

Advertising Standards Authority

**Broadcast Advertising
Adjudications**

1 March 2006



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ADVERTISER: Switchco t/a Digital UK

AGENCY: Abbott Mead Vickers BBDO Ltd

Date: 1 March 2006

Media: Radio

No. of complaints: 1

COMPLAINT:

An ad for digital TV said “The old way of watching our televisual sets will soon be ending. Some terribly bright sparks are bringing Blighty up to date by switching to Digital television. It’s the biggest event in broadcasting since the introduction of colour way back in 1967. The Border ITV region is the first to change starting in 2008. Going digital doesn’t have to be expensive. You don’t have to buy a new telly or pay a subscription, unless you want to. To get the lowdown call Digital UK, the independent not for profit advisors on 0845 ... or log on to digitaluk.co.uk. Get set for digital”.

The listener complained the ad was misleading, because it did not make clear that if consumers did not buy a new TV or choose to pay a subscription they needed to buy a set top box in order to receive a digital signal. She was particularly concerned because the ad was broadcast in the Borders, the first part of the country to completely transfer to digital.

ADJUDICATION: Complaint not upheld

The Radio Advertising Clearance Centre (RACC) said the purpose of the ad was to reassure listeners that switching to digital TV was not going to incur significant costs. They said the ad made clear there was a cost to switch to digital and in no way indicated that the switch would be free or that no action was required on the part of the listener. They believed the ad clearly invited listeners to call a non-commercial advisory service or visit their website for further information.

Abbot Mead Vickers (AMVBBDO) explained the ad was intended to reassure listeners that switching to digital did not need to be expensive. They said the ad did not state at any point that switching would be free or that no action was needed on the part of consumers. They said they tried to keep their ads as clear and simple as possible because they understood how complicated and confusing the issues surrounding the switchover to digital TV could be to the public. AMVBBDO said there were various options available to consumers apart from buying a new TV or signing up to subscription services, most notably Freeview which needed a set-top box and Freesat, which required a set-top box and mini-dish. They said they were unable to answer all the questions consumers were likely to have in a single 40 second ad, which is why they directed listeners to contact Digital UK through their call centre or website where they could answer questions and explain exactly what options were available.

The ASA noted the ad stated “Going Digital doesn’t have to be expensive” which we considered would make clear to the majority of listeners that there was a cost involved in making the switch. We also noted the ad stated “to get the lowdown call Digital UK ... or log on to digitaluk.co.uk”. While we appreciated the listener’s concern, we considered that

the ad was intended to alleviate consumers' fears about how much it could cost them to switch and to encourage them to call or visit the website to get more information. We concluded the ad was unlikely to mislead.

The ad was investigated under CAP (Broadcast) Radio Advertising Standards Code section 2, rule 3 (Misleadingness) but was not found in breach.

ADVERTISER: Top Up TV Ltd
AGENCY: HCA Entertainment
Date: 1 March 2006
Media: Television and Catalogue
No. of complaints: 11

COMPLAINT:

Ads for Top Up TV appeared on TV and in an Argos Catalogue. The TV ad showed a man trying to put a biscuit into the slot of his Freeview TV box. He said "What's this?" A woman replied "It's our new set-top-box. With a slot!" He said "What's the slot for?" and she replied "Well it's not for putting biscuits in!" The voiceover said "He's takin' the biscuit! Buy a box with a slot for your free-to-view channels and get Top Up TV as well. Eleven quality channels through your aerial including UKTV Gold, British Eurosport, Discovery Channel and more for only £7.99 a month. With no annual contract you can just subscribe on a monthly basis. Call today or visit your electrical retailer. Top Up TV! It's what the slot's for." On-screen text said "Channels are broadcast at Top Up TV specific times".

The ad in the Argos catalogue included images for each of the available channels and displayed the times that each was broadcast on Top Up TV in small text diagonally across the image along with the channel logo.

1. Eight viewers complained that the particular characteristics of the Top Up TV service (that channels could start or end part way through a programme and only a maximum of five of the eleven channels could be viewed at any one time) were not clear from the TV ad.
2. Another complainant said that the text in the Argos catalogue which outlined the times of the channels was too small to read and would therefore mislead viewers as to the extent of the particular characteristics of the service.

ADJUDICATION:

1. Complaints upheld

The Broadcast Advertising Clearance Centre (BACC) said this issue had been looked at before by both Ofcom and the ASA and the revisions to the ad had resulted in the text "Channels are broadcast at Top Up TV Specific times" which they believed made clear the nature of the service.

Top Up TV said the voiceover explained to viewers that 11 quality channels were available for a small monthly payment and without a long-term contract. They said the on-screen text served to qualify this so it was clear that the channels were only available at certain times. They did not think viewers could generally consider the text to mean anything other than Top Up TV broadcast their channels at specific times. They said viewers would not generally expect all channels to offer continuous programming and there were other examples of channels which ran at specific times, including BBC3 and BBC4, which were

only broadcast after 7pm. They said Channel 4's new channel MORE4 was also only broadcast after 6pm. They said some channels, including Discovery Kids and ABC1, were also broadcast by different platforms at their own specific times which was not explained in any advertising for these platforms. They said the channel suppliers for Top Up TV had undertaken to align the output times for their channels to fit around Top Up TV scheduling and channels therefore only stopped or started part way through a programme on rare occasions. They said their customer satisfaction surveys showed that 91% rated their service as good or excellent and 92% would recommend Top Up TV to a friend. They said the nature of the service was also made clear to customers at various points before they purchased Top Up TV and provided examples of in-store displays and packaging which detailed the times of the channels. They said telephone customers would also be advised of the times of the channels when they called to make enquiries so it would be very unlikely for someone to purchase the service without being fully aware of how it worked.

We accepted that previous revisions to advertising for Top Up TV had gone some way to avoiding the likelihood of misleading viewers. However, we considered that the extent of the particular characteristics to the service, and the lack of clear information about them in the ad, was still likely to mislead some viewers. We considered the Top Up TV service to be very different from that of standalone channels such as BBC3, BBC4 or MORE4 as these channels were free-to-view and did not stop or start mid-programme. Neither did we accept that the examples of channels shown at platform-specific times were applicable as they were for single channels on a platform of many, whereas all of the Top Up TV channels were shown for less time than on other platforms. We did not consider that viewers would understand "Channels are broadcast at Top Up TV specific times" to mean that the channels would be shown for less time overall and that some programmes, which were available on other platforms, would therefore be missing from the Top Up TV schedule. We considered the text was unclear. Viewers may have interpreted it to mean that Top Up TV broadcast the same output for these 11 channels as other platforms (e.g. Sky) but just at different times of the day. Furthermore, Guidance note No. 1 (section 2a) with which licensees are obliged to comply by virtue of rule 5.4.2 of the CAP (Broadcast) TV Advertising Standards Code states that the principal offer and any important qualifications to it should not normally appear only in the form of onscreen text. We considered that the particular characteristics were an important qualification and therefore should have appeared in a form other than just on-screen text (for example in the voiceover). We considered the ad breached the Code and advised the BACC and Top Up TV that they would need to make the particular characteristics to the service sufficiently clear and prominent in all future advertising to avoid further action in view of the three previous adverse adjudications on the issue since 2004.

The TV ad breached CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising), 5.2.3 (Qualifications) and 5.4.2 (Superimposed text) and should not be shown again in that form.

2. Complaint upheld

Top Up TV said the text in the ad they provided to Argos was legible and that it served to inform viewers of the relevant conditions of the service.

We noted that the ad included text which outlined the broadcast times for each channel. However, we considered the text was too small for most readers to be able to read.

The Argos catalogue ad therefore breached CAP Code Clause 7.1 (Truthfulness) and should not be published again without making the channel broadcast times larger.

ADVERTISER: Vectone Bangla

BROADCASTER: Vectone Bangla

Date: 1 March 2006

Media: Television

No. of complaints: 1

COMPLAINT:

Khola Bazaar, a teleshopping presentation broadcast in Bengali on Vectone Bangla, offered viewers the opportunity to buy and sell their own items with Vectone Bangla as the intermediary. Details of the goods offered were shown in English on the left-hand side of the screen. A reference ID was given for each item together with the full name of the seller, the location, the product and a description of the goods. These ranged from mobile phones, bicycles, laptops, cars, renting and selling houses, and selling land. The presenter described the goods and talked about previous selling successes.

On-screen text, also in English, at the bottom of the screen said "To leave the message call xxxx Calls cost 50p a min" and "To retrieve the message call xxxx Calls cost 50p a min". Rolling text said "Send text message to xxxx Start with BANGLA followed by space followed by your message".

1. A viewer was concerned that Khola Bazaar was repeated the day after the live broadcast, still showing the premium rate telephone numbers. He said there was no indication that the programme was a repeat and viewers could not bid for the goods.
2. We were concerned the on-screen text was not legible.

ADJUDICATION:

1. Complaint upheld

Vectone Bangla explained that when viewers left details of the items they were offering for sale they received a password to a personal voice mailbox. Viewers wanting to buy goods, having registered in a similar way, called or texted the premium rate telephone number on screen to access the seller's mailbox and make an offer. Sellers could check messages left by potential buyers on their personal voice mailbox by telephoning the same premium rate telephone number, as could purchasers to see if they had been successful in their bid. Vectone Bangla said that Khola Bazaar was no longer being broadcast.

Vectone Bangla said that the premium rate telephone numbers on screen during the repeats were not displayed for viewers to participate in the programme but to leave a message for the seller of an item or for the seller to retrieve their messages. They said this was clearly stated on screen.

The ASA noted the on-screen text gave telephone numbers to call to either leave or retrieve messages, but there was no noticeable warning that the programme was a repeat. We were concerned that viewers might ring the premium rate number to leave offers for items that could already have been sold. Although Vectone Bangla had been helpful in

providing a translation of the programme and explaining how it worked, despite repeated requests, they failed to respond to our specific questions on what safeguards were in place to stop viewers bidding on items that had already been sold. Therefore, with no evidence to suggest that viewers would be aware the programme was a repeat and no mechanism in place to prevent them from making offers on items that could not be supplied, we considered the advertising misleading.

2. Upheld

Vectone Bangla said CAP (Broadcast) TV Advertising Standards Code rule 5.4.2 (Superimposed text) stated text in ads must be legible. They considered that, although small, the on-screen text in Khola Bazaar was legible and complied with the Code. However, since Khola Bazaar was last broadcast, they had increased the size of all superimposed text on their channel, with the exception of the channel logo.

We did not consider that the text size in Khola Bazaar was large enough. Code rule 5.4.2 also stated text in ads must comply with BCAP Guidance Text and Subtitling in Television Advertisements. The guidance explained that preferred text height is 16 television lines high, and that no text should be less than 14 lines high. In the case of the on-screen text in Khola Bazaar the height was seven lines high.

The advertising breached CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising) and 5.4.2 (Superimposed text).