

Advertisement:

Ole Smoky Distillery promotional materials

Advertiser:

Ole Smoky Distillery (DISCUS Affiliate Member)

Complainant:

Member of the public

Complaint Summary:

The subject of the complaint is the Ole Smoky Distillery advertising materials located at Zaxby's (611 Parkway, Gatlinburg, TN) and the Ober Gatlinburg amusement park (1001 Parkway, Gatlinburg, TN). The complainant believes that these advertising materials run afoul of Responsible Placement Provision No. 3, which states that "[b]verage alcohol advertising and marketing should be placed in broadcast, cable, radio, print, and internet/digital communications only where at least 71.6 percent of the audience is reasonably expected to be of legal purchase age (determined by using reliable, up-to-date audience composition data)."



According to the complainant, "the print ads that are placed at a family restaurant called Zaxby's at 611 Parkway and an amusement park called Ober at 1001 Parkway in the tourist town of Gatlinburg TN 37738 by Ole Smoky Tennessee Moonshine [are] in violation of [Responsible Placement Provision No. 3] of [your] code." The complainant also notes that "[i]f I am wrong, then show me the up to date audience composition data. Otherwise please direct them to remove their ads from said family restaurant and amusement park."

Code Review Board Decision:

In response to the complaint, the advertiser stated that "these advertising materials were in fact responsibly placed in a market, well above the Code's minimum, as our demographic data details and substantiates. Ole Smoky Distillery, LLC's ('OSD') main retail operations are located in the tourist town of Gatlinburg, Tennessee in the heart of the Great Smoky Mountain National Park ('GSM') where there are more than 11 million visitors each year. According to the GSM visitor data, visitors to the GSM are 89% above the age of 16 with only 11% below the age of 15. Gatlinburg and its sister city of Pigeon Forge are even more of an adult destination where 93% plus of the visitors are 25 or older and almost the entirety of



the other 7% is within the 18-24 age range. This data supports that the audience in Gatlinburg dramatically exceeds the 71.6% over 21 and one could easily argue it exceeds 95%.”

The advertiser further stated that the distillery “monitors and updates its demographic information from the Gatlinburg Chamber of Commerce and other business/governmental proprietary/public data consistently throughout the year. At Ober there are two separate locations for our brochure: one is at the bottom of the mountain (in the atrium near the ticket purchasing station) and one at the top of the mountain again near the ticket purchasing station. The Ober demographic data from their own website shows their attendance to be only slightly below the overall average mean for the city of Gatlinburg with 90+% being above 21. The majority of the shops and entertainment venues at both Ober locations (atrium at bottom of the mountain and venues at top of the mountain) are marketed towards the average age of 43 for Gatlinburg visitors including several locations that sell alcohol and alcohol-oriented products such as beer steins. The vast majority of the specific visitors to Ober occur in the summer season, in contrast to the winter ice skating and snow activities that could possibly suggest a younger audience. The expansions of older adult activities/venues further justify the intended audience of 40 plus as their expected audience.”

In addition, the advertiser stated that “[t]he location of the brochure racks near the ticket purchasing stations further justifies a reasonable expectation of adults as they are purchasing the tickets. The brochure at the Zaxby’s restaurant (again near the register where adults pay the bill) is also supported by our data to reasonably expect an audience well above the Code’s minimum. We would also point out that the Zaxby’s menu only has 3 items under the children’s menu. Their menu has been clearly developed to the same older adult age model as most if not all businesses are in Gatlinburg.”

The advertiser also relayed that they “feel strongly that the brochures have been placed with an absolute and reasonable expectation at well above the Code’s minimum of 71.6% legal drinking age audience. We support this fact on the demographic data from the Gatlinburg Convention and Visitor’s Bureau/ Gatlinburg Facebook/GSM and other businesses located in Gatlinburg and Pigeon Forge. The Gatlinburg business community works closely with their Convention and Visitor’s Bureau to assist/utilize accurate data collection for use in continued support and expansion of tourism to the area.”

The advertiser supplemented its original response as set forth below:

“As was asked during our call, I am attaching two additional pieces of data, relating to the overall Gatlinburg/ Great Smoky National Park area, both of which support our belief that we are in compliance with the Code. Firstly, I’m attaching the Great Smoky Mountain National Park Visitor study from 2008, which on p11 indicates that only 14% of the visitors are below 21 and 86% are 21 or older. While we believe this is solid data, we do recognize it is rather old, but we do not believe there have been significant shifts in the makeup of visitors to the area in recent years. Secondly, Attachment 1A, which is a Google Analytics report on the Gatlinburg website visitors, indicates that 87% of visitors are 25 and older, with 13% between 18-24...if one assumes 3/7 are under 21, which = 6%, 7% would be 21-24, leading to the conclusion that 94% of website visitors are 21 and older. Since our marketing messages are placed in the Gatlinburg area and are seen by many people who visit the national park, we are very comfortable believing that they are reaching an audience with LDA composition well above the 71.6% threshold.”

Further, the advertiser stated that “[t]his information is consistent with our belief that Ole Smoky advertising for our distilleries in racks around town is seen primarily by an adult audience, as we communicated in our December letter. Attachment 1 of our December 21 letter indicated an average Gatlinburg visitor age of 43, which is broadly in line with the ages

of the three target audiences identified in Attachment 2B. Attachment 2A indicated that 93% of Gatlinburg's Facebook fans are over 24 years of age and an estimated 97% at least LDA. Attachment 3 indicated that 95% of Pigeon Forge's visitors are over 24 years of age and an estimated 98% at least LDA."

The advertiser further relayed that "Ole Smoky monitors available demographic information from the Gatlinburg Chamber of Commerce and other business/governmental data sources throughout the year, as we take our compliance responsibilities very seriously."

In addition, the advertiser stated "[w]e recognize that your initial communication was about the placement of our advertising in two specific locations, at Ober Gatlinburg and Zaxby's. The only location specific data we have at our disposal relates to Ober and it is in Attachment 4 of our December 21 letter. This data indicates that approximately 88% of Ober website visitors are 25 and older, with approximately 12% between 18-24...if one assumes 3/7 are under 21, which = 5%, 7% would be 21-24, leading to the conclusion that 95% of website visitors are 21 and older. As we discussed in our earlier letter, we believe attendance at both locations approximately reflects the average age of 43 for Gatlinburg visitors and we consequently feel strongly that the brochures have been placed with an absolute and reasonable expectation at well above the Code's minimum of 71.6% legal drinking age audience."

After careful consideration of the complaint, as well as the advertiser's responses and participation in the Code Review Board calls, the Board found that the Ole Smoky promotional materials did not run afoul of Responsible Placement Provision No. 3.

The Board concluded that these distillery brochures placed in tourist racks at the above-referenced establishments primarily appeal to adults of legal purchase age and simply suggest different activities for individuals visiting Gatlinburg.

In arriving at its decision, the Board found the demographic information provided by the advertiser about Gatlinburg helpful, as well as the fact relayed by the advertiser during the Code Review Board call that the distillery tourist cards were provided to a third party that then placed them in tourist racks in the local area.

Action by Advertiser: None required.

Status: Not applicable.