

Advertising Standards Authority

Broadcast Advertising
Adjudications

29 June 2005



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ADVERTISER:	City & Guilds
AGENCY:	Archibald Ingall Stretton
Date:	29 June 2005
Media:	Television
No. of complaints:	55

COMPLAINT:

An advertisement for City & Guilds showed a couple in bed listening to a banging and groaning noise coming from their child's bedroom next door. In the room was a young man with his head arched back. The imprints of two hands were shown wriggling under his skin, inside his body. His mother knocked on his bedroom door and said 'Michael?' at which moment the shape of a face also appeared from under his skin and turned towards the door. He said 'yeah, night mum'. In the morning the boy stood at his bedroom mirror looking at himself. The voiceover said 'you know the real you is in there somewhere and a City & Guilds qualification can help you find the right job to bring it out.'

The advertisement had an ex-kids restriction meaning it should not be shown in or around programmes specifically made for or targeted at children.

Viewers complained about the following issues:

1. thirty-eight viewers felt the advertisement was visually shocking or akin to a horror film and should not have been shown at all, or at least not before the watershed;
2. nine viewers complained that their young children, (and where stated, the children were up to six years of age), were upset or frightened by the imagery of the hands and face inside the young man's body and
3. eight viewers felt the advertisement alluded to a sexual act and that this was unsuitable for daytime viewing or before the watershed.

ADJUDICATION:**1. Complaints not upheld**

We considered the horror element to be very mild and that an ex-kids restriction was sufficient to avoid younger viewers who may have been adversely affected by the images shown. Whilst we accepted that the special effects images were not to everyone's taste we did not believe they would cause widespread offence and did not consider a further restriction was warranted.

2. Complaints not upheld

The complaints showed that only a small number of younger children had been affected by the advertisement and that they had not seen it during children's programmes but during programmes aimed at a general audience such as Hollyoaks and King of Queens. Whilst we accepted that the advertisement would have been unsuitable for broadcast during

children's programmes we did not think the content was so frightening as to warrant a further restriction.

3. Complaints not upheld

Although we understood why the advertisement was interpreted in a sexual way by some viewers, we considered that it became clear very early why the young man was groaning and that the focus of the advertisement was on the 'real you' inside him. We did not think it was unsuitable for daytime viewing provided it was shown outside children's programming.

We considered the advertisement under CAP (Broadcast) TV Advertising Standards Code Rules 6.1 (Offence), 7.3.6 (Distress - children) and 7.3.7 (Use of scheduling restrictions) but did not find it in breach.

ADVERTISER: Homebase Ltd
AGENCY: Abbott Mead Vickers BBDO Ltd
Date: 29 June 2005
Media: Television
No. of complaints: 1

COMPLAINT:

An advertisement for a Homebase kitchen sale showed people being asked to guess the price of a 'Shaker' kitchen. They guessed a price which was higher than the actual price of 'under £1,438'. The voiceover said "all kitchen units are half-price and some have an extra 25% off. You can even buy this now and pay nothing for 12 months with your Homebase card". On-screen text said "Minimum spend £200. Selected Stores. See in store for details".

A competitor, B & Q plc, complained that the advertisement was an incentive to enter into a credit agreement and said it therefore fell under the requirements of the Consumer Credit (Advertisement) Regulations 2004.

It complained that the advertisement did not specify:

1. the typical Annual Percentage Rate (APR), which was 25.9% and
2. the name of the credit provider.

The Authority challenged whether:

3. the fact it was necessary to spend a minimum of £1000 to benefit from the offer to pay nothing for 12 months was a significant condition that should have been made clear in the advertisement and
4. the voiceover which said all kitchen units were half price contradicted the on-screen text which identified a minimum spend level.

ADJUDICATION:

1. Complaint upheld

The Broadcast Advertising Clearance Centre (BACC) said it had received substantiation for the claims made in the advertisement as well as a legal view from the advertisers that the advertisement complied with the Consumer Credit Act.

The advertiser said it accepted the advertisement was required to comply with the Consumer Credit (Advertisement) Regulations 2004 and said it had followed the relevant conditions within them. It said the clause regarding the typical APR was open to interpretation. It said that as the advertisement merely "indicated the normal way in which the card operates" it did not believe the advertisement constituted an incentive to enter into a credit agreement.

We sought advice from the Office of Fair Trading (OFT) who confirmed that the statement “buy now and pay nothing for 12 months with your Homebase card” appeared to be an incentive under Consumer Credit (Advertisement) Regulations 2004 8(1)(d), and would trigger the requirement for the typical APR. We noted the condition specified by the OFT made clear that “a credit advertisement shall specify the typical APR if the advertisement ... includes any incentive to apply for credit or to enter into an agreement under which credit is provided.” We considered that the advertisement constituted such an incentive because consumers were invited to pay nothing for 12 months, but only if they bought the goods using a Homebase (store) credit card.

2. Complaint not upheld

The advertiser said the name required to be in the advertisement was the name that appeared on the credit licence. As 'Homebase Card' appears on the credit licence it believed it had complied with the legal requirements.

The OFT said the name 'Homebase' was specified under the Company's standard credit licence and was sufficient. We accepted that the appropriate name was included in the advertisement.

3. Upheld

The BACC said the whole commercial was geared to reflect the kitchen on offer within the particular advertisement. The focus of the commercial was to “hero” the specific kitchen being shown. In the context of the commercial, it felt it was very clear that “You can even buy this now and pay nothing for 12 months” referred to the kitchen being shown. That kitchen did cost over £1000 and therefore the consumer would be able to take up the credit offer.

The advertiser said a minimum spend of £1000 did apply to the “pay nothing for 12 months” plan on the Homebase store card. It maintained that the featured kitchen was priced in excess of £1000 so purchasers would have automatically been put on this plan.

We considered the advertisement also promoted goods worth less than £1000 through the statement “all kitchen units are half-price and some have an extra 25% off”, plus the on-screen text which said “Minimum spend £200”. Some items could not be obtained under the “pay nothing for 12 months” plan on their own. We therefore felt this was a significant condition which should have been made clear.

4. Upheld

The BACC said the on-screen text qualified rather than contradicted the offer. It said all kitchens units were half price when a minimum of £200 was spent.

The advertiser disagreed that the voiceover and on-screen text were contradictory and said the £200 spend threshold was a legal term and a condition of the offer. It said it always advertised the offer in this way on television. It did not feel it was misleading the customer in any way and said it always advertised the threshold spend clearly.

We believed that the use of the word ‘all’ in the voiceover strongly implied there were no exclusions to the offer. As the on-screen text detailed an exclusion we considered that they contradicted rather than qualified each other.

The advertising was in breach of CAP (Broadcast) TV Advertising Standards Code Rules 5.1 (Misleading advertising), 5.4.2 (Superimposed text), 5.2.3 (Qualifications) and 9.8 (Lending and credit) and should not be shown again in its current form.

ADVERTISER: MasterCard Europe
AGENCY: McCann Erickson Advertising UK Ltd
Date: 29 June 2005
Media: Radio
No. of complaints: 2

COMPLAINT:

A radio advertisement for MasterCard featured a man singing over the telephone to his girlfriend in a high pitched voice. The voiceover said “a mobile top-up card and two helium balloons: £17. Making your girlfriend laugh however far away she is: priceless. There are some things that money can't buy. For everything else there's MasterCard. Accepted for everything from party tricks to pay as you go”.

Two listeners complained that it was harmful to inhale helium and that the advertisement may encourage people to emulate the actions of the man in the advertisement.

ADJUDICATION: Complaints upheld

The Radio Advertising Clearance Centre (RACC), who cleared the advertisement, said it had approved similar creative treatments over many years and understood the risk to be so small that no harm could result from the scenario portrayed in the advertisement.

We believed that there was sufficient documented evidence to confirm that the inhaling of helium gas was a potentially dangerous practice as it replaced the oxygen in the blood with another gas, which for some people could cause asphyxiation. Although it was unlikely to seriously harm the majority of people we considered the advertisement condoned the practice of inhaling helium particularly by describing it as a “party trick”.

The advertisement was therefore in breach of CAP (Broadcast) Radio Advertising Standards Code Section 2, Rule 10 (Harm) and should not be broadcast again in its current form.

ADVERTISER: Masterfoods Ltd (Confectionery Division)
AGENCY: TBWA\ London Ltd
Date: 29 June 2005
Media: Television
No. of complaints: 41

COMPLAINT:

An advertisement for Skittles showed a boy listening to music and drinking tea with his grandparents. He gave his grandparents some Skittles, after which the grandfather started 'scratching' using a gramophone record. The grandmother grabbed a handful of the sweets, put them in her mouth and then jumped up. She started dancing and rapped the words "Yeah, yeah, check it, check it, I'm a bad grandma busting moves to shock ya." She finished the dance by ripping open her cardigan and blouse and flashing at her grandson with her back to the camera. The advertisement was given an ex-kids restriction by the Broadcast Advertising Clearance Centre (BACC) to ensure that it was not scheduled in or around programmes made for or targeted specifically at children.

41 viewers complained about the advertisement.

1. 13 viewers said the advertisement was ageist, degrading to the elderly and would encourage disrespect towards older people.
2. 25 viewers said the advertisement was offensive because it featured flashing; some felt it was particularly offensive to women and the elderly. Five viewers felt that the advertisement was offensive because it linked the advertiser's sweets with drugs.
3. 14 viewers said the advertisement was inappropriate for children, particularly because the product advertised was likely to have particular appeal to younger viewers. One viewer said that the advertisement would encourage anti-social behaviour amongst young people.

ADJUDICATION:

1. Complaints not upheld

We believed the scenario was surreal. It was likely to be seen as light-hearted by the majority of viewers and would not encourage disrespect towards the elderly. We did not consider it degraded older people but rather portrayed the advertiser's sweets as a youthful product and therefore showed the grandparents acting more like children after eating them. We considered that rather than negatively stereotyping or degrading the elderly the advertisement portrayed them in a fun and youthful light.

2. Complaints not upheld

The advertisement did not feature any nudity. It showed an unusual scenario unlikely to be regarded as offensive by most viewers. We did not believe that the advertisement linked the advertiser's product to drugs. There was no reference made to drugs or to drug culture. We believed it merely showed the invigorating effect the sweets had on the

grandparents. We considered that the advertisement was unlikely to cause serious or widespread offence to viewers generally or to women and the elderly in particular.

3. Complaints not upheld

The advertisement was given an ex-kids restriction by the BACC to keep it away from younger viewers. Because there was no nudity and because the theme was obviously surreal we did not consider that the advertisement was inappropriate for, or likely to cause harm to, older children who might be watching TV at other times of the day outside children's programming. We did not think that a further scheduling restriction was necessary. In addition, we considered that the advertisement was unlikely to encourage anti-social behaviour amongst young people.

The advertisement was investigated under CAP (Broadcast) TV Advertising Standards Code Rules 6.1 (Offence), 7.3.1 (Mental harm - children) and 7.3.7 (Use of scheduling restrictions), but was not in breach.

ADVERTISER: The Royal Bank of Scotland plc t/a First Active plc

AGENCY: Hall Moore Chi

Date: 29 June 2005

Media: National press/Television

No. of complaints: 1

COMPLAINT:

Objection to a national press advertisement and a television commercial for a mortgage provider.

- a. The national press advertisement featured rates available from the advertisers; text at the bottom of the advertisement stated "For a decision in minutes call 08453 02 05 63 ...".
- b. The television commercial claimed "... so call 0845 302 0510 to find out about our great range of offers. You can also get a decision in minutes".

The complainant, who was still waiting for a decision one month after he contacted the advertisers, challenged the claim "decision in minutes".

ADJUDICATION: Complaint not upheld

The advertisers said their advertisements were not misleading and they had received no complaints. They said they offered to give customers a "decision in minutes" because they were aware of the frustrations of waiting for mortgage lenders to give provisional confirmation that they were willing to lend. They said the "decision" referred to was "agreement in principle", not a formal offer. The advertisers explained that customers were first assessed to see whether they were eligible to apply: if the caller was eligible, the advertisers would then ask the caller for information that would allow them to determine whether or not they would agree to lend. The advertisers said the average time taken to reach an "agreement in principle" was 26 minutes and the average time for those who were declined was 21 minutes; they sent information about the percentage of callers who were accepted for "an agreement in principle". They explained that the claim applied only to customers who called the number listed in their advertisements; they acknowledged that, because the complainant applied through a mortgage broker, his application had taken longer to assess but asserted that the complainant was given their initial decision within 11 days.

The Broadcast Advertising Clearance Centre (BACC) said this was the only complaint they had received. They said they had received evidence that all decisions were made within the hour and were satisfied that this substantiated the claim.

The Authority considered that both advertisements made clear that in order to get a "decision in minutes" consumers had to call the telephone number quoted. It was satisfied with the evidence the advertisers sent and considered that they had substantiated the claim.

The Authority concluded that advertisement (a) had not breached clauses 3.1 or 7.1 of the CAP (Non-broadcast) Code and that advertisement (b) had not breached rules 5.1, 5.2.1 or 5.2.3 of the CAP (Broadcast) TV Advertising Standards Code.

ADVERTISER: Travelocity.co.uk Ltd
AGENCY: Miles Calcraft Briginshaw Duffy Ltd
Date: 29 June 2005
Media: Radio
No. of complaints: 1

COMPLAINT:

A radio advertisement for Travelocity.co.uk featured Alan Whicker who said “Whicker here, in Kenya thanks to my friends at Travelocity.co.uk, and enjoying a trip in a helium balloon. Talking of helium, it's the perfect stuff to help me tell you all about Travelocity.co.uk in a short commercial”. He then appeared to inhale helium and talk more quickly in a high pitched voice.

A listener complained that the advertisement promoted the inhalation of helium which they believed was dangerous.

ADJUDICATION: Complaint upheld

The Radio Advertising Clearance Centre (RACC), who cleared the advertisement, said it had approved similar creative treatments over many years and understood the risk to be so small that no harm could result from the scenario portrayed in the advertisement.

We felt there was sufficient documented evidence to confirm that inhaling helium gas was a potentially dangerous practice as it replaced the oxygen in the blood with another gas, which for some people could cause asphyxiation. Although it was unlikely to seriously harm the majority of people we considered the advertisement condoned the practice of inhaling helium, particularly by describing it as “the perfect stuff”.

The advertisement was in breach of CAP (Broadcast) Radio Advertising Standards Code Section 2, Rule 10 (Harm) and should not be broadcast again in its current form.