

## Case Report

1. Case Number :	0072-24
2. Advertiser :	The Lott
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	20-Mar-2024
6. Decision:	Dismissed

### ISSUES RAISED

AANA Advertising to Childrens Code\2.1 Prevailing Community Standards

### DESCRIPTION OF ADVERTISEMENT

This sponsored segment in an episode of Survivor features the 'Set for Life' logo. The host describes the sponsored prize for the segment as being \$5,000 on repeat for a total of \$60,000.



### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*Financial Counselling Australia (FCA) would like to complain about integrated ads running within the programming of Survivor Australia. The ads are for a gambling product called Set for Life which is operated by The Lott.*

*Survivor Australia is a family TV show, watched by children. According to Section 2.1 of the Children's Advertising Code "Advertising to Children must not contravene prevailing community standards, including by promoting products or services unsuitable or hazardous to children or encouraging unsafe practices. Advertising to Children that encourages bullying or promotes unhealthy ideal body image may also breach this rule."*

*Placing gambling ads within a family TV program is unsuitable, hazardous and encourages unsafe practices. Gambling causes extreme financial harm and it should not be normalised in TV programming. Incorporating the Set for Life logo and talking about the gambling product during the show is simply unacceptable and contravenes basic community standards.*

*Financial counsellors see the harm caused by gambling products first hand. It is an addictive product, creates debt and puts enormous stress on individuals and families.*

## **THE ADVERTISER'S RESPONSE**

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

*The two components that constitute advertising of Set for Life during Australian Survivor are set out below and further described in the Advertisement Description section.*

### **1. Integrated Partnership**

*Includes:*

- *In-program references to Set for Life (host mentions and billboards);*
- *In-program contest with a \$60k prize sponsored by Set for Life; and*
- *Viewer competition with a \$60k prize sponsored by Set for Life.*

*The integrated partnership appears to be the focus of the complaint.*

### **2. Television Commercials**

- *15-second and 30-second advertising spots broadcast during the episode's commercial breaks.*

*Television commercials are not referenced in the complaint, but details are included in this response for completeness.*

*Set for Life is a lottery game that gives Australian adults the chance to win a top prize of \$20,000 per month for 20 years (prize shared if more than four winners), along with seven other prize levels. Set for Life is conducted by various Australian lottery operators (including those wholly owned by The Lottery Corporation) and made available for sale at The Lott. Australian lottery operators are authorised by various state and territory governments and are subject to strict legal and regulatory obligations, including with respect to responsible gambling.*

*Fundamentally, and contrary to the assertions made in the complaint:*

- *the advertisements do not contravene the AANA Children's Advertising Code, as there is no advertising to children under that Code; and*
- *the advertisements are consistent with the AANA Code of Ethics.*

*Further details supporting this position are set out below.*

#### *AANA Children's Advertising Code*

*We submit the Children's Advertising Code does not apply to the advertisements, nor would the advertisements contravene that Code as asserted in the complaint if that Code did apply.*

*The Set for Life partnership and television commercial does not constitute 'advertising to children' for which there are three criteria:*

- *Nature and intended purpose of the product being promoted is principally or significantly appealing to children;*
- *Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to children;*
- *Expected average audience at the time or place the advertisement appears includes a significant proportion of children.*

*We address each of these criteria in turn below.*

*"Nature and intended purpose of the product being promoted is principally or significantly appealing to children."*

*The nature and intended purpose of the product being promoted is not principally or significantly appealing to children.*

*Set for Life is a lottery game that can only be played people aged 18 and over. The game is advertised to Australian adults with themes that typically resonate with adult audiences (i.e. financial freedom). The concept of receiving a regular income for a set period is more relevant and appealing to individuals who are managing their finances, planning for the future, and considering long-term investments. The prize structure and format of Set for Life is not meaningful for younger viewers who do not have the same financial responsibilities or goals.*

*"Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to children."*

*The presentation of the advertisement is not principally appealing to children.*

*Set for Life television commercials are developed in the brand visual style which has been applied consistently since the game's launch in 2015. The animation style is refined and not heavily stylised to appear realistic and appeal to adult audiences. The voiceover has a mature voice and uses language targeted at adult audiences (i.e. financial freedom).*

*Paramount (the broadcaster) has advised The Lott, via its media agency, that Survivor is not a children's show, nor is it aimed at children.*

*The presentation of advertising material within the program leverages the adventurous, challenging and strategy themes of Australian Survivor. The television show frequently deals with interpersonal relationships, alliances, and the complexities of human behaviour, which are not compelling or relatable for younger audiences. Moreover, Survivor often includes elements such as physical competitions, social dynamics, and strategic decision-making that cater more to adult interests and sensibilities. The strategic nature of the show is in large part why it was selected as an integration opportunity for Set for Life as the game's annuity prize mechanic appeals to adults driven by strategy and planning.*

*There are two main partners that sit alongside Set for Life for Survivor in 2024. Both partners also offer products targeted at an 18+ audience. These are:*

- Isuzu (motor vehicle manufacturer and retailer): promoting the D-Max and 7 seat MU-X SUV both with a base retail cost of \$73k. In show, Isuzu gave away a D-Max vehicle to a contestant in a reward challenge. Isuzu also have a watch and win contest where a viewer can win either a D-Max or MU-X with a value of \$73k. This partnership has also been run in previous seasons and details of this competition can be found at <https://10play.com.au/australian-survivor/win/win-a-top-of-the-range-isuzu-mu-x-or-d-max/c240201uqfln>.*
- Xero (online accounting software): Xero have a media approach of sponsoring key peak programs that run at 7:30pm. They do not do integration and focus on "Brought To You By" billboards and accompanying television commercials.*

*The contestants on Australian Survivor are aged 18 years or older. The contestants featured in the 2024 season are regular Australians with no inherent media profile or popularity among people under the age of 18 years old.*

*"Expected average audience at the time or place the advertisement appears includes a significant proportion of children."*

*The expected average audience at the time or place the advertisement appears did not include a significant proportion of children.*

*Drawing on data from previous seasons of the show, The Lott was informed that the viewership of Australian Survivor primarily consists of individuals aged 18 and above (approximately 91% to 94% of the audience), with estimates forecasting the under-18 audience in the range of 6% to 9%.*

*According to OzTAM, the actual proportion of the Australian Survivor audience aged 18 and above was 91.5%, indicating the under-18 audience was 8.5%: below the threshold of 25% to constitute a 'significant' proportion of the audience.*

*Additionally, when looking at the OzTAM audience data for all programs that ran between 19:00- 21:00 in 2023, it is very rare to have a program with no under 18 audience. For example, Deadpool 2, which is R rated, recorded viewing from audiences of persons under 18.*

*A large proportion of Australian Survivor's audience watch the show via 10Play (known as Broadcaster Video on Demand or "BVOD"). Through verified user IDs, the integrated partnership episode of Australian Survivor was limited to 10Play users aged 18 and above. All BVOD activity is run off Private Marketplace (PMP), which taps directly into arrangements set up by our major publishers, including Channel Ten. These arrangements are set up specifically for The Lottery Corporation and have strict 18+ requirements, ensuring no shows are targeted at a younger audience and the account holder logged into 10Play is over 18 years of age.*

#### *AANA Code of Ethics*

*We acknowledge that the Panel's consideration of the advertisements may not be limited to the specific issues raised in the complaint and may extend to consider compliance with the AANA Code of Ethics. With that in mind, we further submit that the advertisements are consistent with the AANA Code of Ethics, noting that:*

- The advertisements do 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 orientation, religion, disability, mental illness or political belief (2.1).*
- The advertisements do not employ any sexual appeal (2.2).*
- The advertisements do not present or portray any violence (2.3).*
- The advertisements do not portray any acts that are in reference to sex, sexuality or nudity (2.4).*
- The advertisements do not include strong or obscene language (2.5).*
- The advertisements do not depict material contrary to prevailing standards on health and safety (2.6).*

- *The advertisements are clearly distinguishable as advertising (2.7).*

*We note the complainant asserts the advertising is “unsuitable, hazardous and encourages unsafe practices” and “contravenes basic community standards” but does not elaborate on these assertions. It is difficult to respond to these assertions without a better understanding of the evidence relied on by the complainant in making these statements. As we have set out above, the Set for Life advertisements are developed to appeal to adult audiences and are promoted at times and places where a significant proportion of the audience is aged 18 years or older.*

#### *Summary*

*The Lott is committed to providing the highest standards of customer care and responsible gambling. The Lott supports responsible play of lottery games and maintains a comprehensive Responsible Play Program. Feedback was sought from our Responsible Play and Customer Care Officer at each stage of the advertisement and integration development (including at concept phase) and all feedback was incorporated into the final version of the commercial to ensure the advertisement was legally compliant and delivered in a responsible manner.*

*We trust you find the above response satisfactory, and that you consider it appropriate that the complaint be dismissed.*

#### **THE DECISION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Children’s Advertising Code (the Children’s Code).

The Panel noted the complainant’s concerns that the advertisement is inappropriate for an audience which includes children.

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

The Panel noted that for the provisions of the Children’s Code to apply, the advertisement must be found to target children under 15.

#### **Does the advertisement target children?**

The Panel noted that the Children’s Code defines “target children” as:

*“Target Children is determined by the context of the advertisement and the following three criteria:*

- 1. Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*

2. *Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*
3. *Expected average audience at the time or place the advertisement appears includes a significant proportion of Children.”*

The Panel noted that the Practice Note provides guidance on the interpretation of “target children”:

*“All three criteria will be considered by the Community Panel in determining whether or not advertising targets Children. The weighting given by the Community Panel to each of the three criteria will be determined on a case by case basis. In the event of a complaint being considered by the Community Panel, the advertiser should be in a position to provide details in terms of the nature and intended purpose of the product, the presentation of the advertisement content and the expected average audience at the time or place the advertisement appears.*

*“In relation to the third criteria, measures to determine if Children are likely to be a ‘significant proportion’ of the expected average audience may include one or a combination of the following:*

- *Where data exists, 25% or more of the predicted audience will be Children. In relation to outdoor advertising, if across a campaign the data shows a predicted audience with less than 25% Children, and there is a Children’s event or concert that is incidental to the ad placement, the audience of that incidental Children’s concert or event will not be captured.*
- *C&P programmes.*
- *Programs, artists, playlists, video, movies, magazines or other content with significant appeal to Children (e.g. featuring personalities or characters popular with Children).*
- *Compliance with the Outdoor Media Association Placement Policy and Health & Wellbeing Policy which regulate the placement of advertising at primary and secondary schools which are locations where Children regularly and predictably gather. Where accurate program audience data is not available, the Community Panel may have regard to other factors listed above such as the program content, the time or the location where the advertisement is being shown (in line with the above provision).”*

**Point 1: Is the nature and intended purpose of the product principally or significantly appealing to children?**

The Panel considered that the advertised product is a gambling product known as ‘set for life’. The Panel considered that the details of the product would not be clear to children viewing the advertisement. The Panel considered that the ‘set for life’ logo and details are unlikely to be principally or significantly appealing to children.

**Point 2: Is the content of the advertisement principally appealing to children?**

The Panel noted that Survivor is a popular reality television show broadcast in a family timeslot, and that many children are interested in the competition. The Panel noted that the sponsored segment included an activity in which contestants needed to balance, and considered that this was an activity that would attract the attention of children.

However, the Panel considered that Survivor is also a show popular with older teenagers and adults, and it is not a children's show.

The Panel considered that while the advertisement may gain the attention of children, it would be more likely to gain the attention of adults and was not principally appealing to children.

**Point 3: Does the expected average audience of the advertisement include a significant proportion of children?**

The Panel noted the advertiser's response showing that Survivor had an expected average audience of less than 10 per cent children.

The Panel considered that the audience for the advertisement was unlikely to include more than 25% children given the general viewing programming in which it appeared.

**Targeting children conclusion**

The Panel considered that the product would not have significant appeal to children, the content of the advertisement was not principally appealing to children, and audiences for the advertisement would not include a significant proportion of children. The Panel therefore determined that the advertisement did not target children and the provisions of the Children's Code did not apply.

**Conclusion**

Finding that the advertisement did not breach any other section of the Children's Code the Panel dismissed the complaint.