



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0301-21
2. Advertiser :	PALMERBET
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	27-Oct-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement features a satirical characterisation of the 'other Palmer' and features the character walking towards a horse, participating in an eating contest and then seated on a horse.

THE COMPLAINT

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

I am also overweight and the add shows what people really think. Laughing behind overweight people.

This is a disgusting ad campaign that deliberately tries to belittle, poke fun at, mocks and ridicules a member of the Australian Public. This Ad is obviously targeted at Clive Palmer. As a fellow Australian, I cannot believe this should be allowed to run. If this was designed to mock someone like Julia Gillard or another female, it would never have been broadcast. I find it offensive and vulgar. It needs to be removed immediately!!!

I find the ad very derogatory and particularly offensive in its portrayal of "The other Palmer". It doesn't name directly but the image used is offensive and bullying.

THE ADVERTISER'S RESPONSE



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

We are pleased to address the two consumer complaints received by Ad Standards in relation to a recent Palmerbet advertisement (the Advertisement) that has the following particulars:

- *Description of the Advertisement: The Advertisement seeks to communicate the ease of use and speed of the recently released Palmerbet mobile app. It seeks to do this playfully by depicting a central character competing in a chicken parmigiana (parmi) eating competition against a caricature of Clive Palmer, who is eating his parmi quickly and sloppily. The central character finishes his parmi first and signs up for Palmerbet's new mobile application in the time it takes the Clive Palmer caricature to finish his parmi. The central character is lauded by the crowd whilst the Clive Palmer caricature, now dressed in a jockey's outfit, sits on a horse.*

1. *Placement and duration of the Advertisement*

The Advertisement was shown primarily on Foxtel nationally. The campaign, which includes the Advertisement, only runs between Wednesday and Saturday for the period commencing 1st October 2021 until 6th November 2021. We wish to confirm that this Advertisement was not broadcast on free-to-air television but was also run on social media.

2. *Response to Complaint*

The complaints have been expressed to relate to section 2.6 of the AANA's Code of Ethics (Ethics Code).

Section 2.6 of the Ethics Code provides that "Advertising shall not depict material contrary to Prevailing Community Standards on health and safety."

Palmerbet does not consider that the Advertisement breaches this or any other section of the Ethics Code or the associated AANA Wagering Advertising and Marketing Code.

We thank you for the opportunity to provide a response and advise as follows.

The Advertisement attempts to do two things. Firstly, to advertise the Palmerbet mobile application and recent enhancements to improve its speed and ease of use. Secondly, to differentiate the Palmerbet brand (which is operated by Grant, Matthew and Adrian Palmer and the Palmer family) from "the other Palmer", being Clive Palmer, who has no interest or involvement in the Palmerbet brand. The Advertisement uses humour to achieve both these objectives.

The complainants are correct in stating that the Advertisement uses a Clive Palmer caricature. Just like any caricature, certain features of an individual are used to gain a likeness that the audience will recognise. In this case, those features involved a larger body size, the "ill-fitting" suit and grey hair. These features were depicted alongside



the voice over of the “other Palmer.” The fact that the complainant made the connection between the caricature and Clive Palmer indicates that the Advertisement successfully attained a recognisable likeness.

*The first complainant says that the Advertisement “fat-shames.” This is untrue and is denied. The larger body of the actor portraying the Clive Palmer caricature was used to gain a recognisable likeness. We cannot see how an argument around fat-shaming could be maintained in this context, including in the absence of any depicted mocking or derision of the Clive Palmer caricature, or the horse which the Clive Palmer caricature was riding on appearing to be in distress or discomfort. This is in line with previous determinations by the Community Panel which state that “advertising which depicts people interacting with each other in a friendly and joking way will not be seen as bullying where there is no negative reaction from any of the people.” Please see the following link to previous determinations which support this proposition:
<https://adstandards.com.au/issues/health-and-safety-determination-summary#bullying>*

The second complainant states that the Advertisement “tries to belittle, poke fun at, mocks and ridicules a member of the Australian Public” being Clive Palmer. This has been identified in the complaint as potentially promoting the unhealthy practice of bullying in contravention of section 2.6 of the Ethics Code.

The term bullying is often understood to mean the repeated and intentional mistreatment of someone to cause them distress or psychological harm. The Advertisement does not involve or promote the unsafe practice of bullying either of Clive Palmer or people with larger bodies more broadly. The use of the Clive Palmer caricature eating quickly, in the context of the parmi-eating competition, was designed to evoke humour and to showcase how quickly a prospective customer could sign up for Palmerbet’s mobile application. In no way does the Advertisement suggest that larger people, or that Clive Palmer, should be the subject of ridicule, be unable to participate in society, or otherwise should be bullied. To quote the previous determination referred to above, there is no “negative reaction from any of the people” in the Advertisement.

In considering the application of Prevailing Community Standards in this situation, Palmerbet is very mindful of the broader and very common use of caricatures, including of political identities such as Mr Palmer, as a means to communicate a readily identifiable likeness. For example, the Australian Prime Minister, Scott Morrison, is routinely depicted as a fulsome character in print and online media by various mastheads (see an example below by cartoonist, Mark Knight, in the Herald Sun on 29 January 2020). The public are accepting and inviting of such use of caricature as a means to communicate a humorous (as in the present case) or sometimes more serious point.

We note in a Channel 9 news segment (see <https://www.dailytelegraph.com.au/news/national/palmer-is-cartoonist-godsend/video/153a6bad776b10e015f5ded91025ca60>), that Mr Palmer is himself



described as Mark Knight's "biggest fan" and that he has himself purchased cartoons prepared by Mr Knight depicting him in a "burly" fashion. In circumstances where Mr Palmer is inviting of this form of depiction it is difficult to see how either complaint could be upheld.

3. Compliance with Ethics Code

Further to these submissions, and for completeness, Palmerbet notes as follows:

- Section 2.1 – the Advertisement does not discriminate or vilify any individual or group of individuals in relation to race, ethnicity, nationality, gender, age, sexual orientation, or religion. In addition, the Advertisement contains no harmful gender stereotypes, and it does not compare any individual or group to animals or objects. Whilst the Advertisement contains a caricature of former politician Mr Clive Palmer, it does not discriminate or vilify any individual or group of individuals who happens to subscribe to Mr Palmer's politics or political affiliations. In fact, no mention is made of them whatsoever.*

Eating style is not listed as a 'defined attribute' for the purpose of the Ethics Code. The Advertisement suggests that in the context of a food-eating competition, a competitor may eat in a sloppy fashion to gain an advantage. The reference to 'inhale a parmi' in the voiceover as well as the 'parmi eating contest' banner in the backdrop makes it clear that this is an eating competition where the object is to eat a parmi in the quickest possible time. We note that the second complainant referred to a "burger" and not a parmi. The distinction over food is largely irrelevant. However, the fact that it was an eating contest is exceedingly relevant.

In relation to disability, it is arguable that being overweight fits into the definition of disability in the Ethics Code but even if that is the case, the Advertisement does not discriminate or vilify on that ground.

Discrimination – The Advertisement does not portray, depict, or suggest that overweight individuals should receive unfair or less favourable treatment (i.e., the AANA's definition of 'discrimination'). Both the central character and the Clive Palmer caricature were valid participants in the parmi-eating competition.

Vilification – The AANA Wagering Code defines 'vilification' as 'humiliates, intimidates, incites hatred, contempt or ridicule.' The Advertisement uses humour to suggest that an overweight individual may eat quickly and/or sloppily to win an eating competition. It does not suggest that all overweight individuals routinely eat sloppily or quickly, nor does it suggest that Clive Palmer routinely eats quickly or sloppily. We do not believe that the humour used in the context of the Advertisement's subject matter rises to the level of vilification.

- Section 2.2 – the Advertisement does not employ sex appeal of any kind. No character in the Advertisement is portrayed or depicted as sexual objects or commodities.*



- *Section 2.3 – the Advertisement does not depict or portray violent content.*
- *Section 2.4 – the Advertisement does not depict or portray sex, sexuality, or nudity.*
- *Section 2.5 – the Advertisement uses language that was appropriate in the circumstances. It does not use inappropriate, strong, or obscene language.*
- *Section 2.6 – see our comments above.*
- *Section 2.7 – the Advertisement is clearly distinguishable as an advertisement. It was shown only during commercial breaks and only at times permissible by legislation. It also displays the responsible gambling disclaimer and outro card which audiences recognise and associate with gambling advertising.*

4. Compliance with AANA Wagering Advertising and Marketing Code (Wagering Code)

The Advertisement fully complies with the Wagering Code. The following is our submission in relation to each rule in section 2 of the Wagering Code.

- *Section 2.1 – the Advertisement does not use themes, visual or language that is primarily directed to minors. The Advertisement is primarily directed to adults.*
- *Section 2.2 – the Advertisement does not use any actors who are minors.*
- *Section 2.3 – the Advertisement does not depict a person aged 18-24 engaging in wagering activities. Only one character in the Advertisement places a bet (impliedly). The actor portraying this character is over 24 years of age.*
- *Section 2.4 – whilst the Advertisement’s setting is a pub, there are no beverages of any kind shown in the Advertisement.*
- *Section 2.5 – there is one bet impliedly placed in the Advertisement via the Palmerbet mobile application. The bet impliedly placed is separate and distinct from the parmi-eating competition depicted in the Advertisement. The central character is lauded due to his victory in the parmi-eating competition. He is not lauded for placing a bet. Nor is there any suggestion, implied or otherwise, that winning in gambling is guaranteed.*
- *Section 2.6 – the Advertisement does not depict wagering as a means of relieving a person’s financial or personal difficulties.*
- *Section 2.7 – the Advertisement does not link sexual success or enhanced attractiveness with wagering. Sexual success or enhanced attractiveness are not referred to at all.*



- *Section 2.8 – Whilst the Advertisement promotes the ease and speed of Palmerbet’s mobile application, it does portray, condone, or encourage excessive participation. It is merely showcasing the features of its mobile application.*
- *Section 2.9 – the Advertisement involves the central character being supported by others during the parmi-eating competition. The wagering is secondary and distinct to this contest. None of the people in the Advertisement place pressure on or even suggest to the central character to engage in wagering. The Advertisement does not disparage abstention from wagering.*

5. *Compliance with AANA Code for Advertising and Marketing Communication to Children (Children’s Code) and the AANA Food and Beverages Marketing and Communications Code (Food and Beverages Code).*

Neither the AANA’s Children’s Code or the Food and Beverages Code apply to the Advertisement.

6. *Final comments and next steps*

Given the circumstances set out above, we respectfully consider that the Community Panel should determine that the Advertisement does not breach Prevailing Community Standards or the requirements of the Ethics or other applicable codes.

THE DETERMINATION

The Ad Standards Community Panel (Panel) considered whether the advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants’ concern that the advertisement:

- Depicts overweight people as open to ridicule
- Deliberately belittles, mocks and ridicules a member of the Australian Public
- Is bullying.

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

Discrimination against overweight people

The Panel noted that Section 2.1 of the Code (discrimination or vilification) does not cover the category of physical characteristics. As such, discrimination against a person with a particular physical characteristic is not an issue which can be considered under the Code.

Vilification of a public figure



The Panel noted that Section 2.1 of the Code (discrimination or vilification) does not cover the treatment of individual people. As such, vilification of a public figure is not an issue which can be considered under the Code.

Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted the Practice Note in relation to bullying for this section of the Code states:

“The age of the people depicted in an advertisement, their relationship to each other and the nature of the communication are relevant in determining whether an advertisement constitutes bullying and is contrary to Prevailing Community Standards. More care must be taken when the people depicted in an advertisement are Minors or if there is an unequal relationship between the people in the advertisement, e.g. student and teacher, manager and worker.”

The Panel noted the advertisement features a satirical characterisation of the well-known public figure Clive Palmer. The Panel noted that although no direct reference is made to the character’s weight, he is shown eating quickly and messily as part of an eating competition, and the voice-over refers to ‘the time it takes the other Palmer to inhale a parmi’.

The Panel noted that the stigmatisation of being overweight or obese is harmful and a significant issue in the community.

The Panel noted that the advertisement is not targeting all overweight people, rather the depiction and comments in the advertisement are specifically in reference to Clive Palmer.

The Panel noted that Clive Palmer is a public figure and is someone in a position of power, not someone who is being treated unfairly by a person or people who are in a position of power over him. The Panel considered that the satirical characterisation of Clive Palmer was not a portrayal of bullying which would be contrary to community standards.

Section 2.6 conclusion

The Panel considered that the advertisement did not contain material which would be contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Conclusion

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

