

Advertisement: Smirnoff Vodka advertisement

Advertiser: Diageo (DISCUS Member)

Complainant: Member of the public

Complaint Summary:

The complainant asserts that the Smirnoff Vodka advertisement placement described below violates Responsible Placement Provision No. A1. Responsible Placement Provision No. A1 provides that “[b]everage alcohol advertising and marketing materials are intended for legal purchase age adults who choose to drink. Thus, these materials should primarily appeal to individuals 21 years of age or older and best efforts should be taken to ensure they are placed in broadcast, cable, radio, print, and internet/digital communications where at least 71.6 percent of the audience is reasonably expected to be 21 or older.”

The complainant states that “I am writing to express my concern about advertising of Smirnoff vodka that was delivered to my 5 year-old. The advertising appeared while they were playing a coloring game app (‘Happy Color’ from the Google Play Store) [on Friday, September 25, 2020 on an Android tablet]. This app features Disney and other cartoon coloring sheets and is rated ‘E for Everyone.’ This is clearly not a place to be advertising spirits intended for those 21 and over.”

The complainant also notes that “I am separately complaining to the app developer and Smirnoff, but would appreciate your attention to the larger problem of how advertising of spirits is ending up in apps that clearly are designed to appeal to those well under 21.”

Code Review Board Decision:

In response to the complaint, the advertiser stated that “‘Happy Color’ is an application that describes itself as ‘a color by number game for adults.’ The audience composition of ‘Happy Color’ is over 84% LPA+ -- well above the 71.6% threshold. Diageo complies with the best practices set forth in Responsible Placement Provision No. A1. Therefore, it is Diageo’s position that no violation has occurred.”

The advertiser noted that “[n]evertheless, Diageo was concerned to learn that its advertisement was served to an individual whom Diageo certainly did not intend to receive such advertising. Upon receiving this Complaint, Diageo immediately investigated this matter and discovered that the app had included a ‘new DISNEY category.’ Accordingly, despite this platform being comprised of over 84% LPA+, Diageo immediately stopped serving all ads to this app. The Complaint does raise a question of how often advertisers should be checking a medium, in the event the medium chooses to add content that might be attractive to a child, and Diageo welcomes the opportunity for members to discuss.”

The advertiser further stated that “[t]he third party entity, Apptopia, provided the 84.4% LPA+ number. Apptopia is a company that provides services in app analytics, data mining, and business intelligence for the mobile industry. Its clients include Lyft, Oval, Google and Facebook. The 84.4% LPA+ number was pulled on September 29, 2020, and was based on data pulled over the prior 30 days. Apptopia has indicated that it based this 84.4% figure on users who have downloaded the app. In terms of arriving at that figure, they indicated that they ‘leverage a combination of app reviews with U.S. census data to determine the age and gender of the app composition.’”

The advertiser added that “[o]ur agency verifies the Apptopia figures with comScore data. For the Happy Color app, comScore provided the following age breakdown of ‘unique visitors’ of the app for the month of September 2020 (i.e. ‘unique individuals that visited any content of the application’ during the month of September 2020): A21+: 4.968M // 100%, A35+: 3.542M // 71.30%, A50+: 2.676M // 53.86%, and A55+: 2.185M // 43.98%. comScore indicated that it obtains this age breakdown using an internet panel methodology to provide a comprehensive view of the internet activity of a panel of users. When participants agree to be on the panel, they are required to download a software meter on all of their household devices that passively captures their behavior while on these devices.”

The advertiser noted that “it is possible that an LPA+ parent may have used the same device as their child, and that Happy Color added Disney content after the app was included on the agency’s publisher list. Upon learning of this occurrence, Diageo immediately stopped having its ads served on the app. It is Diageo’s position that it has complied with the DISCUS Code.”

After careful consideration of the complaint and the advertiser’s response, the Code Review Board did not find that the Smirnoff Vodka advertisement placement violated Responsible Placement Provision No. A1 of the DISCUS Code. In arriving at its decision, the Board relied upon the demographic information provided by the advertiser demonstrating that the Happy Color application met the 71.6% demographic placement standard set forth in the DISCUS Code and Media Buying Guidelines. The Board recognizes that technologies and methodologies for downloaded applications are nascent and quickly evolving, and that new programming may be added to an application without notice to the advertiser. Consequently, the Board intends to explore the issues surrounding downloadable applications to ensure that the responsible placement and content provisions appropriately cover this media category.

Action by Advertiser: None required.

Status: Not applicable.