



Case Report

1	Case Number	0496/17
2	Advertiser	Sportsbet
3	Product	Gaming
4	Type of Advertisement / media	App
5	Date of Determination	08/11/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Directed to minors directed primarily to minors

DESCRIPTION OF THE ADVERTISEMENT

Brief promotions for Sportsbet with mobile devices hanging as Christmas decorations and Ben Johnson standing at a mantle pointing to the app on a mobile device. He says "it's new."

THE COMPLAINT

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

I object to children being advertised to to download gambling apps as the game is for people aged 4+. It's inappropriate to advertise and expose gambling to children which in this instance, is reinforced into children by using music that is easily recognisable and excitable to them.

THE ADVERTISER'S RESPONSE

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

The Complaint

The Complaint asserts that:

'I object to children being advertised to to download gambling apps as the game is for people aged 4+. It's inappropriate to advertise and expose gambling to children which in this instance, is reinforced into children by using music that is easily recognisable and excitable to them.'

The ASB has identified section 2.1 of the AANA Wagering Advertising & Marketing Code of Conduct (Wagering Code) as the section which may have been breached based on the Complaint. The Wagering Code states:

2.1 Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to the theme, visuals and language used, be directed primarily to Minors.

Sportsbet's response to the Complaint

Sportsbet has considered the Complaint and considers that the Advertisement does not breach section 2.1 or any other section of the Wagering Code of the AANA Code of Ethics for the reasons outlined below.

The Advertisement does not include any theme, visuals or language that is directed primarily to minors. Instead, the Advertisement uses shortened images and themes from Sportsbet's 'Puntmas' campaign that the ASB has previously assessed (complaint reference number 0456/17), which play on a 'Christmas' theme showing the various products and offers that are available to Sportsbet customers during the Spring Racing Carnival.

The only language used in the Advertisement is: 'It's new. Gold! Use The Fold this Puntmas with Sportsbet' and 'Sportsbet has everything you need gift-wrapped for Puntmas'.

The Advertisement specifies that the advertised products are for ages 18+.

The only music that features in the Advertisement is a jazzed up version of the 'First Call' trumpet fanfare synonymous with racing.

Just because the Advertisement may be seen by minors does not, in and of itself, breach the Wagering Code. The accompanying Practice Note for section 2.1 of the Wagering Code states: 'This provision does not apply to advertising or marketing communication which is directed primarily to adults; nor does it apply to advertising or marketing communication that may be seen by minors, but is not directed primarily to them.'

The age demographic for users of the Angry Birds Transformers App sets out that 89% of the users of the Angry Birds Transformers App are 25 years or older and as such, the Advertisement was viewed in a location that is clearly directed towards adults; not minors.

Sportsbet includes strict requirements in its arrangements with advertising agencies to not publish any Sportsbet advertising in any environment that is directed at persons under the age of 18.

Sportsbet did not authorise this instance of advertising and, on a no admissions basis, has withdrawn the Advertisement from the Angry Birds Transformers App.

Conclusion

Sportsbet believes that the Complaint lacks foundation and should be dismissed.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Wagering Advertising and Marketing Communication Code (Wagering Code).

The Board noted the complainant’s concerns that the advertisement is for a wagering app and is directed to children.

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

The Board considered Section 2.1 of the Wagering Code. Section 2.1 of the Code states: “Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to the theme, visuals and language used, be directed primarily to Minors.” The Board noted that for the purpose of the wagering code, minors are children under the age of 18 years.

The Board noted the advertisement features a mantle with phones hanging from it and Ben Johnson standing next to the mantle. He points to the app and says “it’s new.” The voiceover describes the feature “the fold” as trumpets play in the background.

The Board noted the complainants’ concerns that the placement of the promotion was during the game Angry Birds Transformers and that this is a game for children.

The Board considered that the current advertisement is an advertisement for Sportsbet, an operator licenced to provide wagering products or services to customers in Australia and therefore the provisions of the Wagering Code apply.

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 noted that it can only comment on the content of the promotion.

The Board noted the practice note to the Code that states that:

“Whether an advertisement or marketing communication is “directed primarily to minors” is an objective test based on a range of factors. It is a combination of visual techniques and age of characters and actors which will mean the marketing communication is directed primarily to minors. The use of any one factor or technique in the absence of others may not necessarily render the marketing communication “directed primarily to minors”.

The Board firstly considered the theme of the advertisement, an app that is displayed hanging on a mantle and surrounded by Christmas accessories. The Board noted that the theme of Christmas is no longer strongly associated with a religious concept but is more broadly accepted as a commercial celebration and holiday season. The Board considered that the association to Christmas is not a theme that is directed only to minors and that overall the promotion of a wagering app with links to Christmas was not a theme directed primarily to minors.

The Board then considered the visuals of the promotion. The Board noted that the mantle piece and the hanging mobile phones were intended to look like Christmas decorations and that the additional accessories did create a Christmas feel. The Board noted however that young children would recognize that the hanging strand of phones was not a real Christmas decoration and that the screens of the phones did not include images of Christmas like characters such as Santa or reindeer and would not appeal to children and was not directed primarily to minors. The Board noted that most children would not know Ben Johnson and would not associate his character to Christmas.

The Board then noted the language within the advertisement and noted the use of the term Puntmas as a link to and replacement for Christmas. In the Board's view, the word 'Puntmas' is a play on the word Christmas and makes a connection to the activity of 'punting' (having a bet) but considered that this is not a word or association that would likely be understood by children.

The Board noted the words on the mobile screens hanging on the mantle included "black book, live racing and the fold." In the Board's view the plain screen covered only with text were not appealing to children and did not include words that would be easily understood by children. The Board considered the voiceover and the description of the app and noted that the adult voice was not likely to catch the attention of children and was not a voice familiar to them like a cartoon character or child voice.

The Board noted the placement of the advertisement within an app that children would be playing – Angry Birds.

The Board noted the advertiser's response that the "age demographic for users of the Angry Birds Transformers App shows 89% of users are 25 years or older." The Board also noted that the advertiser has confirmed that in this instance they did not authorize this instance of advertising but has voluntarily withdrawn the advertisement from the Angry Birds App.

The Board noted that while the placement in the Angry Birds App is unfortunate, in the Board's view this App is not a game that is directed primarily to children and is equally played by adults. The Board noted that as the theme, visuals and language of the advertisement are not directed primarily to minors and the placement is not in a medium that is directed to minors the advertisement did not breach section 2.1 of the Wagering Code.

Finding that the advertisement did not breach the Wagering Code on any other grounds, the Board dismissed the complaint.

