

Case Report

1. Case Number :	0135-24
2. Advertiser :	Zynga Inc.
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
AANA Code of Ethics\2.0 Other

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a woman sitting on the couch playing the Hit It Rich Slots game on her phone. She gets overjoyed when she wins the game.



THE COMPLAINT

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

Inappropriate gambling content during Lego Masters which is a family program with a large audience of children.

My reason of this complaint is that it is showing gambling on the TV at prime time, i just witnessed it at 5:09pm QLD time. and 7:30PM qld time pervious night before 1/5/24. I believe this is absolutely unacceptable, i do not want my children growing up watching the ads to download POKIES on their phone. This is an add that has bright lights and loud noises too to bring in the excitement.

First time I see a gamble add. I was a gambler and almost lost my whole life. For some people like me in the process of rehab from gambling, I don' think this add is appropriate.

Promotes gambling addiction

This played on channel 9 at about 8:00-8:01pm during Lego Masters - a show targeted at children.

THE ADVERTISER'S RESPONSE

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

We act for Zynga Inc., a wholly owned subsidiary of Take-Two Interactive Software, Inc. (Zynga). While the Advertiser listed in Ad Standards' correspondence is Take-Two Asia Pte Ltd, the entity responsible for the relevant advertisements is Zynga Inc. Zynga Inc. and Take-Two Asia Pte Ltd operate within the same corporate group.

We are instructed to respond to Ad Standards' correspondence received between 6 and 13 May 2024 regarding complaints received in relation to the Zynga "Hit It Rich! Slots" game (Hit It Rich) advertisements aired on Free-to-Air and have been available for streaming through On-Demand television since 29 April 2024 (Complaints). The case reference numbers are 0135-24 and 0136-24.

Since around 29 April 2024 and to date, Zynga has been running an advertising campaign promoting the online game and application Hit It Rich. Hit It Rich is a free online slots game that provides slots features such as scatters, lucky response and pop frenzies without involving real money. The game is intended for an adult audience and does not offer real money gambling or any opportunity to win real money or prizes. In-app purchases are available, however, in return for additional content and in-game

currency. Zynga prepared, in conjunction with the marketing agency, PASHN, two advertisements (one 15-second advertisement and one 30-second advertisement) for broadcast on Free-To-Air and streaming on On-Demand television (together, the Advertisements).

The Advertisements were both submitted for approval to ClearAds on 24 April 2024 and approved prior to the Advertisements being broadcast. The Advertisements were both cleared with a 'W' classification, meaning that they "may be broadcast at any time except during P and C programmes or adjacent to P or C programmes. Exercise care when placing in G programmes principally directed to children".

At Zynga's request, an extension was granted by Ad Standards to respond to the Complaints by 14 May 2024. Following the receipt of additional complaints yesterday, 13 May 2024, Ad Standards confirmed to us by mail received at 5:06pm that the consideration of the Panel will still be under Section 2.1 of the AANA Children's Advertising Code. Accordingly, this is the sole focus of our response.

1 Background

Hit It Rich is an online game and application available for download on the App Store, Google Play and Kindle Fire. The application was developed by Zynga, who is a leading global developer of social games that is owned by Take-Two Interactive Software, Inc. Hit It Rich is a free-to-play game, that allows players to purchase extra features. During the game, players experience the feeling of playing Vegas-style video slot machines with commercial themes. The game features numerous five-reel slots and allows players to earn points. Hit It Rich is classified M, with the description "Simulated Gambling".

2 Description of the Advertisements

(a) 30-second advertisement (30s TVC)

This advertisement is 30 seconds in length featuring a middle-aged woman sitting on a couch inside her home playing Hit It Rich on her mobile phone. The 30s TVC features the Hit It Rich logo on the left-hand corner, and the M classification on the top right corner. The bottom of the 30s TVC contains the text super-script: "Free Welcome Bonus available to new players only. Hit it Rich Slots does not offer "real money gambling" or an opportunity to win real money or prizes. Practice or success at social casino gaming does not imply future success at "real money gambling"." (Disclaimer).

The 30s TVC then cuts to a series of scenes featuring the woman playing different feature slot games in the Hit It Rich app, including Sumo Panda, Rumble Rumble, Freaky Tiki, Super Cash Tower and Mustang Money. The woman is seen wearing a

range of clothing, including an animal hoodie, a matador jacket, a Hawaiian 'holiday' style costume, a flapper costume and a cowgirl costume.

The advertisement then finishes by showing Hit It Rich on a phone, with on-screen super reading: "Download Free Now! A Million Coins Welcome Bonus! Download on the App Store. Get it on GooglePlay. 5M+ Downloads, Rated 4.3 stars by over 680K players".

The voice-over for the 30s Ad is of a middle-aged Australian woman's voice. The script is as follows:

"I see you've just downloaded Hit It Rich! The exciting free pokies game from Zynga! Wondering what adventure awaits you first? Sumo Panda, how adorable. Or perhaps Rumble Rumble, embrace the thrill of big wins. Feeling the island vibes with Freaky Tiki, or maybe the glitzy allure of Super Cash Tower? Mustang Money, a perfect choice! Hit It Rich! All the pokies you love and more! Download Hit It Rich today for your free welcome bonus. Your adventure awaits."

An electronic copy of the advertisement is attached.

(b) 15-second advertisement (15s TVC)

The 15s TVC is a condensed version of the 30s TVC. It shows a middle-aged woman sitting on a couch inside her home playing Hit It Rich on her mobile phone.

The woman is seen wearing an animal hoodie at one stage while playing the Sumo Panda online game. The woman is then seen wearing a cowgirl costume while playing Mustang Money. Excerpts of the Hit It Rich game showing the slot games are shown in the advertisement. The advertisement finishes by showing the application on a screen, with on-screen super reading: "Download Free Now! A Million Coins Welcome Bonus! Download on the App Store. Get it on GooglePlay. 5M+ Downloads, Rated 4.3 stars by over 680K players".

From 0 to 0.10 seconds, the Disclaimer features on the bottom of the 15s TVC and the classification "M" and words "Simulated Gambling" are also displayed.

The voice-over for the 15s TVC is of the same middle-aged Australian woman's voice. The script is as follows:

"Say hello to Hit It Rich! The exciting free pokies game from Zynga! Sumo Panda, how adorable. Mustang Money, a perfect choice! Hit It Rich! All the pokies you love and more! Download for free today!"

An electronic copy of the advertisement is attached.

3 Information regarding the broadcasting of the Advertisements

We are instructed that the Advertisements have been broadcast on On-Demand and Free-To-Air television in Australia from 29 April 2024 to date. The Advertisements were broadcast to the following 'Lego' related programs on Channel 9 between 29 April 2024 to 5 May 2024:

<i>Date</i>	<i>Time</i>	<i>Program</i>
<i>Monday, 29 April 2024</i>	<i>12:00-13:15</i>	<i>Lego Masters Australia Vs Rest of The World</i>
<i>Tuesday, 30 April 2024</i>	<i>12:00-13:15</i>	<i>Lego Masters Australia Vs Rest of The World</i>
<i>Wednesday, 1 May 2024</i>	<i>12:00-13:15</i>	<i>Lego Masters Australia Vs Rest of The World</i>
<i>Friday, 3 May 2024</i>	<i>17:30-19:30</i>	<i>THE LEGO BATMAN MOVIE</i>
<i>Saturday, 4 May 2024</i>	<i>15:15-16:30</i>	<i>Lego Masters Australia Vs Rest of The World</i>
<i>Sunday, 5 May 2024</i>	<i>14:30-15:50</i>	<i>Lego Masters</i>

Due to the limited time available to provide this submission, Zynga has been unable to confirm the accuracy of the above table with the PASHN agency due to time differences between Australia, the United Kingdom and the United States. Zynga will be able to provide any updated broadcasting information to Ad Standards tomorrow.

The Lego Batman Movie is rated PG with the warning "Mild themes and animated violence".

Lego Masters, by contrast, is a reality competition series featuring amateur adult Lego builders competing for a cash prize. Ten pairs of Lego enthusiasts are tasked with constructing original, creative, and extremely sophisticated builds using Lego blocks within a limited time frame. As the teams work, renowned brick "masters" Amy Corbett and Jamie Berard offer advice and critiques, while host Will Arnett offers humorous commentary. After each challenge, the brick masters decide on the winning team, and which team must be eliminated. The last builders standing win \$100K. The show is rated PG.

We are instructed that Lego Masters is not directed principally to children, however, the series does attract a high proportion of children from around age eight upwards, as well as a high concentration of women above the age of 40. The broadcasts on Monday, Tuesday and Wednesday were during the middle of the day on a school day, therefore a majority of children would have been at school during this period. Significantly, there were no school holidays in Australia during this period.

4 *Response to the Complaints*

(a) AANA Children's Advertising Code

The Complaints were raised under Section 2.1 of the AANA Children's Advertising Code and primarily complain that the Advertisements were not appropriate to be advertised on Lego Masters, as it is a family-style television program with a large audience of children.

Section 2.1 provides that:

"Advertising to Children must not contravene Prevailing Community Standards".

"Advertising to Children" means:

"Advertising that targets Children and which 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."*

"Prevailing Community Standards" is defined as:

"the community standards determined by the Ad Standards Community Panel as those prevailing at the relevant time in relation to Advertising to Children. The determination by the Community Panel shall have regard to Practice Notes published by AANA and any research conducted by Ad Standards."

Prevailing Community Standards include under the AANA Ethics Code Practice Note nudity, use of vernacular, unsafe behaviour, bullying and advertising about body image/size/alteration of images. Prevailing Community Standards under the AANA Children's Advertising Practice Note include: "promoting products or services unsuitable or hazardous to children or encouraging unsafe practices", or "encourag[ing] bullying or promot[ing] unhealthy ideal body image".

The recurring issue in the Complaints is that the Advertisements were broadcast during the program Lego Masters on Channel 9. The broadcasts of the Advertisements that occurred on 29 April, 30 April and 1 May 2024 all occurred during the middle of the day, where the expected average audience of the Advertisements would not likely comprise many children, and instead would comprise parents and other viewers. This is because a majority of children should be at school at this time on a weekday, and there were no school holidays during these dates. Regarding the Advertisements that were broadcast from 3 to 5 May 2024, we are instructed that Lego Masters and The Lego Movie are not directed principally to children, however, our client accepts that the audience may contain a high concentration of children as well as women above the age of 40.

The Advertisements were not intended to, and do not target children under the age of 15. Instead, placement of the Advertisements during Lego Masters and The Lego Movie was intended to deliver targeted reach to women above the age of 40 and drive campaign efficiency. The Advertisements feature a clear 'M' classification, indicating that Hit It Rich is not suitable for children. The Disclaimer also states that "Hit it Rich Slots is intended for an adult audience." which clarifies that it is not suitable for children. The Advertisements feature a voice-over of a middle-aged woman and do not feature any elements that are principally or significantly appealing to children, such as child voices, cartoon characters, cute animals or candy.

Our client does not consider that Hit It Rich as a product has principal or significant appeal to children under the age of 15. First, the game contains Vegas pokies machine feature games. Children under the age of 15 cannot access these games legally either in person or online, therefore would not be familiar with what these feature games look like. Secondly, when accessed online and on the various stores to download the application, it is clearly indicated that the game is suitable for people over the age of 17. This would deter children under the age of 15.

In our view, the Advertisements do not target children and were intended only to appeal to people over the age of 15 and primarily women over the age of 40.

Ad Standards has also requested that our client address all parts of Section 2 of the AANA Code of Ethics.

2.1 Advertising or Marketing Communication 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.

- This subsection does not arise. The Advertisements do not portray people or depict materials in a way which discriminates against or vilifies a person or section of the community.

2.2 Advertising or Marketing Communication shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people.

- This subsection does not arise. The Advertisements do not use images of minors or people who appear to be minors, let alone in any exploitative or degrading manner.

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

- This subsection does not arise. The Advertisements do not present or portray violence.

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

- This subsection does not arise. The Advertisements do not show any scenes relating to sex, sexuality and/or nudity.

2.5 Advertising or Marketing Communication 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.

- This subsection does not arise as strong or obscene language is not used in the Advertisements.

2.6 Advertising or Marketing Communication shall not depict material contrary to Prevailing Community Standards on health and safety.

- This subsection does not arise as the Advertisements do not depict unsafe practices, such as unsafe driving, bike riding without helmets or not wearing a seatbelt.

2.7 Advertising or Marketing Communication shall be clearly distinguishable as such to the relevant audience.

- The Advertisements are clearly distinguishable as promotional and marketing material for In The Rich as the advertisement features unrealistic costumes, the tone used in the voice-over is excited and commercialised, the Advertisements feature the Disclaimer, and the Advertisements are promotional in nature, clearly indicating that Hit It Rich is available to "Download Free Now".

For the reasons set out above, Zynga submits that the Advertisements are consistent with the Code and requests that the Panel dismisses the Complaints.

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 complainants' concerns that the advertisement is inappropriate for placement where it may be viewed by children and promotes gambling.

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

Promotion of gambling

The Panel noted the complainants' concerns that this advertisement was promoting gambling without any disclaimers or warnings to gamble responsibly. The Panel noted that whether an advertisement requires a disclaimer is not within the scope of the codes administered by the Panel.

The Panel noted that this is a simulated gambling app, and while users can make in-game purchases there is no chance of winning real money. The Panel noted that this advertisement is not promoting wagering and as such the provisions of the AANA Wagering Code do not apply.

Children's Code

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 simulated gambling app. The Panel considered that the bright colours and animations in the app may attract the attention of children, however considered that simulated poker machines are not something that would be of significant appeal to children.

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

The Panel considered that the app features an adult woman playing the game, and there is nothing in the language of the ad or in the woman's actions which suggest that this is a game for children. The Panel noted the voice-over for the advertisement is also an adult, and she describes the app as containing "all the pokies you love", which is a suggestion that the game is aimed at adults who have used poker machines before.

The Panel noted that the advertisement depicts the woman wearing different costumes as she selects different machines to play on the app. The Panel noted that costumes include a panda onesie and a cowboy hat. The Panel considered that these outfits are likely to attract the attention of children.

The Panel considered the advertisement would be likely to gain the attention of adults and children 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 many of the complainants viewed the advertisement during Lego Masters.

The Panel considered that while Lego Masters is a family program which would have children among 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.

The Panel noted that all the other times and programs listed by complainants would also be 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 complaints.