[GB] Advertisement Regulation on VOD Services

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The Advertising Standards Authority has been designated by the UK regulator Ofcom as the co-regulator for advertisements appearing on VOD services which are subject to statutory regulation, namely, the Communications Act, 2003, section 368A. Such advertisements are subject to the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code) and, in particular, the Appendix, which allows the ASA to take legal action against the VOD service provider in the event of Code infringements. A revised CAP Code (as well as the Code of Broadcast Advertising, the BCAP Code) comes into effect on 1 September 2010.

Recently, the ASA has delivered two adjudications on VOD service advertisements.

In Red Bull Company Ltd., a complaint was made that the advertisement was irresponsible and offensive, because it showed a young child in a sexual situation, engaging CAP Clauses 2.2 (Responsible advertising), 5.1 (Decency) and 47.2 (Children). The ASA did not find Red Bull in breach.

Interestingly, in coming to this conclusion, the ASA accepted information, supplied by Demand Five, that the audience profiles for the programmes in question ('Neighbours', 'Home and Away' and 'The Mentalist') on linear TV during 2010 showed that the child index was low. Other criteria could have been the time that the programme was originally broadcast or the “family-friendly” content of the programme. ”We [the ASA] considered that children were therefore unlikely to watch those same programmes on VOD and it was therefore unlikely that they would have seen the ad.”

An earlier adjudication, involving Paramount Pictures UK, involved a video-on-demand (VOD) trailer for the 15-rated film “Carriers”, which was seen by the complainant before and during the X Factor final on the ITV Player. The complainant objected that the ad was frightening and inappropriate for display during a family programme, because it had distressed his young children. The ASA noted that “if a VOD programme contained adult themes, ITV had safeguards in place to ensure that it could only be accessed if the viewer was over 18 and, in those cases, an on-screen notice warning of the adult content also appeared prior to the start of the programme.” However, “the X Factor itself on the ITV Player

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was not protected by a restricted content warning, nor was there any warning about the scenes in the trailer."

The ASA concluded that the ad breached CAP Code clauses 2.2 (Responsible advertising) and 9.1 (Fear and distress) and that it must not appear again in its current form.

"Video-on-demand (VOD) advertising", ASA website

http://www.asa.org.uk/Media-Centre/2010/VOD-advertising.aspx

ASA Adjudication on Red Bull Company Ltd.

http://www.asa.org.uk/Complaints-and-ASA-action/Adjudications/2010/6/Red-Bull-Company-Ltd/TF_ADJ_48639.aspx

ASA Adjudication on Paramount Pictures UK

http://www.asa.org.uk/Complaints-and-ASA-action/Adjudications/2010/5/Paramount-Pictures-UK/TF_ADJ_48485.aspx

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