



Case Report

1	Case Number	0533/17
2	Advertiser	NEDS
3	Product	Gaming
4	Type of Advertisement / media	Internet
5	Date of Determination	06/12/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

2.7 - Native Advertising Advertising not clearly distinguishable

DESCRIPTION OF THE ADVERTISEMENT

A sports news article published by Nine MSN

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

The article was promoted by Nine as an article about high profile tennis players however at the end of the article they said how NEDS were offering odds on weekend tennis matches. This article had nothing to do with sports reporting and everything to do with offering gambling odds by subterfuge.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

The advertisement under review is a part of sports news article published by Nine MSN as part of an integrated digital advertising and a pay per sign up referral program.

The news article contains a statement at the end of the article that "the content was brought to you by Neds".

This statement clearly labels the references to Neds and the odd offered by Neds on the relevant matches as commercial/paid advertising, as required by section 2.7 of the Code.

Accordingly, it is submitted that this news article does not breach Section 2.7 of the AANA Code of Ethics.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement is not clearly identified as advertising material and is therefore misleading and inappropriately encouraging gambling.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement complied with Section 2.7 of the Code which requires that “Advertising or Marketing Communications shall be clearly distinguishable as such to the relevant audience.”

The Board noted the promotion included a line at the bottom that reads “this content brought to you by Neds” and noted the advertiser’s response that ‘the advertisement under review is part of sportsnews article published by Nine MSN as part of an integrated digital advertising and a pay per sign up referral program.’

The Board considered that the advertiser has confirmed that the material complained about is an advertising or marketing communication.

The Board then considered whether the advertising or marketing communication is clearly distinguishable as such to the relevant audience. The Board noted that this promotion appears as part of a sports news article published by Nine MSN and was on the nine.com.au website under the page Pickle and the subpage ‘OddsOn’. The Board noted that the nine pickle site is a new site ‘For Australians who crave the best stories from around the web, 9Pickle is a viral news site that delivers what’s trending on social media alongside offbeat and interesting original features.’ (<https://www.nineentertainmentco.com.au/brand-9pickle>)

The Board considered it reasonable that under the subpage of ‘OddsOn’ that the relevant audience would be people familiar with sports wagering. The promotion includes pictures of Roger Federer and Nick Kyrgios and includes the heading ‘Roger Federer’s mind-blowing prediction for Nick Kyrgios.’ The article is surrounded by images and text related to the Neds betting product and includes text about “deposit \$50 get 150 in bonus bets.”

The Board noted the complainant’s concern that the advertisement is not clearly identified as an advertisement and is meant to be a sports article but it isn’t.

The Board agreed that the first impression of the material – from the headline – would be that the material is editorial comment. However the Board noted that quite early in the article there are references to the odds being offered with the bookmakers and there is a clear statement at the end of the article stating “this content brought to you by Neds”. The Board

also considered the overall impression of the promotion and noted that the article and images are surrounded by the colours, logo and text related to the Neds product and the wagering App.

The Board considered that the inclusion of the banner advertising around the material along with the content of the material referring to wagering odds and the inclusion of the term 'brought to you by Neds' means that the material is clearly distinguishable to the relevant audience of people interested in sports wagering as an advertising or marketing communication for Neds.

The Board determined that the advertisement did not breach Section 2.7 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.