

Advertising Standards Authority

**Broadcast Advertising
Adjudications**

4 January 2006



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ADVERTISER: Bendicks (Mayfair) Ltd
AGENCY: McCann Erikson (London) Ltd
Date: 4 January 2006
Media: Television
No. of complaints: 7

COMPLAINT:

An ad for Bendicks chocolates showed a young woman on the telephone to an older female friend complaining about the difficulties of being a footballer's wife. Her friend came round to visit and gave her a box of Bendicks chocolates to cheer her up. The young woman said to her friend, whose husband played cricket, "So, does your Geoffrey play away?" The older woman said "I don't think he has the balls dear".

The ad had an ex-kids restriction which meant that it should not be shown in or around programmes made for or targeted at children.

1. Three viewers said the sexual innuendo was offensive and inappropriate for an ad.
2. Four viewers said the ad was unsuitable to be shown before 9 pm.

ADJUDICATION:

The Broadcast Advertising Clearance Centre (BACC) said they believed the ad was appropriate to be shown throughout the day as long as it was not broadcast in or around programmes made for or targeted at children. They said this was in line with previous decisions made by the BACC about the scheduling of other ads that used a similar degree of innuendo.

Bendicks said they took their consumers and their advertising creativity seriously. They said, during development, they had been in constant contact with the BACC to ensure the final ad was suitable for its intended audience, which they believed they had achieved.

1. Complaints not upheld

We noted the reference to "balls" was wordplay on the football and cricket and might be seen by some viewers as crude. Whilst we recognised that this type of humour would not appeal to everyone, the ad was unlikely to cause serious or widespread offence. We did not consider it unsuitable for broadcast.

2. Complaints not upheld

We considered that, whilst the ad would not result in a direct harmful influence on children, it could, because of the innuendo, be regarded as relatively harmless but nonetheless inappropriate by many parents if broadcast on children's channels or in children's programmes. Although we acknowledged some viewers were concerned the ad had been shown before 9 pm, we considered the ex-kids restriction imposed by the BACC was therefore sufficient to keep it away from those programmes and channels.

The ad was investigated under CAP (Broadcast) TV Advertising Standards Code rules 6.1 (Offence), 7.3.7 (Use of scheduling) and CAP (Broadcast) Rules on the Scheduling of Advertising rule 4.2.3 (Treatments unsuitable for children), but was not found in breach.

ADVERTISER: Colgate Palmolive
AGENCY: Javelin, Young & Rubicam Ltd
Date: 4 January 2006
Media: Television

COMPLAINT:

BCAP monitored a commercial for Colgate Sensitive during which a woman explained that she had talked to her dentist about her sensitive teeth. As she explained that he had suggested she try a “sensitive” toothpaste, a Colgate Sensitive toothpaste tube was shown. She then said she had switched to Colgate Sensitive, adding that her dentist was right because it had really helped.

Rule 8.1.2 (c) of the BCAP TV Advertising Standards Code prohibits “references to approval of, or preference for, any relevant product or its ingredients or their use by [dentists]”.

BCAP challenged the reported recommendation by a dentist.

ADJUDICATION: Upheld

The background to Section 8 of the Code (Medicines, Treatments, Health Claims and Nutrition) explains that advertisements making therapeutic or prophylactic claims for products such as toothpastes are subject to the rules in Section 8.

The advertiser argued that they had been very careful not to portray either the image of a dentist or provide a direct endorsement or recommendation for a specific product. The BACC added that it was the patient who had chosen the Colgate toothpaste; the dentist had not recommended a particular product; the creative treatment was about the “appropriateness [of a category of products] for the task rather than preferring one product over another on the recommendation of a professional”.

The ASA judged that by referring to the dentist’s recommendation, albeit for an unbranded product, the advertisement implied that the dentist had recommended a particular form of treatment and, in effect, its ingredients. The ASA concluded that the reference to a dentist’s recommendation implied professional approval of a therapeutic or prophylactic treatment and breached the spirit of rule 8.1.2 (c).

The ASA noted that there were several Colgate commercials that made similar references to a dentist’s recommendation and required that they all be amended in the light of this adjudication.

ADVERTISER: GlaxoSmithKline
AGENCY: Grey London
Date: 4 January 2006
Media: Television

COMPLAINT:

BCAP monitored a commercial break that featured two GlaxoSmithKline advertisements. One was towards the beginning of the break and the other was the penultimate commercial. Both were in a similar, distinctive style, featuring full-screen text questions or statements in white on black interspersed with video sequences.

- a. The first commercial featured a dentist. On-screen text stated “A dentist talks about sensitive teeth”. The dentist stated “It’s a very common problem. It’s increasingly common in the 16- to 24-year-old age group. Patients usually complain of a very sharp pain caused by something cold or sweet or sour. Chocolate is extremely painful if it gets against the sensitive part of the tooth.” On-screen text then stated “What does he recommend?” The dentist continued “Patients who are suffering from sensitivity are delighted to hear that they can treat their problem by something as simple as changing their toothpaste. There is a range available which, if used like any normal toothpaste, will reduce the sensitivity and in many cases cut it out altogether.” The commercial ended with the text “Ask your dentist about sensitive teeth” appearing on the screen, followed by the GlaxoSmithKline Consumer Healthcare logo.
- b. Four commercials later a second commercial appeared. On-screen text stated “The problem with sensitive teeth”. A woman said “I have sensitive teeth; I'd always have a hot drink in the morning. I started feeling a bit of a twinge; I chose to ignore it, thinking oh it will go away. It just continually got worse and I thought I have got to go to a dentist.” On-screen text stating “What did her dentist recommend?” then appeared. The woman said, “Use a toothpaste for sensitive teeth and I thought that’s quite easy so I might as well give it a go. Use Sensodyne two times a day and you can really feel the difference. You know, you hear these things and you think no, not toothpaste, but it has, it really has. So I just wished that I had used it before. Ice-cream. I had some ice-cream.” The commercial closed on a Sensodyne pack.

BCAP TV Advertising Standards Code prohibits:

8.1.2 (a) presentations of ... dentists ... which give the impression of professional advice or recommendations” relating to medical products or treatments and

8.1.2 (c) references to approval of, or preference for, any relevant product or its ingredients or their use by [dentists]”.

BCAP challenged the:

1. use of a dentist in the first commercial;
2. reported recommendation of a dentist in the second commercial and
3. combined impression created by the two commercials.

ADJUDICATION:

1. Upheld

The BACC argued that, in the first commercial, the dentist was recommending merely that the problem of sensitive teeth can be resolved, as stated in the commercial, “by something as simple as changing their toothpaste. There are a range available”. The BACC added that the dentist was recommending a product category, not the Sensodyne product or “a specific course of treatment”.

The advertiser said the commercial was a disease awareness campaign and was intended to inform consumers about the problem of sensitive teeth and an available solution, and to encourage them to visit their dentist for help.

The ASA judged that the use of a dentist to recommend generic toothpastes for sensitive teeth was unacceptable, because the dentist was giving professional advice and a treatment recommendation.

The ASA asked the BACC to ensure that the first commercial was not screened again.

2. Upheld

The BACC said they had approved the second advertisement for the same reason as the first. They explained that the second sentence after the text message “What did her dentist recommend” had been scripted as “**I** use Sensodyne 2 times a day and you can really feel the difference”. Both BACC and the advertiser acknowledged that the word “I” had become indistinct during the editing process and the transmitted commercial seemed to say “Use Sensodyne two times a day”. They recognised that the error meant that the sentence suggested the woman’s dentist had recommended the use of Sensodyne twice a day; that made the second commercial unsuitable for broadcast. The BACC said they had withdrawn it from air.

The ASA accepted that the “I” had been lost accidentally and welcomed the BACC’s action but concluded that, even with the word “I”, the advertisement would have breached rule 8.1.2 (c), which prohibits any reference to a dentist’s recommendation of a product or its ingredients; in this context, the ASA regarded the word “product” as covering generic products not simply identified brands.

The ASA asked the BACC to ensure that the second commercial, which included the reference to the dentist, was amended before being broadcast again.

3. Upheld

The BACC and advertiser argued that there should be no presumption that viewers would watch a commercial break from beginning to end and that there was no evidence that viewers would link the messages in the two advertisements. The BACC added

that the advertisements were cleared on their merits as stand-alone commercials and were not necessarily meant to be broadcast together.

The ASA acknowledged that no research evidence existed but considered that it nevertheless had a duty to judge the likely impact on viewers. The ASA concluded that those viewers who saw both commercials – and almost certainly many did, whether or not in the same break – were likely to link the dentist's advice about sensitive toothpaste closely with the promotion of Sensodyne.

The ASA concluded that the use of linked advertisements breached the spirit of rule 8.1.2. (Rule 1.2 of the Code requires advertisers to reflect the spirit, not just the letter, of the rules.) The ASA asked broadcasters, who are responsible for both the content and the scheduling of advertisements, to ensure that combinations of commercials reflect the spirit of the rules.

ADVERTISER: Royal Mail Group plc
AGENCY: Abbot Mead Vickers BBDO Ltd
Date: 4 January 2006
Media: Television
No. of complaints: 3

COMPLAINT:

An ad for Royal Mail showed a postman walking along a deserted, snow-covered road to deliver mail to an isolated croft. He was then shown walking across a dam towards a site office, up a hill towards a collection of tower blocks, and finally through a picturesque village. A voiceover then stated "We deliver to every home in the UK, so if you can't take it personally, we will".

Three viewers complained the claim "We deliver to every home in the UK" was misleading, because Royal Mail either did not deliver to their homes or the homes of members of their family.

ADJUDICATION: Complaint not upheld

The Broadcast Advertising Clearance Centre (BACC) said where it was not possible for a regularly scheduled postal service to be provided, Royal Mail made provisions for weekly deliveries. They said they were satisfied the information they had received before clearing the ad substantiated the claim and there were only exceptional circumstances where consumers would not be able to have their mail delivered direct to their door. They sent information about Royal Mail's Universal Service Obligation (USO) and exceptions to that obligation along with information from the Postal Services Commission (Postcomm).

Royal Mail said, under the Postal Services Act 2000, Postcomm required them to deliver to every permanently occupied home, premises, or approved delivery point in the UK every working day. Royal Mail explained they would travel any distance on well-maintained roads and tracks to make deliveries and just because customers lived in remote locations did not mean that they would not have their post delivered. They believed the claim was not misleading because they were able to deliver to 99.99% of all addresses in the UK and only exceptional circumstances would prevent them from making deliveries. They explained 0.01% of the population could not receive deliveries because a daily delivery to certain addresses was either impossible for health and safety reasons or because of extreme access difficulties. Royal Mail explained that, with particularly remote locations such as islands or remote parts of the mainland where access was available only by boat or air, they delivered on days where there was a scheduled plane or ferry service in operation. If no scheduled services were available, they tried to deliver at least once a week. They said all customers had alternative arrangements in place so they could receive their post.

The ASA noted the viewers who had complained about the ad either lived or knew someone who lived in locations that would make delivery of mail to their homes

extremely difficult either because they lived in isolated areas or because of difficulties with access. We were aware those complainants had been in contact with Royal Mail, and two had made alternative arrangements for the collection of their mail. We considered that because Royal Mail did deliver directly to 99.99% of all homes in the UK and because only exceptional circumstances would prevent them from making deliveries the claim was not misleading.

The ad was investigated under CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading), 5.2.1 (Evidence) and 5.2.3 (Qualifications) but was not found in breach.