

Advertising Standards Authority

Broadcast Advertising
Adjudications

27 April 2005



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ADVERTISER: The Advert Channel

BROADCASTER: The Advert Channel

Date: 27 April 2005

Media: Television

No. of complaints: 1

COMPLAINT:

An advertisement on 31 December 2004 for a viewer competition on The Advert Channel invited viewers to enter by calling a premium rate telephone number. It showed a closing date of 1 November 2004.

1. The complainant said that viewers who did not see that the closing date had elapsed would be misled into paying to enter a competition they had no chance of winning.
2. We were concerned that the on-screen text containing important information referring to pricing and availability was too small to be sufficiently legible to viewers.

ADJUDICATION:

1. Complaint upheld

The Advert Channel apologised for the error. It explained that the competition was on-going, with a winner drawn on the first of every month from all entries received during the preceding month. Although it had not updated the closing date, a viewer entering on 31 December would have been entered for the draw taking place from that month's entrants on 1 January. It offered to enter the viewer for two further draws at no extra cost.

We welcomed the broadcaster's action to remedy the problem. Nevertheless, viewers entering the competition would have done so without knowing the correct closing date and would therefore not have known how frequently or otherwise winners were drawn.

2. Upheld

Rule 5.4.2(a) of the CAP (Broadcast) TV Advertising Standards Code and the associated Advertising Guidance Note 1 requires that in order to be legible on-screen text should be at least 14 lines high when appearing against a varying background. The Advert Channel believed that the text was 14 lines high. However, our own checks revealed that the text was 11 lines high, reducing to 10. Although it was on screen for more than the required length of time, its size meant that it was not sufficiently legible for viewers to know the closing date, cost of entry and other important information about the competition.

The advertising was in breach of Rules 5.1 (Misleading advertising) and 5.4.2(a) (Superimposed text - legibility) of the CAP (Broadcast) TV Advertising Standards Code.

The advertisement must not be shown again in that form.

ADVERTISER: Autoworld

BROADCASTER: Heart FM

Date: 27 April 2005

Media: Radio

No. of complaints: 1

COMPLAINT:

An advertisement for Autoworld claimed ‘... get yourself down to Autoworld today for another fantastic used car offer. Pick up your 54 plate Clio Authentique D.C.I. 1.5 with delivery mileage from an incredible £5999 ... It’s another great deal from Autoworld ...’

A listener contacted the advertiser but was told they had run out of stock. She believed the advertisement was misleading as it failed to mention that the advertised model was of limited availability and continued to be broadcast when the advertiser had run out of stock.

ADJUDICATION: Complaint upheld

The advertiser said when the advertisement was first aired there were 35 cars in stock and an additional quantity was available. It said that under normal circumstances this would have been adequate stock to satisfy demand but due to the overwhelming and unexpected response, stock diminished far quicker than anticipated. It admitted that the advertisement should have been withdrawn once it had run out of stock and that this was an oversight, for which it apologised. It was not its intention to advertise a product it no longer had. As a gesture of goodwill, the advertiser offered to provide the complainant with a vehicle of a higher specification than the one featured in the advertisement for the same price of £5,999.

The Radio Advertising Clearance Centre (RACC) said the advertisement made it clear that the offer was for used cars, which it would not expect to be unlimited in number. It felt it would be unreasonable for the advertiser to state that availability was limited. However, it would have expected the advertisement to be withdrawn promptly if the product had sold out.

We did not think it was necessary for the advertisement to say that supply was limited. We would have expected it to say so if, for example, the advertiser knew that it was not going to have sufficient stock. However, as soon as it was known that stock could no longer meet demand, the advertising should have been withdrawn. We welcomed the advertiser's apology. However, the advertisement was in breach of Section 2, Rule 3 (Misleading advertising) of the CAP (Broadcast) Radio Advertising Standards Code during the time it was broadcast when the stock had sold out.

ADVERTISER: De Agostini UK Ltd

AGENCY: Banana Split

Date: 27 April 2005

Media: Television

No. of complaints: 1

COMPLAINT:

An advertisement for a part-work magazine called Radio Controlled Spitfire showed a man constructing a model Spitfire from instructions in the magazine. The voiceover said "Radio controlled Spitfire, week by week construct your own one to ten scale model of this legendary fighter plane". On-screen text indicated that the regular price of the magazine was £5.99 and 60 issues were required. The advertisement showed the man flying the model plane. The voiceover continued "Build and fly your radio controlled Spitfire. Issue 1 at newsagents now with this free instructional video for £1.99".

A viewer complained because he understood the remote control handset and engine had to be purchased separately, which was not made clear in the advertisement.

ADJUDICATION: Complaint upheld

The advertiser said it was normal practice amongst stores selling remote controlled products in kit form to sell the handset and engine separately. It said the handset cost an additional £39.99, but was free for subscribers of the magazine. The engine was available at £29.99 for non-subscribers and £24.99 for subscribers. It pointed out that because the recommended retail prices of the handset and engine were £85 and £45 respectively, it was offering both subscribers and non-subscribers the additional parts at a heavily discounted price. It added that the conditions for purchasing the engine and handset were prominently displayed on the promotional material for Issue One.

The agency said it was unaware that the engine and handset had to be bought separately.

The BACC said it approved the advertisement on the basis that all parts were obtained with copies of the magazine and that 60 issues were required to build the model shown. Had it been aware that the handset and engine had to be purchased separately, it would not have approved the advertisement without it making that clear.

We did not think viewers would have expected to have to purchase the handset and engine separately. We noted that it was not possible to calculate the total cost of the finished product from the advertisement. We considered the additional cost of the handset for non-subscribers and engine for all consumers to be important conditions that should have been made clear. We therefore found the advertisement in breach of Rules 5.1 (Misleading advertising) and 5.3.1 (Accurate Pricing) of the CAP (Broadcast) TV Advertising Standards Code. It must not be shown again in its present form.

ADVERTISER: Fleetway Travel

BROADCASTER: Teletext

Date: 27 April 2005

Media: Television

No. of complaints: 1

COMPLAINT:

A Fleetway Travel advertisement on Teletext offered seven-night holidays to the Sierra Hotel Egypt during January to March. The hotel was advertised as five stars, all inclusive.

A viewer, who had booked the holiday, said that the hotel and the food served were not of a five star standard.

ADJUDICATION: Complaint upheld

Fleetway Travel said that it had promoted the Sierra Hotel for over a year and received very few complaints. As a tour operator it had rated the hotel as five stars, and it stood by this rating. It added that although this particular advertisement did not mention that the rating was its own, the confirmations issued to customers made that clear and customers could have changed their accommodation should they have wanted to.

After receiving details of the complaint from us, Teletext contacted the Egyptian Tourist Board, who told them that the Sierra Hotel did not currently have an official rating.

Tour operators are allowed to use their own star rating for accommodation, but it must be made clear in the advertising that the rating is its own. In this case, the advertisement did not explain that the five stars rating was not the official one. Teletext have reminded all its advertisers that where a Tour Operator's rating is used, it must be stated in the advertisement.

The advertising breached CAP (Broadcast) TV Advertising Standards Code Rule 5.1 (Misleading advertising).

ADVERTISER: IBM United Kingdom Ltd

AGENCY: Ogilvy & Mather Ltd

Date: 27 April 2005

Media: Television

No. of complaints: 1

COMPLAINT:

An advertisement for an IBM ThinkPad, a laptop fitted with drop protection technology, claimed "Klutz proof wireless. Only on a Thinkpad".

Two viewers found the claim misleading because they understood the same drop protection technology was now available on the new Apple PowerBooks.

ADJUDICATION: Complaint Upheld

The BACC said the advertisement had been removed from broadcast as the same drop protection technology had since become available on the Apple PowerBooks. It approved the advertisement a year ago on the basis that the Active Protection System was only available on the IBM ThinkPad. At that time, it received a letter from the advertiser confirming that IBM invented the Active Protection System and no other PC manufacturer shipped a system with a similar feature.

The agency also said the claim was based on the situation at the beginning of 2004, when there was no comparative offering on the market, and added that it was still viable at the beginning of 2005 when the February 2005 TV campaign was booked. It said the Apple PowerBooks, which contained the Sudden Motion Sensor feature similar to the advertiser's Active Protection System, only became available in the UK at the end of January 2005. It pointed out that the Apple product had been on the market for five weeks when the advertiser withdrew the advertisement. It said the advertiser recognised it could no longer use the claim and had confirmed it would not run the advertisement again and would remove the claim from its website. It added there had been no intention to mislead consumers.

We accepted that the BACC, agency and advertiser had not intended to mislead consumers. However, the drop protection technology was no longer unique to the IBM ThinkPad. We therefore considered the claim "Klutz proof wireless. Only on a ThinkPad" misleading. We found the advertisement in breach of Rules 5.1 (Misleading Advertising) and 5.2.1 (Evidence) of the CAP (Broadcast) TV Advertising Standards Code and welcomed the decision not to show the advertisement again.

ADVERTISER: Jetline Travel

BROADCASTER: Teletext

Date: 27 April 2005

Media: Television

No. of complaints: 1

COMPLAINT:

An advertisement for an all inclusive holiday in a five star hotel claimed the hotel was located in Bodrum.

A viewer complained because she understood the hotel, Hotel Medesa, was located in Gumbet, not Bodrum.

ADJUDICATION: Complaint upheld

The advertiser said it was advised by its suppliers that the hotel was in the Bodrum area and it was appropriate to advertise it as such. It argued that most websites advertised the hotel as being in Bodrum. It sent information it had printed from several holiday websites about the hotel's location. It said that after making further enquiries, it was advised the hotel was in Gumbet. However, it pointed out that the tour operator considered Gumbet and Bodrum to be one and the same. It believed the hotel was closer to Bodrum city centre than to Gumbet city centre.

Teletext argued that Gumbet was officially part of Bodrum. It directed us to the Bodrum Life website, which said "though officially it remains a suburb of Bodrum, Gumbet has grown to become a resort in its own right". It added that the Turkish Tourism Office described Bodrum as a town and Gumbet as a comparatively smaller area, and located both within the Bodrum Peninsula. It said it was a convention within holiday advertising to advertise small villages and areas close to a population centre recognised by consumers as part of that population centre. It added that the issue had never previously been brought to its attention as a matter for concern.

We noted that there was an advertisement for a holiday in a hotel at Gumbet listed further down the same Teletext page on which the advertisement for the holiday at Bodrum appeared. Regardless of whether it was officially a suburb of Bodrum or a part of the Bodrum peninsula, we considered Gumbet was recognized as a resort in its own right. We understood the hotel was 2 km away from Gumbet and 8 km away from Bodrum centre. It took 5 minutes to walk to Gumbet and about 10 minutes to go to Bodrum centre by minibus. We also noted that most of the web pages submitted by the advertiser referred to both Gumbet and Bodrum; for example, the hotel's own website stated "Hotel Medesa, at Gumbet one of the most beautiful places of Bodrum". We considered that although the hotel was in the Bodrum area, it was located at Gumbet and the advertisement did not make that clear. We therefore found the advertisement in breach of Rule 5.1 (Misleading advertising) of the CAP (Broadcast) TV Advertising Standards Code. The advertisement must not be shown again in its current form.

ADVERTISER: Safestyle UK

AGENCY: Mezzo Studios

Date: 27 April 2005

Media: Television

No. of complaints: 1

COMPLAINT:

An advertisement for Safestyle UK, a company that sold and installed windows and doors claimed "There's 0% interest free credit on everything" and "... don't forget the 0% interest free credit". Onscreen text stated "Subject to status. Written details from Safestyle ..."

A viewer complained that the advertiser's claim to offer "0% interest free credit" was misleading as interest free credit could only be achieved by taking out a ten-year loan, offsetting interest charges with a cashback feature and closing the agreement before the end of the ten-year term.

ADJUDICATION: Complaint not upheld

The advertiser confirmed it did offer 0% interest free credit on its entire range of windows and doors and said there was no minimum or maximum order value. It explained that three payment options were available: cash, 0% interest free credit and an interest bearing plan called the Flexible Home Improvement Plan (FHIP). The advertiser said the viewer had been offered 0% interest free credit but that she chose to take up the FHIP instead as it allowed for lower monthly repayments. It added that customers who chose the FHIP could pay no interest if they made use of a cashback feature and shortened the term of the loan (which explained what the viewer had been told). It argued, however, that this was not the "0% interest free credit" referred to in the advertisement which, subject to status, was available to customers. It sent a document from its financial partner that showed over a quarter of a million pounds of business had been conducted through the interest free payment option in 2004.

The BACC endorsed the advertiser's response.

The viewer asserted that she had not been offered the 0% interest free credit option. It appeared that she was involved in a contractual dispute with the advertiser following her decision to cancel her order. We considered, however, that there was no evidence to indicate that the offer was not available to customers as advertised. The advertiser had shown the offer had been widely taken up in 2004 which confirmed the 0% interest free credit option was available, subject to status.

We investigated the complaint under Rule 5.1 (Misleading advertising) of the CAP (Broadcast) TV Advertising Standards Code but concluded that the advertisement was not in breach.