

Case Report

1. Case Number :	0142-24
2. Advertiser :	Sportsbet
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	5-Jun-2024
6. Decision:	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Wagering Code\2.8 Excess participation
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts a man watching racing on his phone while on a golf course. A voice-over states, "Nobody does it easier than Tee Time Tim Callaghan. He streams Sky Racing on the Sportsbet app. All while tackling the Southern Hemisphere's scariest slice. Yep. Whether he's driving a buggy or trying to dig one out of a bunker, this Sultan of swing doesn't miss a second."



THE COMPLAINT

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

Bloke looking at phone while playing golf. Commentary with words to the effect - you'll never miss a thing whether you're taking a swing or driving a (golf) buggy... my complaint is that people are being encouraged to use a phone while driving a conveyance. I acknowledge the golf course is not a road however, the advertisement sends the wrong message about driving and road safety.

THE ADVERTISER'S RESPONSE

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

Summary of response

Ad Standards have identified that the Complaint raised is potentially bearing on the following section of the AANA Code of Ethics (Code):

Section 2.6 – Health and Safety/ Motor vehicle related.

Sportsbet disagrees with any suggestion that the Advertisement breaches section 2.6 (or indeed, any other section) of the Code for the reasons set out below.

What does the Code prohibit?

The AANA's Practice Note in respect of the s2.6 of the Code (Practice Note) provides that:

'Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.'

The Advertisement

The Advertisement does not depict any material that could be said to be contrary to prevailing community standards on health and safety.

Rather, the Advertisement depicts a group of golfers participating in a round of golf while occasionally watching Sky Racing through the Sportsbet platform at different sections of the course.

The nature and intended purpose of the Advertisement

The purpose of the Advertisement is to promote access to Sky Racing on Sportsbet's online wagering platform.

To play on the concept of accessibility of Sky Racing on Sportsbet's platform, the voiceover states that a character could even watch it whilst "driving a buggy or trying to dig one out of a bunker". The intent of the advertisement is to be portrayed as humorous and light-hearted and does not actually depict any person driving a golf buggy and watching Sky Racing at the same time or using a mobile phone (rather, the main character in the Advertisement Tee Time Tim, is a passenger in a golf buggy).

Section 2.6 – the Advertisement does not depict or promote unsafe driving with a motor

vehicle

Sportsbet submits that the Advertisement does not breach section 2.6 of the Code. The Advertisement does not promote ‘unsafe driving’ for the following reasons:

- The context relating to the kind of vehicle being used and where it is being driven is highly relevant. Presentation of the golf buggy is used in an appropriate setting of a golf course without depiction of unsafe driving or use of mobile phone when driving. At no stage in the advertisement are characters depicted driving a motor vehicle while talking on the phone or watching Sky Racing. The scene with the buggy lasts less than three seconds, and it is not possible to see any individual using their mobile phone while driving. As referenced above, the protagonist, Tee Time Tim, who throughout the Advertisement is the only person holding his phone, can be seen sitting in the passenger seat during this clip.*
- The Complaint states that the Advertisement “sends the wrong message about driving and road safety”. For clarity, Sportsbet agrees that the depiction of a person, for example using their mobile phone whilst driving a car on a public road would be contrary to prevailing community standards. However, this Advertisement does not do that or anything similar to that - the Advertisement merely references a person “driving a buggy” on a golf course (without even depicting that conduct on screen).*

Conclusion

For the reasons outlined above, Sportsbet disagrees with any assertion that the Advertisement breaches section 2.6 of the Code (or any other section) and submits that the Community Panel should dismiss the Complaint.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code) and the AANA Wagering Advertising and Marketing Communication Code (Wagering Code).

The Panel noted the complainant’s concern that the advertisement encourages using a phone while driving.

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

Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted the Practice Note for this section of the Code includes:

“Images of unsafe driving, bike riding without helmets or not wearing a seatbelt while driving a motor vehicle are likely to be contrary to prevailing community standards relating to health and safety irrespective of whether such depictions are for the product/service being advertised or are incidental to the product.

The Panel noted the complainant's concern that the advertisement encouraged using a phone while driving.

The Panel noted the advertiser's response that the advertisement did not depict the man with the phone driving, as he was in the passenger seat of the vehicle.

The Panel considered that the voice-over described the character as watching racing on his phone while driving, and this creates the overall impression that the man uses his phone while driving the buggy. The Panel considered that while the man was not depicted as driving while using his mobile phone, the overall impression is that he does do so.

The Panel considered that while the depictions in the advertisement are exaggerated, they are not unrealistic. The Panel considered that while golf buggies are not driven on public roads, care should still be taken when driving them to prevent accidents and injuries. The Panel considered that it was widely recognised that using mobile phones while driving any moving vehicle is unsafe. The Panel considered that there are public awareness campaigns relating to the dangers of driving while distracted by phones, and the depiction in the advertisement is contrary to this messaging.

The Panel considered that the suggestion the character was using his phone while driving was contrary to prevailing community standards on safety when using a moving vehicle, even when not taking place on a public road.

Section 2.6 conclusion

The Panel considered that the advertisement did breach Section 2.6 of the Code.

Wagering Code

The Panel 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.

Wagering Code Section 2.8 - Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities.

The Panel considered whether the advertisement portrayed 'excessive' participation in wagering activities.

The Panel noted the Practice Note to Section 2.8 of the Wagering Code which provides:

"Simply depicting regular wagering, for example as a routine weekend pursuit during a sporting season, does not equate to portraying excessive participation. An advertisement or marketing communication would portray, condone or encourage excessive participation in wagering activities where it depicts:

- *participants wagering beyond their means;*
- *wagering taking priority in a participant's life;*
- *prolonged and frequent wagering to improve a participant's skill in wagering."*

The Panel considered that the man in the advertisement was depicted watching racing through the SportsBet app, and there was no depiction of him actually wagering.

However, the Panel considered that it is unlikely that anyone would watch racing through a wagering app without having a bet on the outcome of the races. The Panel considered that using a wagering app was a wagering activity.

The Panel considered that the advertisement depicted the man engaging in the wagering activity to an excessive degree, being unable or unwilling to put the phone down to play golf with his friends.

The Panel acknowledged that the depiction was exaggerated and was intended to be humorous, however considered that the overall message of the advertisement was that you shouldn't "miss a second" of racing. The Panel considered that this was portraying, encouraging, and condoning excessive participation in wagering activities.

Wagering Code Section 2.8 Conclusion

The Panel concluded that the advertisement did breach Section 2.8 of the Wagering Code.

Conclusion

Finding that the advertisement breached Section 2.8 of the Wagering Code and Section 2.6 of the Code of Ethics the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DECISION

Sportsbet confirms that it has discontinued use of the video advertisement that is the subject of the Panel's decision. Sportsbet has removed the advertisement from all media channels including social media pages.