

ASA Adjudication on CIGIREX

CIGIREX

120 East 34th Street
New York
NY 10016
U.S.A.

Date:

22 December 2010

Media:

National press

Sector:

Health and beauty

Number of complaints:

1

Complaint Ref:

136940

Ad

A national press ad, for CIGIREX, was headed "ATTENTION SMOKERS: a new product with less nicotine, no tobacco or tar, but the same satisfaction!". Text stated "... a breakthrough on how nicotine is delivered to your bloodstream without tar, tobacco and thousands of carcinogens associated with traditional cigarettes ... CIGIREX removes these harmful ingredients associated with traditional cigarettes and delivers a no tobacco, tar free method of how nicotine is delivered into your system ... CIGIREX, a carcinogen-free nicotine oral delivery system with cartomizer technology. CIGIREX looks, feels and smokes just like a real tobacco cigarette with none of the tar or tobacco found in a regular tobacco cigarette ... Today is the first day of rest [sic] of your life. It is time to say NO to being addicted to tobacco cigarettes. If you are among this group, then take your first steps to taking charge of your life, your destiny and your future. CIGIREX along with Together Against Cancer ... invites you to take the CIGIREX Challenge to live tobacco and tar free! ... They will send you ... a special certificate that commemorates the day that you took your first step to freedom and living tobacco-free ... [CIGIREX] may help you stop smoking tobacco cigarettes in a very short period of time with none of the side effects ...

Remember with this product no prescription is required ...". The ad offered a free car charger to customers; text stated "£29 value for FREE".

Issue

1. A reader challenged whether the claim that the car charger had a value of £29 was misleading and could be substantiated.

The ASA challenged whether:

2. the ad misleadingly implied that the product had none of the detrimental effects of smoking tobacco cigarettes and whether that could be substantiated;

3. the ad made medicinal claims for an unauthorised product.

CAP Code (Edition 11)

[3.17.150.150.11](#)

Response

1. CIGIREX said the car charger was supplied free of charge to customers and had a value of £29. They sent the ASA a link to a website selling electronic dictionaries and related software where the charger was listed to purchase at £29.95. They said, because they did not sell the car charger themselves, they were unable to provide any further substantiation.

2. CIGIREX believed that claims, such as "nicotine is delivered to your bloodstream..." and "[CIGIREX] delivers a no tobacco, tar free method of how nicotine is delivered into your system" made clear that CIGIREX contained nicotine. They said, since CIGIREX did not contain tar, tobacco or any carcinogens associated with traditional tobacco cigarettes, it did not have the associated harmful effects from those carcinogens.

3. CIGIREX said the ad made no medicinal claims, or implied claims, that the product would heal or cure any pre-existing condition or improve any health concerns.

Assessment

1. Upheld

The ASA understood that CIGIREX did not sell the car charger, but noted the CAP Code required marketers to hold evidence to prove all claims capable of objective substantiation before submitting an ad for publication. We noted the link to a website selling the charger, but did not consider that that on its own was sufficient substantiation to support the claim that it had a value of £29. Because we had not seen suitable evidence to show that the car charger generally sold for £29, we considered that the ad was misleading on this point.

On this point, the ad breached CAP Code (Edition 11) clauses 3.1 (Substantiation) and 7.1 (Truthfulness).

2. Upheld

We considered that it was clear from the ad that the product contained nicotine and understood that CIGIREX were likely to be less harmful than tobacco cigarettes. However, we also considered that claims, such as "... nicotine is delivered to your bloodstream without tar, tobacco and thousands of carcinogens associated with traditional cigarettes ...", "CIGIREX removes these harmful ingredients associated with traditional cigarettes ...", "... a carcinogen-free nicotine oral delivery system ...", "... none of the tar and tobacco found in a regular tobacco cigarette" and "It is time to say NO to being addicted to tobacco cigarettes", implied that there were no detrimental effects from using CIGIREX. Nonetheless, we understood that nicotine was addictive, raised blood pressure and was a vasoconstrictor, making it harder for the heart to pump through the constricted arteries, and caused the body to release its stores of fat and cholesterol into the blood.

We noted that we had not seen any scientific evidence to support the impression created by the ad that CIGIREX had none of the damaging effects of smoking tobacco cigarettes and considered that the ad had exaggerated the benefits of the product. We therefore concluded that, on this point, the ad was misleading.

On this point the ad breached CAP Code (Edition 11) clauses 3.1 (Substantiation), 7.1 (Truthfulness) and 50.1 (Health and beauty products and therapies).

3. Upheld

We noted the Medicines and Healthcare products Regulatory Agency (MHRA) regarded products that helped overcome tobacco smoking addiction as medicinal. We understood that CIGIREX was an alternative to smoking tobacco cigarettes, but nonetheless considered that claims, such as "Today is the first day of rest [sic] of your life. It is time to say NO to being addicted to tobacco cigarettes. If you are among this group, then take your first steps to taking charge of your life, your destiny and your future. CIGIREX along with Together Against Cancer ... invites you to take the CIGIREX Challenge to live tobacco and tar free!", "They will send you ... a special certificate that commemorates the day that you took your first step to freedom and living tobacco-free ..." and "[CIGIREX] may help you stop smoking tobacco cigarettes in a very short period of time with none of the side effects", gave a strong impression that the product was a way to stop smoking and overcome addiction, and therefore, by definition, medicinal.

We noted the CAP Code required marketers making medicinal claims to hold relevant marketing authorisation and, because we understood that CIGIREX did not, we considered that the ad had made medicinal claims for an unauthorised product. We therefore concluded that, on this point, the ad was misleading.

On this point, the ad breached CAP Code (Edition 11) clauses 7.1 (Truthfulness) and 50.11 (Medicines).

Action

The ad must not appear again in its current form.

Adjudication of the ASA Council (Non-broadcast)

http://www.asa.org.uk/Rulings/Adjudications/2010/12/CIGIREX/TF_ADJ_49539.aspx