



Case Report

1	Case Number	0369/13
2	Advertiser	Betfair Australia
3	Product	Gaming
4	Type of Advertisement / media	TV
5	Date of Determination	13/11/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - nudity
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Betfair's "Power to the Punter" commercial depicts a sharply dressed punter who, in what is clearly a fantasy scenario, moves from holding a coffee cup in a boardroom, to holding a table tennis bat as the boardroom table is actually revealed to be a table tennis table. The Betfair Man then commences a game of table tennis with an attractive female character. Using a series of jump cuts, the scene moves to a beach where the Betfair man continues his game of table tennis against a variety of sportspeople. The Betfair Man is able to place a bet with Betfair using his mobile phone before winning the rally. In the final scene, the Betfair Man heads out on the water on a jet ski and raises his fist in triumph as he crosses a winning post placed on a pontoon.

THE COMPLAINT

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

For some reason the woman in bikini seems out of context, i.e. only the female is scantily clad, all other sport participants are not scantily clad. Male participants are in fully clothed states, including leather, etc, no shorts or bathing gear.

Second reason: a) when searching bet fair on the internet there is no company address easily associated with the website so it is difficult to establish where and who the company is, and b)

the terms and conditions of the offer that appears to be the ONLY betfair website is not relevant for Victorians, i.e. it excludes Victorians to take advantage of the offer that is obviously tagged into the TV advertising because it has the same look, feel colours etc, and c) there is no address or ABN number within the terms and conditions of the website or advertising to determine who the advertiser is. This would be contrary to the appropriate legislation.

The advert tells us that 'When you have power, you can do whatever you want, with whoever you want' from a fully dressed man playing a game with a girl in a bikini. The sentiment of the voice over implies forcing people to do things they don't want because you have power. The semi naked girl in the image implies that you can get women to do things if you are powerful. Overall an offensive advertisement.

THE ADVERTISER'S RESPONSE

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

Betfair considers that the Complaints are entirely without foundation, based only on unreasonable and incorrect inferences drawn by the complainants, and for the reasons outlined below should be dismissed in their entirety by the Board of the Advertising Standards Bureau (Board).

Betfair takes its compliance obligations very seriously and all due care and diligence was undertaken to ensure that the Advertisement was compliant with the AANA Advertiser Code of Ethics (Code) prior to it being permitted to air on television.

About Betfair Pty Ltd

Betfair is the holder of a Tasmanian Gaming Licence and first became licensed in Australia in February 2006. Betfair is licensed under the Gaming Control Act 1993 (Tas) and is strictly regulated by the Tasmanian Gaming Commission. Betfair is a joint venture between Betfair Group PLC, a UK licensed betting exchange and sportsbook operator, and Crown Limited, an entity listed on the Australian Stock Exchange. Betfair is licensed to accept bets from customers on a wide range of racing and sporting events that are approved by our regulator.

The Complaints

The Advertising Standards Bureau has received two complaints about the Advertisement pursuant to section 2 of the Code.

The complaints allege that the Advertisement is in breach of sections 2.1, 2.4 and 2.6 of the Code. These sections relevantly provide:

2.1 Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

2.6 Advertising of Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

Grounds for the Initial Complaint

Betfair understands that the Initial Complaint specifically relates to:

(a) an inference drawn by the complainant from the voice over that if you have power you can "force people to do things they don't want"; and

(b) an inference drawn by the complainant from the fact that a female appears in the Advertisement wearing a bikini that if you are powerful you can “get women to do things”. Betfair considers that both of these inferences are incorrectly and unreasonably drawn from the actual content of the Advertisement. There is absolutely no supporting evidence in the Advertisement to suggest that these inferences are accurate.

It is also important to note that the Advertisement was approved by CAD and provided with a “B” classification. This classification places restrictions on the times that the Advertisement can be broadcast, in line with the prevailing community standards as determined by CAD and the nation’s gambling regulators. We consider it relevant that in this instance that the Complaint related to the Advertisement being screened at or after 11pm.

Grounds for the Further Complaint

Betfair understands that the Further Complaint specifically relates to:

(a) the female character appearing in a bikini appears to be out of context given the attire of the other characters in the Advertisement; and

(b) the fact that the complainant was unable to, via an internet search, determine the name, location and ABN of the company responsible for the Advertisement

Betfair considers that the attire worn by the female character during the Advertisement is entirely appropriate and within the context of the Advertisement, the majority of which is situated in a beach environment. The second limb of the Complaint is beyond the scope of the Code and therefore not relevant for present purposes.

We again note CAD’s “B” classification for the Advertisement and the fact that the complainant viewed the Advertisement after 9.30pm.

Betfair’s response to the Complaints

Voice Over (The Initial Complaint)

The voice over and the reference to the term “power” throughout the Advertisement in no way demonstrates, suggest or even infers, that power allows someone to “force people to do things they don’t want”. We consider this a misguided and unreasonable interpretation of the Advertisement when viewed in context of Betfair’s business and products, which are clearly described in the Advertisement.

The voice over overlays a clearly exaggerated course of events, in which our hero moves from a boardroom to playing a game of table tennis on a beach before riding off through the surf on a jet ski – all whilst wearing a suit. It can immediately be seen that such events are not to be taken literally or seriously, but instead represent a relatable scenario but one that is clearly a fantasy.

Each of these events are intended to be a metaphor for the “power” that Betfair offers to its customers via its various market leading wagering products and services.

The voice over, in a playful and tongue-in-cheek manner, suggests that:

- when you have power, you can do what you want (at which time our hero begins a boardroom game of table tennis);*
- with whoever you want (at which point our hero’s table tennis opponent is revealed as an attractive woman in a bikini);*
- wherever you want (where the table tennis table is revealed to be placed on a tropical beach with a number of onlookers also in beach wear); and*
- in as many different ways as you want (a number of different sportspeople line up to play table tennis against our hero).*

There can be absolutely no suggestion based on the vision or the voice over that any of the characters in the Advertisement – particularly the female character that first plays table tennis against the hero – is in any way being forced to do something that they don’t want to do.

It is quite clear from the vision that the female character is actively and willingly

participating in a friendly game of table tennis. The fact that our hero also chooses to play table tennis against four other sportspeople is further evidence that no one is being forced to participate in the game and evidences the fact that there are no sexual undertones in the Advertisement.

The intention of the voice over (and the Advertisement more generally) is quite simply to suggest that betting with Betfair on your mobile phone can be done whenever, wherever and on whatever sporting event a customer chooses. This is evidenced by the fact that the hero places a wager on Betfair using his mobile phone before playing another stroke to win the table tennis rally.

It is the flexibility in betting options, channels and products that Betfair is suggesting is the “power” that it offers to punters. We consider that this intention is quite clearly borne out throughout the Advertisement, primarily in the final scene when the hero rides off on the jet ski espousing the virtues of betting with Betfair.

We therefore reject the Initial Complaint’s assertion that the voice over is in any way contrary to prevailing community standards and therefore it cannot constitute a breach of clause 2.6 of the Code. For the reasons outlined above, we disagree that clause 2.4 of the Code is engaged in any way by the voice over in that it does not deal in any way with sex, sexuality or nudity.

Attire of the female character (the Initial Complaint and the Further Complaint)

Both Complaints refer to the attire of the female in the Advertisement as drawing an inference that powerful men can “get women to do things” (in the case of the Initial Complaint) and suggesting that the attire was “out of context” (the Further Complaint).

We have already largely addressed this limb of the Complaints in our comments above on the basis that there is no evidence whatsoever that the female is unwilling or being forced to participate in a game of table tennis and further, there is absolutely no sexual undertone whatsoever contained in the Advertisement.

As regards the fact that the female character is wearing a bikini, we consider this entirely appropriate and in context of the Advertisement given that the table tennis game primarily occurs on a beach and watched by a number of onlookers – both male and female - who are also in beach wear. It is only the hero and the sportspeople who are not in beach wear during the beach scene and this is simply to provide a clear identification of the wide range of sports that Betfair offers its services on (e.g. it was not possible for a jockey to wear beach wear and clearly demonstrate that he is a horse racing participant).

Whilst the female character is also wearing a bikini when the table tennis game is being played inside, this merely provides context to the voice over line “wherever you want” where the game moves to the beach. Further, the female character is not the only one in beach wear at this time as the onlookers first appear briefly in the indoor shot until such time that the table tennis game changes venue.

We again consider that the inference drawn in the Initial Complaint is baseless and unsupported by any evidence. There can be no suggestion based on the female’s attire that a powerful man would be able to “get women to do things”. Further, for the reasons outline above, we disagree with the allegation in the Further Complaint that the attire is “out of context” or in any way vilifies or discriminates against women.

Finally, Betfair confirms that the wardrobe for the Advertisement was considered and approved by the Communications Council of Australia and Free TV Australia. Betfair undertook a significant amount of work to ensure that the attire worn by the characters in the Advertisement was tasteful and in accordance with the Code.

We are therefore of the view that the female character’s attire is entirely appropriate given the context of the Advertisement and does not breach clauses 2.1, 2.4 or 2.6 of the Code.

The Advertiser’s Contact Details (The Further Complaint)

The second limb of the Further Complaint is based upon the complainant's inability to determine the name, address and location of the advertiser. This complaint is beyond the scope of the Code and therefore should not be considered by the Board.

In the interests of transparency, Betfair confirms that all of its company information is easily accessible from the www.betfair.com website that is displayed at the end of the Advertisement. Betfair Pty Ltd's full corporate details, ACN, registered office and regulatory information is all displayed under the "Terms and Conditions" link at the bottom of the home page or from the "About Us" link at the top of the same page. Both of these links are prominently displayed.

Conclusion

Betfair reiterates that it takes its compliance obligations very seriously and the company has taken all necessary steps to ensure its ongoing compliance with the Code and all other regulatory instruments in relation to its marketing activities. We are of the firm view that the Advertisement is fully compliant and we therefore respectfully request that the Board dismiss the Complaints in their entirety.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concerns that the advertisement includes images of a woman in a bikini that is objectifying and irrelevant to the product being promoted. The Board noted the complainant is concerned about the information provided on the website.

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

The Board considered the concerns relating to the terms and conditions and information available of the website for Betfair. As the Board is not a law enforcement agency, it does not deal with questions of legality. The Board noted that such questions are appropriately addressed with the relevant state or territory body with regulatory responsibility for gambling.

The Board noted the advertisement features a well-dressed man talking about power. The man is seen in various settings such as an office and on the beach playing table tennis with a woman who is dressed in a bikini. The Table tennis match continues against other players as he describes betting with Betfair and the final tagline reads "Betfair. Power to the Punter."

The Board first considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people."

The Board noted that the man speaking is dressed in a suit and the other table tennis competitors are fully dressed in beach wear or sporting uniforms. The Board noted that the relevance to the uniforms was indicative of the types of sports that an individual could bet on using the service being promoted.

The Board noted that the woman playing table tennis is dressed in a bikini. The Board noted that the bikini fully covers the woman's private areas and that there is no inappropriate nudity. The Board noted that a bikini is not usual attire to play table tennis in inside an office. The Board noted this particular scenario of a man playing table tennis in a board room against a woman in a bikini was likened to a James Bond style lifestyle. The Board agreed that it is possible to interpret this as power over women, but because of the similarity and comical relationship to a James Bond scenario provides context to the scene and is not offensive.

The Board noted however that the purpose of the advertisement is to draw the attention of the viewer to the unlikely behaviour that can be achieved when you have "power".

The Board considered that although it is not usual to play table tennis in a bikini the images were tasteful and did not employ sexual appeal in a manner that is exploitative and degrading to woman and did not breach Section 2.2 of the Code.

The Board then 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 that the scenes and voice over describe an exaggerated display of events and that there is clear fantasy associated with what the man is doing and the concept of power giving you the ability to do "what you want, when you want and with who you want."

The Board considered that the facility to bet via a mobile phone is not of itself encouraging or condoning customers to bet more often. The Board considered that it was reasonable to expect that the advertiser will promote the benefits of their product, namely the easy accessibility and that the promotion of mobile betting is a product that is legally able to be advertised.

The Board considered that most reasonable members of the community would understand that the product being promoted is a mobile phone app that allows the punter to place a bet with Betfair on your mobile phone conveniently, whenever, wherever and on whatever sporting event a customer chooses.

The Board noted that it had previously considered a mobile phone application advertisement for Sportsbet (ref: 0476/12) which used the tagline "Bet on every race, every day, from your mobile." The majority of the Board considered that:

"the use of the phrase "Bet on every race, every day, from your mobile" is suggesting that once you have the app you can bet on all races. The majority of the Board considered that the convenience of being able to bet from your phone in conjunction with the catch phrase is encouraging of frequent and continued betting. The Board considered that in this instance the advertisement suggests excessive gambling and is a depiction which is contrary to Prevailing Community Standards on health and safety."

The Board considered that the promotion of this particular gambling app in conjunction with the tagline "Power to the Punter" was not a clear suggestion that the viewer should bet all of the time, but a portrayal of someone betting when and where they want because of the ease of accessibility once you have the app on your phone.

The Board considered that the advertisement was not a depiction of material that was

contrary to prevailing community standards on health and safety and did not breach section 2.6 of the Code.

Further finding that the advertisement did not breach the Code on any grounds, the Board dismissed the complaint.