

Case ID: 19		Decision	
To	EU Pledge Secretariat	Date of mtg	21 March 2019
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Experts

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Ruling – The Coca-Cola Company

Description

Coca-Cola products are promoted at the Efteling Theme Park which welcomes numerous visitors including children under the age of 12.

Complaint

The complainant raised four promotional activities carried out at the Efteling theme park, which he/she deemed were in breach of the company's EU Pledge commitments noting that children under the age of 12 were a significant target audience for the amusement park. The specific activities featuring Coca-Cola products considered by the complainant as in breach of the EU Pledge commitments were the following:

- 1. The Coca-Cola suite at the Efteling Hotel**, where other rooms had a fairy tale theme, and which featured services designed for under 12's.
- 2. Fairy tale scenes on the soft drink machines** at the entrance of the Efteling Park were deemed as primarily appealing to children under the age of 12.
- 3. Soft drink vending machines in the souvenir shop** for children "Jookies World" which were adjusted to child-size, some of which were placed next to a video screen with children's films and shelves with children's books.
- 4. The 'Zoetrope' amusement attraction** for children which featured Coca-Cola bottles and posters.

Advertiser's response

The advertiser emphasised that it attached great importance to its compliance toward the EU Pledge, as well as its own Global Responsible Marketing Policy and the national regulations for marketing products to children. The advertiser indicated that it had carefully examined the complaint, promptly replied to the complainant as well as reached out to its distributor and taken several proactive actions. It provided a copy of the response to the complainant as well as a message from the theme park

regarding the compositions of its audience. The latter indicated that the 29% of the park's visitors are under the age of 12 with school trips not taken into account.

More specifically, the advertiser responded to the issues raised by the complainant as follows:

1. The Coca-Cola Suite at the Efteling Hotel can only be booked by adults, and, unlike the other suites, it contains no children's beds and/or other materials specifically aimed at children.

2. Fairy tale scenes on the soft drink machines visuals have been developed based on Efteling's designs, which are not considered primarily appealing to children under the age of 12. The advertiser considered that the machines are point of sale and therefore out of remit of the EU Pledge. Notwithstanding that the company said that it would remove all images of the large toadstool in the foreground on vending machines and would replace imagery of the Coca-Cola regular bottle with a Coca-Cola zero sugar bottle.

3. The Soft drink coolers in the Jookies small souvenir store are not covered by the EU Pledge commitment. They nevertheless asked the sales outlets, in so far as it was possible, to move their product away from toys aimed at children aged 12 and under.

4. The 'Zoetrope' amusement attraction is not within scope of the EU Pledge.

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.*
- *In non-measured media (i.e. print, cinema, online – including company-owned websites and company owned social media profiles –, direct marketing, product placement, interactive games – whether online or on DVD/CD-ROM –, outdoor marketing, mobile and SMS marketing), companies will consider, in addition to placement, the overall impression of the advertising, actions taken to restrict child access (where appropriate) and the target demographic based on the company's media plan.*
- Sponsoring is out of the scope of the EU Pledge commitments.
- Point of sale marketing and in-store are out of the scope of the EU Pledge commitments.
- Experiential marketing is out of the scope of the EU Pledge commitments.¹
- Eight EU Pledge member companies (including, Coca-Cola) have taken the decision not to advertise any of their products to children under 12, not on the basis of nutritional considerations, but because they direct their advertising primarily to the adults who make the household purchasing decisions and to young people older than 12 years.

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

The Coca-Cola Company's Responsible Marketing Policy within the framework of the EU Pledge programme

In the absence of information regarding the percentage of the audience which is children under 12, we will not design our marketing communications in a way that directly appeals to children under 12. Specifically, we will not use, in any communications created after the date of adoption of this policy:

- *Celebrities or characters whose primary appeal is to children under the age of 12, with the exception of brand equity characters already in use (...)*
- *Branded sponsorship of sporting and entertainment events which primarily target children under 12.*

Decision

The Panel considered the details of the complaint and the advertisers' response. It analysed and ruled separately on the four components of the complaints.

1. The Panel considered that hotel rooms were not per se marketing communications which fell within the scope of the EU Pledge. The Panel considered the overall look and feel of the website and deemed that it was not primarily designed to appeal to children under the age of 12 but mostly targeted families and adults. In any event, the Panel did not consider that the promotion of the room by the Efteling Hotel on their own website was marketing communication that fell within the scope of the EU Pledge.

Panel decision: complaint not upheld as issue out of remit

2. The Panel considered whether the visuals appearing on the soft drink vending machines located outside the theme park were outdoor advertising. The Panel deemed that since product imagery was displayed on a vending machine (as opposed to the products being visible in the vending machine), and since the vending machine was visible to the general public, passers-by, then it was outdoor marketing. They noted that the vending machines complained about had product imagery (the distinctive Coca-Cola bottles) and also fairy tale scenes. The Panel considered the fairy tale scenes were primarily appealing to children. Therefore, it considered the visuals appearing on the soft drink machines as in breach of the EU Pledge commitments.

The panel acknowledged the actions taken by the advertiser to eliminate the contentious visuals such as the removal of toadstools and regular Coca-Cola bottles images from the vending machines noting that changing the nature of the products featured on the image would be irrelevant with respect to Coca-Cola's commitment not to advertise any of their products to children under 12 regardless of nutritional considerations.

Panel decision: complaint upheld.

3. The Panel assessed that the coolers with Coca-Cola products were located in the small souvenir store and therefore were point of sale marketing which is not in the scope of the EU Pledge



commitments. Therefore, the Panel did not consider coolers containing Coca-Cola products in the souvenir shop as in breach of the EU Pledge commitments.

The Panel acknowledged the decision of the company to move the sales shelves on which its drinks are displayed away from toys aimed at children aged 12 and under.

Panel decision: complaint not upheld as issue out of remit.

4. The Panel considered whether the 'Zoetrope' amusement attraction was in the scope of the EU Pledge. 'Zoetrope' was not considered as outdoor advertising as it was located on the park's premises. Furthermore, the Panel considered that the 'Zoetrope' was not primarily appealing to Children under the age of 12. Therefore, based on the elements above, the Panel did not consider the 'Zoetrope' as in breach of the EU Pledge commitments.

Considering Coca-Cola's responsible marketing policy which specifically bans the use of branded sponsorship of sporting and entertainment events which primarily target children under 12, the Panel assessed whether the 'Zoetrope' constituted an "event" in itself and concluded that it was not an event as it was a permanent attraction without any defined start and end date. The Panel also considered that the theme park itself, because of its permanent nature, was not an event. Notwithstanding this consideration, the Panel considered that 'Zoetrope' would not in any case be in breach as it 'was not primarily appealing to Children under the age of 12.'

Panel decision: complaint not upheld as issue out of remit.

Actions

Adapt the visual of the vending machines at the entrance of the park to ensure that they are not appealing to children below the age of 12.