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ASA Files: How Not To Advertise A CBD Food Supplement In The UK

by [David Ridley](#)

A recent ASA ruling against UK firm Supreme CBD highlights the need to be transparent about influencer marketing, as well as to avoid making any medicinal claims for food supplements.

The UK Advertising Standards Authority has upheld complaints made against UK cannabidiol firm Supreme CBD that it was using paid influencers without acknowledging this to be the case, and for making illegal medicinal claims for its products via these influencer ads.

[The case](#) makes clear that companies using influencers must be transparent about any commercial relationship they have with these individuals, OTC advertising review service provider Advercheck Ltd explained.

Companies must also avoid using medicinal or unauthorized health claims for food supplements even via third parties, Advercheck managing director Lucy Rochford told HBW Insight.

'I'll Buy You A Box'

In a series of four X (formerly Twitter) posts last year, UK former footballers with substantial numbers of followers, John Hartson (first two tweets) and Matt Le Tissier (last two tweets), made the following claims for Supreme CBD products:

- “Retweet and comment if you’ve tried these CBD gummy bears before bed they are honestly magic from @Supreme_cbd leave a comment an [sic] I’ll buy one of you a box or anyone else use code Hartson40 at supremecbd.uk/collections/al... believe me they help you sleep so much better with less anxiety.”
- “Hello Dave tell your Mrs I’ll buy her a box to help with her anxiety, @supreme_cbd is changing peoples lives for the better, I’ll DM you details [thumbs up emoji].”

- “I’ve been very sceptical of a lot of things including @supreme_cbd when it was first recommended to me, but it’s honestly a game changer for people with anxiety/depression, any aches/pain or insomnia, my followers can save 40% with code Tiss40 at checkout supremecbd.uk”.
- “These gummies people are just telling me how well they are sleeping after taking these, helps a lot with the anxiety as does the oils” as well as “People are saying how these things are changing their lives.”

Complainants, who understood that John Hartson and Matt Le Tissier were brand ambassadors for Supreme CBD, challenged whether these ads were obviously identifiable as marketing communications and did not make clear their commercial intent.

The ASA additionally challenged whether the stated and implied claims in the ads – that Supreme CBD products could help anxiety and insomnia – were claims to prevent, treat or cure disease which were in breach of the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code).

Influencer Marketing

The ASA in its assessment of the ads said it understood that “there was a financial agreement in place between Supreme CBD and both Hartson and Le Tissier, and that they both received commission for sales generated from the use of their personalized codes by consumers.”

“Those personalized codes were therefore directly connected with the supply of goods provided by Supreme CBD,” the ASA pointed out, and because of that, the X posts were considered ads for the purposes of the Code.

Furthermore, as part of the financial agreement, Hartson had given Supreme CBD direct control of his social media accounts and they were responsible for all his posts about Supreme CBD and both Hartson and Le Tissier had been brand ambassadors for Supreme CBD and were featured within an “Ambassadors section” on the Supreme CBD website.

The role of brand ambassador also constitutes a commercial relationship with Supreme CBD, the ASA noted, and “further underlined that they had a relationship with the brand.”

For all of the above reasons, the ASA said that the X posts in question had a commercial intent and should have been identifiable as such. “However, there was nothing within their content, such as ‘ad’ placed upfront, which made clear to those viewing that these were ads,” it commented.

“This is an area that lends itself to influencer advertising, but as with all influencer advertising,

it needs to be transparent,” added Advercheck’s Rochford.

Medicinal Claims

The influencer ads also made a number of claims that the ASA said it considered would be interpreted by consumers as medicinal claims, which is to say claims that the products in question could prevent, treat and cure human disease.

Specifically, the ads made references to anxiety, insomnia, depression and aches and pains, suggesting that Supreme CBD’s products would help with these conditions.

“Changing people’s lives for the better” is also a strong claim, Rochford pointed out, which “could mean different things depending on the context in which its used.”

In the UK, there is only one CBD-based medicine, Jazz Pharmaceuticals’ Epidyolex, which is available via prescription for children with Lennox-Gastaut syndrome and Dravet syndrome – both rare forms of epilepsy.

The rest of the CBD products sold in the UK, such as those marketed by Supreme, are regulated as food supplements, which means that medicinal claims are not allowed.

Food supplements are permitted to carry health claims, but only those health claims that are listed on the “Great Britain nutrition and health claims (NHC) register” – the UK’s version of the EU register of health claims.

“In other words, these products can’t make medicinal claims, because they aren’t licensed medicines, and they can’t make health claims because there aren’t any authorized health claims for CBD,” Rochford summarized.

History Of Transgression

This is not the first time that CBD products have breached the CAP Code for similar offenses, Rochford noted. There are 6 rulings on the ASA website talking about products containing CBD making medicinal claims, most of which are around pain, anxiety and insomnia.

The ASA has in fact produced a “[factsheet](#)” for CBD marketers that lists some “dos” and “don’ts,” Rochford added.

“Many CBD food products are sold with medicinal claims, which are illegal, regardless of whether there is evidence to support them,” Rochford concluded.

In the end, the ASA ruled that the ads “must not appear in their current form.”

“We told Supreme CBD, John Hartson and Matt Le Tissier to ensure their future ads were obviously identifiable as marketing communications, and that identifiers such as ‘#ad’ were used and were clearly and prominently displayed,” the ASA commented.

“We also told them to ensure their future ads did not state or imply that the products could prevent, treat or cure human disease.”