

Advertising complaints bulletin

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OFFICE OF COMMUNICATIONS

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Introduction

The Communications Act allows for the Codes of the legacy regulators to remain in force until such time as Ofcom has developed its own Codes. These will be published at the end of 2004 following a full public consultation.

The Codes currently in force for advertising are:

- **Advertising and Sponsorship Code**
Radio Authority
- **Advertising Standards Code**
Independent Television Commission
- **Rules on the Amount and Scheduling of Advertising**
Independent Television Commission

These are all available on the Ofcom website: www.ofcom.org.uk

The cases have been considered against the above Codes.

- Some advertisements will have breached the relevant code.
- Others will not have breached the code.
- There may also be occasions when advertisements have breached the Codes but no action is necessary, since Ofcom recognises that a broadcaster has taken appropriate action in response to an issue (to rectify or bring about the rectifications of an error). Ofcom will consider that these complaints require no further action. Even when such action has been taken, Ofcom may still consider it appropriate to find the advert in breach of the Code due to the seriousness of the Issues Involved.

The layout of the report reflects these distinctions.

Breach of relevant Code

Misleading

Courts RPM3 Advertising

Issue A viewer saw an advertisement for the Courts sale, which contained a picture of a two and three seat brown leather sofa suite available at £795. The viewer went to the store to buy a suite but found that the suite in the advertised colour was more expensive than the advertised price.

Response Courts said that the sofas in the advertisement were available in three different grades of leather. The price promoted in the advertisement was for grade ten leather. The photograph had been of a suite in superior grade 20 leather.

It explained that normally (but not in this case) the different grades look exactly the same. Therefore, on television, or in a newspaper advertisement, it was impossible to tell the difference between the alternative grades provided that the basic colour was the same. The photographs for this advertisement had been taken in the belief that the grade 20 leather was the same basic colour.

Courts apologised for the mistake and agreed to amend the advertisement. It also offered to supply the customer with a suite in grade 20 leather at the price offered in the advertisement.

Decision The advertisement had been in breach of Advertising Standards Code Rule 5.1 (Misleading) because the sofas featured in the advertisement had not been available at the price advertised. However, Ofcom noted that Courts had apologised and offered to supply the customer the sofa at the sale price.

Conclusion We deemed no further action necessary.

Misleading

The Very Best of Cher CD Warner Music UK

Issue An advertisement for 'The Very Best of Cher' CD included video clips of the singer performing, while various song titles appeared on screen. A viewer complained that having bought the compilation, one of the named songs was not on the CD.

Response Warner Music explained that there were two different versions of 'The Very Best of Cher'. The recently launched version, without 'Song for the Lonely,' was the more widely available. The other songs mentioned in the commercial were on both. The advertiser apologised for the error and arranged for the advertising to be re-edited.

Decision It appeared from the advertisement that 'Song for the Lonely' was included on the advertised CD when in fact it was only available on some versions. It was therefore in breach of Advertising Standards Code Rule 5.1 (Misleading).

Conclusion We deemed no further action necessary as the advertisement had been edited.

Misleading

Michael Jackson Number Ones DVD

Target NMI

Issue A viewer complained that an advertisement for Michael Jackson's DVD 'Number Ones' contained original footage of the song 'Smooth Criminal'. However, these pictures were not actually on the DVD. The complainant thought it was misleading to show original footage for the song that did not appear on the DVD.

Response Sony Music explained that there were two videos made for the song 'Smooth Criminal'. Due to an administrative error a few shots from one video had been included in the advertisement but they did not appear on the DVD. It apologised for the error and explained that it had had no intention of misleading viewers.

Decision We accepted that Sony Music had no intention of deliberately misleading viewers but nevertheless the advertisement had been in breach of Advertising Standards Code Rule 5.1 (Misleading) because it showed sequences from a video that did not appear on the advertised DVD. BACC advised the advertiser that the advertisement was unacceptable in its current form.

Conclusion Ofcom deemed no further action necessary.

Offensive

Hastings College Southern FM

Issue A locally cleared advertisement broadcast on Southern FM encouraged people to come to a forthcoming College open evening. The advertisement was a spoof of an upbeat fictitious superstore recruitment commercial, constantly interrupted by the comments of an unimpressed College representative. Before he detailed the event and invited listeners to “Go ahead – discover *your* future,” he referred to “checkout people” as “morons” and suggested that employment in a superstore was “the future you deserve... unless you discover Hastings College first.”

A complainant believed the advertisement derided and demeaned checkout staff.

Response Hastings College said that no offence had been intended, apologised and added: “We are deliberately an inclusive college and never exclude anyone.” Capital Radio Group expressed their “concern and apologies” to the complainant.

Decision While the intended humour was clear, the College representative denigrated checkout staff and this was a breach of Advertising and Sponsorship Code Section 2 Rule 7.

Conclusion The advertising is not to be repeated.

No breach of relevant Code

Harmful

Mini WCRS

Issue A total of 40 viewers complained about an advertisement which used bizarre and surreal imagery to sell the Mini car. It began with the following mock-warning text and voiceover:

"This commercial for Mini contains scenes of extreme violence and has nudity from the very beginning. Viewers of a nervous disposition are asked to look away... now."

The advertisement then showed a middle-aged couple slapping a pedestrian on the back of the head with a large dead fish as they drove past him. All three characters were naked, but seen only from behind or from the neck or chest area upwards.

Although some complainants mentioned the nudity, most were concerned with the slap, which they thought might influence motorists to behave violently towards other road users. Five viewers complained about the scheduling of the advertising in breaks during *Wall of Silence*, a factual drama shown on Channel 3 dealing with a violent and fatal assault on a teenager.

Response The Broadcast Advertising Clearance Centre had imposed an 'ex kids' restriction because of the mild violence and nudity, although that was not directly relevant to the issues that the complainants raised. While we accept there was no obvious justification in the advertisement for the slap, we believe it was sufficiently ridiculous and improbable to be copied. We did not think that there was a sufficient link between the advertisement and the surrounding Channel 3 drama to justify a scheduling restriction.

Decision There was no breach of the Advertising Standards Code.

Conclusion No further action

The following table summarises complaints and interventions arising from breaches of the Rules on the Amount and Scheduling of Advertising:

Licensee	Sales House	Comments/Explanation
C4	C4	Advertisement had a post 7.30pm restriction but was shown at 3.12pm due to human error.

Amendment to Advertising Standards Code

Following the implementation on 26 February of the Betting & Gaming (Northern Ireland) Order 2004 (SI 2004 No. 310 (N.I.1)), all restrictions on the advertising of Bingo in Northern Ireland have now been removed. Consequently, minor amendments to the Advertising Standards Code (Rule 3.1 and Rule 11.6) and the Advertising and Sponsorship Code (Rule 26) have been made which take account of this change.