



Case Report

1	Case Number	0459/17
2	Advertiser	NEDS
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	25/10/2017
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.1 - Discrimination or Vilification Occupation
- 2.6 - Health and Safety Depiction of smoking/drinking/gambling
- 2.6 - Health and Safety Within prevailing Community Standards
- 2.8 - Excess participation Condone or imply excess participation

DESCRIPTION OF THE ADVERTISEMENT

The television advertisement depicts a scenario of a female client following up on the lack of progress of work on a house construction site with the site supervisor. The construction workers/tradesmen on site are sitting around with their phones in their hands. They comment that they are waiting for work to be finished on site by other tradesmen. The client walks off and the supervisor pulls out his phone, and the Neds logo is seen.

THE COMPLAINT

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

Gambling is an addictive illness. Promoting this to susceptible individuals only perpetuates the cycle of loss of income and addiction.

Furthermore the workers show that doing your job is not as important as lying to gamble on NEDS?

The advertisements encourage and reward disrespectful and condescending treatment of women.

They reinforce stereotypes that is harmful to both men and women.

They encourage gambling as an alternative to work or interacting with your female partner.

My objection to all of the ads is the singular messaging, which overtly promotes and encourages problem gambling; portraying a disconnection from the real world, work and relationships as positive. In each case, when the protagonist in the ad disengages from their surroundings to bet - often using subterfuge to do so - the voiceover excitedly proclaims 'It's time to bet!'

The woman is being treated as if she she's stupid and doesn't know why there's no progress on her building site or home being built whilst the all male construction workers are sitting around doing nothing whilst presumably using betting apps behind her back. This ad is sexist and derogatory to women.

The series of Neds ads promote gambling addiction as normal and presents problem gambling behaviours as humorous and clever. Neds promotes the following problem behaviours of gambling addicts:

lying about your gambling problem to family, friends, customers and your boss;

gambling when you are supposed to be working;

making excuses to gamble;

hiding your gambling addiction from your family;

surround yourself with addicts who will accept your behaviour;

work and family suffering because of your gambling.

I find it offensive for any company to promote problem gambling addiction and its behaviours.

It promotes gambling addiction as the "hero" of each ad is clearly a gambling addict!

I hate the current series of ads for NEDS .. each depicts the app user as totally addicted, dodging work commitments, lying to customers, or behaving in an antisocial manner to get more time on the app .. It's totally unhealthy and promotes a lifestyle habit that is dangerous and addictive.

It is never ok to rot someone because they are too busy gambling.

On the construction site advertisement, I find it offensive to all trades to be represented in such a low and lay back manner. I had my own trade services business of 34 years and feel highly offended as this being representative of customer service. The serious side to this is that Gambling is being encouraged not only in our leisure time but also in paid work time. I think these campaigns need to be deleted. The government spend millions of taxpayers dollars on Gamblers Assistance and then they allow this blatant type of advertising

Promotes gambling, sexist against men, making them all out to be lazy and that gambling took away their work ethic.

It's disgusting that at the outset, the premise of the advert is that you lie and deceive your

employers, those your responsible to or even that of your family and wife so that you can get on with gambling. This is counter to the very end where the advertiser is compelled to say 'Gamble Responsibly.'

I can not consider being deceitful about your actions of gambling to your family is in anyway being responsible at all, it's completely irresponsible to be advertising such poor morals.

Both these ads disrespect much of normal life. They offend me, upset me, they show an attitude that is undermining respect for society, encouraging behaviour that I believe will change life as we know it.

It was extremely rude to trades showing them as lazy and fraudulent. Are they wanting to say that the sort of people who use their app are crooks and wasters.

Advertisement indicates that gambling is more important to tradesmen than completing their jobs responsibly or participating in communicating with others. It normalizes and promotes the concept of gambling and as it is shown at times that are accessible to children and young people. It in no way depicts a concept of responsible gambling. The attitude shown towards the females employer is demeaning and sexist.

There are a series of these advertisements featuring men supporting stereotypical roles of women, or belittling women in professional roles, in order to ignore them and continue using the app on their phone. To imply that women, their roles and opinions should be belittled and deserve less attention than a betting app is backwards and only works to support ingrained unfair and inappropriate treatment of women.

All these Neds advertisements are encouraging people to lie to their families, their bosses, the general public so they can secretly continue their gambling. This not only encourages unsocial behaviour and negative personal relationships but it is also glamourising one of the indicators of gambling addiction - lying to your loved ones about your gambling habits. This is all being screened during evening peak times when families (including children) are enjoying free-to-air commercial television and it is promoting dangerous behaviour. Aside from the content of these ads, there are multiple gambling ads in every ad break and the frequency is over the top.

Demeaning & insulting to women's intelligence, just like every other add I have seen from this gambling company.

The underlying message is; gambling is more important than honesty in relationships with wives, partners, family members and more important than accountability and integrity in the work place.

As well as sending a very bad message about inappropriate importance of gambling in a man's life the advertising is highly misogynist.

Both advertisements for this product were promoting anti social behaviour & lying to addictively gamble at inappropriate times on this App. They are trying to normalize lying to gamble at inappropriate times, and engaging in gambling at inappropriate times, which is a main feature of addictive gambling.

I feel this ad is degrading towards women. The manner in which the men are attempting to dismiss her genuine request for them to do their job so they can sit around and place bets is

ridiculous. I feel it's also offensive to men!

No gamble responsibly message with ads

Both advertisements convey the message that it is ok to lie.

The advertising is encouraging lying and deceitful behaviour to young people. In addition is encouraging gambling, especially online gambling.

While great emphasis is placed on drugs and alcohol and their advertising, there appears to have been a marked increase in advertising for gambling. Lottoland, betting against odds throughout sporting fixtures and now NEDS has appeared. Alcohol and drugs may have long term ramifications on families but gambling has immediate effects where a pay packet may be lost in a day.

Given the problem gambling is for many families this add encourages men in particular to be deceptive and do and act in ways to hide their gambling.

This, along with other ads for NEDS, focus on blokey men getting rid of other people (usually women) in a disrespectful way, so they can gamble on their phones. The entire campaign is sexist and outdated - that women are a distraction from the things men REALLY want to do with their time, and that men's main objective in life is to get away from women.

I object to this advertisement as it does not depict an example of responsible gambling. On the contrary, it is an example of problem gambling that is affecting a person's ability to complete their work. The advertisement implies that numerous workers are gambling whilst at work instead of completing their work and this is an example of behaviours exhibited by individuals with a gambling addiction. I believe this advertisement is normalising and encouraging unhealthy and addictive behaviour related to gambling.

I am deeply offended by the lack of respect for women shown in these ads. The tone is decidedly misogynist, treating women like unvalued hindrances in the lives of these men. Some seriously harmful stereotypes are being perpetuated and they have serious consequences for women in our society. The lack of respect for the women involved in these ads upsets me every time I see them. Secondly, I feel strongly that these ads are normalising addiction to gambling, by depicting antisocial, dishonest gambling behaviour as laddish and funny. They are absolutely not depicting responsible gambling. There is a lot of social harm being done by these ads in the areas of sexism and gambling addiction.

As a woman I feel this ad is so incredibly demeaning to women. All the blokes, including the obvious "boss" are giving false reasons for the house not progressing whilst all the time the whole lot of the men are clearly in on "bluffing" the woman whilst they are all betting on-line. They all smirk whilst the woman storms off in frustration.

I object to this advertisement as it promotes gambling on a mobile phone as being more important to tradesmen than completing the day's work. It also shows the woman being amazingly impatient and frustrated, and shows all male tradesmen as more interested in gambling rather than working.

This advertisement is a concerning depiction of problem gambling behaviours. All but one

person in the advertisement is seen making excuses to avoid responsibility in order to gamble.

I felt that this ad was portraying, condoning and encouraging excessive participation in wagering because they showed a person putting on a wager while at work. This contravenes the Wagering Advertising and marketing Communication Code section 2.8.

It also was shown when children could be watching and I feel it is misleading and deceptive about what is acceptable behaviour and would negatively influence their development of appropriate Community Standards.

This, and other Neds ads, implies that the solution to real life problems can be found in using the Neds betting service. I believe that this is an irresponsible portrayal of the nature of gambling and has the potential to have a detrimental societal impact. It is inappropriate and offensive.

These ads are demeaning to women. In one ad a bunch of guys make excuses to a female boss on a building site so they can bet.

I also thought betting ads were going to be banned before 8.30 pm.

In the first ad the workman belittle and talk down to a female boss to get her off site so they can not work and continue gambling during work time. Gambling is a massive problem in our society and to promote gambling affecting everyday life as a good thing is irresponsible and damaging to many everyday people.

The ad is encouraging people to stop working (inconvenience others) by making up excuses not to do their job or everyday task, like eating a meal with family, just so they can bet.

They all involve and encourage deception. I am a reformed compulsive gambler and this disgusts me that they promote what tears apart families, betting when you should not be.

The tag line for these ads is 'It's time to bet.'

These ads are irresponsible in promoting betting as being the best and most important thing to do with your time; neglecting all other responsibilities. They promote betting as being awesome and fun without making viewers aware of any negative effects or results from gambling in this fashion.

This encourages inappropriate gambling and give children the impression it's ok to gamble instead of work

Encourages people not to partake in their employment and promotes gambling in that time instead. I don't actually have a problem with gambling, but I do think that when people are encouraged to gamble, rather than do their jobs, then that is irresponsible advertising.

THE ADVERTISER'S RESPONSE

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

Issues Raised to Date:

Section 2.1 of the AANA Code of Ethics

2.1 Discrimination or Vilification of Gender

The advertisement depicts a scenario whereby all the construction workers/tradesmen on site are sitting around having a 'smoko' break waiting for other work to be finished on site by other tradesmen.

The site supervisor is depicted as being genuinely concerned and embarrassed at the lack of progress on the site when the female client shows up on site.

The supervisor does not fob the client off or discard her concerns, but rather, he hurries off and begins walking around the site, asking the various tradesmen asking why things have not been done.

The depiction of the client as a female is incidental and there is nothing in the advertisement that could be construed as being a situation where the site foreman or the tradesmen are taking advantage of, or vilifying the female client on account of her gender.

Section 2.1 of the AANA Code of Ethics

2.1 Discrimination or Vilification of Occupation

The advertisement is clearly intended to be humorous and light-hearted, whereby all the construction workers/tradesmen on site are sitting around having a 'smoko' break during their downtime, while they are waiting for other work to be finished on site by other tradesmen (a common situation on a building site).

The tradesmen are not depicted as being lazy, neglecting their work duties or in any other way which could be construed as a discrimination or vilification of their occupation

Section 2.6 of the AANA Code of Ethics

2.6 - Health and Safety Depiction of smoking/drinking/gambling

2.6 - Health and Safety Unsafe behaviour

2.6 - Health and Safety Within prevailing Community Standards

Advertisers Response:

This advertisement does not depict any drinking or smoking on the construction site and all workers are wearing the appropriate safety gear (hard hats, safety vests, etc).

The advertisement is clearly intended to be humorous and light-hearted, whereby all the construction workers/tradesmen on site are sitting around having a 'smoko' break during their downtime, while they are waiting for other work to be finished on site by other tradesmen (a common situation on a building site).

Accordingly, the tradesmen are not depicted as gambling on their phones in a way which could be construed as being unhealthy or unsafe, or acting in any other way which could posing a health and safety risk on the work site or according to prevailing Community Standards.

Section 2.6 of AANA Wagering Advertising & Marketing Communication Code

Must not depict wagering as a means of relieving a persons financial or personal difficulties

The advertisement depicts a scenario whereby all the construction workers/tradesman on site are sitting around having a 'smoko' break, waiting for other work to be finished on site (this is a common occurrence on a construction site).

The tradesmen are all gainfully employed and are simply depicted as choosing to entertain themselves by having a bet on their phone during this downtime/smoko break.

They are not depicted as gambling on their phones in a way which could be construed as an alternative way of earning an income or as a viable alternative to their jobs.

*Section 2.8 of AANA Wagering Advertising & Marketing Communication Code
Must not portray, condone or encourage excess participation in wagering activities*

Advertisers Response:

The advertisement depicts a scenario whereby all the construction workers/tradesman on site are sitting around having a 'smoko' break, waiting for other work to be finished on site.

The tradesmen are depicted as choosing to have a bet on their phone during this downtime/smoko break and they are not depicted as gambling on their phones in a way which could be construed as taking priority over, or neglecting their work responsibilities.

The advertisement is intended to, and in fact does depict the tradesman in a humorous way, taking advantage of their downtime on site, to entertain themselves and have a bet on their phone.

The sole intent and unequivocal message of the advertisement is to suggest that consumers can take advantage of any down time, quiet time or wasted time they may otherwise have, to entertain themselves on their phone, which may in this instance, include having a bet.

Therefore, it is submitted that the advertisement does not portray, condone or encourage excess participation in wagering activities.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the "Code") or the AANA Wagering Advertising and Marketing Communication Code (Wagering Code).

The Board noted the complainant's concerns that the advertisement is denigrating to women, encourages deceitful behavior, portrays an unhealthy level of gambling and depicts tradesmen unable to work because it is more important to gamble.

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

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 advertisement is part of a series and that this particular advertisement "Tradesmen" features a woman approaching the foreman regarding the progress of the home she is having built. The Foreman speaks to the workers on the building site and they each explain the reasons why they cannot progress any work. The examples include,

- not being able to put the roof on until the insulation is finished,
- can't do anything until the wiring is done,
- waiting for the installation of the solar panels
- can't install the solar panels until the roof is on.

The Board noted the complainants' concerns that the woman is seen to be dismissed and is not respected in her query regarding the progress of the construction and that this is offensive to women.

The Board noted the Practice Note to Section 2.1 of the Code which provides the following definitions:

“Discrimination – unfair or less favourable treatment

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule”.

The Board noted that the woman appears unimpressed by the information she is receiving from the foreman and that as she hears the excuses she remains unhappy about the reasons. The Board noted that the woman walks away at the end of the advertisement seemingly in disgust about what she has been told.

The Board noted that the woman does not appear to believe the reasons she has been provided and her departure is in response to the realization that there would be no work done at that time. The Board considered that the way the workers and in particular the foreman treat her query is not a direct response to her being a woman but rather a list of related circular excuses because the men would rather be doing something else.

The Board considered that whilst the woman's treatment may be disrespectful, the woman is not portrayed as being humiliated or intimidated and noted that she walks away of her own accord in a frustrated manner. The Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person on account of ...gender... and did not breach section 2.1 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 the complainants' concerns that the depiction of gambling in this advertisement condones lying and deceit and is irresponsible and unacceptable.

The Board noted that that advertisement shows all the workers on a building site on their phones seemingly betting rather than working. The Board noted that the reasons behind the delay appear to be an infinite loop of excuses as to why there can be no work at that time.

The Board noted that it is clear that the reasons are fabricated and that most members of the community would understand that the men are supporting each other in a common goal to do very little work. The Board considered that while it is not desirable to lie or fabricate reasons to not work, the overall impression is lighthearted and does not amount to a depiction that would be considered contrary to prevailing community standards on health and safety.

The Board noted that gambling and wagering products are legally allowed to be advertised and the Board can only consider the content of the advertisement. The Board noted that some members of the community would prefer that this type of advertising not be allowed but in the Board's view the actual content of the advertisement does not depict material that is contrary to Prevailing Community Standards on health and safety and did not breach section

2.6 of the Code.

The Board finally considered Section 2.8 of the Wagering Code which provides: “Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities.”

The Board 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.

The Board considered whether this is a depiction of wagering ‘activities’ and noted that there is no definition of a wagering ‘activity.’ The Board considered that the promotion of a ‘brand’ along with an image of people using a mobile device is the commencement of a wagering activity and the inclusion of the phrase “it’s time to bet” was understood to be a wagering related product and can be reasonably interpreted as a wagering activity in the context of an advertisement for a wagering brand/product.

The Board noted however the decision of the Independent Reviewer in Tabcorp (0447/16) where it was decided that a depiction of people ‘spending their time wagering and watching racing on their mobile devices’ presumably showing the Tabcorp ‘app’, can reasonably be interpreted as being engaged in a wagering activity in the context of an advertisement for a wagering product. To ‘wager’ in the context of ‘wagering activity’ is ‘2. The act of betting’ (Macquarie Concise Dictionary (5th edn, 2009) 1416). Tabcorp denied that there was any ‘direct portrayal of gambling or wagering’. That is the case. Nonetheless, the depiction is implied.’ The Board considered that similarly in the current advertisement the promotion of a ‘Betting app’ can be reasonably interpreted as a depiction of wagering activity in the context of an advertisement for a wagering product.

The Board then considered whether the advertisement portrayed ‘excessive’ participation in wagering activities.

The Board 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.

Whilst the Practice Note lists three examples the Board considered that this did not restrict the application of Section 2.8.

The Board noted it had previously upheld a complaint about excessive participation in wagering activities in case 0447/16. Board noted in that instance that the Board’s determination had been subject to an Independent Review where the Reviewer found that,

“It did not necessarily indicate an addiction since there is no suggestion that this was a

regular event. Nonetheless, in my opinion, it was open to the Board to find that the wagering activity was excessive during this trip due to the intensity of the focus of the men on the wagering activity.”

In that case a group of men were seen camping and when one man was asked about his weekend he reflected back on all the opportunities the group had taken to bet and watch horse racing and that the result of this was to the detriment of other activities such as fishing and cooking a bbq.

The Board noted that “the advertisement was intended to be humorous, however in the Board’s view this does not negate the portrayal of the wagering activity taking priority in the men’s lives on that weekend. The Board considered that the depiction is not strongly condoning or encouraging excessive participation, but that it is portraying excessive participation in wagering activities.”

In addition, the Board noted it had upheld a complaint about excessive participation in wagering activities in a Lottoland case (0552/16) where a man was seen hiding under a table in order to place a bet.

In that case and following considerable discussion, the majority of the Board considered that

“the depiction of John hiding in order to use his phone to access a wagering website is suggestive of wagering being something secretive that should be hidden from family and or friends. The Board noted that the person using the product has isolated himself from the family and considered that this is a depiction of a person who allows wagering to become a priority in their life and that in accordance with the AANA Practice Note to the Wagering Code, this is an example of a depiction of excessive participation in wagering activities.”

In the current advertisement the Board noted the advertiser’s response that “the tradesmen are all gainfully employed and are simply depicted as choosing to entertain themselves by having a bet on their phone during this downtime/smoko break.”

The Board noted that it is impossible to know whether or not the workers are on a break and that the very first scene of the advertisement shows all the workers on their phones outside the site and then inside the building site as well. The Board considered that the overall impression was that work on the building site had ceased and all workers were more preoccupied with gambling rather than doing their paid job.

The Board considered that the loop of reasons provided by the workers in order to not do any work were a collection of excuses that were given for the purpose of allowing the men to continue to bet rather than work.

The Board considered that the choice of the men to discontinue working had a direct impact on the progression of the building and that this had a clear impact on the woman who was visiting the site.

The Board considered that similar to the cases mentioned above, the depiction of the men on the work site who are fabricating reasons not to work is a depiction of a group of people who have allowed wagering to take priority over their work.

The Board noted there is a high level of community concern with regards to excessive gambling and considered that the message of the advertisement is contrary to this concern as it encourages and condones excess participation in wagering activities.

The Board considered that the depiction is not strongly condoning or encouraging excessive participation, however in the Board's view the message taken from the promotion is a portrayal of excessive participation in wagering activities.

The Board considered that the advertisement does portray excessive participation in wagering activities where the wagering has taken priority in the lives of the workers, to the detriment of the woman home owner and determined that this depiction breaches Section 2.8 of the Wagering Code.

Finding that the advertisement did breach the Wagering Code, the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

On a without prejudice/no admission basis, we undertake to withdraw the alleged infringing advertisement (in its current form) from publication from all free to air TV from midday on Saturday 4 November 2017. Modifications will be made to the advertisement ahead of broadcasting in the future.