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ASA Adjudication on E-Cig Ltd

E-Cig Ltd t/a Neo e-cigarette

Unit 6, Lysander Mews
Lysander Grove
Archway
London
N19 3QP

Date:

12 November 2014

Media:

Poster

Sector:

Leisure

Number of complaints:

23

Complaint Ref:

A14-278009

Ad

A poster, for Neo e-cigarettes, showed an image of a woman using an e-cigarette and blowing vapour into a man's face. Headline text stated "neo E-CIGARETTE" followed by the claim "SMOKING, REDEFINED". The ad also included images of the packaged product in the bottom left-hand corner.

Issue

Twenty-three complainants, who believed that it was not clear, particularly to children, that the

advertised product was an e-cigarette rather than a tobacco product, challenged whether the ad was irresponsible, because it promoted tobacco smoking.

CAP Code (Edition 12)

1.3

Response

E-Cig Ltd stated that the ad had been created with a number of key elements incorporated to distinguish the featured Neo e-cigarette from a traditional tobacco cigarette. They highlighted that the word "E-cigarette" featured prominently in the product logo, and that the logo was shown twice on the ad: once in the headline text and again on the product packaging, both of which had prominent foreground positions. They said the ad did not include the words "tobacco" or "cigarette", but instead showed a woman using a Neo e-cigarette that had been removed from its packaging. The product was long, black and not aflame while in use, which was in stark contrast to tobacco cigarettes which were universally white, shorter in length and aflame or smouldering while in use. The ad also featured an adult man who was shown with vapour being blown into his face. They highlighted that he was not visibly perturbed by the vapour, in the way a person would be bothered by tobacco smoke. The ad also showed the product in its packaging in the bottom left foreground, and a USB charger was clearly shown with the product, indicating that it was a rechargeable electronic device, unlike a tobacco cigarette. As all those elements were accompanied with the text "SMOKING, REDEFINED", they believed the audience would be provoked into questioning their initial concept of what the image showed, and realise that it did not depict the smoking of a tobacco product. They believed that a reasonable person would recognise that the ad promoted an e-cigarette as opposed to a tobacco cigarette, and that it did not promote or glamorise tobacco smoking.

In relation to children, E-Cig said, when creating the ad, they were aware of the challenge of ensuring that it did not appeal to children, but conveyed a responsible message to adult audiences. They said they had taken inspiration from the precedent set in the alcoholic beverage industry, which faced a similar challenge. As well as re-emphasising the elements of the ad which they believed made clear the nature of the product, including the name and image of the product, they said the ad was designed with plain dark colours covering most of the artwork, and therefore did not appeal to children. Similarly, they highlighted that the models were clearly mature and were deliberately styled in a way that would not be attractive to young children. Finally, they said the footer displayed the text "contains nicotine" and "18+", which made clear the ad was not intended for children.

Clear Channel stated that they had not received any complaints directly about the ad.

Assessment

Upheld

The ASA noted that the ad included text stating "neo E-CIGARETTE", and images of the product in use and when packaged. We acknowledged that the product itself did not resemble a traditional tobacco cigarette, and that the shot of the packaging showed a USB charger. We noted, however, that the most prominent text stated "SMOKING, REDEFINED", and appeared above the central image of a woman blowing what we considered most people would believe to be smoke into a man's face. We considered that the main focus of the ad was the "smoke" and, in combination with the headline text, the image created a strong association with traditional tobacco smoking. Therefore, we had concerns that many of

those who saw the ad, especially children, would mistakenly believe that the product was a tobacco cigarette.

The couple appeared to be wearing evening dress, and the woman was wearing bright red lipstick which stood out against the dark background. We also noticed that she was holding the e-cigarette in an elegant manner reminiscent of a cigarette holder. We considered that those elements gave the ad a sultry and glamorous tone. As stated above, we also considered that the ad, and in particular the image of the woman blowing "smoke" into the man's face, relied heavily on the iconography of tobacco smoking. Therefore, irrespective of whether consumers recognised that the product was an e-cigarette, because the ad adopted imagery associated with tobacco smoking and presented it in a glamorous and aspirational way, we considered that it indirectly promoted tobacco smoking.

Because we considered the ad did not make sufficiently clear that the product was an e-cigarette and, by appropriating the imagery of tobacco smoking and presenting it in a positive light, indirectly promoted tobacco smoking, we concluded that it was irresponsible.

The ad breached CAP Code (Edition 12) rule 1.3 (Responsible advertising).

Action

The ad must not appear again in its current form. We told E-Cig Ltd to ensure that they made clear that they were marketing e-cigarettes in future, and to not indirectly promote tobacco smoking in future.