

<b>COMPLAINT NUMBER</b>	17/430
<b>COMPLAINANT</b>	J. McKee
<b>ADVERTISER</b>	NZ Lotteries Commission
<b>ADVERTISEMENT</b>	NZ Lotteries Commission, Television
<b>DATE OF MEETING</b>	12 December 2017
<b>OUTCOME</b>	Not Upheld

### **SUMMARY**

The five second Lotto advertisement promoted the \$38 million jackpot and stated, in part: “Imagine winning 38 million dollars this Wednesday. Get your Powerball ticket today” and aired multiple times prior to the draw.

The Complainant said the advertisement targeted gamblers by repeating the advertisement many times.

The Advertiser responded that neither the content nor the frequency of the advertisement encouraged consumers to play beyond their means or to use the game as a solution to financial or personal difficulties.

The Complaints Board said the advertisement stated, ‘imagine winning’ and promoted the purchase of ‘a ticket’ and therefore did not encouraged consumers to play beyond their means or to use the game as a solution to financial or personal difficulties. The Complaints Board ruled the advertisement was not in breach of Guidelines 2(b) and 2(c) of the Code for Advertising Gaming and Gambling.

The majority said the frequency with which the advertisement aired over the short time period did not reach the threshold to breach of the Principle 2 of the Code for Advertising Gaming and Gambling.

A minority said the frequency of the advertisement was socially irresponsible as it created a sense of urgency to purchase a ticket which could be an issue for vulnerable audiences and ruled it was in breach of Principle 2 of the Code for Advertising Gaming and Gambling.

However, in accordance with the majority, the Complaints Board ruled the complaint was Not Upheld

### **[No further action required]**

Please note this headnote does not form part of the Decision.

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### **COMPLAINTS BOARD DECISION**

The Chair of the Complaints Board directed the Complaints Board to consider the advertisement with reference to Principle 2 and Guidelines 2(b) and 2(c) of the Code for Advertising Gaming and Gambling. This required the Complaints Board to consider whether

the advertisement promoted a reliance on gaming as a means of relieving a person's financial or personal difficulties or encouraged consumers to participate excessively or beyond their means. The Complaints Board were also required to consider whether the advertisement observed a high standard of social responsibility to consumers and society.

### **The Complaints Board ruled the complaint was Not Upheld.**

#### **The Complaint**

The Complainant's concerns were that the Lotto New Zealand PowerBall Jackpot advertisements were "abhorrent in the cynical way it targets gamblers with a repetitious message - three times in a single ad break, up to four times in a single hour with a cheerful voice-over, 'IMAGINE winning 38 million dollars this Wednesday. Get your PowerBall ticket today!'."

The Complainant was concerned the "relentless IMAGINE campaign affects people trying desperately to distance themselves from their particular demon."

#### **Response from Lotto NZ**

Lotto NZ responded to the Complainant's concerns about the advertisement which aired from Monday 20 November to Wednesday 22 November 2017, ahead of the \$38 million Powerball jackpot draw on 22 November 2017.

The Advertiser said the intention of the advertisement was to notify people about the \$38 million jackpot amount and remind people to buy a ticket. The Advertiser said the advertisement "intentionally avoids any imagery, wording, or music that could be seen to promote playing our games as an alternative to any existing behavior" and "the 'Imagine' message is open-ended, simply asking the audience to imagine, but not making any suggestions of what that could look like."

The Advertiser said, in part: "there is no content in this advertisement that promotes our games as a means of relieving financial or personal difficulties" or "encourages excessive purchasing or purchasing beyond consumers' means."

With regard to the frequency of the advertisement leading up to the draw, the Advertiser said, in part: "We believe the frequency of this advertisement does not encourage consumers to play beyond their means or to use the game as a solution to financial or personal difficulties. This advertisement has been prepared with a due sense of social responsibility and in alignment with New Zealand laws."

The Advertiser reasoned the "unpredictable nature of Lotto Powerball jackpots presents challenges when planning our advertising schedule. The media buying process for television means we must purchase advertising slots months in advance, with a default timeslot of 15 seconds for each advert, which is the typical length of our jackpot advertising. On rare occasions, if the jackpot grows to over \$25 million, our jackpot advertising becomes very functional and is only five seconds in length.

The only way that television networks can manage this last-minute change, within the confines of their advertising timing requirements, is to break down the existing 15-second slot into three five-second slots in the same commercial break."

#### **Response from the Commercial Approvals Bureau (CAB)**

The CAB responded to the Complainant's concerns stating, in part: "there is no substance that breaches the Code for Advertising Gaming and Gambling. In its brevity it simply states 'Imagine winning,' which neither promotes a reliance on gambling nor excessive participation... 'Imagine winning' does not create a false impression of odds."

### **Complaints Board Discussion**

The Complaints Board noted the concerns of the Complainant the advertisement targeted gamblers by repeating the advertisement many times.

The Complaints Board noted the response from the Advertiser that neither the content nor the frequency of the advertisement encouraged consumers to play beyond their means or to use the game as a solution to financial or personal difficulties.

The Complaints Board considered whether the advertisement promoted a reliance on gaming as a means of relieving a person's financial or personal difficulties. It noted the very brief advertisement said 'Imagine winning \$38 million' the reference to 'imagine winning' did not amount to a promotion of relieving a person's financial or personal difficulties. The Complaints Board said the advertisement was not in breach of Guideline 2(b) of the Code for Advertising Gaming and Gambling.

The Complaints Board considered whether the advertisement encouraged consumers to participate excessively or beyond their means and noted the advertisement did not encourage people to buy several tickets but said "get your PowerBall ticket today". The Complaints Board said the advertisement did not encourage consumers to participate excessively or beyond their means and was not in breach Guideline 2(c) of the Code for Advertising Gaming and Gambling.

The Complaints Board then considered whether the frequency the advertisement played, observed a high standard of socially responsibility as required of advertisements for gaming and gambling.

The majority of the Complaints Board acknowledged that for some people, the frequency with which the advertisement aired over the short time period could have been overwhelming, however, taking into account the content of the advertisement, it did not reach the threshold to be considered socially irresponsible. The majority said the frequency of the advertisement did not reach the threshold to breach of the Principle 2 of the Code for Advertising Gaming and Gambling.

A minority disagreed. It said the repetitive nature and increased frequency of the advertisement created a sense of urgency to purchase a ticket. The minority said this was an issue for vulnerable audiences, including those suffering from addiction or financial stress who might be encouraged to purchase a ticket. This was particularly so because a ticket could be purchased on line immediately upon viewing the advertisement. The minority said the frequency with which the advertisement aired was not socially responsible and ruled it was in breach of Principle 2 of the Code for Advertising Gaming and Gambling.

However, in accordance with the majority, the Complaints Board ruled the complaint Not Upheld.

**Decision:** Complaint **Not Upheld**

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### **DESCRIPTION OF ADVERTISEMENT**

The five second Lotto advertisement promoted the \$38 million jackpot and stated, in part: "Imagine winning 38 million dollars this Wednesday. Get your Powerball ticket today" and aired multiple times prior to the draw.

## COMPLAINT FROM J MCKEE

I have held off on this complaint for a long time because I thought the campaign was so very outrageous, it would obviously be taken off air without my help. However, nothing at all seems to have been done to remove or modify the closest thing I have ever seen to brainwashing techniques in New Zealand advertising.

The Lotteries Commission campaign for its PowerBall Jackpots is abhorrent in the cynical way it targets gamblers with a repetitious message - three times in a single ad break, up to four times in a single hour with a cheerful voice-over, "IMAGINE winning 38 million dollars this Wednesday. Get your PowerBall ticket today!".

Although I have quoted just one instance of this ad placement, the campaign has been running across all the major free-to-air channels for at least three days before every PowerBall draw where the jackpot is over a certain threshold (\$10 million?).

Surely, part of the Lotteries Commission remit is that it balances the social good its grants can do for the community with a sensitive and responsible concern for the collateral damage it visits upon addicted or 'problem' gamblers and their families. It does not take much effort to imagine how the relentless IMAGINE campaign affects people trying desperately to distance themselves from their particular demon.

I understand the ASCB's normal hands-off attitude to the frequency of an advertisement's appearance, but in this case we are considering more than customer irritation, but it's nagging effect on vulnerable individuals.

Just as narcotics and excessive drinking are addiction problems in our communities, excessive gambling is a blight on many New Zealand individuals and families. And just as with those other addictions, problem gambling leads to significant crime.

I ask you to consider how we would react to a liquor industry campaign that played three times in a single ad-break, up to four times an hour, "IMAGINE getting completely wasted this Wednesday. Get your lovely big bottle of vodka today!".

## CODE FOR ADVERTISING GAMING AND GAMBLING

**Principle 2** Advertisements should observe a high standard of social responsibility.

**Guideline 2(b):** Advertisements should not promote reliance on gaming as a means of relieving a person's financial or personal difficulties.

**Guideline 2(c):** Advertisements should not encourage consumers to participate excessively or beyond their means.

## RESPONSE FROM ADVERTISER – LOTTO NEW ZEALAND

Thank you for the opportunity to respond to this complaint made to the Advertising Standards Authority, relating to Lotto NZ's recent \$38 million Powerball jackpot television advertisement. You have requested a response from The New Zealand Lotteries Commission (Lotto NZ) to this complaint, particularly in regards to Principle 2 Guidelines (b) and (c) of the Code for Advertising Gaming and Gambling.

Lotto NZ considers the advertisement complies with all principles and guidelines of the Code for Advertising Gaming and Gambling. Please find our considered response outlined below.

## **Background**

The advertisement subject to this complaint ran on television from Monday 20 November to Wednesday 22 November 2017, ahead of the \$38 million Powerball jackpot draw on 22 November 2017 (schedule attached).

The voiceover narrative reflects the two simple purposes of this advertisement: firstly, to notify people about the \$38 million jackpot amount; and secondly, as a reminder to buy a ticket.

The resulting five-second advert contains colourful, animated graphics showing '\$38 million this Wednesday' appearing on the screen, alongside the Powerball 'Imagine' and Lotto NZ logos. This is accompanied by a voiceover saying, "Imagine winning 38 million dollars this Wednesday. Get your Powerball ticket today."

## **Code for Advertising Gaming and Gambling, Principle 2 — Advertisements should be prepared with and observe a high standard of social responsibility.**

Lotto NZ is committed to providing a safe, secure and friendly gaming environment that encourages responsible play. We apply the principles of responsible gaming when creating advertising and marketing campaigns for our products, and when buying media for our campaigns. Through our marketing and advertising activity, we aim to ensure the socially responsible promotion of our products to minimise the potential risk for our players.

### **Guideline (b): Advertisements should not promote reliance on gaming as a means of relieving a person's financial or personal difficulties.**

Ensuring that consumers play our games responsibly is a founding principle for Lotto NZ and this is reflected in the careful crafting of this advertisement. The advertisement intentionally avoids any imagery, wording, or music that could be seen to promote playing our games as an alternative to any existing behaviour.

The 'Imagine' message is open-ended, simply asking the audience to imagine, but not making any suggestions of what that could look like. Likewise, the imagery consisting of basic shapes and paired with the distinctive Lotto 'whistle' tune and logos do not point toward any particular idea of what someone could do if they won.

It is our view that there is no content in this advertisement that promotes our games as a means of relieving financial or personal difficulties.

### **Guideline (c): Advertisements should not encourage consumers to participate excessively or beyond their means.**

Lotto NZ is committed to providing safe gaming that allows New Zealanders to play and win while contributing money back to New Zealand communities.

The voiceover in the advertisement specifically talks about the consumer getting their 'ticket' in the singular sense — there is no mention of the type of ticket they should buy, or how much they could spend.'

We consider there is no content in this advertisement that encourages excessive purchasing or purchasing beyond consumers' means.

## **Frequency of advertisements**

The unpredictable nature of Lotto Powerball jackpots presents challenges when planning our advertising schedule. The media buying process for television means we must purchase advertising slots months in advance, with a default timeslot of 15 seconds for each advert, which is the typical length of our jackpot advertising. On rare occasions, if the jackpot grows

to over \$25 million, our jackpot advertising becomes very functional and is only five seconds in length.

The only way that television networks can manage this last-minute change, within the confines of their advertising timing requirements, is to break down the existing 15-second slot into three five-second slots in the same commercial break.

We believe the frequency of this advertisement does not encourage consumers to play beyond their means or to use the game as a solution to financial or personal difficulties. This advertisement has been prepared with a due sense of social responsibility and in alignment with New Zealand laws.

It remains our view that this advertisement upholds all principles and guidelines of the Code for Advertising Gaming and Gambling.

Contact person for advertising complaints	Emilia Mazur, Lotto NZ
Name and contact at creative agency	Nathan Gibson, The Hatchery
Name and contact at media agency	Abby Parkin, PHD
A basic, neutral description of the advertisement	Colourful, animated graphics show '\$38 million this Wednesday' appearing on the screen, accompanied by the Powerball 'Imagine' and Lotto NZ logos. Duration is 5".  Voice over says, "Imagine winning 38 million dollars this Wednesday. Get your Powerball ticket today."
Date advertisement began	Monday 20 – Wednesday 22 November 2017.
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	TV
Is the advertisement still accessible – where and until when?	No longer accessible. Only aired from Monday 20 – Wednesday 22 November 2017.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	Attached  - This Wednesday LPB-005-JP38-W - Tonight LPB-005-JP38-T
Who is the product / brand target audience?	Product is Powerball. Target audience is all people 25-54yr
Clear substantiation on claims that are challenged by the complainant.	
The response from the advertiser is included in the published decision. The ASA is not	

able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	
<b>For Broadcast advertisements:</b>	
A copy of the script	Imagine winning 38 million dollars this Wednesday. Get your Powerball ticket today.
A copy of the media schedule and spot list	Attached
CAB key number and rating	LPB-005-JP38-W: 60629032 – rating GXC LPB-005-JP38-T: 60629034 – rating GXC
<b>For Digital advertisements:</b>	
What platform tools have you used to target your audience?	N/A

## RESPONSE FROM MEDIA – COMMERCIAL APPROVALS BUREAU

### NZ LOTTERIES TELEVISION ADVERTISEMENT

COMPLAINT: 17/430

KEY: LPB005JP32

RATING:

GXC

We have been asked to respond to this complaint under the following codes:

Code for Advertising Gaming and Gambling – Principle 2, Guideline 2(b) and 2(c);

CAB approved this Lotto commercial on 29/06/17 with a GXC classification. Under CAB internal policies, this commercial is classified as a Gaming/Gambling advertisement.

The commercial itself is very brief – only 5 seconds long – as a reminder that the Lotto draw has reached a rare jackpot prize.

Within the commercial, there is no substance that breaches the Code for Advertising Gaming and Gambling. In its brevity it simply states “Imagine winning,” which neither promotes a reliance on gambling nor excessive participation.

“Imagine winning” does not create a false impression of odds.

The complaint mentions the responsibility of balancing Lotto advertising with its grants for social goods, and indeed they do they do by running a series of long format 60-second ads for the Lottery Grants Board hosted by Jessie Mulligan.

As a Crown entity, the Commission duly observes a proper standard of social concern. CAB does not believe the complaint should be upheld.