

Report on the review of the Code for Advertising Gaming and Gambling

April 2019

1. CHAIR'S STATEMENT

The Advertising Standards Authority (ASA) Codes Committee is responsible for reviewing and updating the Codes of Practice which set the standards for responsible advertising. The committee has advertiser, agency, media and public representatives.

The Code for Advertising Gaming and Gambling was reviewed during 2018 and a new [Gambling Advertising Code](#) developed with principles, rules and guidelines.

The ASA consulted with a range of organisations and agencies on the draft Code. Issues raised included the need to better protect children and young people from gambling harm and the definition of a gambling advertisement. The Codes Committee has considered all the responses received from interested parties and amendments made are reflected in the final Gambling Advertising Code.

This report is a summary of the Codes Committee consideration of the issues raised during the consultation process.

We appreciate the time and expertise from all submitters to help ensure the Gambling Advertising Code supports responsible advertising.

Malcolm Swan
Chair, Codes Committee

2. KEY ISSUES

2.1 Protecting Children and Young People from Gambling Harm

This was a significant issue raised during the consultation process.

Some submitters consider children and young people should be free from gambling advertisements.

Consistent with the ASA Children and Young People's Advertising Code rules on advertising occasional food and beverages, the new Gambling Advertising Code has a rule that states "*Gambling advertisements must not target children or young people*".

Children are defined as those people who are below the age of 14 years and young people are defined as those people who are at least 14 but under 18 years of age.

The Gambling Advertising Code definition of 'Targeting' is determined by the context of the advertisement and three criteria; the appeal of the activity, product or outlet; the appeal of the advertisement content and; the expected average audience at the time or place the advertisement appears.

Children and Young People may appear in gambling advertisements targeting adults but only in situations where they would be ‘naturally found’ e.g. a family meal. There must be no direct or implied suggestion they will participate in the gambling that is being advertised.

2.2 Protecting other vulnerable audiences

A number of guidelines are intended to protect vulnerable audiences from gambling advertisements that could cause harm. These include a guideline which states that advertisements must not play on fear or through inappropriate use of cultural symbols or references.

2.3 Definition of a Gambling Advertisement

Advertisements for gambling activities, products or outlets that are ‘free to gamble’ were not explicitly captured in the Code for Advertising Gaming and Gambling.

These advertisements are now included in the Gambling Advertising Code definition of a ‘Gambling Advertisement’. These advertisements will be subject to the high standard of social responsibility expected for gambling advertising.

Advertisements whose purpose is to solely and clearly educate people about problem gambling are not included in the definition because they are not for a gambling activity, product or outlet. These advertisements are subject to the Advertising Standards Code which includes rules for social responsibility and truthful presentation.

Advertisements for the community good that may result from the profits of gambling are recognised as gambling advertisements. These advertisements have been previously considered under the current Code for Advertising Gaming and Gambling. The brands advertising the community good from the profits of gambling are synonymous with gambling activities, products or outlets and therefore fit the definition in the new Code as gambling advertisements.

Advertisements from outlets for “pay to gamble” or “free to gamble” activities or products are gambling advertisements for the purposes of the new Code. When the outlet is advertising other offers, such as entertainment, and no gambling activity or product is advertised, it is unlikely these advertisements will be gambling advertisements but will be considered on a case by case basis. The Complaints Board would refer to context, medium and audience if a complaint were made about a brand-only advertisement under this Code to determine if it met the definition of a gambling advertisement.

Advertisements for games that include in-game micro-transactions (such as purchasing a lootbox, the contents of which are based on chance) are not considered gambling advertisements for the purposes of the Code. Some submitters were concerned these transactions may be a form of underage gambling. These transactions are not currently considered gambling under legislation. The ASA will refer this matter to the Department of Internal Affairs.

Advertisements for a sponsorship arrangement between gambling activities, products or outlets and individuals, teams, places or organisations are considered gambling advertisements for the purposes of this Code.

2.4 'Free to Gamble' activities, products or outlets

Concerns were raised about advertisements for overseas 'free to gamble' websites that lead consumers to gamble on overseas 'pay to gamble' websites.

Advertising overseas 'pay to gamble' websites in New Zealand is illegal under the Gambling Act 2003 and are therefore outside the ASA's jurisdiction.

However, to help address the concerns in the context of advertising self-regulation, the new Gambling Advertising Code includes 'free to gamble' activities, products and outlets in the definition of a gambling advertisement. Guidelines highlight the importance of providing clear information to consumers about where the 'free to gamble' activity can be accessed.

The Committee noted that the issue for most submitters is the activity (advertising a free-to-gamble site that results in users finding and gambling on an overseas pay to gamble site) rather than the content of the advertisements. Regulatory change is required to address this. The ASA will refer this matter to the Department of Internal Affairs.

3. Gambling Advertising Code

This [Gambling Advertising Code](#) will be effective for new gambling advertisements on Monday, 5 August 2019 and for all gambling advertisements on Monday, 4 November 2019.