[GB] The Limits of the Claim “as seen on TV”

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A company which sold mattresses made the following claim on one of its websites regarding its products: that they were “as seen on TV”.

The sole complainant challenged whether that claim “As seen in” misleadingly implied that the mattress had featured in editorials or product reviews in those media, contrary to rule 3.1 of the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code) which states, “Marketing communications must not materially mislead or be likely to do so.”

The company provided a copy of an email requesting a donation of a mattress for a Channel 4 quiz show; another (and a letter) connected to a property make-over programme; and the link to the website of an ITV programme which included a video of a segment in which the company’s product was described but not referred to during the video.

The company argued that stating “as seen on TV” was not tantamount to implying that a broadcaster had endorsed or recommended the product (and the average consumer would be able to make that distinction) but “merely iterated the fact that the products had appeared in the media listed and consumers had the opportunity to see the product in those media.”

The Advertising Standards Authority (ASA) upheld the complaint. The adjudication states that the ASA considered consumers would understand the claim “as seen on TV” to mean the programme producers “had taken an editorial decision to feature Ergoflex products, thereby constituting an independent endorsement.” In addition, the ASA considered that consumers would understand that claim “to mean that, where those products were featured, they would be readily identifiable as Ergoflex products.” Such a claim is misleading if the products “merely featured as unbranded props in programmes or in paid-for ads…”

The ASA ordered the company not to repeat the claim in that form which implied that publications or broadcasters endorsed their products when those products had not featured in the relevant media as a result of independent editorial decisions, and where those products were not readily identifiable as Ergoflex products.

ASA Adjudication on Ergoflex Ltd, 21 March 2012

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http://www.asa.org.uk/ASA-action/Adjudications/2012/3/Ergoflex-Ltd/SHP_ADJ_169172.aspx

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