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Legal and Regulatory Update

ASA brands 'misleading' energy saving light bulb ad

Omar Bucchioni

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doi:10.1057/dddmp.2009.37

Who: ASA and J D Williams & Company Ltd t/a House of Bath

Where: United Kingdom

When: 16 September 2009

Law stated as at: 30 September 2009

What happened

Recently the Advertising Standards Authority (ASA) investigated a complaint in respect of a mail order catalogue from House of Bath. In particular, the ASA focused its attention on a section headed 'Energy saving long life bulbs'. Several energy saving bulbs were offered, under headings such as 'No Bigger Than a Standard Bulb', 'Replicates Natural Daylight', 'Great Value Only £2.50 each' and 'Replaces Halogen Bulbs'.

For more information please switch to:

http://www.asa.org.uk/asa/adjudications/Public/TF_ADJ_46935.htm.

The ASA received a complaint that challenged whether the catalogue was misleading, because it did not clarify that many energy saving light bulbs were incompatible with dimmer switches.

In their response to the ASA, House of Bath explained that they had not tried to conceal information about energy saving light bulbs in their ad and that they believed all significant information had been included.

The House of Bath felt that the extent of information they could include to explain why any particular product might not be suitable for a buyer was limited.

In any case, all House of Bath products were covered by a 28 day returns policy so that if a customer bought a product that turned out not to be suitable they could return it for a full refund or replacement.

The ASA found that it was not possible to use dimmer switches in conjunction with all energy saving light bulbs, and that none of the products featured in the catalogue were suitable for use with dimmer switches.

As the relevant section made several references to standard bulbs in comparison with energy saving light bulbs (eg in relation to their size, lumens output and lifespan), the ASA considered that the impression consumers were likely to take from the ad was that the products offered were a direct alternative to the standard bulbs they currently used.

Although this is not stated in so many words by the ASA, the returns policy argument did not wash for the simple reason that if it

Dimmer switch incompatibility confirmed

had worked, it would have rendered even the most misleading mail order ad claim immune from enforcement action.

In the circumstances, the catalogue section complained of, was held to breach clauses 7.1 and 7.2 of the The British Code of Advertising, Direct Marketing and Sales Promotion (the CAP Code) and the complaint was upheld.

Why this matters

The key message here is that by making various claims as to equivalence with standard bulbs, the advertising became misleading unless it also stated ways in which the advertised products were not direct alternatives.

This assessment seems harsh in some ways, but is characteristic of the increased crackdown on 'greenwash' claims and all other advertising that takes advantage of environmental concerns.

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Financial services and sponsored links

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Who: Financial Services Authority and Office of Fair Trading

When: 20 August 2009

Where: United Kingdom

Law stated as at: September 2009

What happened

Following publication of the results of the Financial Services Authority (FSA) review into online sponsored links in November 2007, the FSA and the Office of Fair Trading (OFT) have published a joint guide for advertisers of financial products and services who use them.

FSA/OFT guide

The aim of the guide is to remind advertisers of their responsibilities and to raise standards of practice in this area. The FSA and OFT want to ensure that consumers are treated fairly and not misled when they use keywords to search for information on financial products and services.

Sponsored links are text-based advertisements returned from keyword searches on a search engine or associated website. Depending on content, a sponsored link may be a financial promotion when it induces customers to take out a regulated product or use a firm's services, as may a search engine result if the firm controls the content of a search return.