

COMPLAINT NUMBER	23/171
ADVERTISER	Jackpot City
ADVERTISEMENT	Jackpot City, Billboard
DATE OF MEETING	22 August 2023
OUTCOME	Upheld in Part Advertisement not to be used again in its current form

Summary of the Complaints Board Decision

The Complaints Board Upheld in Part two complaints about a Jackpot City billboard advertisement. The Complaints Board said the advertisement was likely to confuse or mislead consumers by not making it sufficiently clear it was promoting a free to play gaming website rather than a paid gambling site. The Board said the advertisement did not reach the threshold to target children or encourage harm from gambling.

Advertisement

The billboard advertisement for Jackpot City.net shows a city skyline at night and branded poker chips beside the prominent name Jackpotcity. The advertisement includes the URL www.jackpotcity.net and the disclaimer “18+ This is not a gambling website. Please play responsibly. Age restrictions apply.”

Summary of the Complaints

Two Complainants were concerned the advertisement was advertising a gambling website despite the disclaimer which said it was not. One Complainant was also concerned the advertisement was placed directly opposite a secondary school.

Copies of the complaints are in Appendix 1.

Issues Raised:

- Social Responsibility
- Truthful Presentation
- Targeting Children
- Gambling Harm

Summary of the Advertiser’s Response

The Advertiser said the billboard providers have the same criteria for not promoting age-restricted products around schools. However, the billboard advertisement is for a free to play, non-monetary gaming site and states it is free to play as well as including R18 graphic. The Advertiser said it would ensure the advertisement appeared on digital billboards which can be programmed to avoid controversial timings going forward.

A copy of the Advertiser’s response is in Appendix 2.

Summary of the Media Response

MediaWorks said the advertisement is for a gaming website rather than a gambling, where players win points. There is no mention of gambling in the Jackpot City.net terms and conditions. The digital billboard is not in line of sight to schools and would not have run during school pick-ups or drop off times.

A copy of the Media’s response is in Appendix 3.

Relevant ASA Codes of Practice

The Acting Chair directed the Complaints Board to consider the complaint with reference to the following codes:

GAMBLING ADVERTISING CODE

Principle 1: Social Responsibility: Gambling advertisements must be prepared and placed with a high standard of social responsibility to consumers and to society.

Rule 1(a) Children and Young People: Gambling advertisements must not target children or young people

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.

Principle 2: Truthful Presentation: Gambling advertisements must be truthful, balanced and not misleading.

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.

Relevant precedent decisions

In considering these complaints the Complaints Board referred to two precedent decisions, Decision 17/281 and Decision 21/196 which were both ruled No Grounds to Proceed.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 17/281 concerned a television advertisement for Jackpot City.net, an online gaming/gambling website. The advertisement promoted online slot games with the voiceover saying in part “play for free at jackpotcity.net. The Complainant was concerned that under New Zealand law only the Lotteries Commission and TAB were allowed to advertise gambling.

The Chair of the Complaints Board ruled there was No Grounds for the Complaint to Proceed. The Chair noted the ASA’s jurisdiction was limited to the content and placement of advertisements. The Chair also noted the television advertisement clearly referred to “playing for free” and had screened during adult viewing times between 9:00-10:00pm.

Decision 21/196 concerned a television advertisement for Casumo.net, an online gaming/gambling website. The advertisement showed groups of people playing casino games. The text “Casumo.net is a free to play gaming website. R.18” appears at the bottom of the screen for the duration of the advertisement. The Complainant was concerned the advertisement showed a large amount of gambling imagery which contradicted the disclaimer in the advertisement.

The Chair of the Complaint Board ruled there was No Grounds for the Complaint to Proceed. This was because it was clear the Advertiser was promoting a free-to-play website, which screened at 9:24pm on Choice TV. The Chair said the ASA could only operate within the parameters of the Advertising Codes, which had not been breached.

Additional Precedents

The Complaints Board noted the Media response referred to four No Grounds to Proceed Rulings from the ASA about complaints related to Jackpotcity.net advertisements on television. The Board noted the four decisions related to television advertisements which had played in adult viewing timeslots to a restricted audience. The Complaints Board also noted that in each case, the advertisements contained the wording “free to play”. The Complaints Board said the complaints currently before it were about a billboard advertisement which had an unrestricted audience and fine print which said, “This is not a gambling website.”

Complaints Board Discussion

The Acting Chair noted that the Complaints Board’s role was to consider whether there had been a breach of the Gambling Advertising Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised, which in this case is:
 - Context: Brand awareness advertising for a gaming/gambling website
 - Medium: Billboard
 - Audience: Unrestricted audience
 - Product: Free to play gambling website

Is the advertisement a gambling advertising?

The Complaints Board said the advertisement did fit the definition of a gambling advertisement. The Board noted the definition of a gambling advertisement for the purposes of the Gambling Advertising Code which states:

“Gambling Advertising” means an advertisement for:

- “pay to gamble” or “free to gamble” activities, products and outlets (e.g. 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

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the billboard advertisement was it was promoting the brand, Jackpot City. This was due to the large “Jackpot City” wording combined with the branded poker chips, cityscape nightlife imagery and age restriction and responsible play messaging. The Complaints Board noted the advertisement included the wording, “This is not a gambling website.”, which the Board unanimously agreed seemed contradictory to the main takeout of the advertisement. The consumer takeout was not materially impacted by the fact the advertisement included a link to the brand’s free gaming website rather than to its paid gambling website.

Is the advertisement likely to mislead or confuse consumers, abuse their trust or exploit their lack of knowledge?

The Complaints Board agreed the advertisement was likely to mislead or confuse some consumers. The Board said the imagery and brand name, which is synonymous with gambling featured in an unrestricted billboard environment reaching a broad audience. The Board said URL site, jackpotcity.net and the disclaimer, “This is not a gambling website”, did not adequately differentiate the free to play website from the website where people pay to play. The Board noted that the disclaimer “This is not a gambling website” was different from the disclaimers in the precedent decisions and, given the focus on the Jackpot City brand, rather

than just the free-to-play website, this was likely to confuse some consumers. The Board also noted that if consumers searched for the Jackpot City brand it was much easier to find the paid gambling website than the free to play website. The Board said the likelihood for confusion was supported via the Complainants referencing terms and conditions from the paid Jackpot City website after viewing the advertisement.

The Complaints Board said the advertisement had reached the threshold to breach Principle 2 and Rule 2(a) of the Gambling Advertising Code.

Does the advertisement target children or young people?

The Complaints Board did not consider the advertisement was targeting children or young people. The Complaints Board said despite the unrestricted nature of the billboard advertisement, the imagery of the city skyline at night or poker chips was unlikely to have particular appeal to minors. The Board said the proximity of the billboard to the school had complied with the OOHMAA (Out Of Home Media Association of Aotearoa) placement policy for advertising products that are illegal for sale to children and young people. This policy includes the advertising of alcohol products, gambling services or sexual services and ensures the exclusion of advertising within a 300-metre sightline of the main entrance schools. The digital billboard also allowed control over the timing the advertisement was played and did not run during school pick-up or drop-off times.

The Complaints Board said the advertisement was not in breach of Rule 1(a) of the Gambling Advertising Code.

Does the advertisement condone or encourage harm from gambling?

The Complaints Board said the content of the advertisement did not reach the threshold to cause or be likely to cause condone or encourage harm from gambling. The Board took into account the guidelines for this rule include references to the likelihood of winning, using gambling as a means of improving financial or personal difficulties and encouraging people to engage in gambling beyond their means.

The Complaints Board said the advertisement was not in breach of Rule 1(b) of the Gambling Advertising Code.

Has the advertisement been prepared and placed with a high standard of social responsibility to consumers and society?

The Complaints Board said the advertisement had not been prepared and placed with a high standard of social responsibility. This is because the dominant message on the billboard was for a brand that had a paid website and a free to play website and the free-to-play URL and the type of website it promoted was not sufficiently clear.

The Complaints Board ruled the advertisement was in breach of Principle 1 of the Gambling Advertising Code.

The Complaints Board said the complaints were Upheld in Part, taking into account context, medium, audience and product and the advertisement was in breach of Principle 1, Principle 2 and Rule 2(a) of the Gambling Advertising Code. The Board said the advertisement was not in breach of Rule 1(a) or Rule 1(b) of the Gambling Advertising Code.

Outcome

The Complaints Board ruled the complaints were **Upheld in Part**.

Advertisement not to be used again in its current form.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website, [Appeal Process](#) Appeals must be made in writing with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT 1

I saw the attached billboard advertisement on Monday 19 June at 17:08. My issue is not the nature of the advertisement, which although distasteful is likely allowed. My concern is that the 'fine print' included in the bottom left of the billboard states "This is not a gambling website." I am concerned that this statement breaches the Gambling Advertising Code which requires truthful representation, specifically that the website terms and conditions "must not contradict the advertisement content." Jackpot City's terms and conditions, available on their website, specifically say "The Software allows You to use our gambling services available via the websites (the 'Services')" and requires customers to agree that "You are fully aware that there is a risk of losing money when gambling by means of the Website." When I contacted the advertising company, MediaWorks, via email concerning this issue, they stated "We are also aware that ASA has reviewed this content in the past and there have been no grounds to proceed", however a review of ASA decisions found no decisions related to Jackpot City's outdoor advertising nor related to the concern referenced above. I appreciate your consideration of this matter.

COMPLAINT 2

This ad says it's 'not gambling' but it clearly is. The name is "jackpot city", there's poker chips on the ad, the fact that it's R18 and says "please play responsibly" ... It's also nearly directly opposite a high school and by the busy state highway Karo drive, Wellington. I don't think it's appropriate to advertise at all on a huge billboard in this location.

Appendix 2

RESPONSE FROM , MBS ADVERTISING ON BEHALF OF ADVERTISER

I received your email letter yesterday regarding the two complaints associated with our clients billboards in Wellington.

I spoke to the billboard providers and they assure me that they have used the same criteria for not promoting around schools as they use for all liquor and other age restricted products

This is that they will not display a billboard within 300 metres of a school

I have also looked at the second complaint regarding the site being a gambling website.

This is not the case, as the site www.jackpotcity.net is a free to play, non monetary gaming site. The billboard has the graphic displayed "Free to play".

It also shows an 'R18' graphic to avoid any confusion regarding the recommended age limitation for minors

The client is due to visit New Zealand in August and I would like to discuss this with him when he arrives

Meanwhile, because your deadline is the 20th July I have recommended that in the interim we remove all billboard advertising.

I have passed that instruction to the billboard company and they will put their installation team onto it first thing Monday (with tomorrow a public holiday)

FURTHER COMMENT FROM MBS ADVERTISING

Thank you for notifying me that the complaint will be heard by the board next week I had believed that as we have pulled the signs, the complaint was not going before the board.

Both the client and ourselves have always been very careful to ensure that the material produced for this campaign was non offensive and complied to all the restrictions applied to the TV commercials

When we introduced the billboard campaign, it was to create awareness of the brand name, so it could support the TV advertising.

We were very careful to ensure that placement was not in any controversial locations. When we spoke to the Billboard company we were assured it wasn't and that they had applied the same site ruling that they have for liquor advertising, sugary foods and fast food advertisers. This seemed a practical solution to our concerns regarding placement.

The billboards carry all the mandatories which we put on the TV Commercials, including R18, that Jackpotcity.Net is a gaming and not a gambling site, that no money is involved. It shows a 'free to play' graphic and no monetary rewards are promised or given

We would like to recommence the billboard campaign and as I mentioned earlier I believe if we switch to all electronic billboards, we could have more control over where and when they were displayed

Being electronic they share the site with several other ads and can be programmed to screen at set times and be off site during any controversial times.

Would this help the boards decision??

Appendix 3

RESPONSE FROM MEDIA, MEDIAWORKS

Re: ASA complaint - jackpotcity.net

We address the points made in the complaints relating to jackpotcity.net. We are happy for the photograph of the billboard provided to us as part of your email on 11 July 2023 to be used as the digital media file copy of the advertisement.

1. This is not a gambling website:

These advertisements are for a gaming website (rather than a gambling website), where players simply win points. No stake is required, and no prize is available for players. On that basis, this website is not a "Gambling Advertisement" as defined under the Code.

The complainant contends that the terms and conditions of jackpotcity.net refers to itself as a gambling website, which is incorrect. The only reference in the terms and

conditions of jackpotcity.net to "gambling" is jackpotcity.net saying that it won't pass personal information on to a gambling website.

2. Previous rulings:

The ASA has made four rulings on complaints related to this website in the past and has not upheld any of them. We see no reason for this to change, regardless of the advertising medium.

3. Is the advertisement still accessible:

The outdoor advertising campaign featuring this advertisement has ended.

4. Media where the advertisement is placed:

Jackpotcity.net advertisements are also placed on our radio platforms. We are aware of the website being placed on television platforms with other broadcasters.

5. Target audience:

This advertising campaign was targeted at adult gamers.

One of the complainants has suggested that the advertisement was placed near a high school. As the creative is not in breach of the Code, we do not consider this complaint to be relevant. However, our policy has been to not place jackpotcity.net in line of sight to schools, nor would it have run during school pick-up or drop-off times due to the adult target audience.

We welcome the opportunity to respond to these complaints and are happy to answer any clarification questions you may have.