

**Advertising Standards Authority**

**Broadcast Advertising  
Adjudications**

28 September 2005



**ADVERTISERS IN THIS WEEKS REPORT**

Hidden Hearing .....	3
Homebase .....	5
Pride Oils Plc .....	6
St Peter's Andrology Centre .....	8
Superfast Ferries .....	9
Unilever Home and Personal Care UK Ltd .....	10

**ADVERTISER:** Hidden Hearing Ltd  
**AGENCY:** Wordley Production Partners Ltd  
**Date:** 28 September 2005  
**Media:** Television  
**No. of complaints:** 1

**COMPLAINT:**

An ad for Hidden Hearing asked viewers whether they would like to dramatically improve their hearing; whether they needed to turn up the volume on their television; and whether they struggled to hear conversation. The presenter invited viewers to telephone a free number to receive one of 5,000 hearing aids that Hidden Hearing was giving away to callers. At the end of the ad the number was given again and viewers were asked to call 'for details of how to apply for a free sample hearing aid.'

A viewer said that the offer was misleading because it was not as straightforward as it appeared. He said that telephone callers were sent a brochure. They then needed to make an appointment for a home visit for a hearing assessment and only after that could they receive a sample hearing aid.

**ADJUDICATION:** Complaint upheld

The Broadcast Advertising Clearance Centre (BACC) confirmed that the process for receiving a sample hearing aid was as the viewer reported it. They added that if the hearing assessment showed that the person could benefit from a hearing aid, and if there was still availability, they would be given a sample hearing aid. They believed that the ad made it sufficiently clear that there was an application process and that numbers were limited.

On learning of the complaint, Hidden Hearing offered to change their procedures so that future enquirers would be sent a sample hearing aid straightaway along with a letter inviting them to contact Hidden Hearing if they wanted to receive a free hearing test and a home visit.

We welcomed Hidden Hearing's offer to change its procedures for the future, but nevertheless considered the ad as it had originally been broadcast was misleading for not making clear the conditions that were attached to requesting and receiving a free sample hearing aid. While viewers would expect to give their name and address details, a home visit to have a hearing assessment was a far more significant proposition. We were concerned that some viewers, especially those who were elderly and vulnerable, could feel pressured to agree to a home visit they did not want. If the procedure involved a home visit and the ad had stated that, then viewers would have been in a better position to decide whether or not they wished to call for a free sample hearing aid.

The ad breached CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising) and 5.2.3 (Qualifications). It must not be shown again in that form.

**ADVERTISER:** Homebase Ltd  
**AGENCY:** Abbot Mead Vickers BBDO Ltd  
**Date:** 28 September 2005  
**Media:** Television  
**No. of complaints:** 1

### **COMPLAINT**

An ad for the Homebase Sale said that Dulux white emulsion, undercoat and gloss paints were £8.99 per tin, a saving of £4 on the usual £12.99 price.

A competitor, B&Q plc, said the ad was misleading because the £8.99 price was only available when customers bought three tins. It was, in effect, a three-for-two offer.

### **ADJUDICATION:** Complaint upheld

The Broadcast Advertising Clearance Centre (BACC) said the offer was suitably substantiated and compliant for the time of intended transmission. Following a wrong instruction from the agency, however, it was shown again, after the offer had finished. The BACC stated this was a situation outside its control.

Homebase apologised for the error. They said the instruction to air the ad was a mistake on their part, not something intended to mislead viewers. Homebase alerted the stations to remove the ad from air immediately they were aware of the problem and honoured the £8.99 offer for any customers who asked for it after seeing the ad. They added that they had put in place new internal procedures to ensure a similar situation did not arise again.

We noted the circumstances that had led to the mistake and the fact that procedures had been put in place to prevent a recurrence. Nevertheless, incorrect information had been broadcast. We therefore found the ad breached CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising), 5.2.3 (Qualifications) and 5.3.1 (Accurate pricing). It must not be shown again in that form unless it reflects the offer available to customers.

**ADVERTISER:** Pride Oils Plc  
**BROADCASTER:** Zee TV and Star TV  
**Date:** 28 September 2005  
**Media:** Television  
**No. of complaints:** 1

### **COMPLAINT**

Three ads for vegetable and sunflower oils appeared on Zee TV and Star TV.

One ad showed two chefs in conversation, followed by a scene showing one of the chefs with his wife. The voiceover said "Pride 100% pure vegetable oil. Cholesterol free. Quality with extended life", while a graphic of a heart made of oil appeared onscreen with the text "NO CHOLESTEROL" superimposed. At the end of the ad the voiceover said "Pride Vegetable Oils celebrating healthy days", while the text "Celebrating Healthy Days" appeared onscreen.

The second ad showed various members of a family engaging in physical activities, such as running, skipping and working out on a step machine. The voiceover said "Pride Sunflower Oil gives you cholesterol free health, adds exotic taste to every delicacy and makes you feel light", while the same graphic and superimposed text as in the first advertisement appeared onscreen. At the end of the ad the voiceover said "Pride Sunflower Oils celebrating healthy days", while the text "Celebrating Healthy Days" appeared onscreen.

The third ad was identical to the second except that some of the script was in Hindi.

A viewer objected that the ads were misleading, because they implied that Pride Oils' vegetable and sunflower oils had health benefits. We asked Pride Oils, Zee TV and Star TV whether they could substantiate the claims "celebrating healthy days" and "gives you cholesterol free health".

### **ADJUDICATION:** Complaint upheld

Westmill Foods, a company that acquired Pride Oils on 1 July 2005 (after the ASA received the complaint about the ads), acknowledged the concern about the claims and language featured in the ads. They said the ads would not be shown again, because they did not believe the evidence required to substantiate the claims was suitably robust. Westmill Foods said they were confident that all future marketing material for Pride Oils' products would comply with the relevant Codes.

Zee TV, stating their reasons for clearing the ads for broadcast, said Pride Oils' vegetable and sunflower oils had the claim "cholesterol free" on their packaging and were sold in various shops. They said the claim would have had to be proven to satisfy the regulations of other bodies. They said Pride Oils was a large company, which had been in business in the UK for many years. They said Pride Oils told them they were a member of the National Edible Oils Distributors Association and that, as such, their products were checked for

quality. Zee TV said the ads had been successfully running on other Asian channels. It said the ads had not been broadcast in their current form for a few weeks before the complaint was received by the ASA.

Star TV said it had received an assurance that the ads complied with the CAP (Broadcast) TV Advertising Standards Code and said the ads were already being broadcast on other channels. They said they had recently employed a new consultant to advise them on clearance issues and that their processes were now more stringent. They said that when their consultant saw the ads (prior to the ASA complaint being received) he expressed concern over their content and they were withdrawn as a result. Star TV said they would ensure proper substantiation was sought for claims in future.

We noted that the ads had been produced prior to Westmill Foods taking over Pride Oils and welcomed the decision taken by Westmill Foods to withdraw them. We noted that neither Zee TV nor Star TV had seen evidence to support the claims made in the ads and that no evidence had been submitted to us. We considered that the claims implied that Pride Oils' vegetable and sunflower oils had health benefits. Because no substantiation was submitted in support of the claims, we concluded that the ads were in breach of CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising), 5.2.1 (Evidence), 5.2.2 (Implications), and 8.3.1 (Accuracy in food advertising). We reminded the broadcasters of their responsibilities under section (b) of the Introduction to the Code, which states "It is the responsibility of the broadcasters themselves to ensure the advertising they transmit complies with both the spirit and the letter of the Code."

**ADVERTISER:** St Peter's Andrology Centre  
**LICENSEE:** Reading 107FM  
**Date:** 28 September 2005  
**Media:** Radio  
**No. of complaints:** 1

### **COMPLAINT**

An ad for St Peter's Andrology Centre said "This message is brought to you by Reading Andrology Research. Men, are you and your partner having difficulty with sexual intimacy? Are your sexual relations not lasting long enough? There's a condition that many men experience called premature ejaculation, also known as PE. Our physicians are conducting a research study of an investigational new drug for PE. To find out more call this number ... Qualified participants must be at least 18 years of age, have experienced PE for at least 6 months and be in a stable relationship with just one female partner. Volunteers will receive all study related care at no charge. For confidential information about the premature ejaculation study please call Reading Andrology Research at ... The first step is your call."

One complainant said that they heard the ad on Reading 107FM at 6.30 pm on a Sunday evening. They felt that the content of the ad was inappropriate for this time as their children, aged 6 and 8 years, were listening.

### **ADJUDICATION:** Complaint upheld

The Radio Advertising Clearance Centre (RACC) said that they cleared the ad with the advice that it should only be broadcast between 7 pm and 6 am.

Reading 107FM said that the ad had been incorrectly input into its system and, as a result, the ad had aired before 7pm. It said that it had since implemented procedures to ensure that such an error did not occur in the future.

We noted that the RACC had advised that the ad should not be broadcast before 7pm and considered this an appropriate restriction. We acknowledged that the ad had been broadcast outside these times due to human error and welcomed the licensee's assurance that it would not happen again. Nonetheless, we considered that the ad contained material that was likely to be considered by parents to be unsuitable for children and that it had been broadcast against the scheduling advice of the RACC.

The scheduling of the ad breached CAP (Broadcast) Radio Advertising Standards Code section 2, rule 8 (Scheduling).

**ADVERTISER:** Superfast Ferries  
**AGENCY:** Family  
**Date:** 28 September 2005  
**Media:** Television  
**No. of complaints:** 2

### **COMPLAINT**

An ad for Superfast Ferries with a voiceover that said "Take Scotland's only direct ferry service to Europe this August and your vehicle goes free. Book on Superfast.com, call ... or contact your travel agent."

A viewer and Smyril Line Ferries complained that the ad was misleading because Smyril Line ran summer services between Lerwick on Shetland and Bergen in Norway and Hanstholm in Denmark.

### **ADJUDICATION:** Complaints upheld

The Broadcast Advertising Clearance Centre (BACC) said that they had cleared the ad having been assured by Family that the Superfast service from Rosyth to Zebrugge was the only direct service between Scotland and Europe.

Family said that as Smyril sailed weekly on North Atlantic routes and Superfast sailed daily on the North Sea the two companies could not be considered to be competitors. It said that as Lerwick was the capital of the Shetland Islands it was arguable whether or not one could consider the Smyril route to be direct from Scotland.

We considered that Lerwick was part of Scotland and that the routes between Lerwick and Bergen and Lerwick and Hanstholm were direct ones between Scotland and Europe. We considered that the claim that Superfast ran the only such service was misleading.

The ad breached CAP (Broadcast) TV Advertising Standards Code rules 5.1 (Misleading advertising) and 5.2.1 (Evidence). It must not be shown again in its present form.

**ADVERTISER:** Unilever Home and Personal Care UK Ltd

**LICENSEE:** ITV

**Date:** 28 September 2005

**Media:** Television

**No. of complaints:** 1

### **COMPLAINT**

An ad for Domestos Pipe Unblocker featured a grey, monster-like creature, representing a germ, talking to the camera. The creature began moving toward the camera and said "The greatest mistake you can make is to underestimate your adversary, and they have underestimated us". The creature's face came close to the camera and started coughing, showing large, pointed teeth, then moved away from the camera again. "They thought some punk could just smash through everything we'd built amongst the hair and scum, destroy our homes, blast us out just like that." The creature moved towards the camera and there was another close up of its face. It then said "Well, I'm still here", before being hit with a blast of water. The screen went white and a voiceover said "New fast acting Domestos Pipe Unblocker". The product then appeared on screen and the voiceover said "Millions of germs will die".

One viewer, who saw the ad before CITV, complained that the ad was unsuitable to be shown around children's TV programmes.

### **ADJUDICATION:** Complaint upheld

ITV said the Broadcast Advertising Clearance Centre (BACC) had cleared the ad and advised that it should not be shown in or around programmes made for or specifically targeted at children. They said they took care to ensure all their transmissions complied with the Broadcast Codes. They explained the ad was shown after the programme Have I Been Here Before and before the programme ITV Wales Weather, which was broadcast just before CITV. There was no commercial break between ITV Wales Weather and CITV. The ad therefore did not appear in an ad break adjacent to CITV. They said that according to BARB figures, the TV rating for the ad break was virtually zero for child viewers. They therefore considered that the ad was unlikely to have been seen by a significant number of children.

We acknowledged ITV's comments but were concerned that the ad appeared almost immediately before CITV. There was no commercial break between the ITV Wales Weather and CITV and less than two minutes between the ad and the start of CITV. It was possible that children would tune in a few minutes early to catch the start of CITV and see the ad. We considered that an ad that carried a scheduling restriction such that it should not be shown in or around programmes made for or specifically targeted at children should not have been shown so close to the start of CITV.

The ad was found in breach of CAP (Broadcast) TV Advertising Standards Code rules 7.3.6 (Distress), 7.3.7 (Use of scheduling restrictions) and CAP (Broadcast) Rules on the Scheduling of Advertising rule 4.2.3 (Treatments unsuitable for children).