



Case Report

1	Case Number	0476/12
2	Advertiser	Sportsbet
3	Product	Gaming
4	Type of Advertisement / media	SMS
5	Date of Determination	12/12/2012
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The Sportsbet Advertisement (Ad) is known as a ‘mobile banner ad’ which is shown in two separate static frames which alternate intermittently. The Ad promotes one of the core offerings of Sportsbet.com.au, being betting on racing through Sportsbet’s mobile App (which is available for download in the Apple iTunes Store).

Frame one of the Ad focuses on Sportsbet’s “Top Tote Plus” product which offers Sportsbet members the best odds of each of the TABs or the starting price, whichever provides the highest return for the horse the customer chooses to bet on. The purpose of this frame is to encourage existing members or adult consumers to download the Sportsbet App, whereby they will be able to bet using the Top Tote Plus product.

Frame two of the Ad again promotes the Sportsbet App and conveys to consumers that by downloading the App a Sportsbet member is capable of readily betting on all forms of horse racing from their mobile phone.

THE COMPLAINT

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

The ad appears on my mobile phone when I play game apps, such as Scramble with Friends. I object because:

1. It is suggesting people gamble on Every Race and Every Day. This is excessive gambling, and some people may over time in viewing the ad, feel that gambling/betting on every race is normal. It isn't

2. In addition, children & young adults can also see it.

I believe Sports Betting & Gambling should be treated in the same way as other adult products such as Alcohol and cigarettes. Therefore advertising should be limited to adult media only, at adult only times, and further that the ad should be changed to exclude the suggestion one should bet on every race, every day.

THE ADVERTISER'S RESPONSE

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

Response to Complaint

Introductory comments and Sportsbet's stance on responsible gambling

Wagering on racing in Australia is an accepted part of Australia's cultural heritage. Sportsbet is committed to providing wagering services in a responsible manner so as to minimise the potential for problem gambling in the community. To this end, Sportsbet employs a wide range of responsible gambling measures.

For example, Sportsbet provide prominent information regarding responsible gambling on our website and contact details of problem gambling services. This information is intended to ensure that customers can easily access this information in order to assess their own circumstances.

Sportsbet is also committed to complying with the Australian Association of National Advertisers Code of Ethics (Code) and other applicable State and Territory responsible gambling advertising practices and guidelines. Indeed, Sportsbet has a long history of advertising and promoting its services in a manner which, among others:

- does not give the impression that gambling is a reasonable strategy for financial betterment;*
- is not directed at minors or vulnerable or disadvantaged groups; and*
- does not depict or promote the consumption of alcohol while engaged in the activity of gambling.*

Sportsbet's comments in response to Complaint

Sportsbet has carefully considered the concerns expressed in the Complaint and does not seek to shy away from the importance of advertising its services in a responsible manner.

The Complaint alleges that the Ad breaches section 2.6 of the Code in that it (in summary) depicts material contrary to prevailing community standards on health and safety.

Sportsbet believes that the ad is well within prevailing community standards. It does not depict excessive or irresponsible gambling or involve people gambling under the legal age. It merely advertises a Sportsbet product.

The Complaint lacks foundation in Sportsbet's view and should be dismissed.

The Complaint centres on frame two of the Ad and asserts that it suggests "people gamble on Every Race and Every Day."

Sportsbet's rejects this assertion and considers that the Ad needs to be considered in context, that is, by downloading Sportsbet's App, a Sportsbet member will be capable of betting with Sportsbet's Top Tote Plus product across all races and be able to conveniently bet on the races from their mobile phone.

Even if frame 2 is viewed in isolation (which Sportsbet considers should not be done), this frame conveys to the audience the convenience that comes with downloading Sportsbet's App, that is, a capability to bet on all forms of racing from your mobile phone. Put simply, the Ad promotes the Top Tote Plus product and Sportsbet's App; it does not serve to encourage Sportsbet customers to gamble excessively.

Further, the manner in which the Ad conveys the convenience and capability of utilising Sportsbet's services by downloading Sportsbet's App is standard industry practice and is used by advertisers across multiple industry sectors. Accordingly, Sportsbet believes strongly that the Ad is not contrary to prevailing community standards on health and safety.

The Complainant asserts that "children and young adults can" see the Ad. Sportsbet notes that neither it nor any other advertiser can guarantee that minors will not view some of its advertising on any platform. However, the Ad is not offensive, not targeted towards minors (we note the site that the Complaint refers to is not a children's site) and minors are in fact not permitted to use Sportsbet's services or download Sportsbet's App.

The Complainant also states she believes that "Sports Betting & Gambling should be treated in the same way as other adult products such as Alcohol and cigarettes". This comment is irrelevant for the purposes of assessing the merits of the Complaint and for this reason Sportsbet does not respond to that comment.

Finally, Sportsbet has not provided comments in respect of the AANA Code for Advertising and Marketing Communications to Children as the Ad falls outside that Code because the

nature of Sportsbet's products promoted in the Ad (i.e. its wagering services and Top Tote Plus product) clearly do not constitute a "Product" as defined in that Code as they are not targeted toward children and do not have principal appeal to Children.

For the reasons mentioned, Sportsbet believes that the Complaint lacks foundation and should be dismissed.

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 text that encourages gambling and is not suitable for a broad audience to view.

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

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 this advertisement features a 'mobile banner ad' which is shown in two separate alternating static frames. The advertisement promotes one of the offerings of Sportsbet.com.au being betting on racing through Sportsbet's mobile App (which is available for download in the Apple iTunes Store). The predominant text on the page reads "Bet on every race, every day, from your mobile."

The Board noted that there is a genuine community concern around gambling and any portrayal that encourages excessive gambling.

The minority of the Board considered that the advertisement is simply describing the convenience of being able to bet on any race at any time if the Sportsbet app is downloaded. The minority of the Board considered that the advertisement is not encouraging or condoning in any way the concept of people betting on every race. The minority of the Board considered that the advertisement did not breach section 2.6 of the Code.

The majority of the Board agreed that the availability of a mobile phone app for the purposes of gambling is not of itself encouraging excessive gambling. However 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.

Based on the above, the Board considered that this advertisement did depict material contrary to prevailing community standards and did breach Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.6 of the Code the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

Although Sportsbet disagrees with the determination made by the majority of the Board, we confirm that Sportsbet has discontinued advertising the Advertisement, which is the subject of the complaint.

Sportsbet reiterates that, consistent with the view of the minority of the Board, the Advertisement is simply describing the convenience of being able to bet on any race at any time if the Sportsbet App is downloaded. Neither the Ad, nor Sportsbet, encourage or condone excessive gambling. Indeed, Sportsbet employs a wide range of responsible gambling measures.