

CASE REPORT

1. Complaint reference number	57/08
2. Advertiser	TMG Asia Pacific Pty Ltd (Shellgame)
3. Product	Gaming
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Wednesday, 12 March 2008
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for a guessing competition "Shellgame" features a young woman inviting viewers to guess under which shell she has placed a pink ball, after she has rotated the shells into alternate positions. Information regarding the competition is shown on screen "Quiz: 2 rounds, 5 questions per round. Subscription: additional 6 msg per month. Comp ends 31-5-08. Terms and conditions" www.194060.com. Txt LEFT MIDDLE RIGHT to 194060. Ask bill payer's permission. Stop service? Txt 'stop' to 194060. 14+ only. Charges: \$5 joining fee + \$5 per msg received. Win \$4000."

THE COMPLAINT

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

It is a form of gambling from your armchair. And it would attract people who are struggling and who don't realise the above costs. It would also attract teenagers, and it could be a precursor to gambling on pokermachines. Unfortunately most people do not realise the cost of sending/receiving the text and that it is a subscription to play.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

We do not share the opinion that it is 'a form of gambling from your armchair'. There is no gambling involved in this service.

It is a game of skill, where the entry question is about keeping a close eye on a ball and 3 shells: if you can point out where the ball is after the shuffling, you move on to question 2. You must correctly answer 3 questions to proceed in the trivia game. If you correctly answer 3 questions you will automatically move through to a (free of charge) final knock-out round, which is held at the end date of the competition. Contestants who qualify for the final knock-out round will receive a series of additional questions until a winner is established. If there are still multiple contestants left after the fourth question, the fifth question is an open question. Depending on the nature of the last question, the winner will be determined by the individual who sends in the fastest correct answer or the one who has the closest correct answer. This information will be announced along with the questions. There is no chance involved in this, hence it is not gambling.

In the advertisement it is clearly mentioned that the service is a 'multi question quiz', and therefore not a game of chance with a draw. The summary Terms & Conditions are displayed throughout the commercial. The duration of these in-screen texts exceed the 0.2 seconds per word recommendation of Free TV Australia. Once a viewer enters the service, the summary Terms &

Conditions are confirmed in a free of charge text message.

With regards to Section 2 of the Advertiser Code of Ethics, our service does not allow children under the age of 14 to play, nor do we direct our material 'primarily to children aged 14 years or younger'.

Our service complies with the Mobile Premium Services Industry Scheme administered by the Communications Alliance/ACMA, and the advertising is in line with Free TV's Commercial Television Industry Code of Practice

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board considered that the complaints were about the product being advertised rather than the advertisement per se. The Board noted that the advertisement displayed the relevant terms and conditions as per the Free TV recommendations.

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