

Decision of the ADVERTISING REGULATORY BOARD

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| Complainant | Candace Feinberg |
| Advertiser | Hollywood Bets (Pty) Ltd |
| Consumer/Competitor | Consumer |
| File reference | Hollywood Bets / Candace Feinberg |
| Outcome | Dismissed |
| Date | 24 May 2019 |

The Directorate of the Advertising Regulatory Board has been called upon to consider the complaints lodged against a Hollywood Bets television commercial.

Description of the advertising

The commercial in question was flighted on 3 March 2019 on DSTV channel 203 at 20:10. The commercial features a mother telling a story about how her son, Tshifiwa, was discovered by soccer talent scout. Then the following on-screen claims appear:

- HOPE IS POWER – Read Tshifiwa’s full story on hopeispower.co.za
- HOLLYWOOD BETS – “Hollywood sportsbook is a licenced operator. Hollywood supports responsible gambling. No persons under the age of 18 are permitted to

gamble. Winners know when to stop. National Gambling Toll-Free Counselling line 0800 006 008.”

Complaint

The Complainant stated that she comes from a family affected by gambling addiction and finds the commercial offensive and in direct conflict with gambling advertising regulations. She also argued that it is generally in poor taste and the commercial should be pulled, because the advert appeals to the viewers’ inherent sense of hope by using images of a boy and his mother sharing their dreams for the future only to promote gambling.

Response

The Respondent pointed out that it is not a member of the ARB and do not submit to its jurisdiction.

It submitted that the commercial is a depiction of a true story about Tshifiwa ‘King’ Maligudu from Tshiozwi village in Limpopo, who was discovered by Hollywoodbets’ Brand Ambassador Jerry Sikhosana during a soccer match that was sponsored by the brand. Jerry then contacted Kaizer Chiefs academy to suggest that the offer a trial to King. It was Hollywoodbets that sponsored the trip to Johannesburg when he took part in the trials and was accepted into the academy. The company still continues to sponsor him with equipment and groceries.

It was also explained that the strapline “Hope is Power” that appears on the commercial is a general statement that the company uses that was developed as part of its community programme. It submitted that in the last fiscal year it supported 111 charities as well as 85 sports development teams.

With regards to the complaint at hand, it submitted that the commercial complies with the respective gambling boards’ requirements by displaying the disclaimer. In addition, it stated that the broadcaster reviewed the material and deemed it appropriate to be viewed on the channels it was flighted and at the scheduled times.

Application of the Code of Advertising Practice

In light of the complaint the following clause was considered:

Offensive advertising - Clause 1 of Section II

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

Jurisdiction

The Advertiser submitted that it is not a member of the ARB.

Clause 3.3 of the Memorandum of Incorporation of the ARB provides that “The Company has no jurisdiction over any person or entity who is not a member and may not, in the absence of a submission to its jurisdiction, require non-members to participate in its processes, issue any instruction, order or ruling against the non-member or sanction it. However, the Company may consider and issue a ruling to its members (which is not binding on non-members) regarding any advertisement regardless of by whom it is published to determine, on behalf of its members, whether its members should accept any advertisement before it is published or should withdraw any advertisement if it has been published”

The Directorate will therefore proceed to consider this matter for the benefit of its members.

Merits

The Directorate starts by noting that it is not mandated to consider the issue of whether or not the commercial complies with legislation. It is only mandated to consider the commercial in terms of the Code of Advertising Practice.

Clause 1 of Section of the Code states “No advertising may offend against good taste or decency or be offensive to public or sectorial values and sensitivities, unless the advertising is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.”

The Directorate is sensitive to the issue that the Complainant raises around gambling addiction, and shares the Complainant's discomfort with the association between "hope" and gambling. However, the Directorate is not the "taste police" and the commercial needs to be in breach of the Code before the Directorate will order its removal.

To this end, the Directorate needs to determine the probable impact of the commercial on the hypothetical reasonable person. This fictional, reasonable person is the normal balanced right thinking person who is neither hypercritical nor over sensitive.

The commercial shows a boy who is talented in soccer being discovered by a soccer legend. It also shows his mother who tells of how his son's soccer dreams were realised through the assistance he got from Jerry Sikhosana. There is no implication in the commercial that the child achieves his dreams through gambling or through anyone in his family gambling. There is no communication that gambling will make the viewer's dreams come true. In addition, it is patently clear that the commercial tells the story of a change of luck through hard work and talent, and not a random incident of gambling luck. The on-screen message directs viewers to visit the website hopeispower.co.za to get the full story of Tshifiwa Maligudu. The product link is that the Advertiser sponsored Mr Maligudu, and while this is not clearly communicated in the commercial, the Directorate feels that it is justifiable that the Advertiser be able to make that claim in its advertising.

The Directorate is of the opinion that the commercial does not encourage excessive gambling or create the impression that a story such as the one illustrated can be achieved through gambling. Given this, the basis for offence falls away.

It is also noted that the commercial was flighted extensively, yet only one complaint was received. While this is not in itself decisive, it supports the Directorate's view that the offence is not widespread, sectorial or serious in terms of Clause 1 of Section II of the Code.

Based on the above the commercial does not contravene Clause 1 of Section II of the Code.