

**Advertising Standards Authority**

**Broadcast Advertising  
Adjudications**

5 October 2005



## ADVERTISERS IN THIS WEEKS REPORT

Barley Mow .....	3
Department of Health / COI .....	4
Direct Holidays .....	6
Switchdigital (London) Ltd .....	7

**ADVERTISER:** Barley Mow  
**LICENSEE:** Horizon FM  
**Date:** 05 October 05  
**Media:** Radio  
**No. of complaints:** 1

**COMPLAINT:**

A radio ad for the Barley Mow Restaurant in Cosgrove, Milton Keynes said "When you enjoy an early evening dinner at the Barley Mow between Monday and Thursday your little ones can tuck into a main meal for just £1 ... Conditions apply."

A listener complained that she was advised it was necessary to purchase a drink and a dessert for each child taking advantage of the offer which meant the minimum spend per child was around £4.50.

**ADJUDICATION:** Complaint upheld

The Barley Mow said the ad stated "Conditions apply" which they felt was sufficient to alert listeners to the requirement of buying a drink and dessert.

Horizon FM said the radio commercial script was written by them from a brief supplied by The Barley Mow. They were advised that conditions to the offer applied, and a caveat in respect of this was included in the commercial.

We considered the requirement to buy a drink and dessert in order to purchase a child's main meal for £1 was a significant condition which should have been made clear in the advertisement to avoid listeners being misled. Some listeners could have expected to buy their own meal and then pay only £1 for their child to eat, which was not possible.

The ad breached CAP (Broadcast) Radio Advertising Standards Code section 2, rule 3 (Misleadingness) and section 2, rule 17 (Price claims and VAT) and should not be broadcast again in that form.

**ADVERTISER:** Department of Health / COI

**AGENCY:** Abbott Mead Vickers BBDO Ltd (AMV BBDO)

**Date:** 5 October 2005

**Media:** Television

**No. of complaints:** 33

**COMPLAINT:**

An ad for the COI/DOH Anti-smoking campaign showed a young man making eye contact with a young woman in a crowded bar. He approached her, but when he got near he wrinkled his nose as if smelling something unpleasant. He made an excuse and left, leaving the woman on her own. The woman then lit a cigarette. The caption 'if you smoke, you stink' appeared on screen accompanied by a website address and telephone number for help and advice on stopping smoking.

33 complaints raised the following issues:

1. All the viewers believed the ad was offensive and derogatory to smokers, unfairly stigmatising them and exaggerating the smell of smoking. Four objected to the use of public money to fund the campaign. Three said cigarettes were legally available products, with one saying that the government would not want to do without the revenue tobacco generated in duty.
2. Seven believed the ad discriminated against smokers. They believed that similar campaigns about obesity or which singled out people because of their race, sex or gender would not be tolerated. One believed the tone of the ad would encourage people to be confrontational towards smokers.
3. Four believed the ad was misleading. Three because factors such as alcohol, certain foods and personal hygiene also influenced whether someone 'stank'. One because he believed the claim was a generalisation which he doubted could be substantiated.

**ADJUDICATION:**

1. & 2. Complaints not upheld

The BACC regretted any offence caused but believed the blunt nature of the ad was justified, given that its aim was to motivate young smokers to give up. They did not believe the ad enforced harmful or negative stereotypes or that parallels could be drawn between it and, for instance, race or sex discrimination, but simply that it highlighted a significant downside of smoking.

AMV BBDO said they had conducted research to test the effectiveness of the approach and its capacity to cause offence. They said the smokers surveyed appreciated the ad's humorous approach and that it was particularly well received by its target audience, those aged 17–25 years and without children. AMV BBDO believed making smokers uncomfortable about smoking was justified, given the wider public interest in persuading smokers to quit.

We noted the campaign approach was direct and did not make for comfortable viewing, but we considered this was justified, bearing in mind the need to communicate the disadvantages of smoking to the target audience. The ad was not seeking to change the legal availability of tobacco. It was run on behalf of a public body. It was therefore legitimate that public money was used to fund it.

### 3. Complaints not upheld

The BACC felt it was generally accepted that smoking could taint clothes, hair and skin with the smell of cigarette smoke and that it was not misleading for the ad to portray a character smelling of smoke. They believed 'stink' was justified because of the target audience and aim of the ad.

AMV BBDO cited a report published in November 2001 by ASH, a public health charity. The report showed smoking to be a cause of mouth conditions and gum disease which led to bad breath. AMV BBDO had also conducted research, with 91% of adults and 81% of smokers surveyed agreeing with the statement 'smoking makes people smell.'

We did not consider that the ad claimed that smoking was the only cause of an unpleasant smell. We considered the word 'stink' to be unambiguously negative but justified, in this case, for describing the effects of cigarette smoke.

The ad was investigated under CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising), 6.1 (Offence) and 6.6 (Harmful or negative stereotypes) but was not found in breach.

**ADVERTISER:** Direct Holidays  
**BROADCASTER:** Teletext  
**Date:** 5 October 2005  
**Media:** Television  
**No. of complaints:** 1

**COMPLAINT:**

An ad on Teletext for Direct Holidays offered a holiday for two weeks in Turkey for £184.

A viewer complained because when he tried to book the holiday he was told it would cost £316.

**ADJUDICATION:** Complaint upheld

Direct Holidays said the ad had been shown in error and should have offered a holiday for one week in Turkey for £184, not two weeks as advertised. They said the ad was shown on 21 July and was corrected on 22 July. They said they did not intend to mislead viewers and apologised to the complainant for any inconvenience caused.

We acknowledged Direct Holiday's action to correct the error but considered that, because the ad stated a two week holiday instead of a one week holiday was available for £184, the ad was misleading.

The ad was in breach of CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising) and 5.3.1 (Accurate pricing).

**ADVERTISER:** Switchdigital (London) Ltd  
**AGENCY:** Talksport Creative  
**Date:** 5 October 2005  
**Media:** Radio  
**No of complaints:** 2

**COMPLAINT:**

A radio ad promoting DAB digital radio said “If you’re someone who thinks an iPod is something you might keep your contact lenses in you probably haven’t heard about DAB digital radio. With a new digital radio costing from as little as 49.99, not only can you hear all your current favourites in crystal clear sound, you can switch on to a dial-full of digital-only stations specialising in everything from classic rock to books that talk. The future is here today with distortion free DAB digital radio: taking the hiss out of the way you listen to the radio. Message provided by TWG Emap Digital.”

One listener objected that:

1. the claim “distortion free” was misleading. He believed that DAB digital radio distorted sound by compressing audio information of CD quality and removing some of the original data before attempting to recreate the original sound using less information than was originally present. He said no matter how good the radio receiver, the system by which information was compressed and then recreated inevitably led to differences from the original sound and therefore distortion.

The other listener objected that:

2. the claims “distortion free” and “crystal clear” were misleading because although he accepted that DAB digital radio was free from “hiss” or “crackle”, he believed that a “gurgling noise” permeated the sound and

3. the ad implied that DAB Digital radio resulted in audio quality superior to analogue radio. He believed that in many cases analogue audio quality was better.

**ADJUDICATION:**

1. Complaint not upheld

The RACC said the ad did not claim that DAB digital radio duplicated the original sound of recordings. They therefore believed that the complainant had misinterpreted the ad.

We agreed. The ad did not claim that DAB digital radio duplicated the original sound of recordings. We considered that listeners would understand the claim “distortion free” referred merely to the absence of interference. We therefore considered that the ad was not misleading for the reason suggested by the complainant.

2. Complaint upheld

The RACC said that if a DAB digital radio set was correctly set up, it should not suffer from interference such as that reported by the complainant. They said DAB digital radio sets removed hiss and electrical interference so that only the relevant programme information remained. They said DAB digital radio was different from analogue radio in that the signal was either on or off, which avoided the fading in and out and background noise that analogue radio was prone to.

Switchdigital said the terms “distortion free” and “crystal clear” were used in the ad to introduce a technologically new method of broadcasting, in listener appropriate language, to a broad range of people who were not technically qualified. They said the ad was providing an informative public service message in an entertaining way while trying not to be too scientific. They said the term “distortion free” was used to allegorise the technological benefits of DAB over analogue and compared those benefits to those of CDs over vinyl. They said that DAB was theoretically permanently clean of hiss or crackle and that sound quality was only limited by the quality of the source material and individual listening environments. Switchdigital said that while there was no hiss or crackle when listening to DAB, there might be the presence of digital “artifacts” in the sound depending on the quality of the station on DAB digital radio. They also acknowledged that if a listener was receiving a signal that was either too high or too low he/she might hear a “bubbly” noise, although they maintained that the noise was not distortion. In support of the claims Switchdigital submitted a number of quotes from organisations that had an interest in promoting DAB, press reviews of DAB and a survey of DAB owners that showed over 90% of them rated the sound quality of DAB as either excellent or good.

We noted that DAB digital radio removed the hiss and crackle that could interfere with analogue radio. However, we understood that, particularly in areas where the digital signal was poor, distortion could occur with DAB digital radio. While hiss and crackle were removed, there were other factors that could impact on the clarity of the sound, such as the distance between the transmitter and the receiver. We noted that Switchdigital acknowledged that “individual listening environments” and the presence of “artifacts” on some radio stations could lead to problems with sound quality. We also noted that a signal which was too “high” or too “low” could lead to the sort of “bubbly” or “gurgling” problem highlighted by the complainant. We therefore considered that not all DAB digital radio listeners would receive “distortion free” and “crystal clear” sound and concluded that the claims were misleading.

### 3. Complaint upheld

The RACC said the ad did not refer to analogue radio but merely highlighted the benefits of DAB.

Switchdigital said that many analogue radio stations compressed the sound they transmitted to produce a “richer” and “beefier” sound, which some listeners preferred. They said that DAB replicated to near perfection a more natural sound that was closer to the reality of the original audio. They said that the assessment of audio quality was a subjective issue, which came down to individual listener choice.

We believed the ad would be understood by listeners to mean that DAB digital radio was superior to analogue in terms of audio quality, particularly since the benefits of DAB were set in contrast to problems that affected analogue (“taking the hiss out of the way you listen to the radio”). We received no evidence to show that DAB digital radio was superior

to analogue radio in terms of audio quality. We therefore concluded that the ad was misleading.

The ad was in breach of CAP (Broadcast) Radio Advertising Standards Code section 2, rule 3 (Misleadingness).