

Case Report

1. Case Number :	0151-24
2. Advertiser :	Amused Australia Pty Ltd
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Pay
5. Date of Decision:	19-Jun-2024
6. Decision:	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.2 Exploitative or Degrading

DESCRIPTION OF ADVERTISEMENT

There are two versions of this pay TV advertisement. Both versions begin with a woman winking and biting her finger, with a female voice-over saying, "I know what gets guys super excited". A man then says, "uuuum...obviously it's Pulsebet".

Version one features the man saying the app has everything you want to bet on the horses. The scene then cuts to a man in a blue and white tracksuit and a black curly wig who says, "the doggies" as he gestures with both hands towards his groin. The man then gives further details on the app. At the end of the add the man in the wig is shown again, once again saying "the doggies".

Version two features the first man giving details on the advertising, followed by a voice-over giving further information on the current deals.



THE COMPLAINT

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

Sexism

Sexualisation of women

THE ADVERTISER'S RESPONSE

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

This submission refers to both case IDs 0151-24 and 0152-24, which both refer to the same advertisement.

There are two similar versions of the advertisement that were published on digital channels, namely 9NOW and Kayo. The advertisement was targeted to an adult audience.

Both versions of the advertisement have the same introductory section, depicting a female model who says the words "I know what gets guys super excited." The ad then cuts to former NRL player, Beau Ryan (a PulseBet brand ambassador), who states, "obviously it's PulseBet" and refers to some features of the app. In one version of the ad, Mr Ryan is depicted in the character of DJ Yallah, for which he is well known from his comedic appearances in the NRL Footy Show.

In relation to section 2.2 of the Code of Ethics, PulseBet submits that the advertisement does not use any individual's sexual appeal in a manner that is exploitative or degrading. The female model is not being objectified. To the extent that the advertisement may be seen to employ any sexual appeal within the first 5 seconds, it is extremely modest and in line with Prevailing Community Standards.

In relation to section 2.4 of the Code of Ethics, PulseBet submits that there is no explicit or gratuitous scene in the advertisement. The face of the female model is shown without depicting any body parts below the shoulders. There is no inappropriate clothing or undressing, or any sexual interaction between the characters. The advertisement focuses primarily on the features of the betting app.

Based on the above, it is PulseBet's submission that the advertisement adheres to the AANA Code of Ethics.

THE DECISION

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

The Panel noted the complainant's concerns that the advertisement:

- Is exploitative and degrading of women
- Is highly sexualised.

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

Section 2.2: Advertising shall not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

Does the advertisement use sexual appeal?

The Panel noted that the advertisement depicts an attractive woman as a means to attract attention to the advertisement, and considered that this was a depiction of sexual appeal.

Does the advertisement use sexual appeal in a manner that is exploitative?

The Panel considered that the woman at the start of the advertisement was portrayed acting in a flirtatious and sexualised manner, including winking and biting her finger. The Panel considered that the depiction of the woman was not relevant to the promotion of a wagering product. The Panel considered that the use of female sexuality as a means to promote an unrelated product was a depiction which commodified the woman and depicted her as an object.

The Panel considered that the advertisement does employ sexual appeal in a manner which is exploitative of the woman.

Does the advertisement use sexual appeal in a manner that is degrading?

The Panel considered that the woman was depicted as an object or commodity, and that this did lower the woman in character or quality.

The Panel considered that the advertisement does employ sexual appeal in a manner which is degrading to the woman.

Section 2.2 conclusion

The Panel concluded that the advertisement did breach Section 2.2 of the Code.

Section 2.4: Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

“Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.

Does the advertisement contain sex?

The Panel considered whether the advertisement contained a depiction of sex. The Panel noted the definition of sex in the Practice Note is “sexual intercourse; person or persons engaged in sexually stimulating behaviour”.

The Panel noted that while the woman was flirting and acting in a sexualised manner, she did not appear to be engaged in sexually stimulating behaviour. The Panel considered that the advertisement did not depict sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is “the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters”.

The Panel considered that the woman was depicted behaving in a sexualised way to attract attention and considered that this was a depiction of sexuality.

Does the advertisement contain nudity?

The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.

The Panel noted that the woman is only depicted from the shoulders up. The Panel considered that in the initial scene her clothing cannot be seen, however in the

following scene the straps from her clothing can be seen. The Panel considered that the advertisement did not contain nudity.

Is the issue of sexuality treated with sensitivity to the relevant audience?

The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

The Panel considered that the requirement to consider whether sexual suggestion is ‘sensitive to the relevant audience’ requires them to consider who the relevant audience is and to have an understanding of how they might react to or feel about the advertisement.

The Panel noted that the advertisement was seen while watching sports programs, and considered the relevant audience would be broad and likely to include children.

The Panel considered that the woman in the advertisement was not naked, there were no direct references to sex, and while she was shown acting in a sexualised manner this was not explicit. The Panel considered that the advertisement was not overtly sexual, and did treat the issues of sex, sexuality and nudity with sensitivity to the relevant audience.

Section 2.4 Conclusion

The Panel determined the advertisement did not breach Section 2.4 of the Code.

Conclusion

Finding that the advertisement breached Section 2.2 of the Code the Panel upheld the complaint.

THE ADVERTISER’S RESPONSE TO DECISION

On behalf of Amused Australia Pty Ltd, I confirm that the advertisement has been discontinued.