

Advertisement: “Red Stag Jim Beam Breakaway”
video advertisement

Advertiser: Beam Inc.

Complainant: Industry member

Complaint Summary: The complainant believes that the “Red Stag Jim Beam Breakaway” video primarily appeals to individuals below the legal purchase age and violates Responsible Content Provision Nos. 2 and 3 of the DISCUS Code of Responsible Practices for Beverage Alcohol Advertising and Marketing because the “content of the Breakaway Commercial contains numerous problematic elements, which collectively result in an advertisement that has ‘special attractiveness’ to persons below the legal purchase age.”

Responsible Content Provision Nos. 2 and 3, provide, respectively, that “[t]he content of beverage alcohol advertising and marketing materials should not primarily appeal to individuals below the legal purchase age” and “[b]everage alcohol advertising and marketing materials should not depict a child or portray objects, images or cartoon figures that primarily appeal to persons below the legal purchase age.” Responsible Content Provision No. 3 further states that “[a]dvertising or marketing material is considered to ‘primarily appeal’ to persons below the legal purchase age if it has special attractiveness to such persons beyond the general attractiveness it has for persons of legal purchase age.”

In that regard, the complainant notes that “[t]he Breakaway Commercial begins with a wide shot of an animated male deer grazing on a lawn in between two homes. The cartoon deer is clearly the focal



point of the first scene, as a street lamp directly above the deer has a spotlight effect, illuminating the deer in the night. The next ‘shot’ of the animated Breakaway Commercial jumps to a close-up view of the deer looking up and appearing startled. That close-up image of the deer has an uncanny resemblance to a reindeer, evoking thoughts of the famous children's cartoon reindeer character Rudolph.” The complainant states that “[b]ecause of this, the animated deer featured in the Breakaway Commercial is of particular attractiveness to individuals under the legal purchase age, immediately capturing the attention of such viewers at the beginning of the advertisement.”

The complainant further states that, when viewed together, the Breakaway video “contains many images and a style of animation that clearly allude to the popular Grand Theft Auto video game series,” and “the striking resemblance to the Grand Theft Auto series is particularly appealing to the under-age demographic who play these games.” The complainant notes that “the entire Breakaway Commercial is animated and best described as ‘Reindeer meets Grand Theft Auto,’ containing cartoon elements from beginning to end.”

The complainant points out that the “Breakaway” video bears a striking resemblance to the Grand Theft Auto video game, contains many images and a style of animation clearly alluding to the popular game. The complainant notes that “[a]s the Breakaway Commercial continues, the deer careens through a series of post-apocalyptic urban street scenes with the distinct look and feel of video games such as the ‘Grand Theft Auto’ series, ‘Motorstorm Apocalypse,’ and ‘Split/Second,’ in each of which the player is racing through a dynamic, ever-changing and apocalyptic urban environment featuring collapsing roads, rising skyscrapers, and gravity defying stunts.”

The complainant states that “[f]urther increasing the Breakaway Commercial's resemblance to a video game, towards the end of the advertisement (at approximately 23 seconds in), two jets and a hovering helicopter appear in the sky above the deer as he leaps from a tall building. The gratuitous inclusion of these subtle yet significant elements provide no substantive value to the advertising execution, but instead, make the Breakaway Commercial even more akin to a video game and of greater attractiveness to individuals under the legal purchase age.”

The complainant also points to the following four examples as “some of the most tangible similarities:”

- the “automobile imagery containing the look and feel of cars from the late 1970s (e.g., long body design, shiny chrome bumpers, etc.) is a famous element of the Grand Theft Auto series. [The

images] speak for themselves, illustrating the striking similarity between the automobile imagery that is an essential element of the Grand Theft Auto series and the make and model of cars that are included as a visual element in the Breakaway Commercial”

- the “appearance of a helicopter is another recurring element in each game of the Grand Theft Auto series...The gratuitous appearance of a similar looking helicopter in the Breakaway Commercial serves as an additional visual link to the Grand Theft Auto series”
- the “inclusion of dumpsters in the Breakaway Commercial is another key link to an important element in the Grand Theft Auto series. As avid Grand Theft Auto players are aware, dumpsters have appeared in all games in the series, and in at least some of the games, they are a place players can search to find useful items during gameplay;” noting that “[t]he superfluous inclusion of dumpsters in the Breakaway Commercial further strengthens the visual ties between the game and the advertisement”
- the “overall graphic layout of the city featured throughout the Breakaway Commercial is also similar in look and feel to the urban landscape that is a fundamental element of each Grand Theft Auto game [as well as] the manner by which the deer featured in the Breakaway Commercial turns and careens through the city streets is analogous to how the protagonist runs and drives through the ‘open-world’ urban landscape that is Grand Theft Auto.”

The complainant states that, “[a]s these examples show, the Breakaway Commercial contains iconic imagery famously associated with the Grand Theft Auto series. Indeed, viewing the Breakaway Commercial immediately brings Grand Theft Auto to mind for anyone who has played or seen the games. The publicity for the highly anticipated release of Grand Theft Auto 5 amplifies the connection between the game and the Breakaway Commercial. (The September 2013 release date for Grand Theft Auto 5 was announced in January 2013.)”

Although “animation in advertising is [not] a per se violation of the DISCUS Code,” the complainant notes that “animation as utilized in the Breakaway Commercial—which has the look and feel of a video game (...when viewing the Breakaway video in YouTube...the ‘featured’ video that is suggested immediately following completion of the Breakaway Commercial relates to a video game entitled ‘Steel Battalion’...and contains multiple iconic elements from the popular

Grand Theft Auto video games series—crosses the line, appealing to the same under-age demographic that was eagerly awaiting the release of the latest game in the series.”

The complainant notes that “[c]ontrary to the popular belief that the average age of gamers is increasing, there has been a dramatic *decrease* in the average age of gamers (when comparing year-over-year gaming industry statistics from the Entertainment Software Association).” The complainant notes that “[a]lthough this is partly a result of an expanding definition of gamers to include people who play on a larger variety of devices, one report notes that the ‘jump also seems to be tied to a massive increase in the number of young gamers.’ Indeed, Polygon.com, a gaming website and the author of a five part series on the ‘State of Games’ pointed out that while the 2011 ESA report noted that 18% of gamers were under 18 years old, the following year’s report in 2012 showed a dramatic increase in child gamers, with 32% of gamers under 18 years old. ESA’s most recent 2013 report further confirms that statistic.”

In addition, the complainant notes that “[w]hile Grand Theft Auto is rated “M” for Mature, it should be noted that chat boards and online forums are rife with examples of the popularity of the game with the under-18 year old set. One anecdotal example is a 2007 online poll on gamespot.com, which showed that 50% of respondents who played Grand Theft Auto were 16 years of age or younger. It should also be noted that the Grand Theft Auto video game series is available for sale at children’s toy stores such as Toys R Us and eToys.com. Furthermore, other sources also support the notion that Grand Theft Auto is particularly attractive to children.”

In sum, the complainant submits that “[t]aken as a whole, the advertisement is self-evidently designed to appeal to video game players, and particularly players of high-speed action games. According to gaming industry statistics, 32% of all video game players are under 18 years old, and thus an even higher percentage of the target audience is under 21. Moreover, those statistics are for all games: the demographic for the type of games mimicked in the Breakaway Commercial skews younger and more predominantly male. The look and feel of the advertisement is, in short, aimed directly at teenage boys.”

Code Review Board Decision: In response to the complaint, the advertiser stated that the advertisement was created with the intent to reach legal purchase age (LPA) consumers and that nothing inherent about the advertisement

makes it specifically or primarily appealing to those under the LPA, viewing the advertisement as a whole and considering the content questions raised by the complainant.

In addressing the points raised by the complainant, the advertiser stated that the “stag is muscular and he has full, sharp antlers. The stag does not smile, he does not speak. He is not playful, clumsy nor funny. Rather, he is strong, determined and powerful.” The advertiser noted that the stag “is specifically stylized as to not display the traits of a ‘typical’ holiday or Rudolph-esque reindeer. The fact that Rudolph and the Red Stag both have antlers and happen to be animated does not a connection make....the product name is Red Stag [and] for that reason [the advertiser] chose a dark red stag as its protagonist for this campaign.”

Regarding the statements in the complaint about the resemblance between the “Breakaway” advertisement and the video game series entitled Grand Theft Auto (‘GTA’) with a city setting and featuring 1970s vintage cars, helicopters and dumpsters, the advertiser responded that “[t]hese similarities are mere coincidences” and that the images were “elements included to make the city environment in which the advertisement is set more authentic and realistic.”

The advertiser noted that the “advertisement does show two older model cars and a dumpster (for collectively less than a second) and a helicopter appears in the last few frames....[and] features numerous parking meters, trashcans, marquee style signs, cobble stones, post office boxes and street lamps.” The advertiser stated that “[j]ust like the older cars and dumpsters, these are all items commonly found on the streets of any big city.” The advertiser further stated that “animated cityscapes are used in a wide variety of marketing campaigns.”

The advertiser stated that “[w]hile GTA and the advertisement are both ostensibly set in a city, they are clearly two very distinct and separate cities. Complainant's analogies do not hold up upon examination as there is certainly nothing in the advertisement's cityscape that is more appealing to those under the LPA than it would be to LPA+ consumers.”

In that regard, the advertiser relayed that “[t]he advertisement begins with an image of a dark red stag grazing in what appears to be a suburban setting under moonlight. A deep male voice, the narrator, asks the question, ‘How do you leave the ordinary behind?’ The scene changes as the stag appears close-up – his neck shows distinct musculature and his antlers are fully matured. The stag, as if hearing a

distant beckoning, begins to run. Emblematic of leaving the ordinary and crossing into the extraordinary, he leaves the suburban setting and crosses into a city.”

The advertiser further noted that “[t]he narrator begins to answer the question he posed – ‘You start with the world’s finest bourbon and infuse it with nature flavors.’ As he describes the Red Stag product, images of the various flavor components (e.g., cherry, tea leaves etc.) appear in the hoof-prints of the stag. After navigating through moving buildings, a tilting landscape and other obstacles, the stag finds himself on a roof-top. The narrator continues stating that whatever variety of Red Stag you choose, it will taste ‘exactly like you did not expect.’ The stag, in an unexpected move, then dives off the building and into what becomes a glass of Red Stag flavored bourbon.”

The advertiser relayed that, for all digital placements of the “Breakaway” video advertisement, “comScore confirms that total impressions were 91% LPA. Additionally, the Nielsen reports for this advertisement had an 87% LPA viewership.”

After careful consideration of the complaint and the advertiser’s response, the Code Review Board did not find this advertisement in violation of Responsible Content Provision Nos. 2 and 3 of the DISCUS Code. The Board did not believe that the advertisement primarily appeals to persons below the legal purchase age. The Board did not find the Red Stag in the advertisement evocative of a children’s cartoon character, nor that the advertisement had special attractiveness to individuals below the legal purchase age,

The Code Review Board, however, cautioned that, in developing advertising executions using animation as a stylistic genre, particular care should be taken to guard against marketing materials so that they do not primarily appeal to individuals below the legal purchase age.

Action by Advertiser: None required.

Status: Not Applicable.