

ASA Adjudication on Nicocigs Ltd

Nicocigs Ltd

251 Holly Lane
Erdington
Birmingham
B24 9LE

Date:

5 February 2014

Media:

Transport

Sector:

Leisure

Number of complaints:

2

Complaint Ref:

A13-245645

Ad

A poster for Nicolites electronic cigarettes. The headline claim stated "KICKS BUTT". Smaller text stated "THE UK'S FAVOURITE ELECTRONIC CIGARETTE. A SMOOTH, SATISFYING FLAVOUR THAT HITS THE SPOT!". The ad also featured an image of the product.

Issue

Two complainants challenged whether the ad was misleading, because it implied that the product could be used as a smoking cessation aid.

CAP Code (Edition 12)

[12.112.113.13.7](#)

Response

Nicocigs Ltd said the phrase "Kicks Butt" was not intended, and in their view did not imply, that the

product could be used as a smoking cessation aid. They said the campaign was linked with their sponsorship arrangement with Birmingham City Football Club and the allusion to kicking related specifically to football, which was emphasised by the addition of the words "Hits the spot" – a play on words that referenced the flavour of the product and a football being kicked and hitting the spot in the back of the net. As the campaign was local to Birmingham, Nicocigs felt this connection would be understood. They added that the play on the word "butt" was a well-used phrase in the context of football (to "kick someone's butt" on the field of play) and the obvious advantage of an electronic cigarette was that those using them do not leave butts on the ground, removing an unsightly and unpleasant litter nuisance.

They said "Kicks Butts" was not a phrase that suggested any medicinal benefit and therefore the product did not require, nor did it have, any MHRA marketing authorisation. In response to concerns from complainants about the similarity between "KICKS BUTT" and the quitting smoking campaign 'Kick Butt', Nicocigs said they had no knowledge of the Kick Butt campaign and did not intend to associate themselves with that project, nor did they expect that association to be made.

Nicocigs said if it was felt that additional wording explaining any aspect of their product would assist, they would be very willing to consider it.

Assessment

Upheld

The ASA noted that Nicocigs had a sponsorship arrangement with Birmingham City Football Club and we agreed that the phrases "kicks butt" and "hits the spot" could be associated with sport, and football in particular. While we considered Nicocigs' assertion that the poster appeared in Birmingham and therefore this local connection would be recognized, we understood that one of the complainants had seen the ad in Liverpool. We also noted that the ad did not feature any sports or football imagery, nor was the association with Birmingham City Football Club specifically mentioned.

We noted Nicocigs' comment that people who used electronic cigarettes did not drop cigarette butts and we considered that the claim "KICKS BUTT" could be a reference to this. However, we also considered that the word 'kick' had connotations of quitting or beating an addiction, and was commonly used in phrases such as "kick the habit". We were concerned that, given the similarity between the phrase "KICKS BUTT" and the smoking prevention campaign "Kick Butt", consumers were likely to believe that the product was in some way associated with Kick Butt, and they therefore were likely to believe that the product was suitable for use as a smoking cessation device.

Because we considered the ad implied that consumers could use the product for smoking cessation and we understood that the product had not been licensed by the MHRA for that purpose, we concluded that the ad breached the Code in that regard.

The ad breached CAP Code (Edition 12) rules 3.1 (Misleading Advertising), 3.7 (Substantiation), 12.1 and 12.11 (Medicines, medical devices, health and beauty products).

Action

The ad must not appear again in its current form. We told Nicocigs Ltd not to imply that their product could be used as a smoking cessation aid in future advertising. We also advised them to seek CAP Copy Advice for their future advertising.

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