

ASA Ruling on WHG (International) Ltd in association with Tapjoy Inc t/a William Hill

⚖ Upheld | In-game (apps) | 19 June 2019

Ad description

An ad for William Hill Vegas was seen in February 2019 in the "Looney Tunes World of Mayhem" app, which gave players the opportunity to earn "gems" to use in the game by viewing ads or performing tasks. Text stated "William Hill Vegas - Deposit and bet £10! 1. Open the William Hill Vegas app. 2. Register an account*. 3. Deposit and bet £10**". Smaller text stated "Application install is optional and reward won't be provided in connection with an application install. *Offer not available to anyone that has registered before with any William Hill product. **You must bet a minimum of 10 to get your currency. Offer only available to first time depositors". Beneath this was a button that stated "earn [gem emoji] 3360".

Issue

The ASA challenged whether the ad was appropriately targeted.

Response

WHG (International) Ltd t/a William Hill said that they agreed that, on first inspection, the ad did not appear to be in accordance with advertising guidelines. However, following further investigation and discussion with the affiliate (Tapjoy, Inc), they had established that restrictions were in place to minimise the risk of under 18s being targeted. They understood that app publishers were required to opt in to serve content based on their assessment of the appropriateness of that content for their audience. The ads only showed on a whitelist of publishers who had specifically opted in to receive gambling content. Taking the above into account, they believed that the ad had been displayed to those under 18 by the fault of the game publisher, and not the affiliate. That notwithstanding, William Hill acknowledged that it shouldn't have appeared regardless of who was at fault. They had blacklisted the app and would not place ads in it in future via Tapjoy or any other affiliate.

Tapjoy, Inc. said that they worked with the developers and publishers of "free to play" apps. One of the services they offered was in-app rewarded advertising, meaning that users of the app could earn in-app virtual currency rewards in exchange for viewing and engaging with offers inside the app. The ad offer in question was presented as part of the offerwall, which offered rows of ads to select from. Interaction with these ad units was entirely user- driven, meaning that users had to seek them out within the app - they were often in or part of the app's marketplace/store area. If users didn't seek them out, they were not otherwise exposed to them. Tapjoy said that they worked to deliver ad offers to the right audience. Nobody - neither users, advertisers, publishers, nor Tapjoy - benefited from the delivery of an ad to a user who was uninterested in its subject, or unable to take up the offer because they lacked a credit card or weren't old enough to use the service. They did not work with child-directed apps, by which they meant apps directed to users under the locally established age - e.g. 16 in the EU. Publishers who used Tapjoy with an app directed at children were in breach of Tapjoy's terms and conditions and would be removed from the network when brought to Tapjoy's attention.

Tapjoy said that ads could only be displayed in apps with matching maturity settings. The app developer was responsible for choosing the relevant maturity setting. Tapjoy said that the app in question had been incorrectly categorized with a "mature-gambling" setting, which is why the ad had appeared within it. Tapjoy immediately corrected the error as soon as they learned of the issue, and they were reviewing their processes to identify improvements to prevent any future recurrence.

Tapjoy said that while adults of a certain age associated the Looney Tunes characters with their own childhood, the app in question used characters and entertainment properties dating back to the 1930s-1940s. They said that Google Play store help

materials stated that content ratings were used to describe the minimum maturity level of content in apps, but did not indicate whether an app was designed for users of a specific age.

Tapjoy said that they also offered data-science-based targeting based on inferred interests. They could categorize different users based on the interests associated with the apps they used. If two users had significant overlap in some interest, Tapjoy used lookalike modelling to infer that they likely shared other interests as well. They also ran surveys that rewarded users in exchange for completing a short questionnaire about their demographic characteristics, including age group. The responses were extrapolated and applied to other users who overlapped in interests with the respondents and could therefore be inferred to share demographic attributes with them, to a greater or lesser degree depending on the degree of similarity. In this instance, no demographic or behavioural targeting had been applied.

Tapjoy said that applying targeting limited the potential audience of an advertising campaign to users inferred to fall within the targeted categories, and excluded users believed or inferred to fall outside the targeted categories and users about whom the system lacked sufficient information to make an inference one way or the other; depending on the circumstances and selected targeting, this last group of “unknowns” may cover anywhere from some to most users, limiting the utility of targeting restrictions.

Scopely, Inc., the publisher of “Looney Tunes World of Mayhem”, said that the ad went against their advertising policies and such ads were strictly prohibited under their contracts with their advertising partners. They did not target their games to children and were not aware of any children playing “Looney Tunes World of Mayhem”. They said that the ad was inadvertently placed by Tapjoy, and they had told Tapjoy to remove it and provide assurances that the issue would not recur. Scopely said that individuals under the age of 16 in the EU were not permitted to play their games and players had to agree to their terms of service as a prerequisite to play. Players were not required to register, though they could choose to do so. In the event that Scopely became aware of underage players (for example, through reports from other players), those individuals were blocked from continuing to play. They said they had conducted market research pre- and post-commercial launch to confirm that the gameplay and functionality of the “Looney Tunes World of Mayhem” game appealed to a more general audience.

Assessment

Upheld

CAP Code rule **16.3.13** required that marketing communications for gambling must not be directed at those aged younger than 18 years through the selection of media or context in which they appeared. The ASA therefore considered that marketers should be able to demonstrate that they had taken reasonable steps to ensure that gambling ads were directed at an audience aged 18 and over so as to minimise under-18s' exposure to them.

We considered that age-restricted ads on online platforms should not be targeted solely based on age data, because of younger users misreporting their age or different people sharing the same device, and that advertisers should support that method of targeting by using interest based factors to help remove those aged under 18 years of age from the target audience of gambling product ads.

The ad appeared in the app "Looney Tunes World of Mayhem", which had a rating of PEGI 7 in the UK Google Play app store, meaning it was suitable for players aged 7 and up. The game allowed players to build worlds and situations based on the Looney Tunes cartoons and collect characters to "battle" each other. Given the use of cartoon characters, cartoonish violence and the relatively simple nature of the game, we considered it was likely to appeal to many under-18s. However, we acknowledged that the characters would be well-known to older players, and the game was likely to have more general appeal.

We understood that the ad had been labelled as "mature-gambling", and therefore should only have appeared in apps that had specifically opted in to receive "mature-gambling" content. According to Tapjoy, "Looney Tunes World of Mayhem" had been marked to display "mature-gambling" ads in error. We acknowledged that action had been taken to correct this promptly, following receipt of the complaint.

Because we understood Tapjoy's system allowed advertisers to target a defined set of users, the relevant test under the Code was whether the ad had been directed at people under 18, rather than the proportion of users who saw the ad who were under 18.

We understood users were required to self-declare that they were aged 16 or over in order to play the game. However, the relevant age restriction was 18. Furthermore, ages could be misreported and devices were commonly shared between adults and younger users. In any case, because Scopely did not provide us with data on the demographic breakdown of users, we were unable to gain an insight into the proportion of players in each age group, even on a self-declaration basis.

As stated above, we considered that although the content of the app also had broader appeal, it was likely to appeal to under-18s and its audience was likely to include under-18s. Therefore, even taking into account the option app publishers had to exclude ads labelled “mature-gambling” from their apps, which had not been used in this case due to error, we expected William Hill to have used some additional interest based factors to reduce the likelihood of under-18s seeing the ad. We noted that the Tapjoy platform allowed advertisers to target their campaigns by using interest-based data inferred from the gaming preferences and self-reported demographic details. However, William Hill had not chosen to engage those options. We concluded that the ad had been inappropriately targeted and breached the Code.

The ad breached CAP Code (Edition 12) rules [16.1](#) and [16.3.13](#) (Gambling).

Action

The ad must not be used again without further, specific targeting to minimise the likelihood of under-18s being exposed to it. We told both WHG (International) Ltd t/a William Hill and Tapjoy, Inc. to ensure that ads were appropriately targeted in future.

CAP Code (Edition 12)

[16.1](#) [16.3.13](#)

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