

Advertising Standards Authority

Broadcast Advertising Adjudications

15 December 2004



ADVERTISER: Shop Smart Television Ltd

BROADCASTER: Shop Smart Television Ltd

Date: 15 December 2004

Media: Television

No. of complaints: 19

COMPLAINT:

Since June 2004, there have been 19 viewer complaints about the teleshopping channel Shop Smart. Three of those complaints were received by the Advertising Standards Authority and 16 were received by Ofcom when it had responsibility for regulating broadcast advertising. The complaints were about delays in the delivery of the following products: Ready Strip (8); Duralube (6); Botopical (2); 28 Day Fitness Plan (1); Packmax bag (1); and an air bed (1). 11 of those viewers also complained that they had received poor customer service.

ADJUDICATION: Complaints upheld

The licensee failed to respond to the Authority's enquiries.

As no response was received, the Authority concluded that the advertisements, for the products referred to, were in breach of the Television Advertising Standards Code clauses 11.2.2 (e) (Fulfillment of orders within the advertised time) and/or 11.2.2 (a) (Access to adequate stocks to fulfill demand) and 11.2.2 (c) (Adequate arrangements to handle enquiries).

The Authority was concerned by the licensee's breach of the Television Standards Advertising Code and also its failure to respond to the ASA's enquiries, which is a direct breach of its broadcasting licence. The Authority will refer Shop Smart to Ofcom, which may instigate formal sanction procedures under its back-stop powers for its breach of licence.

Shop Smart are not currently broadcasting.

ADVERTISER: **Capcom Resident Evil Outbreak**

BROADCASTER: **Kerrang! TV**

Date: **15 December 2004**

Media: **Television**

No. of complaints **2**

COMPLAINT:

A competition promotion for the computer game Resident Evil Outbreak was broadcast on Emap music channel Kerrang! TV during the early evening. It featured clips from the animated game including blood-soaked zombies and zombie attacks on humans, including one biting into the neck of a man.

Two viewers felt that the advertising was too graphic to be shown at that time, and would frighten children.

ADJUDICATION: Complaint upheld

Emap Performance TV explained that all the scenes were taken from the game, which had a 16+ certificate. Although the material featured animated graphics, it was clearly not real.

Emap was concerned that the material could possibly cause discomfort to some of its viewers. It therefore instructed the content to be toned down and planned for the advertising to be broadcast after the 9pm watershed. Owing, however, to human error, it was broadcast at an earlier time. Emap apologised for any discomfort caused to its viewers. In future it said, the Programme Controller would personally review all commercial bookings with post-watershed restrictions to ensure this error was not repeated.

The Authority acknowledged that the advertising was shown in error and the steps taken by Emap to avoid similar problems in the future. However, when originally broadcast, the advertising was too graphic to be shown before the watershed and breached the Television Advertising Standards Code Rules 7.3.7 (Use of scheduling restrictions) and 7.3.6 (Distress to children).

ADVERTISER: Instant Travel trading as Frances Flyers

BROADCASTER: Teletext

Date: 15 December 2004

Media: Television

No of complaints: 1

COMPLAINT:

An offer for a seven-night stay at a three star hotel in New York for St Patrick's Day 2005 was advertised for £249.

When the viewer contacted the advertiser he was told there had been a typing error when Teletext loaded the price on to the system. The price should have been £649.

ADJUDICATION: Complaint upheld

Teletext said that it updated the page within minutes of being contacted by Instant Travel, following the call from the viewer. Teletext apologised for the error.

The Authority acknowledged that the wrong price appeared due to an error. Nonetheless, the holiday was not available at the advertised price for the two days the advertisement was on air. It was therefore misleading and in breach of the CAP (broadcasting) Television Code Rule 5.1 (Misleading advertising).

No further action necessary as the advertisement is no longer on air.