
Case ID: 18

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

Orla Twomey (ASAI)

Fiona Vening (SRC)

Ruling – Ferrero – Kinder

Description

Ferrero Kinder 50th anniversary event organised in Belgium featuring Kinder mascots, games and activities for very young children; pictures and video of the event posted on the Belgian Kinder Facebook profile.

Complaint

Ferrero event for children organised in Belgium and reported on the Belgian Kinder Facebook profile.

The complainant challenged whether the Ferrero event complied with the EU Pledge commitment.

Advertiser response

The advertiser responded to have carefully examined the complaint, together with the marketing colleagues from Ferrero Belgium. The event referred in the complaint was the Belgian 50th anniversary of Kinder, celebrated on October 14th, 2018. As for all similar outside events organised all over the world on that day, the Belgian anniversary celebration was addressed to families and all children that took part in the event were under parental supervision, as shown in the pictures available in the Kinder Belgium Facebook page.

They argued that the organisation of outside events is not covered by the EU Pledge commitments.

In addition, regarding the communication of the event on the Kinder Belgium Facebook profile, they confirmed they were not aware of the fact that, even if the Kinder Facebook pages for Belgium and the Netherlands are set up by default to “Anyone 13+”, the content is however accessible to anyone without being logged into Facebook. They reiterated that, even if willing to do so, they could have not restricted the access to the Facebook page in question. They added that the album of the Kinder Facebook page includes photos of children under 12 only together with parents/adults. Finally, they pointed out that no Kinder products were distributed to the participating children and parental consent was obtained for all pictures taken during the event and published in the Facebook page.

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 is out of the scope of the EU Pledge commitments.

Decision

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

The Experts noted that the complainant's primary concern was the experiential element of the event and confirmed that experiential marketing is out of the scope of the EU Pledge, therefore not to be considered for adjudication.

The Experts considered that, as the event was advertised via Ferrero Facebook profile, the communication of it on social media fell within the remit of the EU Pledge. They noted that the profile was accessible without an adequate age screening, however, they acknowledged the attempt of the advertiser to restrict access. The Experts analysed the event's pictures and video, as well as the whole creative execution of the profile and they agreed that, although the profile can be considered appealing to children under 12, it is also appealing to children's parents and adults.

The Panel considered the promotion of the event on the Facebook profile not primarily targeting children under 12, therefore not in breach of the EU Pledge commitments.

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)