
Case ID: 14

Decision

To	Experts - judging session # 2	Date of mtg	27 July 2018
From	EASA Secretariat	Date sent	30 July 2018

Experts

Anders Stenlund (RO)
Andy Taylor (ASA/CAP)
Orla Twomey (ASAI) - Chair

Ruling - UNILEVER España S.A.

Description

A website and a Twitter account promoting the handing out of free Frigo Chuches and Calippo ice creams in Spanish schools.

Complaint

Direct marketing in primary schools

The complainant challenged whether the campaign complied with the EU Pledge commitment and formally requested:

1. to immediately terminate the promotional campaign and to withdraw it from the website and any other means through which it is carried out;
2. to refrain from carrying out similar or analogous promotional campaigns;
3. to refrain from advertising ice cream products in primary schools.

Advertiser response

The advertiser responded that the campaign was rolled out in Spain to share free Frigo Chuches and Calippo ice creams with children above the age of 6 for their graduation party.

They claimed the campaign was targeting adults (i.e. parents) and was running mostly out of schools (i.e. online).

They said that they mailed the campaign to all consumers through the Frigo database and to their employees directly. With regards to Twitter, the Tweets provided as evidence by the complainant were not posted by the Ola/Unilever team.

They said that, although Twitter can generally be regarded as targeting adults, they acted rapidly to remove a Tweet showing children that may have appeared below the age of 6. They reiterated that they have clear guidance for their marketers and media agencies on the content and execution of marketing communications in digital channels - including social media - especially when it comes to marketing to children. In any case, they said comments and posts on social media were user-generated.

Finally, they argued that the ice creams they offered are compliant and needed to be specifically requested and approved by the school authority before being consumed by the children. They provided evidence to confirm the compliance with the EU Pledge Common Nutrition Criteria of the promoted ice creams.

EU Pledge commitment

According to the EU Pledge, the *“EU Pledge members agree not to engage in food or beverage product marketing communications to children in primary schools”*. With regards to communications in primary schools, the enhanced commitment *“covers all products, regardless of nutritional composition.”* Also, *“Communication related to products” is intended to cover all marketing communications, which includes advertising as well as promotions and direct marketing, and should be interpreted broadly to mean any form of communication produced directly by or on behalf of marketers intended primarily to promote products.*

“The provision of branded vending machines and sales promotions such as the distribution of coupons, collector schemes, free products and/or product merchandise falls within the above definition of ‘commercial communications’ and is therefore not permitted.”

Decision

The Panel considered the complaint and the advertisers’ response.

Despite the featuring of compliant products, the Panel considered the campaign as engaging children in food product marketing communications in primary schools, therefore in breach of the EU pledge commitment. According to the Experts, the promotional concept of the campaign is to be seen in a broader sense. The campaign was advertised not only via email, leaflet, website and social media, but engaged directly with parents and primary school’s authorities, and in particular provided free products to pupils in primary schools. In addition, the products could not be redeemed without the direct involvement of schools. The Panel therefore agreed that the campaign breached the EU Pledge commitment stating that, *“regardless of nutritional composition”, “the EU Pledge members agree not to engage in food or beverage product marketing communications to children in primary schools”*.

Panel decision: Complaint upheld.

Action

This campaign must not be run again. Campaigns, such as the one subject of this complaint, which engage children in food product marketing communications in primary schools, must not be run.