



Press Release

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Study shows how similar packaging dupes shoppers

New research shows how we shop on autopilot and are fooled by products in similar packaging – and there is little we can do about it.

New research throws light on how shoppers shop for everyday consumer products and how products packaged to look like familiar brands fool us, prompting mistakes.

The research was sparked by a report by Which? in 2013 that identified some 150 products in similar packaging and found that, of the 2,244 people surveyed, 20% reported buying a copy by mistake instead of the brand. The study set out to discover why and how such errors occur.

The study used eye-tracking techniques to allow participants' *actual* behaviour to be monitored. It assessed the time taken to find products, the accuracy of decision-making and participants' recall of the products they had seen.

The study sheds light on how we shop on autopilot, using mental shortcuts (heuristics) to make fast decisions without engaging our full attention. A problem arises when the visual similarity of a pack is sufficient for the copy to be recognised as the brand, a conclusion that is then not questioned.

The key results of the study are:

- When searching, colour is the primary feature we use to identify products;
- When a copy is present on shelf, it is often identified before the brand, giving it an advantage;
- When a decision is made, the copy is mistaken for the brand in 20% of cases when both are present on shelf. This increases to 64% when only the copy is present;
- Recall of the copies is little better than chance, suggesting they are not encoded in memory and that unconscious decision-making is at play;
- Ageing populations, notably those with colour disorders and blurred vision, are at particular risk.

John Noble, Director of the British Brands Group, said, "In the cold light of day, it is easy to spot a copy but that is not how we shop. In the supermarket, there are thousands of products and these are everyday purchases. We devote seconds to each and rely on shortcuts to make our choices. Products in similar packaging prey on this, prompting mistakes and encouraging false assumptions. Similar packaging that misleads shoppers is unlawful but goes unchallenged in the UK. That does not serve shoppers or brand owners well."

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NOTES TO EDITORS

1. The research was undertaken in 2015/16 by Acuity Intelligence Ltd and was funded by GlaxoSmithKline and the British Brands Group. The full report can be found at [this link](#).
2. This research is the latest of many studies that consistently find that similar packaging prompts mistaken assumptions and purchase. The Intellectual Property Office, a Government agency, reviewed available studies in 2013 and commissioned its own research, concluding that:

There is a lookalike effect. In essence:

- Consumers are more likely to make mistaken purchases if the packaging of products is similar and there is strong evidence that consumers in substantial numbers have made mistakes;
 - Consumers' perceptions of the similarity of the packaging of goods are correlated with an increased perception of common origin and to a material degree. There is also an increased perception of quality;
 - The lookalike effect increases consumers' propensity to buy a product in similar packaging.
3. Similar packaging that misleads shoppers is likely to breach the Consumer Protection from Unfair Trading Regulations (CPRs). These however can only be enforced by the Competition and Markets Authority and Trading Standards. Both have declined to do so. As a result products in similar packaging that are likely to mislead go unchallenged.

Brand owners find it hard to enforce their intellectual property rights against similar packaging. The pack designs may not infringe trade marks, designs or copyright and a passing off action is very difficult to bring due to the need to demonstrate misrepresentation and consumer confusion to a court's satisfaction. In 2006, a Government study found that brands are not well-protected against misappropriation in the UK, since when no remedial action has been taken.

4. The Group wishes to see the CPRs enforced. If a pack design is found to breach the CPRs, the packaging should be revised to ensure it does not mislead. The product can then go back on the market, preserving consumer choice and fair competition.
5. Examples of products in similar packaging to familiar brands can be found at [this link](#).
6. The British Brands Group was founded in 1994 as a non-profit membership organisation. It speaks on behalf of brand manufacturers and seeks to deepen understanding of how brands benefit consumers, society and the economy through the provision of choice, value for money and innovation.

It represents its members collectively when commercial and regulatory issues affect the ability of brands to deliver value and to be a positive force in society. It also provides the prime forum for its members on brand-related issues.

The British Brands Group is part of a global network of similar brand associations, and is the UK representative of AIM, the European Brands Association, based in Brussels.

For more information on the study and the parasitic copying of brand packaging, contact:

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