

# Gambling Advertising Code

Effective 5 August 2019 for new ads  
Effective 4 November 2019 for all ads

**Every ad a responsible ad**  
**[www.asa.co.nz](http://www.asa.co.nz)**

# Purpose of the Code

**The purpose of the Gambling Advertising Code (Code) is to ensure that gambling advertising is conducted in a manner that demonstrates a high standard of social responsibility. All gambling advertisements must be legal, decent, honest and truthful and respect the principles of fair competition. This Code recognises that gambling advertisements must not undermine the need for the prevention and minimisation of gambling-related harm, with particular regard for the need to protect children, young people and other vulnerable persons.**

**All gambling advertisements must adhere to the Principles and Rules set out in this Code. In addition, the Principles and Rules set out in the Advertising Standards Code describe the standards expected in all advertising, including gambling advertisements. Attention is drawn to the Gambling Act 2003 and the Racing Act 2003.**

## Definition of Advertisement

“Advertising and Advertisement(s)” means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.

## Application of the Code

This Code applies to all gambling advertisements placed in any media. This code does not apply to any advertisements whose purpose is solely and clearly to educate people about problem gambling.

Ultimately, the responsibility to be aware of and comply with all aspects of advertising regulation is shared between all the parties to an advertisement, including the advertiser, agencies and media organisations. This Code does not apply to content not controlled by the advertiser.

The Code is made up of three parts:

- Principles: The standards expected in advertising.
- Rules: Examples, by no means exhaustive, of how the principles are to be interpreted and applied.
- Guidelines: Information and examples to explain a rule.

## Interpreting the Code

Social responsibility in advertising is embodied in the Principles and Rules of the Code. In interpreting the Code, emphasis must be placed on compliance with both the spirit and intention of the Code. It is possible for advertising to be in breach of one or more of the Principles in the Code without being in breach of a specific Rule.

In determining whether a Principle has been breached, the Complaints Board will have regard to all relevant matters, including;

- generally prevailing community standards;
- previous decisions;
- the consumer takeout from the advertisement;
- the context, medium and intended audience; and
- the product or service being advertised.

## Definitions for the purposes of this Code

“**Gambling Advertisement**” means an advertisement for:

- “pay to gamble” or “free to gamble” activities, products and outlets (e.g. casinos, casino games, lotteries and instant prize tickets) when the outcome of the gambling depends wholly or partly on chance; or
- betting on racing or sporting events.

“**Children**” means all persons below the age of 14 years.

“**Young People**” means all persons who are at least 14 years but under 18 years.

“**Targeting Children and Young People**” is determined by having regard to:

- (a) the context of the advertisement and
- (b) the following criteria:

- The nature and intended purpose of the activity, product or outlet being promoted is principally or generally appealing to children or young people.
- The presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is appealing to children or young people.
- The expected average audience at the time or place the advertisement appears includes a significant proportion of children and / or young people.

# Principle 1

## **Social Responsibility**

**Gambling advertisements must be prepared and placed with a high standard of social responsibility to consumers and to society.**

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## Rule 1 (a)

### Children and Young People

#### Gambling advertisements must not target children or young people

## Guidelines

The extent to which an advertisement targets children or young people is determined by having regard to:

- (a) the context of the advertisement and
- (b) the following criteria:

1. The nature and intended purpose of the activity, product or outlet being promoted is principally or generally appealing to children or young people. For example:
  - Easy to play and / or fun gambling activities, products or outlets that appear to be for children or young people.
2. The presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is appealing to children or young people. For example, the following advertisement content may appeal:
  - Animation, bright colours, toys, music, presence of children or young people, animals, cartoons, play scenes / playgrounds, characters e.g. Santa, Easter Bunny, super heroes, sports stars or celebrities

Children or Young people may appear in gambling advertisements that are not targeted at them and only in situations where they would naturally be found (e.g. a family meal), provided that there is no direct or implied suggestion that they will participate in the gambling.

3. The expected average audience at the time or place the advertisement appears includes a significant proportion of children and / or young people.

Advertisers need to demonstrate that care is taken when evaluating the expected average audience composition prior to the placement of gambling advertisements to ensure they are not targeted at children and / or young people. Measures to determine if they are likely to be a 'significant proportion' of the expected average audience may include one or a combination of the following:

- Where accurate data exists, 25% or more of the expected audience will be children and / or young people;
- Content with significant appeal to children and / or young people such as programmes, artists, playlists, video, movies, and magazines;
- Locations where children and / or young people gather.

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## Rule 1 (b)

### Gambling Harm

**Gambling advertisements must not portray or represent anything that will, or is likely to, cause, condone or encourage harm from gambling.**

### Guidelines

Gambling advertisements must not:

- Promote gambling as a means of relieving or improving a person's financial, professional or personal difficulties, for example, loneliness or depression.
- State or imply a promise of winning or portray unrealistic outcomes from winning.
- Misrepresent the level of financial risk associated with the gambling activity.
- Encourage consumers to participate in gambling excessively or beyond their means.
- Create a false sense of urgency such that consumers may be misled into thinking they must act quickly in order to participate or win.
- State or imply that there is a link between gambling and sexual or relationship success, or enhanced attractiveness.
- Portray, condone or encourage peer pressure to gamble.
- Exaggerate the connection between the gambling activity and the use (individual / family / whanau / community) to which the profits may be put.
- Target vulnerable people for example, by playing on fear or their superstitions (e.g. through inappropriate use of cultural symbols or references).



## Principle 2

# Truthful Presentation

**Gambling advertisements must be truthful, balanced and not misleading.**



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## Rule 2 (a)

### Truthful presentation

**Gambling advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise.**

**Obvious hyperbole identifiable as such is not considered to be misleading.**

### Guidelines

Gambling advertisements must not:

- Make claims about the chance of winning unless they are factual and able to be proven.
- Exaggerate the chance of winning or the size of the prize.
- Falsely state or imply that a gambler's skill can influence the outcome of the gambling activity unless skill can affect the outcome.

Gambling advertisements must:

- Include the terms and conditions or a reference to where the terms and conditions are readily available. Terms and conditions must be easily understood and must not contradict the advertisement content.
- Clearly display in the advertisement information about where the gambling can be accessed (e.g. in the case of online gambling a URL address for a website) if it would otherwise be misleading to not display such information.

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## **About the Advertising Standards Authority (ASA)**

The ASA is the organisation that sets the standards (Advertising Codes) for responsible advertising in New Zealand. The ASA also runs the advertising complaints processes. The ASA is funded by the advertising industry and has 14 member organisations representing advertisers, agencies and the media.

### **Making a complaint**

Anyone can complain about any advertisement.

All complaints must be received using our online complaints form, via email or via post. Our process requires that we deal with the consumer's concerns in their own words. Our online complaint form is available at [www.asa.co.nz](http://www.asa.co.nz). Complaints can be emailed to [asa@asa.co.nz](mailto:asa@asa.co.nz) or posted to PO Box 10675, Wellington 6143.

### **Competitor complaints**

Competitor complaints are dealt with via a user-pays process with adjudication hearings. Costs for a hearing range from \$10,000 to \$15,000 excluding GST. The process aims to give fast and thorough consideration to conflicts between competitors.

## **Responding to a complaint**

All parties associated with an advertisement are expected to respond to the ASA following a complaint. This includes the advertiser and may also include the agency and the media where the advertisement was placed. The ASA website [www.asa.co.nz](http://www.asa.co.nz) provides guidance on how to respond to a complaint.

### **Decisions**

The Advertising Standards Complaints Board makes decisions about complaints following responses from parties. Decisions may be appealed and if there are grounds for an appeal, the Appeal Board will re-consider the complaint. The ASA membership has no involvement in the work of the Complaints and Appeal Boards.

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**Decision outcomes have the following meanings:**

**No Grounds to Proceed:** This means the Chair of the Complaints Board has reviewed the complaint and has ruled a Code has not been breached, and there are no grounds for the complaint to proceed. This outcome may occur when a complaint is based on an extreme interpretation or is trivial or vexatious, or if there is a precedent decision that relates to the same or similar advertising.

**Upheld:** This means the Complaints Board agreed with the issues raised by the complainant and the advertiser is asked to amend or remove the advertisement.

**Settled:** When an advertiser either withdraws an advertisement or makes immediate changes (that the Chair considers satisfactory) to address the issues raised by the complainant the complaint can be settled by the Chair. A settled decision achieves the same outcome as an upheld decision – removal or amendment of the advertisement.

**Not Upheld:** This means the Complaints Board does not find the advertisement in breach of the Advertising Codes in relation to the complainant's concerns.

**No Jurisdiction:** Sometimes a complaint is outside the jurisdiction of the ASA. The ASA deals with complaints about any advertisement that is targeted at NZ audiences. Matters of law or complaints about advertisements from outside of NZ, which are not targeting NZ consumers, are outside the ASA's jurisdiction.



**All ads, all media**