

Advertisement:

Teremana Tequila Instagram video

Advertiser:

Mast-Jägermeister US (DISCUS Member)

Complainant:

Member of the public

Complaint Summary:

The complainant alleges that the Teremana Tequila Instagram video described below runs afoul of Responsible Content Provision Nos. A1, A2, and A3.



Responsible Content Provision Nos. A1, A2, and A3 provide, respectively, that beverage alcohol advertising and marketing materials “should primarily appeal to individuals 21 years of age or older,” “that primarily appeals to individuals under the age of 21 [are] inappropriate” (with ‘primarily appeal’ being defined as a special attractiveness to persons below the legal purchase age beyond the general attractiveness for persons of legal purchase age), and “should not be advertised or promoted by any person who is below the legal purchase age or who is made to appear to be below the legal purchase age. To help ensure that individuals in beverage alcohol advertising are and appear to be above the legal purchase age, models, and actors employed should be a minimum of 25 years old, substantiated by proper identification, and should reasonably appear to be 21 years of age and older.”

The complainant states that “[Regarding Responsible Content Provision No. A1,] [y]oung girls playing spin the bottle listening to pop music isn’t typically something LDA adults do. I don’t know the average age of a SZNS listener but I would assume it’s well under the age of 21. It’s blatantly obvious to me that this advertising would be appealing to underage consumers and should be removed. [Regarding Responsible Content Provision No. A2,] [a]gain, the primary age of people who would be interested in this advertising falls below the age of 21. [Regarding Responsible Content Provision No. A3,] [i]t’s even possible the models used in the video aren’t 25 years of age or older but I’m really not sure.”

Code Review Board Decision: In response to the complaint, the advertiser stated that “Mast-Jägermeister US, Inc. (‘MJUS’) is the US importer and distributor of Teremana Tequila. As a longstanding

member of both DISCUS and the DISCUS CRB, we take our obligations of responsible marketing seriously, and fully support the good work that the Code Review Board does on behalf of the entire industry.”

The advertiser noted that “[t]he original Instagram post that eventually became the subject of this Complaint was posted by the ‘sznsocial’ Instagram page on July 24, 2020, along with the message, in relevant part ‘happy national tequila day!!!! Be safe out there, no drinking and driving...’ [and] [t]his original post was picked up by the Teremana social team, who was excited to see a fun, completely organic consumer generated social responsibility message revolving around assigning a designated driver with the message of ‘Be safe out there, no drinking and driving...’”

The advertiser added that “[o]n July 25, 2020, the Teremana social team re-posted the original post that was used in the Complaint filed with the CRB, including the hashtags #TequilaOfThePeople and #DrinkResponsibly. Upon viewing the video, it is clear that the women are playing a game of ‘spin the bottle,’ and as the bottle stops on one of the women, she is handed a set of keys, indicating that she will be the designated driver for the evening. There was no contact and has been no contact with these individuals and there is no sponsorship, arrangement, or other relationship between the women in this post and any employees or representatives of Teremana Tequila or MJUS. The Teremana social team simply re-posted the original consumer generated post and did not make any advertising payments or placements in any fashion related to this post.”

Regarding Responsible Content Provision No. A1, the advertiser noted that “[t]he fact that these women independently decided to film a video encouraging people to not drive while drinking is a positive development with our consumers. Very rarely do consumers generate responsibility messages – and when such an instance does occur, such as here, it should be celebrated, not punished. The complainant makes no reference to the responsibility message in the post, but rather makes extremely broad assumptions and conclusory statements regarding what LDA adults do with their free time without any evidence to support such claims.”

Regarding Responsible Content Provision No. A2, the advertiser stated that “this is a clear social responsibility message and we disagree that this would primarily appeal to those under the age of 21.”

Regarding Responsible Content Provision No. A3, the advertiser stated that “[t]he provision cited has historically been applied to ‘models’ and ‘actors’ that are employed by the advertiser. In today’s world of online content, the line of defining a ‘model’ or ‘actor’ is more difficult today than it was in the past, when ‘traditional’ means of advertising (print, radio, television) were used. However, in this case, where there was no interaction whatsoever and there is no sponsorship, arrangement or other relationship between the women in this video and any employees or representatives of Teremana Tequila or MJUS, it is clear that the women in this video are not ‘models’ or ‘actors’ that were ‘employed’ by anyone.” The advertiser added that “the video was posted on the Teremana Instagram on July 25, 2020. Upon receiving the Complaint from the CRB on July 28, 2020, in a sign of good-faith respect for the CRB, the post was removed on July 29, 2020.”

After careful consideration of the complaint and the advertiser's response, the Code Review Board found that the Teremana Tequila Instagram video violated Responsible Content Provision Nos. A1, A2, and A3 of the DISCUS Code.

Regarding Responsible Content Provision Nos. A1 and A2, the Board agreed that it is commendable when a consumer takes it upon themselves to create a social responsibility message, but ultimately found that the totality of the Instagram video did not primarily appeal to a legal purchase age audience and had a special attractiveness to those below the legal purchase age beyond the general attractiveness for an audience that is 21+. In making this determination, the Code Review Board considered all of the elements in the video in their totality, including the depiction of the game "spin the bottle" that is generally associated with teenagers and the underage appearance and overall youthful mannerisms of the individuals featured in the video.

Regarding Responsible Content Provision No. A3, the Board concluded that the individuals in the video appeared to be below the legal drinking age in violation of the first clause of A3, which specifies that "[b]everage alcohol products should not be advertised or promoted by any person who is below the legal purchase age or who is made to appear to be below the legal purchase age."

Action by Advertiser: Upon receiving the complaint, the advertiser removed the Instagram video that was the subject of the complaint.

Status: Resolved. Responsive action taken.