has instructions not to purchase advertising spots for TAB during shows that are targeted to minors.*

The Complaint states the Advertisements use the language “play”, which infers betting is similar to “playing” and therefore directed to minors. This is not the intent of the Advertisements. The intent of the Advertisements and the broader “Long May We Pay” campaign is to highlight the role racing and sport plays in Australians’ lives, and not gambling. We also note that “play”, being a recreational pursuit, can be undertaken by people of all ages and is not limited to minors



2. *Depiction of Minors – The Advertisements do not depict any minors.*
3. *Depiction of a person aged 18-24 years – The Advertisements do not depict a person aged between 18 – 24 years old engaging in wagering activities.*
4. *Alcohol – The Advertisements do not portray, condone or encourage wagering in combination with the consumption of alcohol.*
5. *Promise of winning – The Advertisements do not state or imply a promise of winning.*
6. *Relief of financial or personal difficulties – The Advertisements do not portray, condone or encourage participation in wagering activities as a means of relieving a person’s financial or personal difficulties.*
7. *Sexual success – The Advertisements do not state or imply a link between wagering and sexual success or enhanced attractiveness.*
8. *Excessive participation in wagering – The Advertisements do not portray, condone or encourage excessive participation in wagering.*

The Complaint states the First Advertisement champions “a lifestyle where betting is acceptable early in the morning” because this Advertisement depicts “a track worker on a mower” and “it is standard knowledge that the best time to mow the grass is in the early morning”. As stated above, this is not the intent of this Advertisement. The intent of the First Advertisement and the broader “Long May We Play Campaign” is to highlight the role racing and sport in Australians’ lives, and not gambling.

9. *Peer pressure to wager – The Advertisements do not portray, condone or encourage peer pressure to wager.*

If required, we would welcome the opportunity to discuss this matter further with you. Thank you again for the opportunity to comment on this matter.

THE DETERMINATION

The Ad Standards Community Panel (“Panel”) considered whether this advertisement breaches the AANA Wagering Advertising and Marketing Communication Code (Wagering Code).

The Panel noted the complainant’s concern that the advertisement is appealing to children and promotes excessive participating in wagering activities by championing a lifestyle that gambling is acceptable early in the morning.

The Panel reviewed the advertisement and noted the advertiser’s response.



The Panel noted that the advertiser is a company licensed in a State or Territory of Australia to provide wagering products or services to customers in Australia and that the product advertised is a wagering product or service and therefore the provisions of the Wagering Code apply.

As per the AANA Wagering Advertising and Marketing Communication Code Practice Note:

“The Code applies to advertising and marketing communication for wagering products and services provided by licensed operators in Australia.

In particular the Panel considered Section 2.1 of the Wagering Code which provides: ‘Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to theme, visuals and language used, be directed primarily to Minors’.

The Panel noted that Minors are defined in the Code as persons under the age of 18 years.

The Panel noted the complainant’s concern that the advertisement’s use of the word “play” is appealing to children.

The Panel noted the advice provided in the Practice Note to Section 2.1: “Whether an advertisement or marketing communication is “directed primarily to minors” is an objective test based on a range a factors. It is a combination of visual techniques and age of characters and actors which will mean the marketing communication is directed primarily to minors.”

The Panel considered that the word “play” was not a term of primary appeal to children. The Panel considered that the word is common and can refer to several things, including playing sport, playing to an audience (e.g. a concert), playing host for an event, playing a joke, playing a part, or a play (i.e. a performance on stage).

The Panel considered that the advertisement features a racecourse being mowed and a depiction of racegoers attending a race meeting by showing feet on a grassed area, and considered that the voiceover is typical of racing events. The Panel considered that the advertisement has no theme, visuals or language that would be attractive to or directed to minors and considered that the advertisement was not targeting children and was not directed primarily to minors. The Panel considered that the advertisement was clearly directed at an adult audience.

The Panel determined that the advertisement did not breach Section 2.1 of the Wagering Code.

The Panel then considered Section 2.8 of the Wagering Code which provides: “Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities.”



The Panel considered whether the advertisement portrayed ‘excessive’ participation in wagering activities.

The Panel noted the complainant’s concern that the advertisement depicts a man mowing a racecourse, and that it is common knowledge that early morning is the best time to mow a lawn. The Panel noted that the complainant considered this depiction to be suggesting that betting in the early morning was appropriate.

The Panel noted that this refers to the second version of the advertisement, which depicts a man mowing a racecourse while the voiceover of a race caller can be heard.

The Panel noted the Practice Note to Section 2.8 of the Wagering Code which provides: “Simply depicting regular wagering, for example as a routine weekend pursuit during a sporting season, does not equate to portraying excessive participation. An advertisement or marketing communication would portray, condone or encourage excessive participation in wagering activities where it depicts:

- participants wagering beyond their means;
- wagering taking priority in a participant’s life;
- prolonged and frequent wagering to improve a participant’s skill in wagering.”

Whilst the Practice Note lists three examples the Panel considered that this did not restrict the application of Section 2.8. The Panel considered that the depiction in the advertisement did not meet any of the examples set out in the Practice Note, so then considered whether the depiction would be considered as ‘excessive’ taking into consideration the definition of excessive.

The Panel noted the definition of ‘excessive’ (Macquarie Australian Encyclopedic Dictionary 2006) as being ‘exceeding the usual or proper limit or degree; characterized by excess.’ The Panel also noted that ‘Excess’ includes the definition of ‘going beyond ordinary or proper limits.’

The Panel noted it had previously upheld complaints about excessive participation in wagering activities in case 0447/16, 0459/17 and 0492/17 where wagering appeared to take priority in a participant’s life or participants went beyond ordinary or proper limits.

In contrast, in the current case, the Panel considered that overall the advertisement is depicting a man mowing a racecourse, presumably prior to that day’s racing event. The Panel considered that the man is not shown to be gambling. The Panel considered that the advertisement does not suggest that viewers should bet outside of their means, or bet consistently throughout the day.

The Panel considered that the advertisement was not condoning or encouraging excessive participation and in the Panel’s view the message taken from the promotion is not a portrayal of or encouragement for, excessive participation in wagering activities.



The Panel determined that the actions of the man are not a depiction that breaches Section 2.8 of the Wagering Code.

The Panel noted the complainant's concern that the implication that gambling is "playing" is dangerous in tone when gambling and gambling addictions are playing with people's lives.

The Panel noted that concerns relating to the legality or social acceptance of allowing the advertising of a gambling related product or service is not an issue under the Wagering Code.

The Panel considered that most members of the community would not consider the visuals of the advertisement associated with preparation or attendance at a race meeting and the on-screen text of "Long may we play" to be tantamount a suggestion that gambling is reduced to a level of being a playful game.

Finding that the advertisement did not breach the Wagering Code on other grounds, the Panel dismissed the complaint.