

Advertising Standards Authority

Broadcast Advertising
Adjudications

3 August 2005



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ADVERTISER: Duchy Alarms
AGENCY: Sound Logic
Date: 3 August 2005
Media: Radio
No. of complaints: 1

COMPLAINT:

A radio advertisement for an alarm systems company featured two men in discussion. One of them asked “Hi Mark, you ok? You look really stressed” and the other replied “Oh, I’m just fed up with my alarm company. In the last twelve months I was with a local firm, they were taken over then a national bought them. With so many changes I don’t know where I stand and their charges and service are dreadful.” The first man then said “Well I use Duchy Alarms for my alarm system. As a local, NSI and assurance approved company they know the area and offer me reliable service any time, night or day ...”

Westcountry Security Ltd objected that the advertisement attacked and discredited their services and charges. They acknowledged that they were not named in the advertisement, but said it would be obvious to listeners they were being referred to as they had just sent letters to their customers informing them that they had become a subsidiary of a national group of companies.

ADJUDICATION: Complaint upheld

The broadcaster, Pirate FM, said it had considered the scenario in the advertisement to be a fictitious one and did not make a link between the alarm company mentioned in the advertisement and Westcountry Security Ltd. It apologised for any inconvenience caused to Westcountry Security Ltd and said it would review its working practices to ensure similar problems did not occur in future.

The advertiser said that at no point did it deliberately set out to defame Westcountry Security Ltd or any other alarm company. It said the advertisement would not be used again.

We considered that some listeners, such as the complainants’ existing customers, would have been aware that it had recently become a subsidiary of a national group of companies and inferred that Westcountry Security Ltd was the company referred to in the advertisement. We considered that the claim “their services and charges are dreadful” could be seen by those listeners as denigrating Westcountry Security Ltd. We concluded that the advertisement was denigratory and in breach of CAP (Broadcast) Radio Advertising Standards Code Section 2, Rule 7 (Denigration).

ADVERTISER: Jamba! AG t/a Jamster
AGENCY: Lorena Media
Date: 3 August 2005
Media: Radio
No. of complaints: 1

COMPLAINT:

An advertisement for a ringtone claimed “The Crazy Frog is back and this time he’s even crazier. Simply text the word “mental” to 88 888 now to get the ringtone and join the Jamster club for more fun. Text “mental” to 88 888 now”.

A viewer, whose son had learning difficulties, considered it offensive and insensitive to use the word “mental” in an advertisement.

ADJUDICATION: Complaint not upheld

The RACC said that whilst it sympathised with the complainant, it did not believe the word “mental” used in this context referred to mental illness or learning disabilities. It said the word was used in a similar way to the word “crazy”, meaning wonderful, bizarre or extraordinary.

The advertiser said the word “mental” was not intended to offend or to refer to people who had learning difficulties. It said it would not use the word as a keyword in any of its future advertising in order to avoid future misunderstanding or offence. However, it did not believe the advertisement was offensive. The word “mental” was intended as a generally emphatic word to convey the light-hearted image of the Crazy Frog as a crazy or extraordinary ringtone character, just as the word “crazy” in “Crazy Frog” was used. It pointed out that according to the Oxford English Dictionary, the word “mental” could be used in the positive sense of “ecstatic abandon” and added that it was regularly used in modern slang as a term of strong approval, meaning “wild” and “exciting”. It did not believe that, in that context, it carried any pejorative connotations.

We accepted that the word “mental” referred to the character of the Crazy Frog, not to those with mental health problems. The Crazy Frog was a well-established, eccentric ringtone character. We considered that most listeners were likely to recognise the word “mental” in this instance to mean “crazy”, “exciting” or “bizarre”. We did not think the advertisement was likely to cause offence to public feeling.

The advertisement was investigated under CAP (Broadcast) Radio Advertising Standards Code Section 2, Rule 9 (Good Taste, Decency and Offence to Public Feeling) but was not found in breach.

ADVERTISER: Land Rover UK Ltd
AGENCY: Rainey Kelly Campbell Roalfe/Y&R
Date: 3 August 2005
Media: Radio
No. of complaints: 17

COMPLAINT:

In a radio advertisement for LandRover Freelander, a father said he was proud of his son because he was: 'willing to brave sand storms that would rip the hide off a rhinoceros ... capable of enduring temperatures that would melt the balls off a brass monkey ... the owner of a brand new Freelander.'

1. Listeners complained that the phrase 'melt the balls off a brass monkey' was inappropriate and unnecessarily crude. It was heard on Classic FM, TalkSPORT, Heart 100.7, Heart 106.2, Gemini FM, Northsound and Invicta FM.

2. Seven complainants said it was unsuitable for broadcast at times when children were likely to hear it. Five had heard it on Classic FM – two in close proximity to a request slot designed for children being driven to school; one at 5 pm when the complainant was listening with her young children and two at other times during the day when they believed children were likely to hear it. One complainant had heard it on Heart 100.7 FM at around 8am and one had heard it on Gemini FM when driving with her nine-year-old son.

ADJUDICATION:

1. Complaints not upheld

The Radio Advertising Clearance Centre (RACC) said that the phrase derived from a naval slang expression that referred to a device used on ships to secure cannon balls. It did not believe the expression had crude connotations and had not, therefore, given the radio stations warnings or scheduling advice. Classic FM, NorthSound and Heart 106.7 echoed this. Gemini FM said that the advertisement had been cleared by the RACC for scheduling without restriction. TalkSPORT echoed that and added that it did not believe the phrase was likely to be found offensive by its audience. Heart 100.7 FM believed that the phrase, even assuming the connotations that the listeners had understood, was a mild and commonly used one, unlikely to be offensive.

We believed that, notwithstanding the arguments put forward on the origins of the phrase, most listeners would be more likely to understand it as a variation of a mildly crude, colloquial expression. However, we also considered most of them would find it acceptable in the context of general radio broadcasts.

2. Complaints not upheld

Because the RACC did not consider the phrase had crude connotations, it had not given the radio stations warnings or scheduling advice. Classic FM said it had an interesting historical reference and did not consider it time-sensitive. Heart 100.7 FM did not believe

the phrase was likely to be offensive to its audience. Gemini FM said that the RACC had approved the advertisement without restriction and its scheduling reflected that.

We considered the phrase was fairly mild. It was a variation of similar phrases in general daily use that adults would be unlikely to consider unsuitable for broadcast at times when children were more likely to hear it. We did not disagree with the RACC's decision not to attach warnings or scheduling advice, or with the radio stations' scheduling of it.

The complaints were investigated under CAP (Broadcast) Radio Advertising Standards Code Section 2, Rules 8 (Scheduling), 9 (Good Taste, Decency and Offence to Public Feeling) and 11 (Children and Younger Listeners) but the advertisement was not found in breach.

ADVERTISER: L'Oreal Golden Ltd t/a Garnier Nutrisse
AGENCY: Universal McCann
Date: 3 August 2005
Media: Television
No. of complaints: 1

COMPLAINT:

An advertisement for Garnier Nutrisse cream, a hair colourant, which featured the TV presenter Davina McCall, was broadcast during the Saturday edition of Channel 4's Big Brother.

A viewer objected that the advertisement should not have been shown during Big Brother because Davina McCall was a regular presenter on the programme.

ADJUDICATION: Complaint upheld

Channel 4 said the scheduling restriction applied by the Broadcast Advertising Clearance Centre (BACC) was "not be transmitted immediately before, during or after any programme featuring Davina McCall". It said the Saturday version of Big Brother did not feature Davina McCall. She featured in broadcasts shown on Fridays. It said the style and content of the Friday edition was distinct from the pre-recorded programmes that were broadcast at other times and were not associated with her. It believed the advertisement had been appropriately scheduled.

We noted that Davina McCall did not appear in the programme broadcast on Saturday, although her voice did feature very briefly at one point. We also noted that she regularly appeared as a presenter on Big Brother and was closely associated with the series. We considered that an advertisement featuring someone who appeared regularly as a presenter in a series should not be broadcast in breaks during or adjacent to the programme in question whether or not he or she appeared in that episode. The scheduling of the advertisement was therefore in breach of CAP (Broadcast) Rules on the scheduling of advertising, Rule 4.2.7 (b) (Persons appearing in advertisements and in programmes).

ADVERTISER: Lotus trading as World Travel Service
BROADCASTER: Teletext
Date: 3 August 2005
Media: Television
No. of Complaints: 1

COMPLAINT:

An advertisement on Teletext for World Travel Service offered flights to Havana for £339.

1. A viewer complained because when he tried to purchase the flight he was told that this price was dependent upon accommodation being booked at the same time.
2. The Authority challenged the availability of the flight at the advertised price.

ADJUDICATION:

1. Complaint not upheld

Lotus said that the flight was not offered on a restrictive basis and was not dependent upon any other purchases. They said it was possible that the complainant tried to book flights on unavailable dates and was offered an alternative package nearest to the flight only price.

We accepted that the advertised flight was not dependent on any other purchases.

This point was investigated under CAP (Broadcast) TV Advertising Standards Code, Rule 5.2.3 (Qualifications) but was not found in breach.

2. Upheld

Lotus said that the price of £339 had been quoted in error. The actual cost of the flight was £472 and efforts were made to correct the advertised price in early April following routine checks. However, as a result of an oversight by a member of staff, the incorrect price remained on one of six frames.

The flight was not available at the advertised price and continued to be shown after the advertiser attempted to amend it. While we acknowledged the advertisers' efforts to correct the error, we considered that the incorrect price was misleading.

We therefore found the advertisement in breach of CAP (Broadcast) TV Advertising Standards Code, Rules 5.1 (Misleading advertising) and 5.3.1 (Accurate pricing).