

Arcade fire – Tombola game ads in breach of gambling rules

The Advertising Standards Authority has ruled that ads for a Tombola arcade game in an *I'm A Celebrity, Get Me Out Of Here* app breached CAP Code rules on gambling, as they were likely to be used by under-18s. In its ruling,¹ the ASA said that, even though the app was neither directed nor targeted at under-18s in terms of its design, features and content, the advertiser, by not employing a specific targeting mechanism, had failed to minimise the likelihood that under-18s could be exposed to the gambling ads within the app.

Ad content

Tombola, the official sponsor for ITV's *I'm A Celebrity, Get Me Out Of Here* since 2017, displayed ads in a section of the *I'm A Celebrity, Get Me Out Of Here* app. Users could watch video clips there, including an ad headed "PLAY OUR SLOT GAMES", which featured numerous images, including masks, an animal skull, a vase and a compass. Another ad included the text: "Play our scratch card games." Both ads included the text "tombola arcade proudly sponsors I'm A Celebrity", "begambleaware.org Terms apply. 18+" and featured the logos of the Google Play and Apple App Store.

One ad always appeared in the "Vote" section of the app. It stated in large text "A CHANCE TO WIN A SHARE OF £250,000 FOR FREE CLICK HERE", with small text underneath that stated "18+ begambleaware.org T&Cs apply" and "tombola arcade proudly sponsors I'm A Celebrity". Clicking on the various ads opened the Tombola arcade website in the user's browser.

Response to ASA challenge

In response to the ASA's challenge that the ads were inappropriately targeted, Tombola said that, before becoming a sponsor of the programme, it had carried out research into the demographic of the audience to determine whether it would be appropriate. Tombola's findings revealed that over 90% of viewers (in the 2017 series) and 91% (in the 2018 series) were aged 18 and over. Tombola also said it had chosen to include "18+" and "begambleaware.org" in the ads to be clear that it was a brand for those aged 18 and over.

Tombola also pointed out that when app users clicked on the ads, they were taken to their mobile website, which also included the text "18+", and that when users tried to download the Tombola "arcade app," they would see that the app was tagged with an adult age gate. Tombola argued that there were also stringent checks in place that prevented under-18s from registering with Tombola.

ITV said the app was not targeted to under-18s, but to a wide range of adults who wished to maintain a high level of interaction and engagement with the programme content, and that if app users responded to the ads, they were taken to Tombola's website and had to undergo age verification if they wanted to interact with the Tombola services.

Decision

The ASA considered that the app was unlikely to be of interest to consumers who were not already viewers of the programme, and that, while the app would be of appeal to some under-18s who watched *I'm A Celebrity*, the design, features and content of the app were not directed at those aged under 18. The ASA understood that there were no data available relating to the age profile of those who had

¹ Ruling on Tombola (International) plc t/a tombola arcade, <https://www.asa.org.uk/rulings/tombola-international-plc-a18-474901.html>, 6 February 2019.

downloaded the app and considered that younger viewers of the programme might be more inclined to download and engage with the app than older viewers.

The ASA had seen no evidence to suggest that the age profile of those who downloaded the app was likely to be significantly skewed more towards children than the programme audience (which, as noted above, was not of particular appeal to under-18s). The ASA concluded that, even though it was unlikely that under-18s made up a disproportionately high percentage of app users, some under-18s would have downloaded the app.

For the ASA, a critical aspect was that all ads were displayed to all users of the app, without any mechanisms built into the app to target ads towards, or to direct them away from, certain groups of users.

The ASA considered that Tombola should not have used the app to deliver gambling ads to consumers as there was no built-in mechanism through which age-restricted ads could be targeted only to the appropriate age group. The ASA therefore found that the advertiser had not taken sufficient care, through the selection of media, to ensure that the ads were directed at an audience aged 18 and over, so as to minimise under-18s' exposure to them. As such, the ASA concluded that the ads had breached CAP Code rules 16.1, 16.3 and 16.3.13 (gambling).

Comment

The CAP Code requires that ads for gambling products such as those offered by Tombola must not be directed at under-18s through the selection of media or the context in which they appear. Marketers should be able to demonstrate that they have taken reasonable steps to ensure that gambling ads are directed at an audience aged 18 and over so as to minimise under-18s' exposure to them (for example, by using mechanisms to direct or block under-18s from viewing the ad).

The ASA's ruling should give broadcasters pause for thought over the potential for advertising rules to place commercial restraints on sponsorship deals with gambling firms in relation to programmes of broad appeal, even those broadcast after the watershed. Broadcasters should be mindful to ensure that any sponsorship deal with a gambling firm incorporates an obligation on the gambling firm to adopt stringent age-gating technology so that, wherever possible, the ads are not seen by under-18s.

The decision to ban the Tombola ads has attracted media approval and comment, particularly given the sharp rise in the number of children who are labelled as problem gamblers. Labour's deputy leader, Tom Watson, welcomed the ASA's action, saying: "Gambling ads should not be on apps that will clearly be used by kids. It's simple." ITV also attracted criticism for the programme's association with Tombola.

Marc Etches, chief executive of GambleAware said: "Thankfully, on this occasion, common sense has prevailed and the advert has been removed. Unfortunately, this isn't always the case and with 55,000 11- to 16-year-olds now classed as problem gamblers, it is clear more needs to be done to address this serious public health issue."

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