



Case Report

1	Case Number	0551/16
2	Advertiser	Make A Wish Australia
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	18/01/2017
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.6 - Health and Safety Depiction of smoking/drinking/gambling
- 2.2 - Depicting minors not shown in incidental role

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features children between the ages of 4 and 7 talking about what they would wish for if they were you (the viewer): a Lamborghini, 5 carat diamond ring, house with a cherry on top, sports cruiser, first class tickets to London. Then supers pop up on the screen about the prizes available in the Make-A-Wish Lottery and finishes with the main girl saying 'Wishes might just come true'.

THE COMPLAINT

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

I dislike children being used for lotto/gambling advertising, particularly where it may encourage kids to think lotto and gambling is okay. This appears to be outside of S2.2 of the AANA wagering advertising & marketing code as it depicts several minors that are not "in an incidental or natural role."

THE ADVERTISER'S RESPONSE

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

I write in response to a complaint received on behalf of Make-A-Wish Australia.

REASON FOR CONCERN: I dislike children being used for lotto/gambling advertising, particularly where it may encourage kids to think lotto and gambling is okay. This appears to be outside of S2.2 of the AANA wagering advertising & marketing code as it depicts several minors that are not "in an incidental or natural role."

I would like to review the Television commercial against the entirety of the AANA Code of Ethics – Section 2 Consumer Complaints:

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.

In no way does the Make-A-Wish Lottery television commercial discriminate a person(s) or section of the community. This lottery is available to people of all race, ethnicity, nationality, gender, sexual preference, religion, disability, mental illness or political belief. The lottery is not available to people under the age of 18 due to Australian laws or available to residents of South Australia due to State government regulations. All this is displayed on the disclaimer at the bottom of the screen

2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people

In no way does the Make-A-Wish Lottery television commercial employ sexual appeal.

2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

In no way does the Make-A-Wish Lottery television commercial present or portray violence.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

In no way does the Make-A-Wish Lottery television commercial present any items relevant to sex, sexuality or nudity.

2.5 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 Make-A-Wish Lottery television commercial received a G rating from FreeTV CAD. There is no strong or obscene language.

2.6 Advertising or Marketing Communications shall not depict material contrary to

Prevailing Community Standards on health and safety.

The Make-A-Wish Lottery television commercial has followed all required due diligence in the production stages of this television advertisement with regards to gambling. We have the following super based at the bottom of the screen for two scenes:

Gamble responsibly. Need help? Call National Gambling Help Online on 1 800 858 858 or visit www.gamblinghelponline.org.au

Followed by a super referencing the age required to play and ineligible states. We have also reference the Permit number of the gaming authority behind the Make-A-Wish Lottery: Players must be 18+. T & C's apply, see website. Due to regulations SA residents not permitted to buy a ticket. License number 201551611

When reviewing the code of ethics, The Make-A-Wish Lottery television commercial has adhered to all sections and has not breached any section without making reference when required.

I refer to the reason for concern itself: I dislike children being used for lotto/gambling advertising, particularly where it may encourage kids to think lotto and gambling is okay. This appears to be outside of S2.2 of the AANA wagering advertising & marketing code as it depicts several minors that are not "in an incidental or natural role."

Aside from the personal feelings this viewer has about television commercial, the Make-A-Wish Lottery television commercial does not encourage kids to think lotto and gambling is okay.

The commercial takes the idea of the dreams of winning a lottery from a child's perspective. Our presenters are happy, healthy children, talking about the great prizes available to be won. The phrase 'Wishes might just come true' has a childlike whimsical quality to it, which when combined with cute children should add a smile and warmth which is very much in keeping with the Make-A-Wish brand attributes.

From our design and marketing perspective the Make-A-Wish Lottery television commercial has adhered to all advertising codes of conduct.

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 makes gambling attractive to children.

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

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.

As per the AANA Wagering Advertising and Marketing Communication Code Practice Note:

“The Code applies to advertising and marketing communication for wagering products and services provided by licensed operators in Australia. Wagering Product or Service relates to betting on horse races, harness races, greyhound races, or sporting events including electronic sports (competitive video gaming), as well as betting on a series of races or events. It also includes betting on an event, or a series of events, such as novelty events or other contingencies, for example royal baby names or award winners. In addition it includes betting on fantasy sport teams.”

In particular the Board considered Section 2.2 of the Wagering Code which provides: ‘Advertising or Marketing Communication for a Wagering Product or Service must not depict a person who is a Minor unless the person is shown in an incidental role in a natural situation and where there is no implication they will engage in wagering activities.’

The Board noted that Minors are defined in the Code as persons under the age of 18 years.

The Board noted that this television advertisement features young children talking about what they would wish for with the last wishes being to buy tickets for the Make A Wish lottery because there are ‘heaps of prizes’.

The Board noted that the wording of Section 2.2 of the Wagering Code is very specific with regards to Minors not being used in advertising material for Wagering products or services. The Board noted the advertiser’s response that the advertisement is not encouraging children to think lotto and gaming is okay but the Board considered that the children in the advertisement are aged under 18 years of age and using children to promote a wagering product or service is a clear breach of Section 2.2.

The Board determined that the advertisement did breach Section 2.2 of the Wagering 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 that we do not hear what question the children are asked, only their responses, some of which start with, “If I were you...” and considered that the children are not talking about engaging in gambling or wagering themselves but rather they are saying what they would wish for if they were someone else, presumably an adult. The Board noted however that at the end of the advertisement a young boy said he would “get tickets for the Make A Wish lottery”. The Board noted that this product is legally allowed to be advertised and considered that while advertisers should take extreme care when using children in these types of advertisements, in the Board’s view there is no suggestion that these children are themselves participating in wagering activities and the advertisement is unlikely to encourage children to want to participate in wagering activities.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards and determined that the advertisement did not breach Section 2.6 of

the Code.

Finding that the advertisement did breach Section 2.2 of the Wagering Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

Thank you for your email. I can confirm that this TV Commercial is no longer on air, and we are happy for the Advertiser's Statement to report that the TV Commercial has been discontinued.

The TV Commercial intended to show, in a warm and fun way, what kind of wishes might come true by winning \$1million through the Make-A-Wish Lottery. The Lottery isn't being conducted by Make-A-Wish; rather we are the charity beneficiary and tickets sold will help to make vital wishes come true for children and teenagers facing life-threatening illness. Everything we do at Make-A-Wish is to bring hope, strength and joy to really sick kids and their families. Being child-focused is one of our guiding values, and at no time would we ever knowingly act in a way that isn't in line with this value.