

Case ID: 17

Decision

To	Experts - judging session # 3	Date of mtg	23 November 2018
From	EASA Secretariat	Date sent	13 December 2018

Experts

Andy Taylor (ASA/CAP) - Chair
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Ruling – The Coca-Cola Company – Fanta Studio campaign

Description

A website and Facebook profile promoting the “Fanta Studio” campaign running in different amusement parks in Belgium during the summer of 2018.

Complaint

Misleading advertisement

The complainant challenged the compliance of “Fanta Studio” campaign with the EU Pledge commitment for several reasons:

1. Fanta installed experiential photo booths in different amusement parks where children could take pictures and parents could provide personal data in exchange; teenagers could also provide their data - by using QR codes - and were encouraged to post the digital movie of their Fanta experience on their social media profiles; at Bellewaerde amusement park, Fanta was prominently placed and advertised in one of the shows of the park, involving a child able to lift a box after having drunk a Fanta, and her father not able to do so as not having had the Fanta. The complainant objected to the campaign’s message encouraging children and teenagers to drink Fanta to get superpowers.
2. the “Fanta Studio” campaign was promoted via website and social media.

Advertiser’s response

1. The advertiser responded that Coca-Cola ran the “Fanta Studio” campaign in different amusement parks in Belgium during the summer period of 2018. They claimed that the Fanta Studio focuses on teenagers over 14 years old, that it is an experiential booth where participants can play physical games and, before leaving the booth, teenagers are offered a digital movie of their experience that can be shared through social media afterwards. Participants who would like to receive their personalised video are invited to complete a document stating their age, which must be over 14 years old, and also, provide their e-mail address. The document - provided by the advertiser - contains a disclaimer stating that the data collection is for distribution purposes of the video only.

The advertiser argued that children under 12 years old are not targeted to participate to the Fanta Studio, in line with Coca-Cola global Responsible Marketing Policy that covers all their beverages and confirmed that Coca-Cola does not market any products directly to children under 12. In the case that children under 12 years old ask to participate, they can be admitted only with the consent of an accompanying parent or adult. If participants under 12 years old wish to receive their personalised video, it can be sent only to the email provided by the accompanying parent/adult and is used for distribution purposes of the video only. The data is destroyed one month after the end of the campaign, while the Social Media activities of the Fanta Studio participants are in no way monitored nor actively used by The Coca-Cola Company.

In addition, said that in August 2018, they were informed about one case where an under 12-year-old child was invited to participate to the Fanta Studio. They contacted their agency to inform it about this case and reiterated the importance for them to adhere to their responsible marketing guidelines as indicated also in their contractual agreement. Specifically, their services agreement with all suppliers includes a specific clause indicating that all of their employees need to adhere to the Responsible Marketing policy, while there is an obligation from their suppliers to provide all of their employees with copies of our Responsible Marketing policy. In addition to the contractual agreement, prior to the activation, the promotion team responsible for the Fanta Studio activation received a briefing document that clearly stipulates that anyone under 14 years old should not be invited to participate to the Fanta Studio experience. They confirmed to have urged their agency to contact again all collaborators to stress the importance of full compliance to the responsible marketing guidelines at all times.

Regarding Bellewaerde Park, they claimed that Coca-Cola was not aware or involved in the activation of the Fanta Studio and that they have never invited any amusement park to advertise their products during their own shows. They confirmed to have contacted the Bellewaerde management and asked to immediately stop the inclusion of their products in their shows. The Bellewaerde management confirmed to no longer use Fanta during their show, that it was not their intention to advertise Fanta, and they did not conclude any agreement with Fanta / The Coca-Cola Company in this regard.

2. Finally, they argued that Coca-Cola has communicated about the Fanta Studio campaign and activities on its social media and website targeting teenagers over 14 years old. The individual social media activities of the Fanta Studio participants are in no way monitored nor actively used by The Coca-Cola company. They reiterated that Coca-Cola is fully committed to its adherence to the EU Pledge; immediately after being aware of executions, by two of their external partners, that were not in line with their responsible marketing guidelines, they took the necessary corrective actions.

The advertiser also provided the extract from briefing document given to the third-party supplier responsible for the Fanta Studio activation indicating

- where the activation could take place (amusement parks Bellewaerde, Walibi, Bobbejaanland, youth hotspots/events), and
- under 14s should not be targeted by the campaign unless parental consent is provided.

EU Pledge commitment

- According to the EU Pledge, *companies need to ensure that they are not designing company- owned websites and company-owned social media profiles that promote products which do not meet the EU Pledge common nutrition criteria in a way that appeals primarily to children under 12, in accordance with the Guidance on Creative Execution. This rule also applies to social media networks that do not allow children under 12 (e.g. Facebook). In addition, companies should not create social media profiles for products which do not meet the EU Pledge common nutrition criteria on any social media networks that are targeted primarily at children under 12.*¹
- Experiential marketing and privacy are out of the scope of the EU Pledge commitments.

Decision

The Panel considered the details of the complaint and the advertisers' response.

The Experts acknowledged that, although the main subject of the complaint related to the promotion of the campaign via website and Facebook, the complainant's primary concerns were the experiential element of the campaign and the misleadingness of its message, as well as the privacy issue linked to request for personal data in exchange for the digital memento of their experience.

The Experts noted that both experiential marketing and privacy issues are out of the scope of the EU Pledge. However, the Experts considered that the online advertisement of the experiential element of the campaign via websites and via Facebook fell within the remit of the EU Pledge.

The supporting evidence provided by the complainant showed that the promotion took place on the corporate sites of the company and on the amusement parks' own site. The Panel considered that the promotion on the corporate sites of the company was not primarily appealing to children under 12, hence, not in breach of the EU Pledge commitments. Furthermore, the Panel considered that the communication on the amusement park's own site was not under the control of the advertiser and, therefore, was out of the scope of the EU Pledge.

In the light of all the foregoing, the Experts considered that aforementioned online promotion was not in breach of the EU Pledge.

Panel decision: Complaint not upheld.

Action

No further action is required.

¹ (More information at http://eu-pledge.eu/sites/eu-pledge.eu/files/misc/Implementation_Guidance_Report.pdf)