



Case Report

1	Case Number	0409/12
2	Advertiser	Tabcorp
3	Product	Gaming
4	Type of Advertisement / media	TV
5	Date of Determination	24/10/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Depiction of smoking/drinking/gambling

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows the winning moment and ensuing celebration of a group of three guys in the setting of a pub TAB.

THE COMPLAINT

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

This ad presents gaming as an activity that will perhaps attract the attention of attractive women to men. Applying similar standards to other potentially problematic behaviour such as alcohol use, my understanding is that such advertising must not depict such activity as contributing to sexual or other success. This ad presents gaming as an activity which may contribute to sexual and social success.

THE ADVERTISER'S RESPONSE

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

The letter sets out a complaint that has been made about a Tabcorp advertisement called "How's Your Form?" which depicts a group of men celebrating a winning bet. The complainant has alleged that the advertisement may breach the following sections of the AANA Code of Ethics:

- Section 2.4 which states that Marketing and Advertising Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience; and*
- Section 2.6 which states that Marketing and Advertising Communications shall not depict material contrary to the Prevailing Community Standards on health and safety.*

The complainant has specifically alleged that the advertisement presents gaming as an activity which may contribute to sexual and social success.

TABCORP'S RESPONSE

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

For clarity, we would like to ensure that there is a distinction drawn between 'gaming' as alleged by the complainant which refers to poker machines, and gambling or wagering which refers to the placing of bets on sporting events or racing (thoroughbred, harness and greyhounds).

Tabcorp does not consider that the advertisement depicts any sexual connotations, sexualisation of women or men, or any suggestion of sexual interaction between the men and the women at all or as a result of the men engaging in gambling. We also do not believe that the advertisement depicts that the men have increased their sexual or social success as a result of their gambling.

In contrast, the more likely interpretation of the advertisement is that the women are not impressed with the responses of the men following their gambling win and their manner of celebration. In addition, the men are not interested in the women. Their focus is on themselves and their win, rather than on what the women think of them.

Our creative agency, Belgiovane Williams Mackay, when speaking to B&T (Australia's leading industry publication for advertising, marketing, media and PR) in August, described the advertising campaign as follows: "We've brought the campaign to life by highlighting the different ways of celebrating a win, whether it's a swagger or a jig on the walk to collect...all the executions highlight some of the ways we celebrate a job well done."

The advertisement depicts the women looking at the men in a manner that suggests they do not find their behaviour appealing. Specifically at one point in the advertisement, one of the women lifts an eyebrow and laughs at the men as they walk past. We consider that this is clear body language that the women do not understand the behaviour of the men and find their way of celebration to be unappealing.

Section 2.6 which states that Marketing and Advertising Communications shall not depict material contrary to the Prevailing Community Standards on health and safety

The advertisement does not depict any smoking or drinking by the men or the women or any alcohol beverages or slogans. The advertisement does depict the celebrations of three men after a gambling win.

We do not consider that advertisements that show the men celebrating after a winning bet breach section 2.6 given that gambling is a legal form of entertainment in Australia and advertisements regarding gambling products are legally able to be advertised by the large number of betting operators licensed in Australia, including ourselves. In Tabcorp's case, we operate our business in accordance with state Wagering Licences issued by applicable state based gambling regulators.

Tabcorp's response to other parts of Section 2

2.1 – There is no vilification or discrimination.

2.2 – The advertisement is neither exploitative nor degrading.

2.3 – *There is no violence.*

2.4 – *Our detailed comments are set out above.*

2.5 – *There is no inappropriate language.*

2.6 – *Our detailed comments are set out above.*

Tabcorp’s approval process

All Tabcorp advertisements are reviewed and authorised by Tabcorp’s internal Legal Department. In addition, CAD approval was sought and received prior to publication.

Placement of the advertisement

Tabcorp takes care to advertise its products at appropriate times and during relevant programs. This ensures that the appropriate audience is exposed to the advertisement. In this case, the advertisement was aired during an NRL game during the NRL Finals series.

Tabcorp has not received any other complaints regarding this advertisement despite it being aired over 300 times across free-to-air and payTV, and viewed over 7,000 times on youtube.com.

Tabcorp’s commitment to responsible gambling

Tabcorp takes its obligations to depict responsible gambling behaviour seriously. We have been rated as the overall global gambling industry leader in the annual assessment for the Dow Jones Sustainability Index (“DJSI”) in seven out of the past eight years.

Tabcorp also received a 100 per cent rating in the ‘Promoting Responsible Gambling’ category, a rating we have received for six successive years. Tabcorp’s global leadership ranking in the Responsible Gambling category recognises our commitment to the responsible delivery of gambling products. Responsible gambling is an important part of our operating philosophy and company values.

We thank you for providing us with the opportunity to review this advertisement and respond to the complainant.

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 suggests gambling will lead to sexual and social success which is against community standards.

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

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted the advertisement features three men winning a bet and then celebrating as

they make their way to collect their winnings. The Board noted the complainant's concerns that the advertisement promotes sexual success and considered that the portrayal of the men celebrating their winning bet is presented in a manner which focuses on their happiness at winning and that they appear uninterested in anyone else but themselves. The Board noted that the reactions of the women who witness the men's celebrations are amusement and that the men are not shown to attain success with any woman as a result of their win.

Based on the above the Board considered that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

The Board considered whether the advertisement was in breach of 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 gambling is a product which is allowed to be advertised and considered that the advertisement does not encourage excessive gambling or otherwise promote behaviour which would be considered to be against prevailing community standards on gambling.

The Board noted the complainant's concerns that the advertisement suggests that gambling is presented in a manner which indicates social success and considered that the advertisement does not suggest that the social status of the men who win the bet has been elevated as a result of their win but rather that they are happy to have won on this occasion.

Based on the above, the Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

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

