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Kalshi Faces Referral by NAD Over Influencer and Affiliate Disclosure Practices

by Bryan J. Wolin , H. Madison Short

Online prediction-market platform Kalshi Inc. (“Kalshi”) declined to participate in a recent National Advertising Division (“NAD”) monitoring inquiry into its social media advertising and influencer and affiliate disclosure practices. As a result, NAD stated that it will refer the matter to appropriate regulatory authorities and to the platforms on which the advertising appeared.

Kalshi is an online prediction market platform that allows users to take positions and trade on whether specified events will occur, including events related to politics, economics, sports-adjacent outcomes, entertainment, weather, and other real-world developments. Kalshi has become a leading name, along with Polymarket, in a fast-growing category embroiled in a broader legal fight over whether these products should be treated as federally regulated event contracts or state-regulated gambling products. States and other critics argue that when users risk money on sports, politics, or other outcomes, the activity looks like betting and should be regulated as such.

NAD reviews national advertising through third-party challenges and inquiries opened on its own initiative under its monitoring program. Here, NAD initiated an inquiry into Kalshi’s social media advertising by influencers and affiliates, including Jordyn Woods, Josh Miller, PredictionMarketTrader, and the Get the Check Podcast. The inquiry focused on whether material connections between Kalshi and those influencers or affiliates were clearly and conspicuously disclosed in social media advertising, and whether Kalshi had adequate measures to ensure compliance with the FTC’s Endorsement Guides. NAD identified posts that potentially lacked sufficient disclosures and sought information about Kalshi’s relationships with those influencers or affiliates, including any contractual requirements or other compliance measures.

Kalshi declined to participate in the NAD self-regulatory process. As a result, NAD could not complete its review, including whether Kalshi’s social media advertising clearly and conspicuously disclosed material connections and whether Kalshi maintained adequate compliance measures.

Because Kalshi declined to participate, NAD stated that it will refer the matter to the appropriate regulatory authorities, including relevant state Attorneys General, and to the platforms on which the advertising appeared and with which NAD has reporting relationships. We’ll be watching to see whether any of those authorities or platforms take further action.

For questions, contact your Kilpatrick Advertising Team