

ASA Ruling on Hing Fo International Ltd t/a ALFABAR

 Upheld in part | Poster | 20 March 2024

Background

Summary of Council decision:

Two issues were investigated, of which one was Upheld and one was Not upheld.

Ad description

A poster for ALFABAR, an electronic cigarettes brand, seen in Bristol on 15 December 2023, stated “OUT OF THIS WORLD” in light blue on a black background with a pink graffiti-style graphic. Beneath that were two ALFABAR vape devices, styled to look like alien heads, each with green luminescent eyes. An arrow pointing to the eyes of one of the devices stated “LED light effect eyes”.

Issue

Adfree Cities challenged whether the ad:

1. was irresponsible, because it appealed particularly to people under 18 years old; and

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Response

Hing Fo International Ltd t/a ALFABAR did not respond to the ASA enquiries.

JCDecaux UK Ltd, the media space owner, said the ad had appeared between 5 December 2023 and 1 February 2024. They ensured that the ad did not appear within 100-metres of the nearest school in line with their policy for restriction on ads for e-cigarettes. They sought advice from CAP's Copy Advice team before publication.

Assessment

The ASA was concerned by Hing Fo International Ltd's lack of response and apparent disregard for the Code, which was in breach of CAP Code (Edition 12) rule 1.7 (Unreasonable delay). We reminded them of their responsibility to provide a response to our enquiries and told them to do so in the future.

1. Upheld

The CAP Code required that marketing communications must not be likely to appeal particularly to people under 18. Additionally, they should not feature or portray real or fictitious characters who were likely to appeal particularly to people under 18. We acknowledged that JCDecaux had consulted with the CAP Copy Advice team, whose view was that the ad was unlikely to breach the Code.

The ad featured an image of the product – an electronic cigarette, styled to look like an 'alien' head with green luminescent eyes. An arrow that pointed at the eyes stated "LED light effect eyes". Text in large, bold, light blue letters stated "OUT OF THIS WORLD" over a black background with a light pink squiggle.

The ASA considered the advertised product resembled a child's toy, in both its shape and size, and its green light-up eyes. The ad drew attention specifically to the latter, a feature we considered would be likely to appeal more to children than those over 18, and which presented the device as more of a plaything. We considered the colours and language used, which gave the ad a sci-fi theme, contributed to that overall appeal.

For those reasons we concluded the ad was likely to appeal particularly to people aged under 18

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2. Not upheld

The CAP Code required that ads for electronic cigarettes must not be directed at people under 18 years of age through the selection of media or the context in which they appeared and that no medium should be used to advertise e-cigarettes if more than 25% of its audience was under the age of 18.

The ad was displayed on a billboard near a train station said to be used by a number of children who attended a nearby school. We understood that there was a significant distance between the ad and the nearest school, and that steps had been taken to ensure the ad did not appear within 100 metres of a school. While we acknowledged that children may have seen the ad, we considered it unlikely that people under 18 comprised more than 25% of the audience. We also considered that reasonable steps had been taken to ensure that was the case.

We therefore concluded the ad's placement did not breach the Code.

On that point, we investigated the ad under CAP Code (Edition 12) rule 22.11 (Electronic cigarettes), but did not find it in breach.

Action

The ad must not appear again in the form complained of. We told Hing Fo International Ltd t/a ALFABAR to ensure their future marketing communications for electronic cigarettes did not appeal particularly to people under 18 years of age. We referred the matter to CAP's Compliance team.

CAP Code (Edition 12)

[1.7](#) [22.11](#) [22.9](#)

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