

DECISION

FIRST INSTANCE JURY

Complaint by	Consumer
EASA Cross Border Complaints System	Forwarded to CARO by the UK Advertising Standards Authority (ASA, www.asa.org.uk) EASA CBC Case 4769
Advertiser	AppQuantum Publishing Ltd, CY Company Reg. No. HE 394014
Issue	Consumer complained about an in app purchase which keeps popping up as a “one time offer”, even though he saw it 3 times. He considered it a false ad, pressuring to buy the deal immediately.
Decision issued	Thursday 21 May 2020

Complaint:

«There is an in app purchase which keeps popping up with a 'one time offer'.

I've seen it 3 times, so it is a false ad, pressuring to buy the deal immediately.

The game is called “Idle Evil”.»

Advertiser's Response:

« We checked the complaint carefully as we always try to maintain the high quality standards and the information about customers' complaints is highly appreciated.

In this case, we can not agree that this is false ad on the following reasons. It is actually the one-time offer, because if the customer closes the ad, he will not be able to return to it **himself**. Yes, he probably (but not necessarily) will see it again, if he doesn't buy it (if he buys - he will never see it again), but just because the system will automatically offer it again. So this action doesn't depend on the customer's wish, that's why the statement "if you close this ad, you won't be able to return to it" is absolutely correct.

We are ready for cooperation on this matter and waiting for your comments on it. »

Jury Assessment:

1. The jury considered all the information presented to them.
2. The CARO Code, as all marketing communications codes, is interpreted in the spirit as well as to the letter. It applies to marketing communications in their entirety, including all words and numbers (spoken and written), visual treatments, music and sound effects, and material originating from other sources. Communications are judged by their likely impact on the average consumer, having regard to the characteristics of the targeted group and the medium used.
3. The offer states in big, capital letters that it is a "**ONE TIME OFFER!**", followed by text in smaller font mentioning that "**if you close this window, you won't be able to return to it!**". The Jury is of the opinion that is quite normal for the average consumer to believe that this bold statement is what it claims to be, namely a one-time offer. The fact that the system is structured so as to bring back the "one time offer" on various occasions until the consumer actually buys it, shows that it is not a one-time offer.
4. The average consumer would interpret the phrase "If you close this window, you won't be able to return to it!", as an additional explanation regarding the uniqueness of this offer and a reason as to why he/she should take advantage of it immediately. The average consumer would not consider this statement a clarification of the type "if you don't buy now, we will probably show you this one time offer again in a bit".
5. The company asserts that this is a one-time offer because if the customer closes the ad, he/she will not be able to return to it himself. At the same time the company states that the consumer probably (but not necessarily) will see the ad again, if he doesn't buy it, because the system will automatically offer it again. In the opinion of the Jury, this explanation shows that the statements "One time offer" and "If you close this window, you won't be able to return to it!", are conflicting. A one-time offer is and should be a one-time offer. Not an offer that will probably keep coming back (even if not by consumer choice), until you buy it.
6. Given the above, the Jury is of the opinion that the one time offer advertisement is in breach of:
 - **Article 3 (b)** of the Code of the Cyprus Advertising Regulation Organization [*"Relevant factors which may affect consumers' decisions should be communicated in such a way and at such a time that consumers can take them into account"*]
 - **Article 5 (a)** of the Code [*"Marketing communication should be truthful and not misleading"*]

It should therefore be withdrawn and/or amended **within 5 working days** from the dispatch of this decision. Please note that, for the purpose of assessing the deadline, count begins the working day following the dispatch of this email.

Exercising its right, the jury shall review and approve the new proposed advertisement before the latter is aired to ensure compliance. The decision on compliance will be taken within two working days of the receipt of the proposed changes.