



Case Report

1	Case Number	0460/17
2	Advertiser	NEDS
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	25/10/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 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 where a male partner is sitting in the shop fitting room wait area, while as his female partner tries on clothes. The male in the advertisement is depicted as choosing to take advantage of the wait time and entertain himself by have a bet on his phone. The male hands more clothes to the female to try on.

THE COMPLAINT

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

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.

The series of Neds ads promote gambling addiction as normal and presents problem gambling behaviours as humorous and clever. Neds promotes the flowing 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.*

As someone who had a family member who used to lie about his gambling addiction I find it disgraceful that a campaign like this has been made and passed by the advertising standards board. People with addictions regularly lie to family members in order to continue their activities secretly. This behaviour is classic of addiction and this style of campaign seems to make it acceptable, even humorous, and normalises this behaviour. Lying about gambling can ruin lives, not least the person who has the addiction but the family who tries to support them. It's not a laughing matter and this campaign isn't neutralised just by adding a passive "Gamble responsibly" on an end frame. Surely if betting companies like Neds want to advertise their features and benefits they can find a more creative way to get people's attention rather than using a weakness of a gambler as the crux of their ad. Really irresponsible advertising.

Very inappropriate behaviour when there is so much family violence in our society. Dismissive behaviour towards women should not be perpetuated on such shows as Sunrise or anywhere else especially to sell products such as gambling which already causes so many problems in our society.

These adverts are suggesting that gamblers should be sneaky about their gambling and are showing people how to be deceptive and hide their gambling from family, partners etc. these adverts make it appear clever and acceptable to lie to and deceive people about their gambling.

I treat problem gamblers and these behaviours cause many problems especially financially. If the gamblers partner or family are not aware what the gambler is doing they can drain their family bank accounts, not have money for bills, mortgages and day to day living and end up with nothing losing their houses and their families gambling also causes trust issues and family breakdowns. gamblers will lie, cheat and steal to cover up their problem. so for advertisements to make out that it is ok to deceive your family and hide your gambling is disgraceful and should not be permitted.

The AANA Code of Ethics states:

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. As noted above our view is that such ads clearly denigrate women.

We also note the NT Code of Practice for Responsible Online Gambling 2016 (the "Code") states that some of the negative impacts of gambling are:

- From the perspective of family friends of a problem gambler, they may experience:*
- neglect by the gambler*
 - the gambler missing family functions or other obligations*

Employers may face issues with a problem gambler employee including: • poor performance

These Neds advertisements encourage the precise behaviour that are signs of problem gambling, in doing so they normalise the behaviour and potentially allow a gambler to justify such conduct.

We note the Code also states:

“Advertising and promotions are to be delivered in an honest and responsible manner with consideration given to the potential impact on people adversely affected by gambling”

It is hard to conceive that advertisements that clearly encourage deception and make light of the negative impacts of gambling could be considered honest or responsible and or consistent with the Code.

While we note that all of the ads have the warning message “THINK! About your choices. Think of the people who need your support. Gamble Responsibly” it is hard to imagine ways the ads could be more inconsistent with this message. The contempt and lack of respect shown for women is out of step with community values and totally contrary to “Think of the people who need your support”.

We request:

- 1. Confirmation that these ads are inappropriate;*
- 2. Advice as to remedial action to remove these advertisements (from all media) with haste, and mitigate the harm.*
- 3. That future Neds ads are proactively monitored*
- 4. Further sanctions that are within your regulatory powers*

We also request that this complaint be actioned with urgency, given that the advertisements are being heavily aired in the lead up to the Spring Racing season.

We look forward to receiving your response to our concerns shortly.

I don't think it's appropriate to encourage people to bet. There are enough issues in society already. Gambling is another addiction people don't need. I can't believe that this sort of advertising is allowed on TV.

The add itself in my opinion also encourages deceitfulness to be able to bet.

One example is a young man in a dress shop with his female friend. She thinks he's wonderful because he keeps giving her clothes to try on. He's doing it because he secretly wants to bet with NEDS.

Please speak to Prime 7 about the inappropriateness of this add and have it removed.

It makes it seem like it's okay to gamble anywhere and at the exclusion of actually taking notice of people around you. It normalises excessive gambling activity and the ad makes me feel like taking a shower. I like a punt but this ad makes me feel dirty. I have never complained about an ad before.

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.

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.

It's sexist. It promotes stereotypical gendered roles. Promotion of gender stereotypes a known contributing factor to violence against women.

This ad plays on and promotes gendered stereotypes.

The adverts portray a dishonesty to gamble which implies a gambling problem

The message is ridiculous and encourages irresponsible behavior at the same time as the 'gamble responsibly' logo appears at the end in an ironic twist. It is trying to appeal to young men and play on the idea that playing on your gambling ap while ignoring social responsibilities is a bit of harmless male goofing off but I am concerned that it would be popular with teenage boys who would accept this message and have a nonchalant attitude to an addictive pastime with real-world consequences.

These ads are demeaning to women. In the other ad a guy keeps telling his female partner that she looks great so he can continue to bet. I also thought betting ads were going to be banned before 8.30 pm.

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.

This series of advertisements appears to promote not only gambling but also to promote the idea of concealing that one is gambling. These ads also do not clearly make any statement about gambling responsibly.

The second ad is a husband deceiving his wife so he can also continue gambling.

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.

These ads that are directed to men, are sending a clear message that they should sneak and lie to their partners and family about their betting. The women in these ads are also treated as idiots.

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.

I find the adverts concerning as they promote unhealthy gambling habits; the main implication being that gambling is something to do when you're bored and to kill time. It feels like it is encouraging the viewer to treat gambling as a time-killer like reading an article or playing a game, and portraying concerning behaviours like ignoring your family to gamble as a light hearted laugh. Further, there didn't appear to be any kind of 'gamble responsibly' message.

Sexist advertising -

Between 7pm and 8.30pm my 11 year old son and 14 year old daughter sit down as a family to watch Home and Away. Don't appreciate betting/gambling commercials constantly being aired at this time. We know families that have been destroyed due to gambling addiction! It's wrong.

It was encouraging excessive and secretive behaviour in relation to gambling and the use of deception in order to gain more time to bet. There was a remorseless air of triumph from the male, who had deceived his partner by pretending to be supportive of her clothing choices and also highlighted how easy it is to gamble on a mobile phone and be undetected. This is entirely inappropriate and encourages problem gamblers to feel that their gambling habits are normal and even clever.

THE ADVERTISER'S RESPONSE

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

Section 2.1 of the AANA Code of Ethics

2.1 Discrimination or Vilification of Gender

The advertisement depicts a scenario whereby the male partner is patiently sitting in the shop fitting room wait area, while for his female partner tries on clothes.

This advertisement depicts a common scenario between a husband/wife or boyfriend/girlfriend who are out shopping together and the male partner finds himself in a familiar situation of waiting around in the fitting room for his female partner to try on clothes.

The advertisement is clearly intended to be a humorous and light-hearted take on a situation which many couples find themselves in on a regular basis.

The male is depicted as being caring and supporting his female partner (albeit in a light hearted satirical way) and is happy to sit there patiently waiting for his female partner to finish trying on the clothes.

He simply chooses to entertain himself on his phone while he is waiting, rather than complaining or telling his female partner to hurry up.

Therefore, it is submitted that the advertisement does not portray the female character in a way which discriminates against or vilifies the female character on account of gender.

Section 2.6 of the AANA Code of Ethics

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

Advertisers Response:

The advertisement depicts a scenario whereby the male partner is patiently sitting around in the shop fitting room area, while his female partner to try on clothes.

The advertisement is clearly intended to be humorous and light-hearted and not in any way suggesting that men be secretive in relation to their gambling or suggestive of using deception in order to gain more time to bet.

The male in the advertisement is depicted as choosing to take advantage of the wait time and entertain himself by have a bet on his phone, rather than complaining about waiting, being bored or telling his female partner to hurry up.

Accordingly, the male in the advertisement is not depicted as gambling in an unhealthy way or which could otherwise be construed as taking priority over other commitments or responsibilities.

Further, the conduct of the male in the advertisement in sitting on a lounge, using his phone to entertain himself, could not be construed as posing a health and safety risk in the fitting room area at environment or otherwise according with 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 the male partner is waiting around in the fitting room for his female partner to try on clothes.

The male in the advertisement is depicted as choosing to take advantage of the down time while he is patiently waiting for his female partner and entertaining himself on his phone by having a bet.

The male partner is not depicted as having any kind of financial difficulties or gambling on his phone in a way which could be construed as an alternative way of earning an income or as a viable alternative to a job.

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 the male partner is waiting around in the fitting room for his female partner to try on clothes.

The male in the advertisement is depicted as choosing to take advantage of the down time while he is patiently waiting for his female partner and entertaining himself on his phone by having a bet.

Accordingly, the male person in the advertisement is not depicted as gambling in a way which could be construed as taking priority over his other commitments or responsibilities.

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 phones, 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 disrespectful toward women, encourages deceitful behavior and portrays an unhealthy level of interest in gambling.

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 “Shopping” features a woman trying on clothing and her partner sitting on a couch and passing her more clothes to try on. The woman accepts the clothing options and the man says “take your time” then turns to his phone. The brand name “NEDS” appears on screen and the words “it’s time to bet.”

The Board noted the complainants’ concerns that the man is disrespectful to the woman as he has little interest in what she is doing and he is being deceitful as he distracts her so that he can bet.

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 impressed by the clothing she is being offered by the man and comments “you’re amazing” as she takes them from him. The Board noted that the woman returns to the change room seemingly happy about the additional clothing choices.

The Board considered that the actions of the man are recognizable as a common social scenario of a man going shopping with his girlfriend, and considered that whilst the response to the woman may be viewed as disrespectful by some members of the community, the woman is not portrayed as being humiliated or intimidated and noted that she appears very happy with the situation. The Board considered that, while some members of the community would prefer to see women depicted in more meaningful ways, the depiction of a woman

enjoying clothes shopping is not an unfair depiction or one that is likely to incite ridicule. 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 the man wanting to keep his partner trying on clothes so that he can interact with the brand and extend the time available to him in store which would keep her happy at the same time.

The Board noted that most members of the community would understand the scenario is showing a common attitude that some men share about shopping. The Board considered that while it is not desirable to lie or be deceitful, 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 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 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 considered that the current advertisement is an advertisement for NEDS, an operator licenced to provide wagering products or services to customers in Australia.

The Board then considered whether this advertisement this is a depiction of ‘wagering activities’ and noted that there is no definition of a ‘wagering activity.’

The Board noted the decision of the Independent Reviewer in Tabcorp (0447/16) where it was determined 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 the current advertisement and considered that, similar to 0447/16, the depiction of a person using a mobile device, in the context of an advertisement for a wagering service and accompanied by the phrase “it’s time to bet” can be reasonably interpreted as a depiction of a wagering activity.

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 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 Board noted the definition of ‘excessive’ (Macquarie Australian Encyclopedic Dictionary 2006) as being ‘exceeding the usual or proper limit or degree; characterised by excess.’ The Board also noted that ‘Excess’ includes the definition of ‘going beyond ordinary or proper limits.’

The Board noted it had previously upheld a complaint about depicting 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 complaints about excessive participation in wagering activities in a NEDS case (0459/17) where workers on a building site were seen to be unable to work because of their choice to bet.

In that case, the majority of the Board considered that

“...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 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.”

In the current case, the Board noted that the man is clearly not interested in the shopping activity and he is shown to take advantage of the time he has waiting for his partner to try on clothes. The Board considered that based on the advertisement, it is not possible to tell how often the man engages in wagering activities and the most likely interpretation is that he has found a way to occupy himself whilst waiting for his partner. The Board considered that the overall impression is that the man gives his partner additional clothes to try on so he can spend more time in the wagering activity. However in the context of the depiction of a man being taken clothes shopping the Board considered that this was not excessive but rather was the man’s way of making this outing more enjoyable.

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

The Board determined that the actions of the man are not a depiction that breaches Section 2.8 of the Wagering Code.

Finding that the advertisement did not breach the Code of Ethics or the Wagering Code, the Board dismissed the complaints.