ASA Adjudication on Department of Health

Department of Health t/a NHS

231B Skipton House
80 London Road
London
SE1 6LH

Date:

30 July 2014

Media:

Television

Sector:

Non-commercial

Number of complaints:

18

Agency:

Dare Digital Ltd

Complaint Ref:

A13-218177

Ad

A TV ad for the NHS smoke free campaign showed a man who lit up a cigarette outside his house. A growth appeared on the cigarette which increased in size as he smoked.

The voice over stated "When you smoke, the chemicals you inhale cause mutations in your body and mutations are how cancer starts. Every 15 cigarettes you smoke will cause a mutation. If you could see the damage you'd stop".

Issue

18 complainants and Forest (The Freedom Organisation For The Right To Enjoy Smoking Tobacco Ltd.), a pressure group, challenged whether that claim was misleading and could be substantiated.

BCAP Code

3.13.9

Response

The Department of Health (The DH) said the claim was based on published, peer-reviewed scientific papers from well respected sources; the relevant papers were supplied. They said they had worked with two respected cancer experts who provided advice on the science around genetic mutations. One of the experts was also one of the authors of a paper used to develop the ad. They said they had sent both experts the ad scripts and each claim was discussed with them to ensure the wording was scientifically correct. The DH asked an expert in cancer genetics and genomics to respond further on their behalf. The expert said the paper used for the basis of the claim was supported by additional research which expanded the sample size of lung cancer patients and contained detailed analysis and mutation counts. Furthermore, they said there were now at least 500 lung cancer cases which had had systematic analyses for mutations. They said that certain factors left patterns, or signatures, on mutations and that it was possible to identify those that related to smoking only. They said there was a linear dose-response relationship between the number of mutations and cigarettes smoked which suggested that mutations accumulated steadily, predictably and constantly over time. The advertiser provided a selection of mutation rates, estimated from whole genome sequencing data in smokers with lung cancer which they said showed that the vast majority of those rates fell on or below the line of 15 cigarettes per mutation. They therefore maintained that the genome sequencing already carried out showed there was at least one mutation per 15 cigarettes smoked.

The DH said they had worked with Clearcast who had questioned the robustness of the original research paper. They said Clearcast subsequently discussed the claim alongside additional studies, which had larger sample sizes, with the academics and were reassured that the claim could be substantiated.

Clearcast said the script had been scrutinised by them, their medical consultant and the ad agency. They said in the course of approving the script their medical consultant initially queried the claim believing it was too specific because the initial evidence was confined to one type of lung cancer in one individual who estimated the number of cigarettes they had smoked. However, they said their consultant was later convinced of its accuracy after receiving the two studies that included larger patient numbers, one with around 100 subjects, which supported the original research. He felt that 15 cigarettes was a conservative number.

Clearcast said they were aware the ad was informing the public of an essential message and it was important that the message was correct; they said they would not have approved the script without their consultant’s approval.

Assessment

Not upheld

The ASA acknowledged that The DH had provided a range of peer-reviewed papers. We took expert advice. We noted that the papers supported higher mutation rates among smokers versus non-smokers. We noted that not all the papers presented discussed smoking and the linear dose-response relationship used to calculate mutation accumulation. However, we were satisfied that the papers indicated that a broadly linear dose-response relationship between mutations and cigarette smoking existed. We considered the selection of estimated mutation rates per cigarette smoked derived from the whole genome sequencing data in the papers.

One of the papers provided supported the basis of the claim in the ad, that "every 15 cigarettes you smoke will cause a mutation". That paper was based on a sample derived from the bone marrow metastasis of one patient; we understood that the sample had histological features associated with tobacco smoking and therefore it was possible to identify mutations that arose specifically from smoking.

Additional data supplied by the DH included a selection of estimated mutation rates from whole genome sequencing of 21 subjects. It showed that the majority of those cancerous cells sequenced had more than one mutation per 15 cigarettes smoked, and that only a small number had a mutation rate per cigarette smoked that was less than the number claimed. The data suggested that the average number of mutations per cigarette smoked was significantly higher than indicated by the 15 cigarette figure in the ad and we therefore considered that the DH had presented a conservative figure which ensured the claim was not exaggerated.

Because the ad made a conservative claim, which was supported by the evidence, we concluded that the ad was substantiated and unlikely to mislead.

We investigated the ad under BCAP Code rules 3.1 (Misleading advertising) and 3.9 (Substantiation) but did not find it in breach.

Action

No further action necessary