



Ad Standards Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

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Advertising Standards Bureau Limited  
ACN 084 452 666

## Case Report

|   |                               |                  |
|---|-------------------------------|------------------|
| 1 | Case Number                   | 0490/18          |
| 2 | Advertiser                    | NEDS             |
| 3 | Product                       | Gaming           |
| 4 | Type of Advertisement / media | TV - Free to air |
| 5 | Date of Determination         | 14/11/2018       |
| 6 | DETERMINATION                 | Dismissed        |

### ISSUES RAISED

2.5 - Language Inappropriate language

### DESCRIPTION OF THE ADVERTISEMENT

This television advertisement is promoting a new betting tool / feature being offered by the advertiser ('Neds'), called 'Fluc-Up'.

### THE COMPLAINT

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

*Ever since you let the ads "up ship creek" "bc effing fun now they're all using rude connotations eg "fluc up" and "bucket". You may think that I'm putting the MEANINGS there but every person I mention it too agrees... the you give these advertising agencies an inch they take a yard. I really don't think that they are appropriate. They are on EVERY CHANNEL in the afternoons until about 9 at night.*

*I object to the use of the words "fluc up" describing the betting aid. It is offensive and unnecessary to thinly veil swear words to get attention.*

*It's basically swearing on TV.*

*It is on a time slot where children will be watching and taking these 'cool' ideas that*





*betting is ok to school, and even better, now there is now an option, Fluc Up, that if you make a mistake with your betting selection, you can somehow gamble your way out of it.*

## **THE ADVERTISER'S RESPONSE**

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

### *Section 2.5 of the AANA Code of Ethics*

#### *2.5 – Language Inappropriate*

*'Fluc' is an abbreviation of the word / phrase 'fluctuation' or 'price fluctuation' and is a commonly used abbreviation in the racing and betting industry to describe a situation where there is a change or fluctuation in the market price or odds being offered by various bookmakers on a particular runner or selection leading up to the start of the race or event.*

*The Fluc-Up product being promoted in the TVC is a new product being offered by the advertiser whereby if the client places a bet at a certain price and the market price fluctuates out or 'flucs-up', then Neds will honour and pay out the clients winnings at that higher price (subject to the product terms and conditions available on Neds website).*

*Any similarity between the racing industry term 'Fluc' and the similar sounding commonly used obscenity is purely coincidental and unintentional.*

*It is submitted that Neds did not use the word 'Fluc' in a way that was intended to, or could be reasonably construed as being akin to, or disguised as inappropriate language.*

*As stated above, 'Fluc' is a commonly used word/abbreviation in the racing and betting industry and this was the context in which it was used by Neds in the relevant advertisements.*

*Furthermore, it is submitted that Neds intended target market or any other reasonable person viewing the applicable advertisements would have known and understood that it was not being used as profanity or an inappropriate way.*

*Therefore, it is submitted that the advertisement is not in breach of section 2.5 of the AANA Code of Ethics as there is no use of offensive or inappropriate language (either express or implied).*



## THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement features swearing.

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

The Panel noted that this television advertisement features the phrase "fluc up".

The Panel considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: "Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided".

The Panel noted the complainants' concerns that the language was a clear association to "fuck up" and is inappropriate for an audience which would include children.

The Panel noted the Practice Note for Section 2.5 which states: "Words and acronyms that play on the 'f' word, e.g. WTF and LMFAO, but do not use the actual word are normally considered acceptable if used in a light hearted and humorous way, are in subtitle rather than spoken word and are appropriate to the situation".

The Panel noted that the aspect of the gaming app being promoted was called "fluc up" and considered that the product name is directly relevant.

The Panel noted the advertiser's response that "fluc" is an abbreviation of the word "fluctuation" and is commonly used in the racing and betting industry as a reference to betting odds changes, or fluctuations. The Panel did not agree with the advertiser's response that the similarity between "fluc up" and the obscenity is coincidental, and considered that the play on words may have been intentional on behalf of the advertiser.

The Panel considered that, although implied, swearing is not used in the advertisement and that most members of the community would consider that the abbreviation is not inappropriate for a broad audience.

Finding that the advertisement did not use strong or obscene language and that the language was not inappropriate, the Panel determined that the advertisement did not breach Section 2.5 of the Code.

The Panel also considered these complaints under the provisions of the AANA



Wagering Advertising Code (the Wagering Code).

The Panel noted that the advertiser is a licensed operator of a registered wagering service and therefore the Wagering Code applies.

The Panel considered the imagery in the scene when the gaming app is opening, of heavenly music and a glow from the phone. The Panel considered that this scene is inappropriate as it links the gaming app with ethereal or celestial imagery. However, the Panel noted that this association is not an issue that would breach the Wagering Code.

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

