



Case Report

1	Case Number	0298/15
2	Advertiser	Tabcorp
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/08/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising to Children Code 2.01 Community Standards
2.6 - Health and Safety Depiction of smoking/drinking/gambling
2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Set to some of the lyrics of the song "I Gotta Feeling" by The Black Eyed Peas, the advertisement features images of young adults dancing and moving to music. The advertisement features some coloured bubble shapes at the beginning and at the end one of the bubbles includes the text "turn \$1 into 1 million."

THE COMPLAINT

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

It made gambling look attractive.

The song immediately attracts the attention of my children and then the bubble in the corner of the screen stating "turn \$1 into \$1 million"

Immediately had my 8 year old son asking what the product was and when I explained he asked if we could play it. The fact that this ad has been played at least 3 times tonight (starting from 7pm) and the same amount last night during the screening of "the voice" which is a family show and in the middle of the school holidays makes me really angry. I think it's totally irresponsible

Of channel 9 to be showing this ad during a family show .

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 letters dated 20 and 29 July 2015 addressed to Tabcorp. The letters set out two complaints that have been made about a Keno advertisement on free to air television.

We submit that it is clear that the advertisement does not breach the AANA Code of Advertising and Marketing Communications to Children nor does it breach the AANA Code of Ethics. The advertisement was not directed at children, but was aimed at adults and ran in timeslots that would reach that demographic.

The themes, visuals and language are consistent with the rest of our advertising campaigns for Keno (which is a type of lottery game). While the advertisement includes adults who are smiling and dancing and therefore generally enjoying themselves, sections 2.1-2.5 of the Code of Ethics do not apply since the advertisement does not contain elements of vilification, sexual appeal, violence, sexuality and nudity, or strong language.

By way of background, all Keno advertisements are reviewed and authorised by Tabcorp's internal Legal Department. In addition, as it was broadcasted on free to air television, FreeTV's Commercials Advice team approved this advertisement prior to it being broadcast on all free to air channels in metro and regional New South Wales, Queensland and Victoria.

Tabcorp takes great care to advertise its products at appropriate times and during relevant programs. This ensures that the appropriate audience is exposed to the advertisement. Tabcorp only creates Keno advertisements for, and tests them against, our target markets (which demographically are 25-55 year olds). No programming rated C (children) was used during the campaign. Whilst we endeavoured to make the advertisement engaging for adult viewers through bright, happy and professional graphics, there was a conscious effort to ensure that the advertisement was not targeted at children.

Set out below is our response to the complaint dated 20 July 2015 (the First Complaint) and the complaint dated 29 July (the Second Complaint). In respect of the Second Complaint, we note that the complainant advises that they are from Victoria and viewed the advertisement at 9.20pm on Channel 10 on 28 July 2015. We note that the advertisement in question was not shown on Channel 10 in Victoria on 28 July, and that the closest showing of the advertisement on Channel 10 was in fact at 12.20am on 29 July.

1. In reference to the Children's Code, we note as follows:

(a) The advertisement is not advertising or marketing to children of any age (who are defined in the Code as "persons 14 years old or younger"). The advertisement only features images of adults who are over the age of 25 and does not feature images of any children. In addition, Keno is not a product directed at children as it can only be played by adults aged 18 years and over.

(b) The First Complaint refers to the advertisement using a "very catchy song that my kids

hear on the radio regularly.” Various songs were tested with our target audience of 25-55 year olds and the song included in the advertisement had the widest appeal. The lyrics of the song (which focus on “I gotta feeling” and “That tonight’s gonna be a good night”) strongly support our product’s tagline that it “makes good times great”.

(c) The First Complaint also refers to the advertisement attracting the “attention of my children and then the bubble in the corner of the screen stating ‘turn \$1 into \$1 million’”. Common to advertising campaigns, the advertisement is fun and exciting and uses easy to understand language to promote potential prizes. The branding of Keno has historically used various depictions of balls, and the clear language is used as it is a new game. The advertisement was therefore targeted at adults.

2. In reference to the Code of Ethics, we note as follows:

(a) Tabcorp is of the opinion that this advertisement complies with the Code of Ethics and that it does not depict material contrary to prevailing community standards on health and safety regarding gambling (section 2.6). The complainant in the First Complaint claims that the advertisement should not be shown “during the screening of ‘the voice’ which is a family show and in the middle of the school holidays”. The advertisement does not depict material that is contrary to prevailing community standards given playing Keno is a legal activity and there is no suggestion of gambling by children in the advertisement. In particular, we note that 77% of the target audience for The Voice covers Keno’s primary and secondary target demographic.

As it is unclear to us what channel and what time the second complainant is referring to (see our comments above about the advertisement not being shown at the time indicated in the Second Complaint), we are unable to provide demographic information.

(b) The Second Complaint refers to the advertisement using “upbeat music with people dancing because they had won on keno”. As outlined above, various songs were tested with our target audience of 25-55 year olds and the song included in the advertisement had the widest appeal as well as the lyrics of the song strongly supporting our product’s tagline that it “makes good times great”.

(c) Tabcorp strongly supports responsible gambling within the community. This advertisement conforms with advertising Keno services in a responsible manner and does not condone, encourage or show excessive gambling. It promotes the availability of Keno in clubs and pubs, and is engaging for adult viewers through bright, happy and professional graphics.

(ii) The advertisement also includes a written disclaimer (shown mid-way) to “gamble responsibly”. This message is regulated in the relevant jurisdictions. For a period of eight seconds, the following message appears: “Gamble Responsibly. Think! About your choices. Call your state based counselling services on 1800 858 858. For Gambling Help call the ACT Counselling and Support Service on 1800 858 858 www.gamblinghelponline.org.au In NSW call Gambling Help 1800 858 858 www.gamblinghelp.nsw.gov.au”.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the Children’s Code) and the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant’s concerns that the advertisement is promoting gambling to children which is against prevailing community standards.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the Children’s Code applied.

The Board considered the definition of advertising or marketing communication. Under the Children’s Code, Advertising or Marketing Communications to Children means “Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.” The Board noted that Children are defined as “...persons 14 years old or younger” and Product is defined as “...goods, services and/or facilities which are targeted toward and have principal appeal to Children.”

The Board noted this advertisement features images of young adults dancing and moving to music. The advertisement features some coloured bubble shapes at the beginning and at the end one of the bubbles has “turn \$1 into 1 million.”

The Board considered the practice note to the Children’s Code which states that “...it is not the intent of the AANA for this Code to apply to advertising or marketing communication which is directed at adults or older children, or advertising or marketing communication that may be seen by children, but is not directed primarily to them.”

The Board noted that as the advertisement is for a gaming product – Keno that is available only to people over the age of 18 years. The Board considered that though the music and dance component of the advertisement may have some appeal to children, the intention of the advertisement is to appeal primarily to adults and to do so in a modern way that will capture the attention of the viewer with a song that is familiar to many.

The Board therefore considered that the advertisement is not directed primarily to children and the product Keno is not a product directed primarily to Children and the Children’s Code did not apply.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Board noted the complainant’s concerns regarding encouraging children to gamble.

The Board acknowledged that some members of the community would prefer that gambling products and services not be advertised at all but considered that as gambling products are legally allowed to be advertised, the Board can only consider the content of the specific advertisement against the provisions of the Code, not the fact that the product itself is being advertised in this manner.

The Board noted that the advertised product is Keno which is a gaming product. The Board noted that whilst the people in the advertisement are shown dancing and having a good time there is no mention or visuals of them actually placing a bet.

The Board noted that there is placement of keno signs in various scenes but that the advertisement itself does not depict gambling. The Board acknowledged that the advertiser, Keno, is a well-known betting game and that in connection with a well-known song does

draw the attention of the viewer to a gambling product but considered in this instance the advertisement does not depict, encourage or glorify excessive or unsafe levels of gambling. The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on responsible gambling.

The Board determined that the advertisement did not breach Section 2.6 of the Code. Finding that the advertisement did not breach the Children's Code or the Code on other grounds, the Board dismissed the complaint.