

# ASA Adjudication on West Sussex Primary Care Trust

West Sussex Primary Care Trust t/a wellfit.uk.com

1 The Causeway  
Goring-by-Sea  
Worthing  
West Sussex  
BN12 6BT

**Date:**

3 February 2010

**Media:**

Leaflet

**Sector:**

Non-commercial

**Number of complaints:**

1

**Complaint Ref:**

102840

**Ad**

A leaflet, available in a doctor's surgery, was headlined "DON'T RUN WITH THE PACK". Text stated "Smoking: the Facts" and posed a number of questions, including "Did you know that tobacco companies actively target young people to replace older smokers as they die off? Did you know that in some developing countries tobacco companies give out free cigarettes to children and young people to get them hooked? Did you know that you are twice as likely to succeed at stopping if you use NRT? Did you know that you are four times as likely to succeed if you use NRT and see a specialist advisor?"

**Issue**

The complainant challenged whether:

1. the claim "Did you know that tobacco companies actively target young people to replace older smokers as they die off?" was misleading and could be substantiated;
2. the claim "Did you know that in some developing countries tobacco companies give out free cigarettes to children and young people to get them hooked?" was misleading and could be substantiated; and
3. the claims about quitting smoking with nicotine replacement therapy (NRT) were misleading, because she believed consumers would understand stopping smoking to refer to those who had stopped smoking permanently, when she believed that was not the case.

## **CAP Code (Edition 11)**

### [3.17.1](#)

## **Response**

1. Wellfit.uk.com (Well Fit) maintained that tobacco companies invested huge sums of money in marketing their products in order to recruit new customers, who, they believed were nearly always children and young people. They pointed out that two thirds of regular smokers started before 18 years of age, the legal minimum age for the purchase of tobacco, and two-fifths started before the age of 16.

Well Fit maintained that the UK Tobacco Advertising and Promotion Act had been effective in removing overt promotional activity reducing awareness of tobacco marketing amongst the young. They believed, however, that, following the implementation of the Act, the tobacco industry responded by investing more resources into packaging design and point of sale display to communicate brand imagery and increase sales. Well Fit maintained that research showed that this was effective as there was an increase in the proportion of young people aware of new packaging designs from 11% in 2002 to 18% in 2006. They also maintained that it was acknowledged that smokers displaying the branding every time they smoked were making a statement and endorsing indirectly their chosen brand.

Well Fit believed that those arguments were particularly pertinent as they were part of the evidence base for the Health Bill, for which MPs had recently voted in favour. They said the Health Bill 2009 was intended to facilitate a ban on all point of sale advertising and vending machines. They pointed out that they were considered to be the two most significant means of encouraging young people to start smoking that were left for tobacco companies in the UK.

Well Fit pointed to the report of the Scientific Committee on Tobacco and Health in 1998, which presented evidence to show that tobacco advertising and promotion influenced the uptake of smoking by young people. They said evidence presented suggested that the key objective of the advertisers was to expand their market, using various strategies to persuade young people to smoke more. They also pointed to various journal articles providing evidence from tobacco industry documents and other sources, which revealed the strategies used to attract new smokers in the global market.

Well Fit maintained that there was evidence from industry documents in other countries that indirect marketing had been used to target young people. They believed that, although the means were indirect, it could be argued that tobacco companies had nevertheless actively targeted young people by promoting tobacco in such a way that was likely to appeal to that group. They pointed out that evidence also demonstrated that direct methods of targeting young people still took place in some developing countries.

2. Well Fit said the Global Youth Tobacco Survey, conducted by the World Health Organisation and the Centres for Disease Control and Prevention, provided evidence that a significant number of children surveyed in Africa, the Caribbean and Latin America had been offered free cigarettes by tobacco company representatives. They also pointed to a BBC investigation in 2000, which found that a tobacco company was actively targeting young people and teenagers in Africa; cigarettes were reported to have been handed out free at youth events specially organised by tobacco firms during school holidays.

3. Well Fit said a smoker no longer smoking four weeks after their chosen quit date was considered to have stopped smoking under the definition used throughout NHS stop smoking services in England. They said the message on the flyer was intended to inform young people that stop smoking services were effective and available to adults and young people alike.

## **Assessment**

### 1. Upheld

The ASA noted the ad stated "tobacco companies actively target young people ..." and considered that readers were likely to infer that that warning was relevant to them and the current circumstances in the UK. We noted legislation currently prohibited tobacco advertising and other direct forms of promotion but noted what Well Fit characterised as indirect forms of promotion through point of sale displays and packaging were still permitted.

We noted Well Fits argument that such materials could be considered active forms of targeting. However, although we acknowledged that they could be seen by and potentially influence young people, we considered that readers were unlikely to regard such promotional methods as active targeting of young people. We also noted the evidence Well Fit provided relating to other countries and, in particular, the third world, where they maintained that there was clear evidence of active targeting. We considered, however, that such evidence was not relevant to the UK market and therefore did not support the likely inference of the claim.

Because we had not seen sufficient evidence to demonstrate that "tobacco companies actively target young people" in the UK, we concluded that the ad was likely to mislead.

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

### 2. Not upheld

We noted the evidence sent by Well Fit and considered that it supported their assertion that there had been instances of tobacco companies distributing free cigarettes to children and young people in developing countries. We concluded that the claim was unlikely to mislead.

On this point, we investigated under CAP Code clauses 3.1 (Substantiation) and 7.1 (Truthfulness) but did not find it in breach.

### 3. Upheld

We noted the definition used by Well Fit as the basis for their claims for NRTs success rate. We considered, however, that readers were likely to expect that the references to stopping smoking were based on more permanent cessation and not merely the four-week period used under the NHS definition. We therefore concluded that the ad was likely to mislead.

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

### **Action**

The ad must not appear again in its current form.

Adjudication of the ASA Council (Non-broadcast)