

Advertising Standards Authority

Broadcast Advertising
Adjudications

30 March 2005



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ADVERTISER: Holland and Barratt

AGENCY: Guerilla Communications

Date: 30 March 2005

Media: Television

No. of complaints: 1

COMPLAINT:

An advertisement for Holland and Barratt claimed that there was 'up to 50% off fruit, nuts, seeds and snacks'. It was shown during the break for the television programme You Are What You Eat. During the advertisement the voiceover said 'Remember. You are what you eat.'

A competitor, Julian Graves Ltd, complained that:

1. The advertiser had not discounted all fruit, nut, seed and snack items in line with its 'up to 50% off' claim.
2. The advertisement included the name of the programme during which it was aired which it felt was against the advertising code.

ADJUDICATION:

1. Complaint upheld

The advertiser said fruit, nut, snack and seed products were discounted to varying degrees up to 50% off their normal prices.

We felt the claim was not substantiated because the advertiser failed to provide evidence showing that all fruit, nuts, seeds and snack products were discounted by some degree, neither did we receive any evidence to show that 10% were discounted by the stated 50% as required by the Dti Code of Practice on Price Indications.

2. Complaint upheld

The advertiser said 'you are what you eat' represented a very well known saying. It added that the commercial did not at any point feature similar scenarios, personalities or images to the programme in question. The Broadcast Advertising Clearance Centre (BACC) said it cleared the advertisement because it thought 'you are what you eat' was a familiar phrase often used in discussions about food.

We accepted that 'you are what you eat' was a familiar phrase. However we felt viewers would identify it with the title of the programme during which it was broadcast and may therefore have been misled into thinking the advertiser was associated with the programme.

The advertising breached CAP (Broadcast) TV Advertising Standards Code Rule 2.2.2 d (Editorial independence) and 5.1 (Misleading advertising) and should not be shown again in its current form.

ADVERTISER: KFC

AGENCY: Bartle Bogle Hegarty

Date: 30 March 2005

Media: Television

No. of complaints: 5

COMPLAINT:

An advertisement for a KFC Mini Chicken Fillet Burger showed a group of people at a train station. Some of them were seen holding the Mini Fillet Burger. A man who did not have a burger sang to a woman who did have one and asked if he 'could have a bite'. The advertisement showed a close up of the burger in the woman's hands.

Viewers complained that the advertisement was misleading because they had purchased the product and felt it was smaller than portrayed. One viewer thought the product was shown to be the size of a standard burger. Another said the advertisement showed the burger to be at least twice its correct size.

We purchased three Mini Fillet Burgers from a KFC restaurant in central London. There was a difference in the size and presentation to the advertised product. We asked the advertiser and the Broadcast Advertising Clearance Centre (BACC) to comment on the issues raised.

ADJUDICATION: Complaints upheld

The advertiser said the Mini Fillet Burgers in the advertisement had been cooked in a KFC store that day within KFC's standard range of dimensions for the burger, that it was called a Mini Fillet Burger indicating that it was smaller than a normal fillet burger and, priced at 99p, it was clearly cheaper for reasons of size than a normal burger. It added that the woman may have just had small hands because all artists in the advertisement were holding the same size burger, although the advertiser confirmed that the woman was not cast for this reason as hand size did not constitute part of the casting brief. The BACC added that it did not consider the advertisement to be materially misleading because the product was clearly described as 'mini'.

We noted that the bun shown in the advertisement was significantly thicker than the burgers we purchased; that there was more filling and the lettuce was a different type. We did not consider the size of the actress's hands was material, but if they were small as suggested by the advertiser, this could have contributed to the misleading impression of the relative size of the burger. Advertisers are permitted to present their products in a favourable light but not in a way likely to mislead viewers. Even though the product was called a Mini Chicken Fillet Burger we did not think this was sufficient to alert consumers to

the fact the product was smaller than appeared in the advertisement. We believed the visuals were likely to mislead viewers over the actual size.

The advertising was therefore in breach of CAP (Broadcast) TV Advertising Standards Code Rule 5.1 (Misleading advertising) and should not be shown again in its current form.

ADVERTISER: QVC
BROADCASTER: QVC
Date: 30 March 2005

Media: Television

No. of complaints: 2

COMPLAINT:

A product called Pilot Green Fuelsaver, advertised on QVC, consisted of two magnets which were designed to fit around the fuel pipe of a vehicle. The advertisement made the following claims:

"You will see a 10 to 15% saving on fuel costs. Your exhaust will last two to three times longer. You will see a 30% reduction on pollution and a 40% reduction on carbon monoxide emissions. It will provide the same improvements for both new engines and old engines. It will give you an average of 10 to 15% fuel saving. It is going to improve emissions. It is going to improve power. It will clean up your exhaust. It will clean up your engine. We can prove it. As the fuel travels through Pilot Green, all the atoms begin to spin in the same direction. When the fuel enters the combustion chamber an amazing thing happens, the time of the combustive explosion is shortened and that is the key to good combustion."

Two viewers, one a research engineer and one who worked in the motor trade, complained that the advertising was misleading because they did not believe the claimed improvements in performance and emissions were possible through the use of the product.

The advertisement suggested the product would make significant improvements for a relatively small cost (£19.21 for engines less than and £26.68 for engines more than 1600cc) which we thought would influence people's decision to purchase the product.

ADJUDICATION: Complaints upheld

QVC provided scientific evidence intended to demonstrate the improvements in fuel efficiency and emissions for a range of type and age of vehicles. The evidence included tables and graphs showing the comparisons along with testimonies from various research centres around the world. It also provided a response from the manufacturer who said the tests had been carried out by various people to show the products work everywhere, in different climates and under different conditions.

The claims were based on a relatively small number of tests. We considered this insufficient to substantiate the definitive claims made about Pilot Green Fuelsaver's effects for all vehicles.

We noted that tests on the product had not been peer-reviewed, which might have supported the evidence from the manufacturer. We also noted one of the major testers (Hong Kong Polytechnic) commented in all its tests that fuel efficiency was only observed after a minimum of 1200 kilometres (745 miles) of driving. There was no indication in the advertising that the product would only start to work after this amount of driving. We felt that, should the performance of the product be proved, this would be a significant condition which should be made clear in the advertising.

The evidence did not demonstrate the apparent spinning of atoms as claimed in the advertising. No evidence was presented to show that a combustive explosion occurred in a shorter time with the device fitted or that this would result in the stated improvements in performance and emissions. No evidence was presented to support the claims relating to exhausts lasting longer.

We felt a reasonable viewer would expect that a range of tests had been conducted under laboratory conditions on a large number of different types of car and that an industry-wide recognised testing body conducted the majority of the tests.

We found the claims were not satisfactorily substantiated and therefore the advertising was in breach of CAP (Broadcast) TV Advertising Standards Code Rules 5.1 (Misleading advertising) and 5.2.1 (Evidence) and should not be shown again in that form unless satisfactory evidence can be provided.

ADVERTISER: Front Valley Laboratories

AGENCY: ARM Direct

Date: 30 March 2005

Media: Television

No. of complaints: 1

COMPLAINT:

An advertisement for the Silent Knight Ring - an anti-snoring device worn on the finger like jewellery - claimed that it was based on 'the ancient Chinese tradition of acupuncture'; that it had reduced snoring in 80% of cases; that it had stopped it completely in three out of five cases and that its method was based on the meridian energy lines that flow through the body, particularly the one that runs from finger tips to head.

A viewer challenged these claims, believing that there was no independent evidence to back them up.

ADJUDICATION: Complaint upheld

The Broadcast Advertising Clearance Centre (BACC) said that the specific claims above were qualified by lines such as 'some' people believe you can actually improve the energy flow and that the product 'could' just have the solution for 'improving' sleep quality. It doubted that viewers would take the claims as scientific or medical advice as it believed it was sufficiently clear that the presenters were not professionally qualified to offer such advice. It believed the claims were a true and accurate representation of the trial that had been conducted and that it was not unreasonable for an advertisement to make those claims in conjunction with a 30-day, money-back trial offer to customers.

In support of the claims, the BACC provided some general background information on the history of acupuncture, meridian theory and biological medicine. However, this information did not relate directly to the advertised product. It also sent information from the advertiser to explain how those traditions related to the function of the product, but the information was only basic and did not demonstrate conclusively any relation between the two.

The BACC also provided the results of a survey of 74 users of the product. This survey was the source of the 80% and three in five claims made in the advertisement. A second survey of 53 users was a further source of the 80% claim. However, there was no indication in either survey of how or by whom (other than the participants themselves) the reduction in snoring was measured; who the participants were; how the results compared with those of a control group and whether the studies had been published in a peer review journal (the kind of information that we would typically expect the substantiation for claims of this importance to include).

The advertiser said that since August 2004, 11,000 units had been sold in Ireland, the UK and Holland. The product was sold with a 30-day, money-back guarantee, but just 186 had been returned for refund. It believed this was a clear indication of the level of satisfaction the product had achieved.

We believed that viewers would interpret the claims as substantial and scientifically proven. We did not consider the background information satisfactorily related the way in which the ring was designed to function to the traditions of acupressure and meridian lines, or that the trial had been thorough enough to support the very strong claims made about the capabilities of the product. The data regarding the quantity of units sold and returned was useful background information, but neither that nor the fact that the product was sold with a 30-day money-back guarantee could be used to substantiate medical or physiological claims.

We found the advertising in breach of Rules 5.1 (Misleading advertising), 5.2.1 (Evidence) and 8.1.1 (Assessment of medical claims) of the CAP (Broadcast) TV Advertising Standards Code. We required that it should not be shown again in that form unless there was adequate substantiation for the claims.