

12th April 2012

Misleading “parasitic” packaging on the rise

The number of products in packaging very similar in design to that of familiar branded products is increasing. Recent store visits found over 60% more examples compared to a similar exercise last year.

Today, the British Brands Group released [current examples](#) of products packaged very similarly to familiar branded products, showing a sharp rise compared to last year. Gathered from recent store visits, the examples cover a wide range of products from soft drinks to health products.

Research evidence shows similar packaging misleads shoppers, with some buying the wrong product and many more assuming incorrectly that both products come from the same manufacturer. Shoppers expressed a definite preference for packaging which does not mislead.

Moreover, similar packaging destroys the distinctiveness that allows branded products to stand out from the crowd. The original product faces increased costs and lost revenue, while the copy benefits from a reputation it does not warrant, increasing its appeal to shoppers.

John Noble, Director of the British Brands Group, stated, “The examples are too similar to have been designed by accident. Shoppers are likely to be misled and certainly the distinctiveness of the brand is destroyed. This is a long running sore in the UK, affecting companies of all sizes in many sectors. The rules designed to protect consumers are just not being enforced, while brand owners do not have effective tools to prevent the practice themselves.”



An example of similar packaging taken from the selection

A recent study undertaken for the European Commission found that there was considerable inconsistency in remedies across Europe. It also found that the UK's law of passing off had some significant limitations when it comes to taking action against such copying, with the result that a copy actionable in one European country may not be actionable in the UK.

The British Brands Group calls on Government to provide companies with effective tools to make sure product packaging is not misleadingly similar. This would result in better informed shoppers, less confusion in the marketplace and a better environment in which companies can invest in new and better products. Such tools are long overdue.

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NOTES TO EDITORS

1. A major consumer study was undertaken into similar packaging in 2009. The background to the study, a summary of the results and the full report are available at www.britishbrandsgroup.org.uk/pages/parasitic-copying.
2. DG Internal Market, European Commission, commissioned Hogan Lovells to undertake a comprehensive study into the remedies to parasitic copying in each Member State. The [study](#) was published in January 2012 and was accompanied by a short [press release](#).
3. The remedy favoured by the British Brands Group is for companies to have civil rights of action under the Consumer Protection from Unfair Trading Regulations which have special provisions to prevent misleading copying. This is an approach adopted in other countries. Such a change would result in higher levels of consumer protection and a fairer marketplace, at no cost to the taxpayer. Packaging that infringes the Regulations would need to be re-packaged distinctively, not withdrawn from the market, thereby preserving consumer choice and competition.
4. The British Brands Group was founded in 1994 as a non-profit-making 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 threaten 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 and further background briefings on this subject please visit the British Brands Group website: www.britishbrandsgroup.org.uk.

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