

Embarrassing regulation breach for the Ministry of Justice

November 2022

Businesses must ensure they are on the right side of the regulations when it comes to advertising or posting on social media.

The reminder follows the news that the Ministry of Justice (MoJ) breached advertising rules when they conducted a recruitment campaign to recruit prison officers.

The photograph used in the advert showed a white prison officer interacting with a black inmate. A complaint was made to the Advertising Standards Authority ([ASA](#)) on the grounds that the advertisement perpetuated negative ethnic stereotypes.

The Ministry of Justice (MoJ) is the government department which is responsible for delivery of the country's justice system and their stated aim is to "protect and advance the principles of justice... to deliver a world-class justice system that works for everyone in society".

When challenged over the advertisement, which ran on Facebook for three months earlier this year, the MoJ explained that the photographs used throughout the ad campaign, of which this was one example, featured real officers and prisoners. They argued that there was no intention to portray a black man as a criminal, it was simply one example of a real person who had been convicted of an offence and should be considered across the whole campaign.

The ASA disagreed with the MoJ's argument, saying the post should be considered as a stand-alone item, as Facebook users would have experienced it. And they decided that the ad was likely to cause serious offence on the grounds of race, by reinforcing negative stereotypes based on the association between black men and criminal activity.

The ASA is the UK's independent advertising regulator and is responsible for making sure that ads across UK media stick to the advertising codes, which are written by the ASA's sister organisation, the Committee of Advertising Practice ([CAP](#)).

The [advertising codes](#) reflect the law, and the CAP code which applies to non-broadcast advertisements, sales promotions and direct marketing communications includes postings on social media.

The ad breached CAP Code (Edition 12) rule [4.1](#) (Harm and offence), which requires particular care must be taken to avoid causing offence in relation to those characteristics protected by the [Equality Act 2010](#), and cover age; disability; gender; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

In their ruling, the ASA said: We considered the ad's focus on the positive qualities of the white prison officer and negative casting of the black prisoner was likely to be seen as perpetuating a negative racial stereotype."

"This ruling demonstrates how important it is to have strong procedures and processes for checking all media activity by an organisation," said corporate partner, [Victoria Holland](#).

She added: "As well as careful checking of advertising and direct marketing campaigns which may be developed by external agencies, commercial organisations need to have clear guidelines and control over their entire social media output.

"It's not just paid-for content that falls under ASA guidelines, as they also oversee all social media postings, whether on Facebook, Twitter, TikTok, Instagram or

elsewhere, making this a minefield to manage whether delivered internally or externally.

Contact our corporate department today.

Victoria Holland
020 7299 6922
victoria.holland@riaabg.com
www.riaabarkergillette.com



Note: This article is not legal advice; it provides information of general interest about current legal issues.

