

Advertising complaints bulletin

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OFFICE OF COMMUNICATIONS

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Introduction

The Communications Act allows for the Codes of the legacy regulators to remain in force until such time as Ofcom has developed its own Codes. These will be published at the end of 2004 following a full public consultation.

The Codes currently in force for advertising are:

- **Advertising and Sponsorship Code**
Radio Authority
- **Advertising Standards Code**
Independent Television Commission
- **Rules on the Amount and Scheduling of Advertising**
Independent Television Commission

These are all available on the Ofcom website: www.ofcom.org.uk

The cases have been considered against the above Codes.

- Some advertisements will have breached the relevant code.
- Others will not have breached the code.
- There may also be occasions when advertisements have breached the Codes but no action is necessary, since Ofcom recognises that a broadcaster has taken appropriate action in response to an issue (to rectify or bring about the rectifications of an error). Ofcom will consider that these complaints require no further action. Even when such action has been taken, Ofcom may still consider it appropriate to find the advertisement in breach of the Code due to the seriousness of the issues involved.

The layout of the report reflects these distinctions.

Breach of relevant Code

Misleading

Boots Soltan Mother

Issue A commercial for Soltan sun protection claimed it was “The only five star UVA protection”. Two competitors and a viewer said this was not true. The competitors said they sold other makes of sun protection with the five star rating, a measure of the levels of UVA protection in sun creams.

Response Boots were aware that competitor brands had individual products with a five star rating. However, it said that Soltan sun protection was the only one with a five star rating across all its range of products. The Broadcast Advertising Clearance Centre (BACC) agreed with Ofcom that the commercial should have made it clear that “The only five star UVA protection” claim referred to the entire range of products.

Decision The advertising finished its run during our investigations. The BACC said that if it returned, the claim would be qualified to show that it referred to the entire range. Without such a qualification the advertisement had given the impression that Soltan was the only product with a five star UVA rating. It therefore breached Advertising Standards Code Rule 5.1 (Misleading advertising).

Conclusion **The advertising must not be shown again in its current form.**

Misleading

Early Advantage Muzzy

ARM-Direct

Issue	Commercials for this children's foreign language teaching aid stated it was available in both video and DVD format. Two viewers complained that the price shown in the advertising was for the video set and not for the DVDs, which cost more.
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Response	As soon as the advertiser became aware of the problem, it arranged to have the advertisements amended to show that the price referred to the video set.
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Decision	Although we acknowledged the quick action taken by the advertiser, at the time of broadcast the advertising was in breach of Advertising Standards Code Rule 5.3.1 (Accurate pricing).
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Conclusion	The original advertising must not be shown again.
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Harm and Offence

IRN-BRU The Leith Agency

Issue An IRN-BRU advertisement (previously broadcast in 2000) apparently set in the 1950s showed a mother playing the piano with her family. Singing about how much they loved IRN-BRU, the mother ended the song singing “...even though I used to be a man” several times. Her family stopped singing. The children looked dumbfounded at their father who in turn looked away embarrassed. The end scene showed the woman in a bathroom whistling cheerfully and shaving her lathered face.

A total of 17 viewers, some of whom were transsexuals, complained that the advertisement mocked transsexuals. (Five of these viewers also complained about the Walls Cornetto advertisement – see next summary). All felt it made a joke of transsexuals and most questioned whether the advertisement would have been allowed if it mocked another minority group. They felt that transsexuals already encountered discrimination and that advertising should not be allowed to make fun of them.

Response The agency said that its advertising strategy over the last 10 years had been to produce adverts that created a sense of humour whilst confirming the maverick nature of IRN-BRU. It added that its advertising was well known for its irreverent nature but its intention was certainly not to offend or compound harmful or negative stereotypes. Here, the mother was seen to have had a successful transsexual operation, and was proud and unashamed of her transsexuality. The agency said the comedy was derived from the look of surprise, not disgust, on her children’s faces as they turned to their father who in turn appeared uncomfortable. This look of discomfort was not so much at what she had revealed but at being put in a situation where he had to explain something that wasn’t straightforward to his children. It felt the advert was light-hearted and fun and didn’t imply transsexuality was something to be ashamed of. In its view, the advertisement wouldn’t create harmful or negative stereotypes in the minds of those who saw it.

The BACC did not believe the advert was a joke at the expense of transsexuals but a joke about attitudes and how they have changed over time. It was the incongruity of this unlikely setting with a mother coming out as a transsexual in the context of this straight-laced 1950s family that made the joke. It agreed with the agency in that the mother was by no means fazed by her admission.

Decision We agreed that the mother was shown as a strong character and not ashamed of her transsexuality. We did not think the scenes around the piano were likely to cause offence and agreed with the BACC that the humour was the revelation in the unlikely setting of a 1950s family. However, we felt that the end scene with the woman shaving could be seen as directly mocking transsexual women and was capable of causing offence by strongly reinforcing negative stereotypes.

We found the end scene to be particularly problematic and as a result the advertising was in breach of Advertising Standards Code Rule 6.1 (Offence) and 6.6 (Harmful or negative stereotypes).

Conclusion The advertising must not be shown again in its current form.

No breach of relevant Code

Harm and Offence

Walls Cornetto

McCann-Erickson Advertising Ltd

Issue

A Walls Cornetto advertisement showed a young woman dressed in a bikini trying to persuade her male friend to hand over his Cornetto. He asked what was in it for him. The woman replied "I'm a man, surprise, give me Cornetto and I won't tell the guys". His friends looked on.

A total of 12 viewers some of whom were transsexuals complained. (Five also complained about the IRN-BRU advertisement – see previous summary). They felt it sent out the negative message that being a transsexual or being associated with one was something to be ashamed of. They also felt it perpetuated negative attitudes towards transsexuals, a group which already encountered discrimination, saying it portrayed them as threatening and manipulative. A few said that it portrayed transsexual women as fakes adding to the misconception that they are still men.

Response

The advertising agency said the portrayal was not negative. It said it had been careful not to show any gender ambiguity and deliberately chose a female for the role. The intended humour was the man's surprise when the woman revealed her past, in the context of getting his Cornetto. It added that the overriding strategy of the Walls Cornetto campaign was to depict ice cream in the context of modern love scenarios. A man being attracted to a woman (who was once a man) was seen to be an example of a contemporary situation that is increasingly possible in mainstream society.

The BACC said the transsexual character was shown to have the upper hand and was not portrayed in an obviously negative light and that the joke was on the male friend. It felt the humour was to some extent the awkwardness of mistaken identity rather than any cruel attempt to ridicule transsexuals. It added that generally, the appearance of a transsexual theme in advertising could be seen as a sign of society's increasing acceptance. Consequently barring such humour would be a regrettable backward step. On clearing the advert it felt it was unlikely to cause serious or widespread offence.

Decision

Ofcom felt the advertising made it clear that there was an established romantic involvement between the couple. The woman was portrayed positively as a strong and beautiful character. We did not agree that she was shown in a negative light. She used her influence to get what she wanted. We didn't think viewers would see this as a negative characteristic attributable particularly to transsexuals, or indeed women, but as an example of everyday negotiation between couples.

We appreciated that the revelation of her past to his friends may not be what her partner expected. Scenarios like this must be treated with care so as to avoid any association of negativity with transsexuals or other groups in society who suffer prejudice. In our view, this advertisement did not overstep the mark. The overall impression was light-hearted and unthreatening and although the man appeared surprised he was not shown to be repulsed or ashamed by what she'd said.

On balance overall, we felt this advertisement did not directly mock transsexual women and was therefore not capable of causing offence by strongly reinforcing negative stereotypes. This advertisement did not breach the Advertising Standards Code.

Conclusion

No further action.