

ASA Adjudication on Vapourlites Ltd

Vapourlites Ltd

Novus Seaham
Spectrum 7
Spectrum Business Park
Seaham
Co. Durham
SR7 7TT

Date:

2 April 2014

Media:

Regional press, Internet (on own site)

Sector:

Leisure

Number of complaints:

2

Complaint Ref:

A13-252488

Background

Summary of Council decision:

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

Ad

A regional press ad, and claims on a website, for electronic cigarettes:

a. The regional press ad showed the product, which resembled a conventional cigarette, above an outstretched hand. The hand was dressed in a red sleeve with a white fur cuff and a white glove.

Text in the ad stated "LIGHTER ON YOUR POCKET LIGHTER ON YOUR HEALTH. RECOMMENDED BY SANTA & PHARMACIES NATIONWIDE www.vapourlites.com ELECTRONIC CIGARETTES CONTAINS NICOTINE, WHICH IS ADDICTIVE, YOU MUST BE OVER 18 TO PURCHASE". Additional text visible on the pack, stated "A HARM REDUCTION ALTERNATIVE TO SMOKING". Small print at the bottom of the ad indicated that the product was not a smoking cessation aid.

b. Claims on the website www.vapourlites.com stated "LIGHTER ON YOUR POCKET LIGHTER ON YOUR HEALTH RECOMMENDED BY SANTA & PHARMACIES NATIONWIDE" along with the same imagery shown in ad (a).

Issue

1. Two complainants challenged whether the ads were irresponsible, because the references to "Santa" were likely to appeal to children.
2. One complainant challenged whether the claim "RECOMMENDED BY ... PHARMACIES NATIONWIDE" was misleading and could be substantiated.
3. The ASA challenged whether the claim "A HARM REDUCTION ALTERNATIVE TO SMOKING" was misleading and could be substantiated.

CAP Code (Edition 12)

[1.312.13.13.473.7](#)

Response

1. Vapourlites Ltd stated that the image of Santa or the hand of Santa was not used to attract children, but to embrace Christmas; like using a Christmas tree or anything else that reflected the Christmas spirit. They commented that the ad made it sufficiently clear that the product contained nicotine, which was addictive and could only be purchased by consumers aged over 18 years and was therefore, targeted at the appropriate demographic.

2. Vapourlites stated there were 5,000 independent pharmacies in the UK and that they were the largest supplier of electronic cigarettes to these businesses. They commented that their distributors concluded in November 2013 that they held 60% of the market.

Having spoken with two of their distributors for independent pharmacies, Vapourlites submitted testimonials commenting on the number of independent pharmacies which sold their electronic cigarettes. Furthermore, Vapourlites commented that they also supplied their electronic cigarettes to three other distributors and directly to other independents.

3. Vapourlites stated that various reports had illustrated that electronic cigarettes contained none of the 4,000 chemicals found in normal cigarettes and were therefore, less harmful. They specifically referred to Action on Smoking and Health's (ASH) briefing on electronic cigarettes.

Assessment

1. Not Upheld

The ASA noted that the ads featured a hand which appeared to belong to Santa, along with the text "RECOMMENDED BY SANTA". While we acknowledged that Santa would be recognisable to and popular with children, we noted that the ad was shown in media not primarily targeted at children and merely depicted Santa's hand. Therefore, we concluded that the ads were not irresponsible.

On this point we investigated the ad under CAP Code (Edition 12) rule 1.3 (Social Responsibility), but did not find it in breach.

2. Upheld

We acknowledged Vapourlites stated they were the largest supplier of electronic cigarettes to independent pharmacies and that they held 60% of the market share in that particular sector. However, we considered that the claim "RECOMMENDED BY ... PHARMACIES NATIONWIDE", suggested that their products were endorsed or promoted by both independent pharmacies and pharmacy chains. We had not seen evidence to support this claim and concluded that it was unsubstantiated and misleading.

On this point, the claim breached CAP Code rules 3.1 (Misleading Advertising), 3.7 (Substantiation) and 3.47 (Endorsements and Testimonials).

3. Upheld

We acknowledged Vapourlites' reference to ASH's briefing on electronic cigarettes and their comments that electronic cigarettes contained significantly less amounts of chemicals than traditional cigarettes and for that reason, were less harmful. However, they did not provide any robust clinical evidence to support the claim that their electronic cigarettes were "A HARM REDUCTION ALTERNATIVE TO SMOKING" and therefore, we concluded that the claim was misleading and unsubstantiated.

On this point, the claim breached CAP Code (Edition 12) rules 3.1 (Misleading Advertising), 3.7 (Substantiation) and 12.1 (Medicines, Medical Devices, Health-Related Products and Beauty Products).

Action

The ads must not appear again in their current forms. We told Vapourlites Ltd that their future advertising must not claim that their electronic cigarettes were "RECOMMENDED BY ... PHARMACIES NATIONWIDE" and "A HARM REDUCTION ALTERNATIVE TO SMOKING", unless they could be substantiated with robust evidence.