



Wagering Advertising Code

PRACTICE NOTE | FEBRUARY 2021

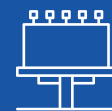
Objectives



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 **Ad Standards Community Panel** and other relevant developments.

This Practice Note must be applied by the Ad Standards Community Panel in making its determinations. In the event of any ambiguity the provisions of the Code prevail. The Practice Note may be amended by the AANA from time to time.

Who does this code apply to?



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

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?



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**.

For the purposes of the **Code**, the term “wagering activities” refers to the express or implied portrayal of placing a wager (bet) on an uncertain outcome using a **Wagering Product or Service**. The depiction of “wagering activities” may also include the express or implied portrayal of wagering-related ancillary activities used in combination with, a **Wagering Product or Service**, such as checking odds or discussing wagering tips in connection with placing a wager or bet.

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

18+

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 **Advertisement or 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 **Advertisement 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 **Community Panel** 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.

More information is available in the **Children's Advertising Code Practice Note**. Be aware that the **Children's Advertising Code** 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

18+

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.

CODE PROVISIONS

SECTION 2.4



This provision does not prevent associating alcohol with wagering generally; it refers to the combination of the consumption of alcohol and wagering, 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 (e.g. 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 or material personal issues (e.g. depression, bereavement) 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**. References to more trivial difficulties, although personal in nature, would not 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**.

CODE PROVISIONS

SECTION 2.8



Simply depicting regular wagering, for example as a routine weekend pursuit during a sporting season or other social event, does not equate to portraying excessive participation. The frequency of participation depicted in the advertisement is one factor relevant in assessing whether the **Advertisement or Marketing Communication** portrays, condones or encourages excessive participation. However, the frequency is not the sole or determining factor to be considered.

Depictions of:

- ▶ participants wagering beyond their means;
- ▶ wagering taking priority in a participant's life by depicting wagering as being indispensable or causing significant disruption to a participant's life including family, friends or professional or educational commitments;
- ▶ prolonged wagering suggesting that this improves a participant's skill in wagering; may portray, condone or encourage excessive participation in wagering, even if there is no explicit depiction or suggestion that the participation in wagering is a regular or frequent occurrence.

These factors should be considered in the overall context of the **Advertisement or Marketing Communication**.

SECTION 2.9



Advertisement 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 **Community Panel** consider complaints in relation to responsible gambling messages. However, licensed operators should continue to ensure they meet those requirements.

About the AANA

AANA is the Voice for Brands. Founded 90 years ago, AANA exists to inspire and promote responsible, innovative and respected marketing through a commitment to sustainable industry collaboration. As the peak industry body, our members represent some of Australia's biggest advertisers and the world's best known brands across all major sectors who contribute to an estimated advertising spend of more than \$15 billion a year including FMCG, automotive, banking, finance and insurance, travel, health and beauty, media and communications. On behalf of our members, the AANA's mandate is to maintain and evolve the advertising codes which underpin the system of self-regulation in Australia, safeguard the rights of its members to commercial free speech and protect consumers by ensuring marketing communication is conducted responsibly, while giving them the networks and pathways to career learning.

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