

ASA bans “misleading” Huel and ZOE ads endorsed by Dragon’s Den Star

22 August 2024  Ikra Saghir

On 14 August 2024, the UK Advertising Standards Authority (ASA) ruled that paid-for Facebook ads by plant-based food and drink company Huel Ltd (**Huel**) and personalised nutrition healthcare company ZOE Ltd (**ZOE**) breached its rules.

The ads, from February and March of this year, featured well-known celebrity, entrepreneur, investor and star of the BBC’s Dragon’s Den programme, Steven Bartlett.

- The first Huel ad featured an image of Huel’s “Daily Greens” drink with the text *“‘This is Huel’s best product’ Steven Bartlett”*. The caption read *“Ever wondered what Steven Bartlett actually thinks of Huel’s Daily Greens? Well there you have it”*.
- The second Huel add showed two videos side-by-side with the question “Is Huel actually nice?”. One video showed Steven Bartlett responding with “This is the best product that Huel have released.” The ad then cut to the second video which showed someone preparing and tasting Huel’s “Daily Greens” powder and then saying, “Fair play, Steven, I see your point.” The ad was captioned “Steven Bartlett said it first...”.
- The ZOE ad featured an image of Steven Bartlett with a patch on his arm alongside the quote “If you haven’t tried ZOE yet, give it a shot. It might just change your life – STEVEN BARTLETT.”

Steven Bartlett is a director of Huel and an investor in ZOE. Each of the ads were challenged on the basis of whether the omission of his commercial interest in both companies from the ads was misleading.

What was the response to the challenge?

Both companies stated that an average consumer would generally understand that there was a commercial relationship between a brand and an individual when seeing an endorsement within a paid-for ad taken out by a company. They argued that this removed the need for the exact nature of the commercial relationship to be explicitly stated.

Huel argued that its advertisements were identifiable as ads due to the use of Facebook’s “Sponsored” labelling features whereas ZOE argued that the post was obviously identifiable as an ad and the average consumer would understand that Steven Bartlett was appearing in the ad in connection with a commercial relationship with ZOE.

ZOE also argued that an obligation to specifically disclose the nature of Steven Bartlett’s status as an investor would undermine the principle that the use of #Ad was sufficient to make influencer advertising on owned media obviously identifiable as advertising.

What were the rulings?

The ASA reiterated the need for marketing communications not to mislead consumers by omitting material information; this is information that a consumer requires in order to make an informed decision about a product.

Whilst the ASA accepted that the posts were obviously identifiable as marketing communications it determined that many consumers would recognise the ads as featuring a testimonial from Steven Bartlett about the products and would be unlikely to understand from the ads that he had a financial interest in the performance of the companies.

As a result, the ASA held that each of the ads were misleading for omitting material information about Steven Bartlett's commercial involvement with the companies. The ASA considered such information to be material to a consumer's understanding of the ads and therefore relevant in order for them to make an informed decision about the products.

The advertisements were subsequently banned in the forms complained about.

Key takeaways for advertisers

- Where an individual has a commercial relationship i.e. a financial interest with a brand, this should be communicated to consumers in any endorsements or testimonials given by that individual in ads – especially where the individual is a well-known personality or celebrity.
- Brands should consider whether the omission of any information may impact a consumer's understanding of a product or their decision whether to purchase it. If so, this is material information which should be included in the ad.
- Brands that provide health-related and nutritional products should also ensure that they are complying with the ASA's specific rules around such claims to avoid the risk of non-compliance.

Key contacts



Ikra Saghir

Associate

Ikra.Saghir@brownejacobson.com

+44 (0)330 045 2651

Hayley Smith

Associate

hayley.smith@brownejacobson.com

+44 (0)330 045 2658

Related expertise

Advertising and marketing

Commercial law

Consumer and e-commerce

Intellectual property

