

Advertisement:

Casamigos Tequila marketing materials/website

Advertiser:

Diageo

Complainant:

Industry Member

Complaint Summary:

The complainant believes that the three Casamigos Tequila advertising executions described below and the age affirmation mechanism for the Casamigos Tequila website violate Responsible Content Provision Nos. 2, 4, 10, 14, 15, 26, and 31 of the Council's Code.

Advertisement No. 1



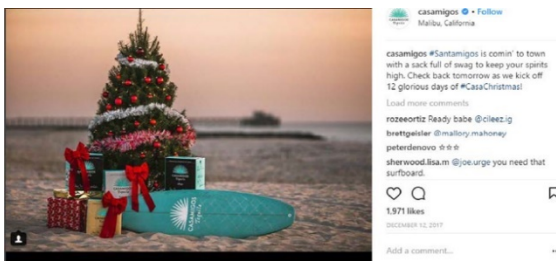
The complainant believes that Advertisement No. 1 violates Responsible Content Provision Nos. 14 and 15 providing, respectively, that beverage alcohol advertising and marketing materials “should portray beverage alcohol products and drinkers in a responsible manner” and “should not depict situations where beverage alcohol is being consumed excessively or in an irresponsible manner.”

Advertisement No. 2



The complainant states that “Advertisement [no. 1] depicts an award statuette ‘chugging’ tequila straight from the bottle and states ‘we love the drinking games.’ In doing so, the advertisement promotes irresponsible consumption of tequila directly and continuously from the bottle. The advertisement further conveys irresponsible consumption by reference to ‘drinking games’ alongside a depiction of the statuette drinking tequila direct from the bottle, suggesting a drinking game that rewards or encourages excessive consumption.”

Advertisement No. 3



The complainant believes that Advertisement No. 2 violates Responsible Content Provision Nos. 2 and 31 providing, respectively, that “the 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 use the term ‘spring break’ or sponsor events or activities that use the term ‘spring break’ except if those events or activities are located at a licensed retail establishment.”

The complainant notes that “[t]he advertisement states, ‘What is Spring Break Without Casamigos?’ The reference to ‘Spring Break’ plainly violates Provision No. 31 and primarily appeals to individuals under legal drinking age, as ‘Spring Break’ is a known reference to a spring vacation from primary school or college. A large proportion of school and college students with a ‘spring break’ are under legal drinking age, and the advertisement is intended to appeal primarily to those under legal drinking age.”

The complainant believes that Advertisement No. 3 violates Responsible Content Provision Nos. 2, 4, and 26. Responsible Content Provision No. 2 is defined above and Responsible Content Provision Nos. 4 and 26 provide, respectively, that beverage alcohol advertising and marketing materials “should not contain the name of or depict Santa Claus” and “should not employ religion or religious themes.”

The complainant states that “[t]he advertisement refers to ‘Santamigos’ in an obvious reference to Santa Claus. This association is furthered by the statement that ‘Santamigos is comin’ to town,’ a play on the song ‘Santa Claus is Coming to Town,’ and a reference to a ‘sack full of swag’ that evokes the sack of presents carried by Santa Claus. Additionally, the advertisement employs religion and religious themes through its depiction of a Christmas tree and the hashtag #CasaChristmas.”

The complainant believes that the age affirmation mechanism on the Casamigos Tequila website violates Responsible Content Provision No. 10 providing that “[a]ge affirmation mechanisms, utilizing month, day and year, should be employed for DISCUS member-controlled beverage alcohol advertising and marketing websites.”

The complainant states that “[w]hile the website requests that users confirm they are over the age of 21, it does not require affirmation utilizing day, month, and year as required under the Code.”

Code Review Board Decision: In response to the complaint regarding Advertisement No. 1, the advertiser has removed this advertising execution.

Regarding Advertisement No. 2, the advertiser stated that “Advertisement No. 2 does not violate Responsible Content Provision Nos. 2 or 31. The Complaint appears to rely on the notion that use of the term ‘Spring Break’ itself within the Tweet appeals primarily to individuals below LPA. [We] respectfully disagree. The concept of ‘spring break’ is not limited to a designated week of spring vacation for students during primary school or college; rather, the concept extends to a spring vacation taken by anyone, including those above LPA. Senior citizen adults, for example, are known to take ‘spring breaks.’ In addition, even if one were to think about ‘spring break’ in the context of a vacation period for students, one must consider that above-LPA parents often participate in their child’s spring break (especially for children’s spring breaks during primary school), and in that capacity, are also active spring break participants.”

The advertiser further noted that “with respect to students in college or university, there is no evidence that the majority of enrolled students in the U.S. are below LPA. Indeed, according to the National Center for Education Statistics, in 2015, of the total fall enrollment in degree-granting postsecondary institutions, approximately 60% of those enrolled were over 22 years of age (and if one assumes that half of the 20-21 year old age category are over LPA, the percentage of students over LPA would increase to 70.1%). Considering all of these factors, the content of Advertisement No. 2 does not primarily appeal to individuals below LPA.” The advertiser also relayed that “77% of the Casamigos social channel following are over the age of 26. It is therefore less likely that ‘spring break’ in the context of the Tweet at issue would primarily appeal to individuals under LPA.”

Regarding a violation of Responsible Content Provision No. 31, the advertiser stated that Advertisement No. 2 did not violate this Provision of the Code “[b]ecause Responsible Content Code Nos.

28-31 are limited to promotional events, and Casamigos is not sponsoring or providing any sampling in this context, or displaying advertising and marketing materials at any promotional event, this Code provision does not apply.”

Regarding Advertisement No. 3, the advertiser stated that “Advertisement No. 3 does not violate Responsible Content Provision Nos. 2, 4 or 26.” Regarding Responsible Content Provision No. 2, the advertiser responded that “that there is no violation of this section of the Code, as there is no evidence that this post primarily appeals to individuals below LPA, or even appeals to individuals below LPA at all. Neither the beach scenery, Christmas tree, tinsel, presents nor surfboard primarily appeal to individuals below LPA. In fact, many beverage alcohol companies have responsibly marketed their products using such imagery.”

Regarding Responsible Content Provision No. 4, the advertiser stated that Advertisement No. 3 did not violate this Provision of the Code “because neither the photo nor copy contains the name ‘Santa Claus.’ ‘#Santamigos’ is not the same as ‘Santa Claus.’ Indeed, the Code states that marketing materials ‘should not contain the name of or depict Santa Claus,’ it does not state that materials ‘should not make any reference to or allusion to Santa Claus.’”

Regarding a violation of Responsible Content Provision No. 26, the advertiser stated that Advertisement No. 3 did not violate this Provision of the Code because “[i]n the U.S., Christmas is a federal secular holiday. In fact, it cannot be considered a religious holiday, as the First Amendment of the Constitution clearly states that Congress shall make no law respecting an establishment of religion. Moreover, as of 2013, 81% of non-Christians in the U.S. celebrate Christmas. Furthermore, there are no depictions or references in the photo or copy of anything an ordinary U.S. consumer would deem as religious (e.g., there is no imagery or reference to Jesus Christ, a cross, Mary or church). Indeed, many other beverage alcohol

companies have responsibly marketed their products using non-religious Christmas themes and imagery, including the 12-days-of-Christmas theme.”

Concerning the age affirmation mechanism on the Casamigos Tequila website, the advertiser stated that they “ha[ve] requested that Casamigos change the age gate to one that utilizes month, day and year, contains a reminder of the legal purchase age, and is otherwise compliant with the Code and [our] Marketing Code. Casamigos has agreed to this request.”

After careful consideration of the complaint and the advertiser’s response, the Code Review Board found the advertising executions and the website age affirmation mechanism identified by the complainant in violation of the Code’s Responsible Content Provisions referenced below.

Regarding Advertisement No. 1, the Board concluded that this advertising execution violated Responsible Content Provision Nos. 14 and 15 with its depiction of an Oscar statuette drinking directly from a Casamigos Tequila bottle in conjunction with the tagline “**BUT WE LOVE THE DRINKING GAMES.**” In the Board’s view, depicting an award statuette consuming tequila out of a bottle while referring to drinking games does not portray beverage alcohol consumption in a responsible manner.

Regarding Advertisement No. 2, the Board concluded that this advertising execution violated Responsible Content Provision Nos. 2 and 31. The Board found that this posting primarily appeals to those below the legal purchase age because of its reference to “Spring Break” that generally is associated with individuals below the legal purchase age. This execution utilizes the term “Spring Break” in violation of Responsible Content Provision No. 31 that does not permit the use of that term except for events/activities located at licensed retail premises.

Regarding Advertisement No. 3, the Board concluded that this advertising execution violated Responsible Content Provision No. 4 due to the use of the slogan “#Santamigos is comin’ to town” that contains the name of Santa.

Regarding Responsible Content Provision No. 2, the Board did not find a violation of this provision and determined that the image of the Christmas tree, when viewed together with the taglines and the other elements of the advertisement, did not primarily appeal to individuals below the legal purchase age.

Regarding Responsible Content Provision No. 26, the Board determined that this advertising execution was not a violation of this provision. In making this determination, the Board did not find that this particular execution of a Christmas tree, in conjunction with the tagline “#CasaChristmas,” employed religious imagery or themes.

The Board concluded that the Casamigos Tequila website did not employ an age affirmation mechanism utilizing month, day and year in violation of Responsible Content Provision No. 10.

Action by Advertiser:

The advertiser removed the advertising executions found in violation and revised their website to utilize month, day and year in its age affirmation mechanism.

Status:

Resolved: Responsive action taken