



Case Report

1	Case Number	0443/14
2	Advertiser	Ladbroke.com.au
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/11/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.6 - Health and Safety Depiction of smoking/drinking/gambling

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a group of five male characters purchasing and enjoying a meal, a limousine ride, flights and hotel accommodation which they take in turns to pay for (“my shout”) using their Ladbrokes credit cards.

In the final scene of the Ad, one of the male characters is shown for about 5 seconds in his swimming costume and towelling robe coming to the rescue of the other characters by paying for the room service bill on his Card. He is accompanied by a female character, also wearing a swimming costume.

THE COMPLAINT

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

Advert objectifies women in the context of men gambling and shouting each other goods. In the final scene a lady in underwear is shown with the clothed men inferring that she is a commodity or possession like the other objects shown in the ad.

I feel this represents that gambling is luxurious. That gambling is easy and winning huge sums of money is a guarantee. In an age where problem gambling is constantly highlighted I believe this commercial gives the entirely wrong message that gambling is easy, and youd win

so much money you can shout your friends limos, flights and hotel rooms. There is also nowhere in the ad that says to gamble responsibly as other gambling ads do.

THE ADVERTISER'S RESPONSE

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

Thank you for your letters and for bringing these matters to our attention. We are always open to hearing the views of community members either directly or through avenues such as the Advertising Standards Bureau ("ASB").

The advertisement in question is our Ladbrokes "The Shout" television commercial ("Ad") which promotes our Ladbrokes Visa Debit Card ("Card").

The reason for concern outlined by the community member in the letter of 16 October 2014 is: "I feel this represents that gambling is luxurious. That gambling is easy and winning huge sums of money is a guarantee. In an age where problem gambling is constantly highlighted I believe this commercial gives the entirely wrong message that gambling is easy, and you'd win so much money you can shout your friends limos, flights and hotel rooms. There is also no where in the ad that says to gamble responsibly as other gambling ads do."

The reason for concern outlined by the community member in the letter of 27 October 2014 is: "Advert objectifies women in the context of men gambling & shouting each other goods. In the final scene a lady in underwear is shown with the clothed men inferring that she is a commodity or possession like the other objects shown in the ad. Woman in the context of the ad is objectified as a sex object or commodity.

The issues raised are:

A. Clause 2.1 of the AANA Code of Ethics, and specifically discrimination or vilification – gender; and

B. Clause 2.6 of the AANA Code of Ethics, and specifically prevailing community standards on health and safety – depiction of gambling.

Our response to this is set out below.

1. A description of the advertisement

The Ad promotes the Card by depicting, in a satirical manner, a group of five (5) male characters purchasing and enjoying a meal, a limousine ride, flights and hotel accommodation. (These same characters have appeared in our other advertisements.) The Ad draws on the sentiment that friends enjoy 'shouting' their friends, and that when friends are together, there is a tendency for them to compete to 'shout' or treat their friends.

The key message of the Ad is that the Card is a convenient form of non-cash electronic payment that can be used at a range of merchants. There is no depiction in the Ad of gambling or the purchase of gambling products.

In the final scene of the Ad, one of the male characters Nigel is shown for about 5 seconds in his swimming costume coming to the rescue of the other characters by paying for the room service bill on his Card. Nigel is accompanied by a female character, also wearing a swimming costume, who is affectionate toward him.

2. The script

The script of the Ad is as follows:

It all started with a small dispute over who shouted lunch.

So Mickey says, 'Well I'm shouting the limo then.'

Then Eddie says, 'Well I'm shouting the flights.'

Then Tommy says 'Well I'll shout the hotel.'

Slight problem lads: room service.

Then Nigel shows up and says, "Don't worry lads, I'll take care of this tab.

Ladbrokes Visa Card. Bet anywhere. Shout everywhere.

3. Incorrect assertions

At the outset and with respect to the views of the community members, it will be useful to correct some incorrect assertions made by the community members:

Incorrect assertion made by community member: The Ad does not contain a responsible gambling message.

Correct position: The Ad contains a comprehensive responsible gambling message.

Incorrect assertion: The Ad depicts gambling.

Correct position: The Ad does not depict gambling or the purchase of gambling products.

The Ad depicts examples of products that the Card can be used to purchase, none of which are gambling products.

Incorrect assertion: The female character is in her underwear.

Correct position: The female character is in her swimming costume.

Incorrect assertion: All of the male characters are fully clothed, while the female character is not.

Correct position: The male character Nigel is also in his swimming costume.

4. Summary of our view

With respect to the views of the community member, in our view the Ad does not discriminate or vilify on the basis of gender, because:

- The Ad shows both the male character (Nigel) and the female character in their swimming costumes for the same length of time.*
- The character Nigel is the hero in the Ad's storyline because he comes to the rescue of all characters in the Ad (both male and female) by paying for the room service bill on his Card.*
- In most stories, as in the Ad, the hero attracts the admiration (and sometimes the affection) of others. In the Ad, Nigel attracts the affection of the female character because he is the hero.*
- The message imparted by the presence of the female character in the last frame of the Ad is to represent that Nigel is the hero (to all characters) in the storyline because he pays for the unexpectedly large room service bill.*
- The Ad does not depict the female character as helpless or incapable, any more than it depicts the other male characters as helpless or incapable.*
- Furthermore, the Ad does not depict that the female character is an object, commodity or possession. As mentioned above, the Ad depicts the female character as admiring the hero of the storyline by showing affection toward him.*
- The inference by the community member that the female character is in the same category as the meal, the limousine, the flights or the hotel is incorrect. The voiceover outlines the items that the five characters pay for: lunch, limo, flights, hotel and room service.*

With respect to the views of the community members, in our view the Ad does not offend prevailing community standards on health and safety – depiction of gambling, because:

- The Ad does not depict gambling or the purchase of gambling products.*
- The Ad depicts the Card and some of the various (non-gambling) merchants at which the Card can be used to purchase (non-gambling) products.*
- The Card is a 'financial product' that is regulated under Chapter 7 of the Corporations Act 2001 (Cth). The Card is not a gambling product that is regulated under any gambling legislation, licence or code.*
- The community member has incorrectly inferred that the Ad depicts gambling, which is clearly not the case.*

- *The Ad depicts, in a satirical manner, a benefit of the Card which is that the Card can be used to purchase a range of products including meals, transport and accommodation.*
- *The key message of the Ad is that the Card is a convenient method of non-cash electronic payment that can be used at a range of merchants.*
- *As the Ad does not depict gambling, it follows that the Ad cannot offend prevailing community standards on health and safety concerning the depiction of gambling.*
- *However, even if it could be said that the Ad depicts gambling, we would contend that the Ad still does not offend prevailing community standards as it does not suggest that gambling will result in financial betterment. The Ad simply shows examples of merchants at which the Card can be used.*
- *The Ad contains a comprehensive Responsible Gambling message.*

5. The Card

The Card is a non-cash payment product that is a 'financial product' as defined in Chapter 7 of the Corporations Act 2001 (Cth). It is a debit card not a credit card, and it offers consumers the convenience of being able to pay for goods and services at any merchant that accepts Visa payment products.

A consumer cannot use the Card to directly purchase a bet with us. A consumer could use the Card to make a deposit to their Ladbrokes account (which could then be used to place a bet), just as a consumer could use the Card to purchase their groceries, pay for their dry cleaning, or indeed purchase a meal for themselves and their friends if they so desired.

In promoting the Card, we are compliant with Chapter 7 of the Corporations Act 2001 (Cth) in respect of a financial product that is a non-cash payment product. A summary of this compliance framework is as follows:

- a. the Card is issued by Cuscal Limited (Australian Financial Services Licence No. 244116);*
- b. we are a corporate authorised representative of Emerchants Payment Solutions Ltd (Australian Financial Services Licence No. 404131);*
- c. all consumers who apply for a Card are provided with the relevant and appropriate Financial Services Guide and Product Disclosure Statement prior to submitting their request for a Card; and*
- d. the following disclosures are contained in our advertising (including the Ad):*

"This material is general information only and does not take into account your objectives, financial situation or needs. We recommend you consider the Product Disclosure Statement (PDS) relating to this product before making any decision. The Ladbrokes Visa Card is issued by Cuscal Limited ABN 95 087 822 455, AFSL 244116."

and:

"Ladbrokes Digital Australia Pty Ltd is a Corporate Authorised Representative of Emerchants Payment Solutions Ltd, the distributor of the card. Terms and Conditions apply. See www.ladbrokes.com.au for further details."

6. Responsible Gambling

All of our advertising contains relevant and appropriate Responsible Gambling messages, including the Ad. The community member suggests that the Ad does not contain a Responsible Gambling message, however the Ad includes the following comprehensive Responsible Gambling message superimposed on the screen for 10 seconds:

Think! About your Choices. Gamblers Help. Call your state based gambling services on 1800 858 858. In NSW call Gambling Help on 1800 858 858 or visit www.gamblinghelp.nsw.gov.au. In TAS, ACT and WA visit www.gamblinghelponline.org.au. Don't let the game play you. Stay in control. Gamble Responsibly.

7. Placement and duration of the advertisement

The Ad ran on free to air and pay TV from late August until recently. All placements were compliant with our CAD approval and its B rating which permits the broadcasting of

television commercials relating to betting or gambling as follows:

Except in a news, current affairs or sporting program, an advertisement relating to betting or gambling must not be broadcast:

- Between 6.00am and 8.30am on any day*
- Between 4.00pm and 7.00pm on weekdays (except in SA)*
- Between 4.00pm and 7.30pm on weekends.*

8. Our comments in relation to the complaints

Section 2 of the AANA Code of Ethics

For the reasons mentioned above and below, we do not believe our Ad contravenes the AANA Code of Ethics.

2.1 – Discrimination

We believe that our Ad does not discriminate against or vilify a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

Sex discrimination is defined under section 5 of the Sex Discrimination Act 1984 (Cth) as treating a person less favourably than a person of the opposite sex. Vilification is not defined in the Sex Discrimination Act 1984 (Cth), however it is generally understood to mean a public act or statement that incites others to hate a person or their group because of a particular attribute.

There is no depiction of discrimination or vilification against the female character in the Ad. The female character appears in her swimming costume, as does the male character Nigel. Like the other characters, the female character demonstrates her admiration toward the storyline's hero Nigel, however the female character also expresses her affection toward Nigel. It cannot be inferred that simply expressing affection for the hero in the storyline justifies the conclusion that the female character is discriminated against, vilified, or objectified.

2.2 - Exploitative and degrading

For reasons similar to those outlined above, we believe that our Ad does not employ sexual appeal in a manner which is exploitative or degrading or any individual or group of people. The female character is simply expressing affection toward the hero of the storyline.

2.3 – Violence

We believe that our Ad does not present or portray violence.

2.4 – Sex, sexuality and nudity

We believe that our Ad does not treat sex, sexuality or nudity with insensitivity to the relevant audience. The character Nigel and the female character appear in their swimming costumes for a brief period, however in our view this is not insensitive to the relevant audience.

2.5 – Language

We believe that our Ad uses language which is appropriate in the circumstances, and is not strong or obscene.

2.6 - Health and Safety

In our view the Ad does not depict material contrary to prevailing community standards on health and safety, and specifically gambling, because the product being advertised in the Ad is the Card. There is no depiction of gambling or the purchase of a gambling product. Furthermore, the key message of the Ad is that the Card is a convenient method of non-cash electronic payment at a range of (non-gambling) merchants, which is demonstrated in a satirical manner by the consumers in the Ad using their Cards to pay for various (non-gambling) products.

The Ad does not promote our gambling products or services. For example, the Ad does not feature any of the below items that would be included in an advertisement for betting, wagering or gambling products:

- a. a horse race or sporting event upon which a bet can be placed; or*
- b. the odds for any horse race or sporting event; or*
- c. any specific type of betting option or product such as ‘best of the totes’ or trifecta; or*
- d. any of our betting platforms.*

Advertising by most, if not all, providers of non-cash payment products includes examples of the range of merchants at which those non-cash payment products can be used, and products that can be purchased. An example of this is the MasterCard ‘Priceless’ campaign. Like the MasterCard campaign, our Ad shows examples of the products that the Card can be used to purchase.

The standards that the community member alludes to are aimed at ensuring gambling operators do not advertise that gambling will result in financial betterment or that winning is a guaranteed outcome of gambling. However, the Ad does not depict gambling or the purchase of gambling products. Therefore it follows that the Ad does not suggest that gambling will result in financial betterment or that winning is a guaranteed outcome.

Even if it could be suggested that the Ad depicts gambling, which as we have explained above it doesn’t, we contend that the Ad still does not offend prevailing community standards as the Ad depicts some examples of (non-gambling) merchants at which the Card can be used to purchase (non-gambling) products. The Ad does not suggest, much less depict, that gambling will result in financial betterment or that winning is a guaranteed outcome of gambling.

AANA Code for Advertising and Marketing Communications to Children

We do not consider that the AANA Code for Advertising and Marketing Communications to Children applies as the Ad is not, having regard to the theme, visuals and language used, directed primarily to children or for product which is targeted toward or having principal appeal to children.

AANA Food and Beverages Marketing and Communications Code

We do not consider that the AANA Food and Beverages Marketing and Communications Code applies as the Ad does not advertise food or beverage products.

We sincerely hope that the clarification provided here resolves the concerns of both the ASB and the community members.

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 complainants’ concern that the advertisement features women in underwear whilst the men are clothed and that gambling is depicted in a manner which suggests it is easy to win.

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

The Board noted that some members of the community would prefer that gambling not be advertised on television. The Board noted that gambling is permitted to be advertised and that the Board is not able to comment on whether it should be or not but only on the content of the advertisement. The Board noted in this instance that the advertised product, whilst linked to a gambling organisation, is for a Visa card and not for a specific gambling product.

The Board noted the complainant's concern that the advertisement does not feature the 'gamble responsibly' message. The Board noted that notwithstanding this issue falling outside of the Code, the Board noted that a gamble responsibly disclaimer is displayed at the bottom of the screen for part of the advertisement.

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray 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.'

The Board noted the complainant's concern that the advertisement depicts a woman wearing lingerie whilst the men are fully clothed. The Board noted that the advertisement features one scene where the men are standing on a beach fully clothed and a woman walks past them wearing a bikini, and another scene where a woman wearing a one piece swimsuit is accompanying one of the men who is wearing red speedos and a towelling dressing gown. The Board noted that both these scenes are brief and are part of many scenes featuring the men and considered that the women are not the focus of the advertisement and their appearance is in the context of the beach or with a man in swimwear. The Board noted that some members of the community would prefer that women were not used in this manner but considered that the image of a woman in a bikini on a beach and a woman in a swimsuit next to a man in speedos and dressing gown are not of themselves images which discriminates against women.

The Board noted the complainant's concern that the woman are presented as a 'commodity or possession' and considered that the advertisement does not suggest that these women have been bought.

Based on the above the Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of their gender.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

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 concern that the advertisement presents gambling as luxurious and suggests that winning large sums of money is easy.

The Board noted that the advertised product is a credit card and not a gambling product. The Board noted that whilst the opening scene shows the men attending the races the Board considered that the advertisement does not show whether the men had placed any bets on any of the races or whether they won any money. The Board considered that there is no suggestion that the men are able to fund their lifestyles from gambling wins. The Board noted that each 'shout' is shown to be paid for using the Ladbrokes credit card and considered that whilst Ladbrokes is also a gambling organisation in the Board's view the advertisement is suggesting that you can pay for items using this card and that there is no

suggestion that a gambling win is funding the purchase of these items.

The Board considered that the advertisement did not depict gambling and did not condone or encourage excessive 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 Code on other grounds, the Board dismissed the complaint.