

**Advertising Standards Authority**

**Broadcast Advertising  
Adjudications**

26 October 2005



**ADVERTISERS IN THIS WEEKS REPORT**

Lidl Ireland GmbH .....	3
Opera Telecom t/a Popvid .....	5
Unilever Ice Cream & Frozen Food Ltd t/a Walls Cornetto .....	6

**ADVERTISER:** Lidl Ireland GmbH  
**BROADCASTER:** Ulster TV (UTV)  
**Date:** 26 October 2005  
**Media:** Television, Poster, Regional press & Leaflet  
**No. of complaints:** 1

**COMPLAINT:**

Tesco Stores Ltd objected to a poster, regional press ad, leaflet and TV commercial. All the ads stated "Fruit & Veg 50% Cheaper!" The complainants objected that the ads were misleading because they did not state the basis of the comparison.

**ADJUDICATION:** Complaint upheld

Lidl Ireland GmbH acknowledged that they had made a mistake in omitting the basis of the comparison and said that it was not their intention to purposely leave out necessary information. They acknowledged that the phrase "compared to our previous selling prices" should have been included throughout the campaign. Lidl said that the ads had also been brought to their attention by the Trading Standards Services in Belfast and as a result they had signed an "Undertaking for the Purpose of Part 8 of the Enterprise Act 2005" giving their assurances not to contravene the Control of Misleading Advertising Regulations Act 1988.

The BACC said that the television ad was broadcast only in a local transmission area, therefore, it was cleared by Ulster TV (UTV) rather than the BACC.

UTV said the ad was transmitted in error. They explained that their usual well-established and rigorous pre-clearance protocols had broken down prior to the production process. UTV said they were aware of their obligations in respect of pre-clearance within the broadcast media.

We welcomed Lidl's decision to sign the undertaking not to breach the Control of Misleading Advertising Regulations Act 1988 and their willingness to comply with the Advertising Codes. We concluded that the ads were likely to mislead and advised Lidl to seek assistance from the CAP Copy Advice team on their non-broadcast ads before using a similar campaign in future.

The TV advertising breached CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising), 5.2.1 (Evidence), 5.2.3 (Qualifications) and 5.4.6 (Comparative advertising).

The poster, regional press ad and leaflet breached CAP Code clauses 3.1 (Substantiation), 7.1 (Truthfulness) and 19.1 (Other comparisons).

**ADVERTISER:** Opera Telecom t/a Popvid  
**AGENCY:** Martikas Advertising Ltd  
**Date:** 26 October 2005  
**Media:** Television  
**No. of complaints:** 1

### **COMPLAINT:**

An ad for the Popvid club said “join the Popvid club” and showed people dancing in silhouette to dance music. It said that viewers could get original ringtones, wallpapers, music tracks and videos sent direct to their mobile phones. The voice-over stated “Get a free official music video right now. Text POP to 87070 ... Try a video for free. Text POP to 87070 and download your free official music video direct to your phone.” Large writing said “Text POP to 87070” and text at the top of the screen said “GET A FREE OFFICIAL MUSIC VIDEO DIRECT TO YOUR PHONE.” Scrolling text along the bottom of the screen included the following: “Download 1 free video from POPVID. Subscription service billed immediately. £3 reg fee for artist information & news, then every 7 days for OFFICIAL MOBILE CONTENT, 1 video, or 2 wallpapers, or 2 polyphonic tones. To unsubscribe text STOP to 87070. Customer services 0871 434 6460.” The words “subscription service” appeared in stationary text on the bottom right of the screen.

1. A viewer believed the ad did not explain that the service was a subscription service as the text reading “subscription service” was positioned so far to the right that it was partly off screen and unreadable.
2. We were concerned that the voice-over line saying “text POP to 87070 and download your free official music video direct to your phone” implied the offer was a one-off purchase rather than a subscription service.

### **ADJUDICATION:**

1. Complaint upheld

The BACC said that it was for individual stations to check that on-screen text appeared fully on screen during transmission.

Martikas Advertising Ltd said that part of the text reading “subscription service” had fallen outside the area that should contain on-screen text. This had been due to a technical error in their production house. They were unaware of the problem until a broadcaster informed them but once aware had been able to replace that broadcaster’s copy with properly-positioned text within 24 hours.

We welcomed the prompt action to rectify the problem for the broadcaster that had flagged the issue. However, other stations would still have shown the version with text outside the safe on-screen area. Regardless, had the text been properly positioned as intended we did not think it would have been prominent enough to make it clear to viewers the offer was for a subscription service. The overall impression was that the offer was for a single, free music video.

## 2. Upheld

The BACC believed that the ad made it sufficiently clear that the offer was a subscription service. It said the ad referred to the Popvid “club” and that on-screen text, had it been correctly positioned, would have carried the warning “subscription service.” It said the free video was being offered as an introductory “taster” and did not believe it implied that the paid-for offer was a one-off purchase.

Martikas Advertising Ltd echoed BACC’s defence, adding that it believed the idea of joining a “club” clearly indicated the service was not a one-off offer. Martikas believed that while the incorrect positioning of the “subscription service” warning might be confusing, it did not make the ad misleading.

We considered the ad implied viewers could get a single, one-off music video for free by texting the number on screen. We did not consider that the reference to a club, or the text references to subscription, even if they were correctly positioned, were sufficient to alter that impression.

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

**ADVERTISER:** Unilever Ice Cream & Frozen Food Ltd t/a Walls Cornetto

**AGENCY:** McCann Erickson Advertising UK Ltd

**Date:** 26 October 2005

**Media:** Television

**No. of complaints:** 1

**COMPLAINT:**

An ad for Walls Strawberry Cornetto opened with a barrister eating the ice cream before he rolled down a hill. The voice-over said "Walls Cornetto. Now with strawberry all the way down."

A viewer said that in reality there was less ice cream in a Cornetto than shown in the ad.

**ADJUDICATION:** Complaint not upheld

The BACC said they had approved the script on the condition that the finished ad reflected the actual appearance of the product in both quality and quantity. They believed that the ad did nothing more than show the product at its best. They thought it unlikely that the brief distance shot of the Cornetto would have given viewers a false expectation of the product.

Unilever Ice Cream & Frozen Food Ltd (Unilever) said the ad was filmed in South Africa. Due to the hot temperatures a prop was made modelled on the size of the 125 ml Strawberry Cornetto. The prop was modified to remove the light chocolate coating and some of the wafer cone so that the strawberry line could be more clearly highlighted in the ad. This alteration was made to demonstrate to viewers that the strawberry ice cream went through the cone area from top to bottom. Unilever said that the overall size of the cone and the volume of ice cream had not been exaggerated. Therefore, they did not believe the ad had given a false impression of the product to a material degree. They told us that they did not intend to use the ad again.

Advertisers are allowed to use techniques to overcome technical problems in filming, such as using a substitute for ice cream that will not melt. They are also permitted to present their products in a favourable light, but neither should be done in a way likely to mislead viewers. We noted that the prop was based on the same amount of ice cream and wafer in a Cornetto. Although it had been adapted slightly, we did not consider the brief shot of the ice cream at the start of the ad would have been likely to mislead viewers over the actual size of the product.

The ad was investigated under CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising) and 5.4.1 (Visual techniques and special effects) but was not found in breach.