



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0343-20
2. Advertiser :	Sportsbet
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	25-Nov-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Wagering Code\2.8 Excess participation
AANA Wagering Code\2.9 Pressure to gamble

DESCRIPTION OF ADVERTISEMENT

This television advertisement shows a group of friends hiking up a mountain. Once they reach the top one of the men pulls out a 'selfie stick' which is holding his mobile phone. All men lean in towards the phone smiling and are seen to watch the live racing on the Sportsbet app.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

The advertisement fails to demonstrate the high sense of social responsibility required by the code particularly having regard to the vulnerability of gambling addicts who view it.

The advertisement portrays, condones or encourages excessive participation in wagering activities.

The advertisement, by its nature, causes enhanced distress to gambling addicts who are trying to draw away from their addiction. The message of the advertisement is that gambling will follow you, be with you, where ever you go. This is very distressing to gambling addicts who are desperately trying to focus on other things. Failure can result in suicide.

The impact of the advertisement is exacerbated by the use of a neuro-linguistic programming technique designed to bypass the conscious mind and put unmediated content into the unconscious.



The advertisement would sabotage one of the hypnotic treatments for (amongst other things) gambling addiction.

The advertisement clearly shows the effect of peer pressure.

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 6 November 2020 and the Complaint mentioned above regarding the Advertisement, a digital file of which is attached.

The Complaint

Ad Standards has identified the following sections of the AANA Code of Ethics (Code) which is addressed in the Complaint:

2.8 Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities

2.9 Advertising or Marketing Communication for a Wagering Product or Service must neither portray, condone or encourage peer pressure to wager nor disparage abstention from wagering activities

Sportsbet strongly rejects that the Advertisement breaches sections 2.8, 2.9 or any other section of the Code for the reasons explained below.

Context for the Advertisement

The Advertisement shows a group of friends hiking up a mountain. Once they reach the top one of the men pulls out a 'selfie stick' which is holding his mobile phone. All men lean in towards the phone to watch the live racing on the Sportsbet app.

The advertisement does not depict, encourage or glorify gambling and there is no suggestion that gambling is something you should do at any time regardless of where you are. The Advertisement shows a group of mates streaming live racing with a selfie stick – which speaks to the ease of using Sportsbet's products.

Section 2.8 of the Code: Excess participation in gambling activity

The AANA has confirmed that simply depicting regular wagering, for example as a routine weekend pursuit during a sporting season or other social event, does not equate to portraying excessive participation.(1)

There is nothing in the Advertisement which falls into the examples in the AANA's Practice Note or contains any elements which depict or encourage: participants wagering beyond their means;



*wagering taking priority in a participant's life – for example, depicting wagering as causing significant disruption to a participant's life including family, friends or professional or educational commitments;
prolonged wagering suggesting that this improves a participant's skill in wagering.*

The Advertisement shows a group of friends live streaming the races. It does not depict wagering activity in any form. In 2015, for similar reasons which apply to the current Advertisement the Panel noted that, 'whilst the men in the advertisement are shown watching a race via the app there is no mention of placing a bet on any race and considered that the advertisement, although demonstrating one of the services available using the app, does not depict gambling.'

Section 2.9 of the Code: 2.9 Pressure to gamble\Encourage peer pressure

Simply showing a group of friends gathering at the top of a mountain to view a streaming mobile device does not amount to peer pressure. There is no criticism, ridicule, mockery or negative depiction of non-wagering activities in the Advertisement.

It is submitted that the Advertisement could not be reasonably construed as containing content which portrays, condones or encourages criticism or ridicule for not engaging in wagering or any other kind of peer pressure covered by Section 2.9 of the Wagering Code.

Conclusion

Sportsbet regrets that one individual has objected to the Advertisement. However, the Advertisement does not breach the Code and the Complaint should be dismissed.

(1) AANA Wagering Advertising Code – Practice Note (May 2018), p.2.

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:

- Condones and encourages excess participation in wagering activities
- Clearly shows the effect of peer pressure.

The Panel viewed 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.

The Panel noted that this advertisement had previously been considered by the Panel in case 0236-15. As the advertisement was considered over five years ago before the Wagering Code was introduced, and community standards may have changed in that time, the Panel will reconsider the advertisement as a new case.

Section 2.8 - 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 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.”*

While 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 Encyclopaedic 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 cases 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 the current case, the Panel noted that the advertisement depicts a group of friends who are on a hike and stop to watch a race on their phone. The Panel considered the men are not shown to be wagering. The Panel considered that the advertisement does not suggest that viewers should bet outside of their means, or bet 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.

Section 2.8 Conclusion

The Panel determined that the advertisement does not portray, condone or encourage excessive participation in wagering activities and does not breach Section 2.8 of the Wagering Code.

Section 2.9 - Advertising or Marketing Communication for a Wagering Product or Service must neither portray, condone or encourage peer pressure to wager nor disparage abstention from wagering activities

The Panel noted the practice note for Section 2.9 which states *"Advertising or marketing communication must not portray, condone or encourage criticism or ridicule for not engaging in wagering activities or disparage abstention from wagering, for example by mocking non-participants"*.

The Panel considered that the overall impression of the advertisement is that the men are all willingly watching the race. The Panel considered that the advertisement does not show any of the men encouraging the others to participate, and none of the men seem unwilling to participate.

Section 2.9 conclusion

Finding that the advertisement does not contain any messaging which portrays, condones or encourages peer pressure to wager nor disparage abstention from wagering activities, The Panel determined that the advertisement did not breach Section 2.9 of the Wagering Code.

Conclusion

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