

Case Report

1. Case Number :	0125-24
2. Advertiser :	Sportsbet
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	15-May-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Advertising to Childrens Code\2.1 Prevailing Community Standards

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a race car speeding past a drive-through window, picking up a bag of fast food. The voice-over says, "if being a race car driver was as easy as using the Sportsbet app we'd all do it".



THE COMPLAINT

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

Sports bet advertising within the showing of Lego Masters was shown before 8:30pm. This program is aimed as a family entertainment and thus I believe that it is completely unacceptable for these ads to be shown with the shows run time.

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 1 May 2024 regarding one complaint (Complaint) received by Ad Standards concerning Sportsbet's 'Race Car' commercial (Advertisement) broadcast during 'Lego Masters' (Program) on free-to-air television, Channel 9, a digital copy of which is enclosed.

Summary of response

Ad Standards have identified that the Complaints raise issues potentially bearing on the following sections of the AANA Advertising to Children's Code (Code):

Section 2.1 – Advertising to Children must not contravene Prevailing Community Standards.

Sportsbet rejects any suggestion that the Advertisement breaches section 2.1 (or indeed, any other section) of the Code for at least the following reasons (which are expanded on below):

- Sportsbet is, of course, prohibited from directing advertising to Children (and for the avoidance of any doubt this Advertisement was not); and*
- the Advertisement was directed to adults and broadcast during a television program which has a predominantly adult audience (being at least 82% according to third party data).*

The Advertisement

The Advertisement forms part of Sportsbet's 'Nobody does it easier' campaign and highlights a series of stereotypically difficult tasks and the ease of using Sportsbet's mobile application.

What does the Code prohibit?

Section 2.1 of the Code prohibits advertising to Children that contravenes Prevailing Community Standards.

The AANA's Practice Note in respect of the Code (Practice Note) provides that:

'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.'

Under the Code, 'Children' are defined as persons under the age of 15.

Section 2.1 – the Advertisement does not advertise to Children

Sportsbet submits that the Advertisement does not breach section 2.1 of the Code. The Advertisement 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 (the product being promoted can only be advertised to adults – it cannot be advertised to children at all);*
- Presentation of the advertisement content (e.g., theme, images, colours, wording, music and language used) is principally appealing to children (the Advertisement which depicts a wagering app does not contain material principally appealing to children); and*
- Expected average audience at the time or place the advertisement appears includes a significant proportion of children (the expected average adult audience in this case was 82%).*

We address each of these criteria in turn below.

The nature and intended purpose of the Advertisement

- As the Advertisement makes very clear, the Advertisement was promoting Sportsbet's mobile wagering betting platform. This application, and the ability to wager with Sportsbet, are exclusively for customers over the age of 18 years. Before using Sportsbet's betting platform, customers must go through a process of registration, which requires strict customer identification verification as part of Sportsbet's compliance under applicable laws. This includes ensuring that the age of customers is at least 18 years. Consistent with those arrangement, the Advertisement features a prominent "18+" warning message.*
- The Advertisement was therefore directed exclusively towards adult consumers who were legally permitted to access and use the Sportsbet mobile application and who are the only customers who can lawfully engage with Sportsbet's betting platform.*

Presentation of the Advertisement

- *The Advertisement depicts a fictional world in which all cars are ‘Racing Cars’. These cars are driven exclusively by adults and further car-related actions are shown, such as two men washing their cars and a woman getting into a Taxi. All characters depicted within the Advertisement are adults and the Advertisement does not feature any children whatsoever. Driving a car is an action stereotypically associated with adults given that the minimum legal driving age in Australia is 17 years old (unaccompanied).*
- *Sportsbet strongly denies that any features depicted within the Advertisement are principally appealing to children (or appeal to children at all).*

Expected average audience

- *The Advertisement was broadcast on 28 April 2024 at 8:29pm during the Program on Channel 9. The Program is classified as Parental Guidance (PG), which is defined as “PG-rated content is not recommended for viewing by people under the age of 15 without guidance from parents, teachers or guardians. Programs targeted towards children are usually classified as either P or C and must meet stringent requirements outlined by the Australian Communications and Media Authority. Material classified as PG may contain adult themes or concepts but must have a mild impact and remain suitable for children to watch with supervision.*
- *The primary expected audience of the advertisement was adults over 18 years. Audience data from OzTAM shows that 82% of the audience viewing the Program are over 18 years old.*
- *Furthermore, the Program is hosted by an adult over the age of 18 whilst all the contestants on the show are aged 18 years or older. The contestants featured on the Program are regular Australians with no inherent media profile or popularity among people under the age of 18 years old.*

Conclusion

For the reasons outlined above, Sportsbet strongly rejects any assertion that the Advertisement breaches section 2.1 of the Code (or any other section) and submits that the Community Panel should dismiss the Complaint.

Australian Classifications <https://www.classification.gov.au/classification-ratings/what-do-ratings-mean>

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 placement where it may be viewed by 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 years of age.

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. The Panel considered that the Sportsbet app is 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 the advertisement depicts a race car going through a drive through. The Panel considered that the fantastical nature of this scene may attract the attention of children.

The Panel considered the advertisement would be equally likely to gain the attention of adults and would not be principally appealing to children.

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

The Panel noted that the complainant viewed the advertisement during Lego Masters.

The Panel considered that while Lego Masters is a family program which would have children in its audience, the show was also popular with older teenagers and adults and the advertisement was unlikely to have an audience of over 25% children.

Targeting children conclusion

The Panel considered that the product would not have 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 found 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 target children and the provisions of the Children's Code did not apply the Panel dismissed the complaint.