

Advertising complaints bulletin

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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 advertisement 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

Adult Channel Subscription Offer

Issue An advertisement offered subscriptions to The Adult Channel for £9.99 a month, and to a further two channels for an additional £5 (a total of £14.99). A viewer complained that the advertisement did not make it clear that there was a compulsory minimum subscription of 12 months.

Response The Adult Channel explained that due to an error the information about the 12-month minimum subscription period had been omitted from the advertising. However, it pointed out that customers would be given this information at time of payment.

Decision We require that all important limitations and qualifications be made clear in the advertising itself. This is regardless of what information is given to a customer when he or she contacts an advertiser. As there was no indication in the advertisement that subscription was for at least 12 months, we found it to be in breach of Advertising Standards Code Rule 5.2.3 (Qualifications).

Conclusion We required that the advertising should not reappear without the important qualification to the offer being made clear in the advertisement.

Misleading

ntl digital interactive offer

Issue An ntl cable subscriber complained about an interactive offer of pay-per-view films for 1p. The film he chose from those offered was not available. When he telephoned ntl customer services, staff had no knowledge of the offer. He considered the advertisement had been false and misleading.

Response We asked ntl for details of the offer and any conditions or limitations that were attached to it. ntl apologised and said that an error with the interactive link had resulted in customers being unable to take up the offer. As soon as the error was identified, it had been withdrawn from the live service.

Decision As the advertised offer was not available we found the advertising in breach of Advertising Standards Code Rule 5.1 (Misleading advertising).

Conclusion We required that the advertising should not reappear unless the offer is available.

Misleading

Del Prado – A Season of Opera Abbott Mead Vickers BBDO Ltd

Issue In an advertisement for the first issue of ‘A Season of Opera’, viewers were told that, “part one includes booklets and two DVDs – La Boheme, starring Pavarotti, and La Traviata...”

A viewer said that La Boheme was not included in the first issue and that the “magazine states that... the Pavarotti DVD advertised is only available in a future edition.” She added that she had called the advertiser, which had admitted the error.

Response The Broadcast Advertising Clearance Centre (BACC) confirmed that the advertisement had been removed from air.

The advertiser’s agency said “details of the advertising were sent to the BACC in good faith,” and that it “first became aware of the error when they received the complaint.” It added that “the discrepancy was a genuine mistake caused by an internal communication breakdown,” and offered the complainant “a complimentary copy of La Boheme by way of an apology.”

Decision The advertisement had been misleading and in breach of Advertising Standards Code Rule 5.1.

Conclusion The advertisement must not be shown again in its present form.

Misleading

Pizza Hut Abbott Mead Vickers BBDO Ltd

Issue	<p>An advertisement for Pizza Hut claimed “Now at Pizza Hut we’ll deliver a large pizza and all this (referring to potato wedges and chicken wings) for just £12.99. With a gigantic two litre bottle of Pepsi free. Hot and on time guaranteed.”</p> <p>The onscreen text stated "Excl (Excludes) create your own. Guarantee voucher for one four-topping pizza from same outlet. Participating delivery/collection outlets only.' A logo at the end said 'Pizza Hut Delivery. Hot & on time or free next time."</p> <p>A viewer ordered three pizzas which, he said, arrived late and cold. The delivery person did not have any vouchers but said he would let the shop know that the customer was entitled to free pizzas next time. He rang the next day expecting to get three free pizzas but was told he was only entitled to one, that it would only be free if it was collected, and that it would only be delivered if a minimum order of £7.99 was placed. He was also told that these terms and conditions were explained on the voucher (which he did not receive).</p>
Response	<p>The agency explained that the ‘Hot and on time or free next time’ guarantee referred to all orders placed at participating delivery and takeaway restaurant outlets (and not exclusively to the £12.99 deal as seen in the advert). It added that a voucher would be issued by the delivery person, if the delivery was not hot and on time, entitling the bearer to one free pizza (excluding create your own) per order with up to four toppings, any size, from the same delivery or takeaway restaurant. The free pizza could be collected at no extra charge or it could be delivered provided a minimum order of £7.99 was placed. The agency believed that important limitations and qualifications were made clear in the broadcast advertisement. It added that although the ‘Pizza Hut Delivery Hot & on time or free next time’ logo did not appear onscreen at the same time as the text; it was clear to viewers that it related to the guarantee voucher for one free pizza.</p> <p>The Broadcast Advertising Clearance Centre said that because the advert was only ten seconds it could only fit in a limited amount of information about the offer's limitations. However, they did not think this was a complex advertisement and all the information the viewer required was present.</p>

Decision We did not think it would be clear to viewers that the text referring to the guarantee voucher related to the 'Hot & on time or free next time' logo.

We therefore felt that viewers would not understand that only one free pizza per order would be offered if Pizza Hut failed to deliver hot and on time.

We believed that the £7.99 minimum order requirement for a free delivery of the free pizza was a significant condition that should have been included in the advertising. We therefore found the advertising in breach of Advertising Standards Rules 5.1 (Misleading Advertising), 5.2.4 (use of the word 'free') and 5.2.5 (Guarantees).

Conclusion The advertising should not be shown again in its current form.

Misleading

Saturday Times

Rainey Kelly Campbell Roalfe/Y&R

Issue An advertisement for the *Saturday Times* newspaper offered, free inside, two unique weekly guides; *The Eye* and *The Knowledge*. A viewer who lived in Chesham, Buckinghamshire, complained that his newspaper did not have a copy of *The Knowledge* inside.

Response The agency advised that the offer of both free guides was only available within the M25 London region. Two commercials were made. One, intended for transmission within the M25 region, had an end shot showing both guides. The other, intended for transmission outside the area, showed only *The Eye*. They said it was likely that the viewer, who lives outside the M25 but on the border of the transmission area, saw the first version.

The Broadcast Advertising Clearance Centre conceded that where there is a risk of overlap in certain areas, offers in advertising should be made clear. It added that, in future, the advertisement featuring *The Knowledge* would carry a disclaimer indicating that it was only available within the M25 area.

Decision The problem of viewers living in one area and seeing an advertisement broadcast in another is not a new one. As the BACC point out, all important limitations including geographical restrictions should be made clear in the advertising. We therefore found the advertising in breach of Advertising Standards Code Rule 5.2.3 (Qualifications).

Conclusion The advertisement should not be shown again in its current form.

The following radio licensees failed to obtain central copy clearance (RACC approval) for the broadcast of a 'special category' of advertisement or sponsorship, in breach of Section 1 Rule 4.6 of the Advertising and Sponsorship Code:

Station	Advertiser	Special category
Real Radio (Yorkshire) (South and West Yorkshire)	Reg Vardy	Consumer credit, investment and complex financial advertising
97.4 Rock FM (Preston & Blackpool)	Saks Hair and Beauty	Health and/or beauty treatments and claims
Northants 96 (Northampton)	The Mortgage Store	Consumer credit, investment and complex financial advertising