

Advertising Standards Authority

Broadcast Advertising
Adjudications

15 June 2005



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ADVERTISER: Airtours Direct
BROADCASTER: Teletext
Date: 15 June 2005
Media: Television
No. of complaints: 1

COMPLAINT:

A digital Teletext advertisement for Airtours Direct offered an all-inclusive holiday to Cancun for £69.

A viewer complained that when they contacted the advertiser to purchase the holiday for this price they were informed it was not the actual price of the holiday and it would not be sold for £69.

ADJUDICATION: Complaint upheld

The advertiser said it sincerely apologised for the error in its system which had caused the incorrect price to be shown on-screen. It said the problem was corrected at the earliest opportunity.

We accepted that the incorrect price was stated in error and that this was rectified within 24 hours. However, it was none the less misleading and was therefore in breach of CAP (Broadcast) TV Advertising Standards Code Rule 5.1 (Misleading advertising).

ADVERTISER: British Airways plc
AGENCY: M&C Saatchi plc
Date: 15 June 2005
Media: Television
No. of complaints: 3

COMPLAINT:

An advertisement for the British Airways Club World Sleeper service on East Coast US flights to London said that customers could 'now earn Triple BA miles on all Club World flights.' On-screen text read 'Club World - Triple BA miles 6 January to 24 March 2005.'

Viewers believed the advertising was misleading for omitting key limitations to the offer. They were:

1. both outward and return flights needed to be completed within the dates stated in the advertisement and
2. customers needed to register separately for the offer before flying.

ADJUDICATION:

1. Complaint upheld

The Broadcast Advertising Clearance Centre (BACC) believed that the dates of the offer were stated sufficiently clearly in the advertisement. The advertising agency said that details of the offer were sent to those already registered and also appeared on BA's website. If customers made clear when booking that they intended to claim triple points, it said the limitations would have been explained to them.

CAP (Broadcast) TV Advertising Standards Code Rule 5.2.3 (Qualifications) requires that advertisements must make clear all important limitations and qualifications to the offers they advertise. We thought it reasonable for a customer to assume that any leg of their flight undertaken during the dates of the offer would qualify them for additional BA miles for that leg. It was not clear that both the outward and return flights had to be between the dates in order to qualify.

2. Complaint upheld

The BACC believed the advertisement was clearly directed to those who had already registered for BA miles because it would only be possible for someone to triple their BA miles if they were already qualifying for them. It believed those viewers would realise they needed to register for the triple BA miles. The advertising agency echoed that point.

There was no warning in the advertisement that customers who were already receiving BA miles would need to register again to receive the triple offer. We thought it was reasonable for customers to assume that if they were already registered, they would not need to register a second time for this promotion. The agency had referred to conditions being

made clear in mailings, on the website and at time of booking. However, significant limitations also need to be made clear in the advertisement.

We found the advertisement in breach of CAP (Broadcast) TV Advertising Standards Code Rules 5.1 (Misleading advertising) and 5.2.3 (Qualifications). It must not be shown again in that form.

ADVERTISER: Colourbank Carpets
BROADCASTER: Leicester Sound FM
Date: 15 June 2005
Media: Radio
No. of complaints: 1

COMPLAINT:

A radio advertisement for a company that sold carpets said "Since they started in business, Colourbank have carpeted over 20,000 houses in Leicestershire. That's four hundred football pitches! And laid end to end, that's enough carpet to run from Leicester to Paris! Who else has carpeted so many houses in the county? With so much Colourbank confidence! See for yourself. Visit Leicester's biggest carpet and bed superstore ... Colourbank Carpets, the fast, free fitting superstore."

Leicester City Council's Consumer Protection Service, following a complaint it had received from a member of the public, objected that the claim "the fast, free fitting superstore" was misleading because not all carpets sold by Colourbank came with free fitting.

ADJUDICATION: Complaint upheld

Leicester Sound FM, which cleared the advertisement for broadcast, said that Colourbank's policy was not to charge for fitting carpets. It said that Colourbank had been using the claim "fast free fitting superstore" for over five years and there had been no complaints made to the station. It believed the member of the public who complained to Leicester City Council's Consumer Protection Service bought a very small roll end, which was excluded from the advertiser's free fitting service.

The advertiser said it offered free fitting on approximately 80% of the carpets it had on display. It said that larger carpet remnants were fitted free and that three-quarters of samples that had been on display were also fitted free. It said there were some exclusions to its free fitting service such as very small remnants, fittings that required remedial work (if a customer's floor was uneven or damaged and in need of repair), jobs that were exceptionally far away, and very low priced carpets.

We considered that the claim "the fast free fitting superstore" without qualification could be interpreted by some listeners as meaning all the advertiser's carpets came with free fitting. We noted that that was not the case and that there were significant conditions attached to the offer. As the advertisement did not make these clear we concluded that it was misleading and in breach of CAP (Broadcast) Radio Advertising Standards Code Section 2, Rule 3 (Misleading advertising).

LICENSEE: Flextech
BROADCASTER: Bravo
Date: 15 June 2005
Media: Television
No. of complaints: 1

COMPLAINT:

Advertisements were shown during an episode of Knight Rider on Bravo between 18:00 and 19:00 on 8 March 2005.

A viewer complained that the advertisements were louder than the programme so he had to turn down the volume of his television set.

ADJUDICATION: Complaint upheld

Flextech, the licensee that ran Bravo, advised us that the sound levels of all its transmissions were managed by an external company who also handled the sound levels of other well-known channels and applied the same technical standards across all their commercial broadcast clients. It said the sound levels of advertisements were reduced from the original source material in all instances and a fixed absolute maximum sound level was maintained. It said it had checked the particular Knight Rider episode the viewer saw and, with the exception of the opening credits, the series had particularly low level audio and was a little muffled which might have explained the apparent loudness of the advertisements. It said Knight Rider was an old programme and the master tape was recorded on analogue technology inconsistent with digitally recorded advertisements and that this was an occasional problem exacerbated by the rapid change in broadcast transmission standards.

Ofcom's technical department provide the ASA with expert advice and conduct tests for noise-related issues in advertisements. It examined the sound levels of the advertisements during the times highlighted by the viewer. It said some of them were highly compressed which meant their minimum sound levels had been raised artificially during the production stage in order to make them stand out. A requirement of the Advertising Standards Code is that highly compressed advertisements of this nature have their peak volume reduced before broadcast and maintain a particular range of volume to ensure the subjective volume is consistent with adjacent programming and to prevent excessive loudness changes. Ofcom did not consider the volume reduction had been achieved to the required level with the result that the advertisements sounded incongruous with the surrounding programme. It concluded that the peak volume of the compressed advertisements was higher than permitted by the Code.

We acknowledged that the programme was old and accepted that the transition from analogue to digital and the inherent sound quality differences made it difficult to ensure that sound levels were maintained in accordance with the Code. We also accepted that the sound levels had not been deliberately increased. However, we agreed with Ofcom's findings and considered that the fixed absolute maximum sound level was set too high by

the licensee to guarantee that its sound output would comply with the Code in all instances.

The licensee was therefore in breach of CAP (Broadcast) TV Advertising Standards Code Rule 6.9 (Sound levels in advertisements) and was reminded to ensure that its output levels for advertisements comply with the Code.

ADVERTISER: Kerry Foods Ltd
AGENCY: McCann Erickson Advertising UK Ltd
Date: 15 June 2005
Media: Television
No. of complaints: 32

COMPLAINT:

An advertisement for Walls Micro Sausages showed a dog – which alternated between real and puppet footage – aggressively trying to steal sausages as a young man prepared to microwave them for his girlfriend. The dog leapt at the man's crotch, ripped off his trousers – revealing his Union Jack boxer shorts – and whipped him with a wet, rolled-up tea towel.

Viewers complained that:

1. the whipping scene implied sexual activity between a man and a dog and was inappropriate before the 9 pm watershed;
2. the violent or sexual imagery of the whipping scene was inappropriate at any time and demeaning to men and
3. the violence of the dog's attack on the man had distressed young children – these included a two-year-old who was upset and an eighteen-month-old who was terrified.

ADJUDICATION:

The Broadcast Advertising Clearance Centre (BACC) believed that the scenes would be seen as comic and bizarre rather than as overtly sexual or threateningly violent. The advertiser was surprised to hear of the complaints. The advertisement was the latest in a series featuring the dog and it had received considerable positive feedback from the public about the campaign as a whole.

1. and 2. Complaints not upheld

The BACC believed viewers would see the whipping scene as bizarre and amusingly incongruous and were unlikely to link it with bestiality. It believed that the dog's actions were in line with comic, slapstick violence and were unlikely to be taken seriously or as condoning similar behaviour. The advertiser said it was reminiscent of the kind found in comedy films and believed it would be appreciated in the same comic way in the advertisement. Two previous advertisements had ended with a family member having the upper hand over the dog, whereas this time they reversed the outcome.

We considered the whipping scene was intended to be amusing rather than at all sexual, serious or demeaning. We believed it was in line with acceptable slapstick humour. The BACC had approved the advertisement for showing throughout the day and evening. We did not believe a timing restriction was necessary.

3. Complaints not upheld

Four viewers reported that young children had been distressed by the violence of the dog's attack. The BACC expressed regret, but said it was a small number in the context of a major advertising campaign. It believed this indicated that the majority of children had found the advertisement amusing, as was the intention.

We agreed. There was no evidence that the advertisement had caused widespread distress to young children and we therefore did not believe that a timing restriction was necessary.

We investigated the advertisement under CAP (Broadcast) TV Advertising Standards Code Rules 6.1 (Offence), 6.2 (Violence and cruelty), 7.3.6 (Distress to children), 7.3.7 (Use of scheduling restrictions) and CAP (Broadcast) Rules on the Scheduling of Advertising Rule 4.2.3 (Treatments unsuitable for children) but did not find it in breach.

ADVERTISER: Lincoln Travel
BROADCASTER: Teletext
Date: 15 June 2005
Media: Television
No. of complaints: 1

COMPLAINT:

Lincoln Travel advertising on Teletext said "The price u see is the price u pay. Includes resort transfers, fuel charge and ticket on departure." A footnote said "Prices exclude flt meal, ins and booking fee."

A viewer complained that although flight meals and insurance were optional, the booking fee was not. Therefore, the advertised price was not the price a customer paid.

ADJUDICATION: Complaint upheld

The advertiser said that booking fees were not compulsory. There was no charge for long haul holidays or European holidays over £799 per person. There was a discretionary charge of £9 for European holidays under £799, but a sales clerk had the ability to waive that charge, and it was therefore not charged on all such holidays. Lincoln Travel said the booking fee should have been shown as £0-£9 pp. It changed the advertising as soon as it became aware of the mistake.

We welcomed the prompt steps taken by the advertiser to amend the advertising. However, while customers could refuse the non-compulsory flight meals and insurance, some would not be able to refuse the booking fee if it was applied by the advertiser. In such cases, "The price u see is the price u pay" would not be correct.

The advertising therefore breached CAP (Broadcast) TV Advertising Standards Code Rules 5.3.1 (Accurate pricing) and 5.3.2 (Pricing requirements).

ADVERTISER: Peugeot Motor Company plc
BROADCASTER: Sky channels
Date: 15 June 2005
Media: Television
No. of complaints: 1

COMPLAINT:

An interactive advertisement for Peugeot 307 HDi invited viewers to press the red button for 'great offers on Peugeot HDi'. By pressing the button a static screen appeared which detailed, along with specific product information, an offer of '£400 of free fuel on all 206 and 307 Diesel cars ordered by 31st January 2005'. Also on-screen it said 'terms and conditions' next to an icon of an 'info' button. When this was pressed the terms and conditions appeared which said 'the offer of £400 of free diesel is available to all retail customers who order a new 206 HDi or 307 HDi car between 1 December 2004 and 31 January 2005 inclusive'.

A disabled viewer complained that he had been told by his local dealer he was not eligible for the advertised offer because he intended to lease the car through the Motability contract-hire scheme. He believed the fact he and other disabled people using the scheme would be ineligible for the offer should have been made clear in the advertisement.

ADJUDICATION: Complaint not upheld

The advertiser said Motability was a government funded/charitable leasing scheme for disabled people funded via Motability Finance and the nature of the scheme meant those eligible received a Motability allowance towards substantially reduced leasing rates and often paid only small or nil deposits for a new car. It said Motability customers paid significantly less for a car than typical retail buyers. It said the scheme had been running for many years and was clearly understood as not being a standard 'retail' purchase. It said around 3% of Peugeot 307 vehicles were sold through Motability each year.

We noted the terms and conditions in the advertisement said the offer would apply to 'retail' customers. The Motability contract-hire scheme required disabled people intending to lease a car through the scheme to apply through their car dealership. The actual purchase took place between the dealership and Motability and under the terms of the scheme Motability remained the legal owner of the vehicle and leased it to a qualifying disabled person. We considered that a person leasing a car under the scheme did not constitute a 'retail' customer and therefore the terms and conditions were sufficiently clear.

The advertisement was investigated under CAP (Broadcast) TV Advertising Standards Code Rule 5.1 (Misleading advertising) and Rule 5.2.3 (Qualifications) but was not in breach.

ADVERTISER: Procter & Gamble UK
AGENCY: Publicis Ltd
Date: 15 June 2005
Media: Television
No. of complaints: 10

COMPLAINT:

An advertisement for Bounty Glass and Surfaces showed two bearded men dressed as women walking down a street wearing clogs. The voiceover said "this is Brenda and Audrey and this is Amsterdam, home to some of Europe's filthiest windows." Red neon lights appeared and Brenda was seen peering at a dirty window in front of a woman in suspenders standing with her legs apart. Brenda and Audrey then tried to clean two windows. Brenda used Bounty Glass and Surfaces to clean a window swiftly whilst Audrey used a sponge and a large pair of pants and struggled to clean another. The voiceover said "Come on Audrey, it's no use blaming your tools". Women wearing underwear were shown behind both windows. The advertisement did not have a timing restriction.

Viewers complained that the subject matter was inappropriate for an advertisement shown during children's programmes. A viewer said his daughters had asked awkward questions about it. Another viewer also complained that it should not be shown at all during the day.

ADJUDICATION: Complaints upheld in part

The Broadcast Advertising Clearance Centre (BACC) said the advertisement was extremely light-hearted and featured two comic characters who were well-established as clown-like buffoons. It said that, although the theme was more adult, it had considered what was actually shown in the advertising rather than merely responding to the theme. It said children would be highly unlikely to grasp the significance of what was shown from the very brief clues present in the advertisement. It said it was very important that timing restrictions were appropriate and dealt proportionately with likely problems. It did not think what was shown would impact on children.

The advertiser said its 'Two Strong Ladies' television campaign had been running for many years and the light-hearted, tongue-in-cheek advertisement in question had generally been well received. It said it was confident that the Amsterdam setting and the light-hearted play on "Europe's filthiest windows" would not cause serious or widespread offence. Nor did it think it would be likely to in any way distress children or lead to any social, moral or physical harm. It said that, as in previous Bounty advertisements, the scenario was clearly comedy, and the content free from any nudity or strong language. It did not consider a need for an ex-kids restriction since the young infants or kids covered by such restriction, and indeed beyond, would be most unlikely to understand the context and content of the advertisement. It said that such restriction needed to be for a purpose, and it saw no rational purpose for it.

We accepted that the advertisement featured well-known characters, was intended to be humorous and that no harm, distress or widespread offence was likely to result from it. We

therefore did not believe a restriction to avoid it being shown at all during the day was necessary. However, the Advertising Standards Code distinguishes between harmful and inappropriate material. It states that 'parents should feel confident that they can allow even the youngest children to watch, unaccompanied, programmes made specifically for children'. The Code does not permit even mildly sexual content in or around these programmes. The complaints we received demonstrated that the subject matter of prostitution was considered inappropriate during children's programmes by a number of viewers. We understood their concerns and therefore considered an ex-kids restriction should have been applied to avoid this.

The advertisement was in breach of CAP (Broadcast) TV Advertising Standards Code Rule 7.3.7 (Use of scheduling restrictions) and should not be shown again during children's programmes.

ADVERTISER: Telebrands Ltd

AGENCY: UK Advertising & Marketing Services plc

Date: 15 June 2005

Media: Television

No. of complaints: 4

COMPLAINT:

An advertisement for a product called Laser Straight claimed it was available by mail order for £19.99 plus post and packing. Another product called Laser Straight Stud Finder was included in the offer. The voiceover claimed the Stud Finder was free and said viewers just paid £4.99 post and packing. On-screen text said "FREE just pay £4.99 P & P". At the end of the advertisement, the voiceover said "That means you get the Laser Straight and the Laser Straight Stud Finder for the great price of only £19.99". On-screen text said "Laser Straight + Stud only £19.99 plus £4.99 P & P. Allow up to 28 days for delivery".

Four viewers complained about the advertisement.

1. Three viewers said they were charged £2.99 extra in post and packing costs for the Laser Straight Stud Finder, which they understood was included in the offer for free.
2. Two viewers did not receive the Laser Straight Stud Finder. One viewer also complained because she was charged £15.97 more for the Laser Straight than the price quoted in the advertisement. When she enquired why, the advertiser said it was because she ordered the Deluxe model, which she did not believe was the case.

ADJUDICATION:

1. Complaints upheld

The advertiser said the total cost for post and packing of both products was £7.98. It argued that the advertisement made the post and packing costs clear. It said the price of the Laser Straight was stated in the advertisement as £19.99 plus £4.99 post and packing and the price of post and packing for the Laser Straight Stud Finder was also stated as being £4.99. It added that it had subsequently been able to reduce this cost to £2.99, which it considered an additional benefit to consumers.

Advertisements may describe an offer as "free" if there are no costs to consumers other than actual post or carriage, non-premium rate telephone charges or reasonable travel required to collect it, so we did not consider it misleading to describe the Stud Finder as "free". However, advertisements must make clear the extent of the consumer's liability for any costs. The advertisement made clear consumers were liable for post and packing costs for both the Laser Straight and the Laser Straight Stud Finder. When the Stud Finder was first mentioned, the voiceover and on-screen text said post and packing costs were £4.99. However, at the end of the advertisement, on-screen text said "Laser Straight + Stud only £19.99 plus £4.99 P & P". We believed viewers were likely to consider that to mean the total cost of post and packing for both products was £4.99, especially as the post and packing cost for the Laser Straight was not made clear at any other point in the

advertisement. We considered the pricing confusing and concluded that the advertisement was likely to mislead viewers.

2. Complaints not upheld

The advertiser said it sent the viewers the Laser Straight Stud Finders again and both had confirmed receipt. It believed the original Stud Finders went missing in the post when they were first dispatched. It added that it had refunded the viewer who received the Deluxe model the difference in price between the Laser Straight and the Laser Straight Deluxe. It pointed out that, to date, it had dispatched over 18,000 Laser Straights and had received very few complaints about its service. It assured us it was able to meet demand generated by the advertisement and said it maintained stock levels according to its obligation to fulfill orders within 28 days. It added that, in the unlikely event that there was greater demand than anticipated, it could fly the goods direct from its suppliers into the UK to ensure orders were fulfilled on time. It believed that cases of non-delivery or late delivery of goods were due to customers giving incorrect details, the products going missing in the post, or administrative oversight.

We accepted that the advertiser was able to meet any reasonably foreseeable demand created by the advertising. We noted the steps it had taken to rectify the problems the viewers experienced. We did not consider the delivery delay experienced by two viewers or the receipt of the wrong goods by one viewer to be evidence of a widespread problem. Nor did we think it suggested the advertiser was generally unable to meet demand within 28 days.

The advertisement was found in breach of CAP (Broadcast) TV Advertising Standards Code Rules 5.1 (Misleading advertising), 5.3.1 (Accurate pricing) and 5.3.2 c (Pricing requirements) and should not be shown again in its current form. It was not found in breach of Rules 11.2.2 a (Ability to meet demand) or 11.2.2 e (Ability to fulfill orders within 28 days).

ADVERTISER: Unilever Home And Personal Care UK Ltd
BROADCASTER: Chart Show Channels Ltd t/a POP
Date: 15 June 2005
Media: Television
No. of complaints: 1

COMPLAINT:

An advertisement for Sunsilk shampoo, which was broadcast on POP TV (a children's channel), showed several women with small gremlin-like creatures crawling through, pulling at and licking their hair. A woman was then shown getting ready in a bathroom and a creature was shown struggling and shrieking while disappearing down a plughole. The voiceover said "flat, damaged or greasy hair? Wash out your hair monsters with Sunsilk shampoo". The advertisement was given an ex-kids restriction by the Broadcast Advertising Clearance Centre (BACC) to ensure that it was not scheduled in or around programmes made for or targeted specifically at children.

A viewer, whose four-year-old son was frightened by the advertisement and refused to have his hair washed after seeing it, believed that it should not have been broadcast on a children's TV channel.

ADJUDICATION: Complaint upheld

The broadcaster said that an administrative error had occurred. It said that measures had been put in place to ensure that the problem would not occur in future and apologised for the distress that had been caused to the viewer's son.

We believed the BACC had imposed an appropriate restriction. We welcomed the broadcaster's apology and its assurance that measures had been put in place to avoid future problems. Nevertheless, because the advertisement was scheduled on a children's channel we concluded that the advertisement was in breach of CAP (Broadcast) TV Advertising Standards Code Rules 7.3.6 (Distress - children) and 7.3.7 (Use of scheduling restrictions) and of the Rules on the Scheduling of Advertisements Rule 4.2.3 (Treatments unsuitable for children).