

Advertisement:

Pernod Ricard USA brand websites/age affirmation entry information

Advertiser:

Pernod Ricard USA

Complainant:

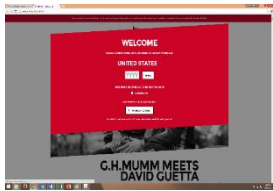
Industry member

Complaint Summary:

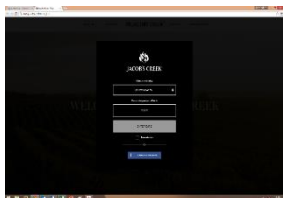
The complainant points to the websites for seven Pernod Ricard USA brands noted below that do not employ a month, day and year entry field prior to entering these sites as required by the DISCUS Code of Responsible Practices for Beverage Alcohol Advertising and Marketing. The websites identified by the complainant are as follows:



Website No. 1 - Absolut



Website No. 2 – G.H. Mumm



Website No. 3 – Jacob's Creek

Code Review Board Decision:



Website No. 4 - Kahlúa



Website No. 5 - Martell



Website No. 6 – Perrier-Jouët

- Absolut (<http://www.absolut.com/us/>);
- G.H. Mumm (<http://www.ghmumm.com/en>);
- Jacob's Creek (<http://www.jacobscreek.com/gbl/>);
- Kahlúa (<http://www.kahlua.com/>);
- Martell (<http://www.martell.com/en-ww/>);
- Perrier-Jouët (<http://www.perrier-jouet.com/>); and
- Sandeman Wines (<http://www.sandeman.com/age-check>).

The complainant notes that these websites also are accessible via the Pernod Ricard USA website (<http://www.pernod-ricard-usa.com/>). The complainant states that the failure to have a “DOB” (month, day and year) entry field violates Responsible Content Provision No. 10 of the DISCUS Code, which provides that “[a]ge affirmation mechanisms, utilizing month, day and year, should be employed for DISCUS member-controlled beverage alcohol advertising and marketing websites.”

In responding to the complaint, the advertiser stated that the brand websites identified by the complainant are not controlled by Pernod Ricard USA (PRUSA). The advertiser noted that “these websites are controlled by their respective brand companies, which under the Pernod Ricard, S.A. corporate umbrella, are separate entities, not within the control of PRUSA. For example, Absolut and Kahlúa are brands owned by The Absolut Company; Martell, G.H. Mumm, and Perrier-Jouët are brands owned by the Martell, Mumm, Perrier-Jouët Company; and Jacob's Creek is a brand owned by Premium Wine Brands.”

Since PRUSA, the DISCUS member, does not control these websites, the advertiser respectfully submitted that a violation of Responsible Content Provision No. 10 has not occurred insofar as this Code provision is applicable to “DISCUS member-controlled beverage alcohol advertising and marketing websites.”

Separately, presuming that PRUSA controlled the websites identified by the complainant, the advertiser stated that “the age verification mechanisms utilized on these websites (with the exception of the Sandeman's website) comply with the



Website No. 7 – Sandeman Wines

requirements of Responsible Content Provision No. 10.” The advertiser noted that “[t]hese mechanisms, in fact, utilize month, day and year fields, although not in the exact order outlined in the Code” and described the process as follows: “A visitor who enters a year in excess of 21 years of age is...permitted entry to the site. Similarly, a visitor who enters a year less than 21 years of age is denied entry. Visitors who enter a year corresponding with 21 years of age automatically are prompted to enter month and day information in order to [state] their age and determine whether they are permitted or denied entry to the site.” The advertiser stated that, “using this configuration, no underage visitors are able to gain access to these brand sites.”

The advertiser also pointed to the definition of “age affirmation” set forth in the DISCUS Guidance Note on Responsible Digital Marketing Communications, which states “[a]ge affirmation mechanisms may vary depending upon available technology and examples could include, among other things, an age affirmation page, an email or instant messaging age affirmation, or the use of a site’s ‘registered user’ database of users of legal purchase age.” The advertiser specifically noted the reference therein that age affirmation mechanisms may vary depending upon available technology vis-à-vis the age affirmation mechanism utilized by the websites identified by the complainant.

After careful deliberation of the complaint and the advertiser’s response, the Code Review Board found the above-referenced Pernod Ricard USA brand websites in violation of Responsible Content Provision No. 10 of the DISCUS Code. The Board concluded that this Code provision was applicable to Pernod Ricard USA for several reasons. First, Pernod Ricard USA’s “Our Brands” page identifies the brands listed above with the following statement preceding that listing: “Pernod Ricard USA, the premium spirits and wine company in the U.S., is focused on generating sustained growth for its portfolio while continuing the rich tradition behind its brands.”

Second, the advertiser pays DISCUS membership trade association dues for these brands. Third, the particular corporate structure of a DISCUS member in terms of organizing its marketing and brand subsidiaries separately is not the determinative factor regarding what brands are or are not subject to the Code, particularly when the assessment of DISCUS membership dues is made on each of these brands. Finally, the Tax and Trade Bureau’s Certificates of Label Approval for each of these brands were issued to Pernod Ricard USA for the import and sale of these products in the United States.

For these reasons, the Board found that the advertiser was subject to Responsible Content Provision No. 10 and that the websites referenced by the complainant failed to employ an age affirmation

mechanism utilizing month, day and year, a requirement for DISCUS member-company controlled websites. With regard to the DISCUS Guidance Note on Responsible Digital Marketing Communications, the Board stated that this document is not an exception to the DISCUS Code and its provisions.

The Board also noted the full text of the “age affirmation” definition/guidance set forth in the DISCUS Responsible Digital Marketing Communications document, which is set forth below: “[a]ge affirmation is a process or a mechanism by which users provide their full date of birth (month, day and year) and, when appropriate, country of residence to affirm they are of legal purchase age. Age affirmation mechanisms may vary depending upon available technology and examples could include, among other things, an age affirmation page, an email or instant messaging age affirmation, or the use of a site’s ‘registered user’ database of users of legal purchase age. If a user enters a date of birth that indicates they are under the legal purchase age, access to a member-controlled website should be denied and visitors should be given an appropriate message and/or directed to an information website on responsible drinking, such as those found at The Century Council’s website (<http://www.centurycouncil.org>) [The Foundation for Advancing Alcohol Responsibility at <http://www.responsibility.org/>] or on the site itself.”

Action by Advertiser:

Websites revised to employ a month, day and year entry field

Status:

Resolved: Responsive action taken