



WAGERING ADVERTISING & MARKETING COMMUNICATION CODE

PRACTICE NOTE

This Practice Note is provided as a guide to interpretation to assist advertisers, their agencies and the community. The interpretations in this Practice Note reflect the AANA's intent in relation to the Code and may be updated periodically to reflect determinations of the Advertising Standards Board and other relevant developments. This Practice Note must be applied by the Advertising Standards Board in making its decisions.

WHO DOES THE CODE APPLY TO?

The Code applies to advertising and marketing communication for wagering products and services provided by licensed operators in Australia.

Wagering Product or Service relates to betting on horse races, harness races, greyhound races, or sporting events including electronic sports (competitive video gaming), as well as betting on a series of races or events. It also includes betting on an event, or a series of events, such as novelty events or other contingencies, for example royal baby names or award winners. In addition it includes betting on fantasy sport teams.

For the purposes of the code, Wagering Product or Service includes odds compilation and tipping services offered or provided by a Licensed Operator as the promotion of these services are often integral to the advertising and marketing communication of wagering services to new and existing customers of the licensed operator.

The Code does not apply to unlicensed offshore operators who advertise in Australia. Complaints about advertising or marketing communication produced by unlicensed offshore operators should be referred to the Australian Communications and Media Authority.

WHAT DOES THE CODE APPLY TO?

This Code comes into effect on 1 July 2016 and applies to Advertising and Marketing Communication for Wagering Products or Services published on and from that date.

Refer to the Code of Ethics Practice Note for a detailed description of the application of the Code in relation to:

- Advertising and Marketing Communication
- User Generated Content
- Public Relations Communication

Any competitor complaints should be made under section 1 of the Code of Ethics, not under this Code.

WHAT IS EXCLUDED FROM THE CODE?

The Code does not apply to advertising and marketing communication in relation to gaming, such as casino games or electronic gaming machines, lotto and lottery products and trade promotions. Services ancillary to wagering such as odds compilation or tipping services provided by third parties who are not licensed operators are also excluded. Note that the other AANA Codes still apply to advertising and marketing communication featuring these products and services.

CODE PROVISIONS

SECTION 2.1

Whether an advertisement or marketing communication is "directed primarily to minors" is an objective test based on a range of factors. It is a combination of visual techniques and age of characters and actors which will mean the marketing communication is directed primarily to minors. The use of any one factor or technique in the absence of others may not necessarily render the marketing communication "directed primarily to minors".

The application of the term "directed primarily to minors" recognises that particular types of advertising and marketing communication engage and resonate with minors in such a way as to bring about a response or action. This provision does not apply to advertising or marketing communication which is directed primarily to adults; nor does it apply to advertising or marketing communication that may be seen by minors, but is not directed primarily to them.

An advertisement or marketing communication featuring cartoons or licensed characters, such as super heroes and celebrities, that particularly appeal to minors may breach the Code. Licensed operators should take great care when using cartoon-like images. They may be acceptable if they are adult in nature but licensed operators run the risk of breaching the Code if the cartoon images are appealing to minors. The Board will also consider whether advertisers have taken reasonable steps to prevent minors from viewing advertising or marketing communication, for example by age-gating online material, and the likely age of the audience viewing the communication.

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More information is available in the Code of Advertising and Marketing Communications to Children Practice Note. Be aware that the Code of Advertising and Marketing Communications to Children relates to “children” (aged 14 and under), whereas this Code relates to “minors” (aged under 18), however the same concepts are used in determining whether material is directed primarily to minors.

SECTION 2.2

As a general rule, advertising or marketing communication under this Code should not depict a person who is a minor. However the depiction of minors is permissible provided they are shown in an incidental role in a natural situation (for example, in a group of spectators or accompanied by an adult and socialising responsibly in areas which are not restricted to adults).

For example, where a licensed operator sponsors a sporting team which includes a minor, or other event or sport in which minors are engaged, the licensed operator may depict the team, event or sport in advertising or marketing communication without breaching the Code where the minor is shown in an incidental role and there is no implication the minor will engage in wagering activities.

SECTION 2.3

While wagering is legally restricted to persons 18 years and over, there is a requirement that individuals aged 18-24 appearing in advertising or marketing communications are not depicted engaging in wagering activities. The age restriction is to avoid the possibility that the individual may appear to be under 18 years of age.

Individuals aged 18-24 may be featured without breaching the Code where, for example, they are depicted in material in a place where a bet can be placed, for instance, a licensed operator’s website.

An individual aged 18-24 may be used to illustrate specific betting selections where that individual is the subject of the bet offered. The depiction must show them in the context of the ability to place a bet and not depict the individual engaging in wagering activity.

SECTION 2.4

This provision does not prevent associating alcohol with wagering generally; it refers to the combination of consumption and the act of placing a wager, for example, by depicting a person drinking alcohol while placing a bet. The following examples would not, in and of themselves, breach the Code:

- advertising or marketing a joint promotion between a licensed operator and an alcoholic beverage brand;
- advertising or marketing an event where wagering could take place, or a race on which wagers could be made, where there is sponsorship by an alcoholic beverage brand;
- advertising or marketing depicting the consumption of alcohol at a venue where wagering may take place (eg an advertisement for the Melbourne Cup portraying attendees drinking champagne while watching a race).

SECTION 2.5

Advertising or marketing communication may depict winning on a wager provided there is no direct or implied suggestion that winning will be a definite outcome of participating in wagering

activities.

SECTION 2.6

Advertising or marketing communication must not depict wagering as a means of relieving a person’s financial or personal difficulties. For example, a suggestion that wagering is a solution to financial concerns would breach the Code. Advertising and marketing communication should not unduly play on consumers’ fears of financial pressures or present wagering as a viable alternative to employment. References to salary or debts in Wagering Product or Service advertising or marketing communication are likely to breach the Code.

SECTION 2.7

The Code prevents advertising or marketing communication from making direct or implied links between wagering and sexual success or enhanced attractiveness. It is acceptable to portray attractive people in Wagering Product or Service advertising, as long as the material as a whole does not link wagering with sexual success or enhanced attractiveness.

Licensed operators should also take care when characters in advertising are treated with admiration as a result of their wagering to avoid creating a link between wagering and enhanced attractiveness. Similarly, references to fame, being special or being a VIP should be treated carefully. For example, portraying the transformation of characters’ appearance after wagering can create an implication that wagering could result in enhanced attractiveness and an improvement in self-image, which may breach the Code.

SECTION 2.8

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.

SECTION 2.9

Advertising or marketing communication must not portray, condone or encourage criticism or ridicule for not engaging in wagering activities or disparage abstention from wagering, for example by mocking non-participants.

OTHER GUIDANCE

Advertising and marketing communication for a Wagering Product or Service must also comply with the other AANA Codes to the extent that this Code does not contain a specific provision. In particular, section 2.6 of the AANA Code of Ethics will apply in relation to the non-Wagering Product or Service content of the advertising or marketing communication.

Responsible gambling messages are regulated differently in each State and Territory and it is not the intent of the AANA to replicate those requirements, nor will the Board consider complaints in relation to responsible gambling messages. However, licensed operators should continue to ensure they meet those requirements.