

Advert for zero-powered contact lenses under scrutiny

The Advertising Standards Authority (**ASA**) has upheld a complaint made in relation to adverts for zero-powered (coloured) contact lenses made by a company called iSpyEyes (the "ads"). The ads consisted of several posts which appeared on the Instagram page of reality television personality Marnie Simpson.

The complainant challenged whether the ads misleadingly implied that the products could legally be sold by iSpyEyes in the UK on the grounds that zero-powered contact lenses can only be sold in the UK under the supervision of a registered optometrist, dispensing optician or medical practitioner.

The ASA did not accept arguments raised by iSpyEyes in defence of the ads, namely that they believed that coloured contact lenses were not classified as an optical appliance in the UK and could be sold across the UK and EU without the supervision of an eye care practitioner.

Firstly, the ASA understood the relevant legislation to be The Opticians Act 1989, as amended from 30 June 2005 by the Opticians Act 1989 (Amendment) Order 2005, which explicitly states that sales of zero-powered contact lenses are illegal if they are not sold by (or under the supervision of) a registered optometrist, registered dispensing optician or registered medical practitioner. Whilst iSpyEyes encouraged customers to have a lens fitting by an optician prior to purchase, the ASA was not shown evidence that the lenses were being sold by (or under the supervision of) a registered optometrist, registered dispensing optician or registered medical practitioner. It was therefore illegal to sell the lenses on ispyeyes.com to consumers in the UK and thus the ads were in breach of the CAP Code (rules 1.10.1 and 3.3).

Secondly, it was argued that the ads on the Instagram posts were not directed to any particular territory but rather to Marnie Simpson's fan base in general. Data was produced showing that over half of Marnie Simpson's Facebook followers were from outside the UK and therefore it was argued that the ads couldn't be said to be targeted at UK consumers. The ASA disagreed with this assessment on the basis that:

- ▶ the data available actually showed that Marnie Simpson had significantly more followers based in the UK than any other territory and that no data was provided regarding the geographical location of her followers on Instagram; and
- ▶ ispyeyes.com was clearly aimed at UK customers. For example, prices were in pounds sterling, the shipping options included "*UK next working day delivery*" and the terms and conditions were governed by the "*laws of the UK*" [sic].

Additionally, the ASA considered that the ads breached the CAP Code (rule 4.5) by condoning/encouraging unsafe practice, referring to guidance provided by The Eyecare Trust and the NHS advising against the wearing of any contact lenses that haven't been properly fitted to the eyes due to the risk of infection, trauma or injury.

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