

Appendix 2 – ASA Ruling on adverts related to 20mph Phase 2 from GMB Brighton & Hove Taxi Section and Unchain the Brighton Motorist

ASA Adjudication on GMB Brighton & Hove Taxi Section

MB Brighton & Hove Taxi Section

22 Stephenson Way
Euston
London
NW1 2HD

Date:

8 January 2014

Media:

Regional press

Sector:

Non-commercial

Number of complaints:

1

Complaint Ref:

A13-245585

Ad

An ad in the Brighton & Hove Independent was headed "Zone it ... Don't Blanket!" Below were two road signs, one with text stating "20 CITY WIDE BLANKET LIMIT" with a red cross through it, and the other with text stating "20 CRUCIAL ZONES" with a green tick below.

Text below stated "GMB feels obligated to respond on behalf of our many members who drive in our city, and also with permission on behalf of our colleagues the members of the Sudanese Taxi Forum, Independent Taxi Drivers and members of the Arab Taxi Association. GMB recognises the importance of crucial 20mph speeds zones but does not support far reaching 20mph speed limits. GMB agree with 20mph in the correct places at the correct times. GMB lobbied Green Councillors during the phase 1 asking for: Arterial routes to be removed ... Speed limits to be different at night time when footfall and cyclists were absent".

Further text stated "GMB were told that due to costs the far reaching policy was the only policy viable. However, a complete 24hr 20mph speed limit across the whole of the city will leave drivers feeling blasé and distracted from where a 20mph speed limit is vitally important such as hospitals, schools and residential streets ... in other words, in the appropriate CRUCIAL ZONES. The GMB supports measures to save lives but does not support the 20mph extensive Speed Limit approach".

Issue

One complainant challenged whether the suggestion that a "blanket" 20mph limit was being proposed by Brighton & Hove City Council was misleading, as the proposal did not include the "arterial routes" referred to in the ad.

CAP Code (Edition 12)

[3.13.7](#)

Response

GMB Brighton & Hove Taxi Section (GMB) said it was their union's opinion that they were justified in placing the ad on behalf of their members for a number of reasons. They said the ad stated the opinion of their members who felt that the proposals by Brighton & Hove City Council with respect to the Phase 2 20 mph consultation was proposing a 20 mph blanket policy. They provided a copy of the agenda and minutes from a Brighton & Hove City Council Transport Committee meeting that was held on 15 January 2013. They noted that the agenda and the minutes referred at various points to a "blanket" scheme, which they said indicated both the general public and Councillors of the local Labour and Conservative Groups believed a blanket ban was proposed. They also noted that the report showed that eight per cent of those who responded to the consultation on the principles of 20 mph limits said they would not support a blanket limit, but wanted the limit to be only in certain areas including around schools, shops, play areas and the inner area of the city. GMB said the agenda showed the Council considered that a blanket scheme was less expensive than separate zones.

GMB said that numerous Brighton & Hove City Councillors had publically referred to the 20 mph speed limits as a "city-wide" proposal, and GMB saw no difference between "city-wide" and "blanket". They also noted that in a recent local newspaper, a Brighton & Hove Conservative Transport spokesman had received criticism from his fellow members and from lobbying group Unchain the Brighton Motorist after saying he broadly supported the "near blanket" approach. They listed a number of roads that were mentioned in the consultation and questioned which roads were absent from the proposals.

We contacted Brighton & Hove City Council for their comments. The Council said the agenda and minutes from the 15 January meeting referred to Phase 1 of the programme, which had already been implemented, rather than Phase 2, which was the focus of GMB's ad. They noted that it was clearly stated in the minutes and agenda that the scheme would not be "blanket" and that key

roads would be excluded from the scheme, retaining their existing limits. The Council acknowledged that the report from that meeting showed that people did not support a blanket limit, but wanted the limit to be only in certain areas. They said that the proposals put forward in response to the consultation acknowledged this finding and a blanket limit was not proposed.

The Council said that in the agenda and minutes provided by GMB, the word "blanket" rarely featured, but GMB assumed it was referred to. With regard to the fact that GMB believed the Council considered a blanket scheme was less expensive than separate zones, the Council said the paragraph of the agenda quoted referred to the difference in cost between a 20 mph zone (which under Department for Transport guidelines had to be implemented with traffic calming measures) and a 20 mph limit (which under Department for Transport guidelines required only signage and road markings). They said this distinction was a technical one linked to implementation and did not relate to the size of area or number of roads included or excluded from the scheme.

The Council said the consultation on Phase 2 of the 20 mph limit programme, which was the focus of the ads, included the exclusion of the main roads in the city and provided the option for respondents to highlight further roads for exclusion. They added that the proposals focused on coherent residential and shopping areas, leaving out strategic roads. Information about the proposed routes was publically available on the Council's website. They said that throughout the implementation of Phase 1 and the consultation on Phase 2 of the programme, the Council had been very clear that there was no "blanket" approach. They provided a number of links to Council press releases and articles quoting Councillors who verified this. They said that many organisations and individuals who were independent of the Council understood that the proposals did not include a "blanket ban", and provided an example of a statement made by an external organisation that supported this.

The Council advised that a number of presentations and meetings were held with the local taxi forum, including GMB union representatives, which explained the details of the scheme proposals and the minimum number of roads that would be excluded from the 20 mph speed restriction. They included a copy of a slide from one such presentation from December 2012 that outlined the excluded roads as at the end of Phase 1: the A259 (Seafront); New Church Road; Ditchling Road (north of the railway line); the A23 (north of the railway line;) and A270 (Old Shoreham Road).

Assessment

Upheld

The ASA noted that GMB believed placing the ad was acceptable as it stated the opinion of their members. However, we considered that the ad did not make clear that it was their belief that the proposed changes would amount to a "blanket" ban, but presented this as fact. We therefore required evidence to substantiate the claim.

We acknowledged that the evidence GMB provided included references to a "blanket" proposal, and accepted that this might suggest that some people in Brighton considered that a "blanket" ban was proposed. However, we noted that while one example quoted a Brighton & Hove Conservative Transport spokesman referring to a "near blanket approach", none of the evidence provided by GMB, quoted members of Brighton Council explicitly suggesting or accepting that a "blanket" ban was proposed. We also understood that a number of Brighton & Hove City Councillors had publically referred to a "city-wide" proposal, and that GMB believed that this was the same as a "blanket" 20 mph proposal. We considered that although the terms "blanket" and "city-wide" could be interpreted to mean the same thing, they could also be defined differently, with "city-wide" referring generally to an area the proposal might affect and "blanket" referring to the area specifically and inclusively covered. We also noted that GMB's ad featured only the term "blanket".

We considered that Brighton & Hove City Council had consistently and publically said that the 20 mph limit would not be "blanket", and that key roads would be excluded from the scheme. We were satisfied that the Council had provided sufficient information about main roads that were excluded from the proposals. We concluded that GMB had not provided evidence that the Council planned to impose a "blanket" ban and the ad was misleading.

The ad breached CAP Code (Edition 12) rules 3.1 (Misleading advertising) and 3.7 (Substantiation).

Action

The ad must not appear again in its current form. We told GMB not to refer to the proposed 20 mph limit as a "blanket" limit.

ASA Adjudication on Unchain the Brighton Motorist

Unchain the Brighton Motorist

63 Queens Road
Brighton
BN1 3XD

Date:

19 February 2014

Media:

Regional press, E-mail

Sector:

Non-commercial

Number of complaints:

15

Agency:

Cobb PR

Complaint Ref:

A13-243394

Background

Summary of Council decisions:

11 issues were investigated, all of which were Upheld.

Ad

A regional press ad outlined opposition to a council-backed 20 mph scheme. The headline stated "Council declares war on city motorists ...". Bold text below the headline stated "If like other city businesses and council tax payers you are dumbfounded by the action of Brighton & Hove City Council in the implementation of draconian parking charges, eradication of essential parking spaces and their handling of the new 20 mph speed restriction, this call to action is intended for you". Smaller text below stated "Despite the total lack of evidence to support the council's transport plans, they are ploughing on regardless with Phase 2 and ultimately intend to extend the 20 mph limit as far afield as Saltdean in the east and Portslade in the west, along with the other crippling measures aimed at innocent motorists. Also damaging the local economy, especially tourism, by putting visitors off coming to the city. Local people must act now. You can have your say by visiting the Brighton & Hove City Council website: www.brighton-hove.gov.uk/20mph. Most significantly, Brighton & Hove City Council took no notice of the Portsmouth City Council's evaluation of the introduction of a 20 mph scheme that resulted in an increase in fatal road traffic accidents. Visit [5](http://www.brighton-</p></div><div data-bbox=)

hove.gov.uk/20mph today and tell the council what you think". Further text stated "Legal experts have poured scorn on the council's findings ..." and included a box with text that stated "No evidence to suggest measures reduce accidents; No evidence to suggest measures reduce carbon emissions and air pollution; No evidence to suggest measures create safer roads; No evidence to suggest measures reduce city congestion; No evidence to suggest measures will encourage greater use of public transport."

Issue

Fifteen complainants, including Brighton and Hove City Council and members of 20's Plenty for Us, Brighton and Hove Friends of the Earth and Bricycles, challenged whether the following claims were misleading and could be substantiated:

1. "total lack of evidence to support the council's transport plans";
2. "they are ploughing on regardless with Phase 2 and ultimately intend to extend the 20 mph limit as far afield as Saltdean in the east and Portslade in the west";
3. "damaging the local economy, especially tourism, by putting visitors off coming to the city";
4. "Legal experts have poured scorn on the council's findings";
5. "No evidence to suggest measures reduce accidents" or "create safer roads";
6. "No evidence to suggest measures reduce carbon emissions and air pollution";
7. "No evidence to suggest measures reduce city congestion";
8. "No evidence to suggest measures will encourage greater use of public transport";
9. "Brighton & Hove City Council took no notice of the Portsmouth City Council's evaluation of their introduction of a 20 mph scheme"; and
10. "[The Portsmouth City Council's scheme] resulted in an increase in fatal road traffic accidents"
11. Four complainants challenged whether the ad was misleading, because it did not make the identity of the advertiser clear.

CAP Code (Edition 12)

[3.13.33.53.7](#)

Response

Unchain the Brighton Motorist (UBM) was a loose network of businesses, associations, groups and individuals that included taxi companies,

restaurants, accountants, hotels, retailers and tradesmen. It also included members of Brighton's Tourism Alliance, Brighton's Federation of Small Businesses, the London Road Area Traders' Association, along with the GMB and the Unite unions. They said the ad was one of a number of insertions in the Brighton Argus that were published with the broad aim of influencing local politics, in particular by mobilising people to engage with issues affecting motorists. They said the ad aimed to influence people away from Green Party policy and from the party itself if there was no policy change, and they believed the ad fell outside the remit of the CAP Code, as rule 7.1 stated that "Claims in marketing communications, whenever published or distributed, whose principal function is to influence voters in a local, regional, national or international election or referendum are exempt from the Code". UBM said the ad was obviously part of a local political campaign, and the average reader would have read and understood its claims in its local and political context. They believed that as people were asked to vote as part of the consultation and as the Council referred to a 'mandate', this constituted a referendum, and as the ad linked to the page of the Council's website that directed users to the consultation, the ad should be exempt from ASA investigation.

1. UBM said this statement must be understood in the context of the ad, which was the proposed widening of the 20-mph speed limit area in Brighton and Hove. UBM said those reading the ad in their local paper would have understood that the reference to a "lack of evidence" was to a lack of local evidence regarding these specific transport plans, rather than a lack of any evidence whatsoever.

UBM accepted that the Council had cited studies of 20-mph schemes in other localities that showed certain benefits. They also noted that there was countervailing evidence that highlighted negative impacts of reducing speed limits. They believed data from Germany from 34 years ago, which they said Brighton and Hove Council relied upon, could not be evidence of how modern cars (with ABS braking systems that were designed to crumple on impact) may affect road safety when driven in Brighton and Hove presently.

UBM said the complaint of a lack of local evidence was made in the light of the Council's obligation under Department for Transport guidance that was published in January 2013 to carry out local research to inform its decision making. They pointed out that the Department for Transport guidance stated "This updated guidance provides part of the framework for speed limits, where local authorities can set speed limits on their roads below the national limit, in response to local risk factors and conditions" and "It may well be that a speed limit need not be changed if the collision rate can be improved or wider quality of life objectives can be achieved through other speed management measures, or other measures. These alternative measures should always be considered before proceeding with a new speed limit ...". UBM said despite this obligation, comments on the Council's website and leaflets regarding Phase 2 made clear that it relied only on general national and international research regarding 20-mph limits, and this was not local evidence suited to the particular circumstances of Brighton and Hove.

They said further confirmation of the Council's lack of local evidence in support of Phase 2 at the time of the ad could be found in comments made by the Council's officer charged with researching Phase 2, in a meeting on 11 September 2013 with four members of the Brighton taxi trade. They said her comments made clear that preliminary local data would only be available after 18 months, and robust data after three years. They said she also made clear that the first full area monitoring, regarding compliance with Phase 1, was taking place only that month and she did not suggest the existence of any other local evidence. They said that despite the lack of available local evidence, by the time of the ad the consultation was already underway, and a timetable for implementation had been published. They added that the Council made clear that the proposed timescale for consultation and implementation was very short.

UBM said the national-level evidence upon which the Council relied was wholly inadequate for providing relevant information for the local context. They said the Council placed particular reliance on a 2012 report from the Royal Society for the Prevention of Accidents in going ahead with Phase 2, and placed a link on their website to this as evidence to support their case. However, the UBM contended that this report primarily addressed the benefits of 20-mph zones rather than 20-mph limits. They noted that 20-mph zones required a suite of measures to produce traffic calming, which they said contributed to slowing down drivers and also to a more cautious attitude in all road users. They said this contrasted with the proposed 20mph limit in Brighton and Hove.

UBM said that 'evidence' should be given a legal definition, where a fact must be proven beyond reasonable doubt. They said that many of the studies relied upon by the Council were not directly relevant and non-transferable, and that they made assumptions without producing any evidence at all. They believed that if the word 'evidence' was given its legal definition, these studies would fall short of this test and the phrase "total lack of evidence" would be justified.

2. UBM said it was not contentious that the Council hoped to proceed with Phase 2 and then Phase 3. They referred to a page of Brighton and Hove Council's website that said the programme was planned to be rolled out city-wide over the next two to three years, with consultation on Phase 3 following the work on the Phase 2 areas. They said the reference to "ploughing on regardless" referred to the failure to wait for local evidence before deciding on a course of action. They reiterated that the language of the ad should be understood in its context as a political ad seeking to draw attention to the Council's political aims and the perceived lack of local evidence behind its plans.

3. UBM said this comment aimed to show there was a risk of this effect occurring as a result of the Council's policy to put in place 20-mph speed limits. They said it could be expected that reductions in traffic speeds would be off-putting for potential visitors to the city centre. They added that this echoed concerns expressed by the Tourism Alliance, a business organisation within Brighton, about the implications for local business and tourism of the 20-mph speed limit policy, which it had expressed to them and publicly. They

provided an article that quoted a Tourism Alliance official as saying, "... studies have shown that if traffic is held in a slow moving queue for any length of time 30 per cent of journeys will be abandoned. That means 30 per cent fewer car loads of customers coming into the city centre at peak trading times."

4. UBM said the wording of the ad made clear that the comment about the advice from legal experts was not general, but referred specifically to the bullet points that followed in the box immediately below, which were the direct subject of points 5 to 8.

UBM said their members had used lawyers to support their own complaints to Brighton and Hove Council, but they did not wish to disclose the content of any legal advice received. They said they had carried out research into deficiencies in the published evidence-base on which the Council relied, and had discussed this with one of their legal advisors prior to the ad being placed. They said their members then engaged their lawyers further to prepare and submit their response to the Phase 2 Consultation. They provided a copy of their consultation response and said it made clear that there were numerous arguable legal difficulties with the Council's decision to proceed with Phase 2 because of the lack of evidence to support the Council's findings'. The response noted that the Road Traffic Regulation Act 1984 and the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 obliged the Council to consult those organisations representing persons likely to be affected by any provision. UBM said the Council had acknowledged the taxi industry was one such organisation. The response also said the Council was obliged by case law to ensure the consultation complied with the minimum standards of an effective consultation, as set out in *R v North East Devon Health Authority, ex parte Coughlan* [2001]. The response concluded that the Council's consultation process did not comply with the legal requirements because of the lack of evidence to support the proposals and the Council's biased approach preventing consultees responding effectively.

5.-8. UBM said on a proper reading of the ad, these complaints simply detailed the ways in which legal experts had raised concerns regarding the Council's findings and actions. They noted that the box containing these claims in the ad was immediately below the statement "Legal experts have poured scorn on the council's findings ...". They pointed out that all of the claims complained about reflected points that their consultation response had made regarding lack of evidence. They said these comments should be treated as a reflection of what lawyers had argued on their behalf and of others, rather than as claims in their own right.

They added that each of these statements related to a lack of local evidence, and to evidence specifically rather than aspirations or forecasts. With regard to providing substantiation for their claims, UBM said that proving a negative was difficult, but to the best of their knowledge, what these claims pointed to was the lack of specific local evidence behind the Council's proposals. They said if the Council had any specific evidence on which it had relied, UBM would be grateful to see it. They also said that beyond the lack of specific

local evidence, with regard to points 6, 7 and 8 of the complaint in particular, they were not aware of any evidence relied on by the Council to support their proposals.

With regard to point 6 of the complaint, UBM said that in its Speed Reduction Review of May 2010 (through its 20mph Speed Limits/Zones Scrutiny Panel), Brighton and Hove Council had admitted "Research which has been conducted on the effects of 20mph speed limit/zones on carbon emissions and pollution have been largely inconclusive. The information regarding the impact of lower speeds on air quality is very mixed with almost the same amount of research stating that slower speeds have a positive effect on the environment as those stating that slower speeds have a negative impact".

9. UBM said this comment must be understood in context, not to refer to total ignorance on the part of the Brighton and Hove Council of the Portsmouth County Council evaluation, but rather a decision to adopt an approach that did not adequately take it into account. They said the Council's failure to take any, or any substantial notice of this evaluation was evidenced by a BBC local radio interview with a local councillor, of which they provided a copy, in which he said "... the experience of Portsmouth is very recent, it's only gone in in the last couple of years, so time is needed to accrue robust data ... but, yeah ... but twenty-mile per hour speed limits have existed in many areas particularly in London for many, many years and there is robust evidence from the Department for Health and Public England that ...and Public Health England that reducing speed limits makes mmm - yeah - reduces casualties."

10. UBM said the Department for Transport's evaluation of the implementation of 20-mph speed limits in Portsmouth (the Atkins report) indicated that the change in casualty numbers by road user type and injury severity, showed that pedestrians killed or seriously injured had increased by three per cent for the two-year period after the implementation of 20-mph limit compared to the three-year period prior to its implementation. Pedestrians killed or seriously injured in the 20- to 69-year-old category had increased by 307% for the two-year period after implementation of the 20-mph limit compared to the three-year period prior to its implementation. When asked for a further breakdown of these statistics, UBM supplied a link to a page on the BBC website entitled "Crash: Death on Britain's roads", which showed an interactive map that used Department for Transport data to mark out the locations, dates and times of every death on the roads of Britain between 1999 and 2008. The maps showed that in Portsmouth, three people were killed in 2006, two people were killed in 2007 and eight people were killed in 2008. UBM also noted that none of the fatalities in 2008 happened before March, when the implementation of the Portsmouth 20 mph was completed, which they believed proved that the scheme was responsible for the increase in fatal road traffic accidents.

UBM said it may be considered that the true cause of the increase in fatal road traffic accidents was one or more extraneous factors, such as increased pedestrianisation of the area, but they considered that this did not change the underlying fact that the statistics showed a clear link between the Portsmouth policy change and increased numbers of people being killed or seriously injured.

11. UBM acknowledged that the ad did not make the identity of the advertiser clear. However, they said it was clear from the ad that it was advocating a particular political viewpoint on behalf of an interest group, in particular from the reference to "other city businesses and council tax payers". They said there was nothing in it that would make the absence of the identity of the advertisers misleading. They also said they were not aware that they were under any specific legal obligation to identify themselves in the ad and neither had, the Brighton Argus advised them of this. They said they were not trying to hide their identity in any way, as was evident from the clear identification of "Unchain the Brighton Motorist" in their subsequent adverts. UBM said they were happy to ensure that they continued to be identified in future publications.

UBM assured us that they neither intended to republish the original ad nor to repeat any of the claims that were the subject of the complaints.

Assessment

The ASA noted that UBM believed the ad fell outside the remit of the BCAP Code as it was one of a number of ads published with the broad aim of influencing local politics. However, we considered the ad was within our remit as its main aim seemed to be encouraging people to visit the Council's website to state their opposition to a planning proposal, drawing on the various arguments presented in the ad. Readers were not being called upon to vote in a particular way in an election or referendum, but rather to respond to a local government consultation, and while an aim of the ad may have been to influence people away from a political party, the party was not specifically named or attacked in the ad. While we acknowledged the UBM's belief that the Council would only use the word 'mandate' when referring to a referendum and the fact people were asked to vote as part of the consultation made it equivalent to a referendum, we were assured that there had been no official local referendum, which would be named as such and would compel the Council to act.

1. Upheld

We understood that UBM believed that given the context of the ad, and the fact that it appeared in a local paper, readers would understand "total lack of evidence" to mean a lack of local evidence to support the Council's specific plans. We noted that UBM accepted that there were studies that suggested certain benefits of 20-mph limits in other areas as well as studies that showed negative impacts of reducing speed limits. While we acknowledged that UBM questioned the applicability and validity of some of the studies they believed the Council had relied on, we considered that the phrase "total lack of evidence" implied that there was no evidence whatsoever, regardless of its quality. We understood that UBM believed the Council had rushed through the proposals, but as they had acknowledged that some studies existed, which we considered the average consumer would consider constituted 'evidence', we concluded that the claim was misleading.

On this point, the ad breached rules 3.1, 3.3 (Misleading advertising) and 3.7 (Substantiation) of the CAP Code (Edition 12).

2. Upheld

We noted that UBM said it was not contentious that the Council hoped to proceed with Phase 2 and then Phase 3, but we considered that the phrase "ploughing on regardless" implied that a decision had already been made. We noted that the page of Brighton and Hove Council's website to which UBM referred stated that once the consultation had closed, the responses would be considered along with other information and the final proposal would go to the Environment, Transport & Sustainability Committee in December 2013. The web page stated that if agreed, the Speed Limit Orders would be advertised and there would follow another opportunity to support or oppose the proposals, before final decisions were taken by the Environment, Transport and Sustainability Committee in early 2014. We considered UBM's point that the language of the ad should be understood in its political context, but we concluded that the language used implied a decision had already been made, and in the absence of evidence to substantiate this, the claim was misleading.

On this point, the ad breached rules 3.1, 3.3 (Misleading advertising) and 3.7 (Substantiation) of the CAP Code (Edition 12).

3. Upheld

We noted UBM's comment that this claim aimed to highlight a risk of damage to the local economy and tourism as a result of 20-mph speed limits. However, we considered that the language used implied that these were inevitable consequences of the Council's proposals. We understood that UBM believed reductions in traffic speeds would be off-putting for potential visitors to the city centre. We recognised that the Tourism Alliance had been quoted as stating that studies showed that if traffic was held in a slow moving queue for any length of time, 30% of journeys would be abandoned, but we noted that we had not been provided with copies of these studies or seen how the 30% had been calculated. We considered that UBM had not provided sufficient evidence to prove that tourism would be directly affected by the proposals, and we concluded that the claim was misleading.

On this point, the ad breached rules 3.1, 3.3 (Misleading advertising) and 3.7 (Substantiation) of the CAP Code (Edition 12).

4. Upheld

We noted UBM's statement that its members had consulted lawyers, but they did not wish to disclose the content of any legal advice received. We also noted UBM's comment that they had sought legal advice when preparing their response to the consultation, and we considered that the response did fit the description of "pouring scorn" on the findings. However, in the absence of any evidence to prove what legal experts had advised and how they had specifically "poured scorn" on the findings of the Council, we considered that this claim could not be verified and was therefore misleading.

On this point, the ad breached rules 3.1, 3.3 (Misleading advertising) and 3.7 (Substantiation) of the CAP Code (Edition 12).

5.-8. Upheld

We considered UBM's comment that these claims should be read in conjunction with the claim "Legal experts have poured scorn on the council's findings ...", and we considered whether the claims were misleading in that context. However, we again noted that we had not seen evidence to prove that legal experts had made these claims. Furthermore, even if legal experts had made these claims and considered them to be accurate, we had not seen evidence to prove that they were incorrect. We understood UBM's point that it was difficult to prove a negative, and that to the best of UBM's knowledge, the claims reflected the Council's lack of specific local evidence behind its proposals. However, as UBM had made the claims, it was their responsibility to provide evidence to substantiate them, and the fact that UBM was not aware of this evidence did not mean that it did not exist. We considered UBM's statement that each of these claims related to a lack of local evidence, and not aspirations or forecasts, but we noted that all of the claims were absolute in stating "no evidence", rather than questioning the amount or validity of evidence the Council had presented. We acknowledged UBM's reference to the Council's Speed Reduction Review, which stated that research had been "largely inconclusive" and information regarding the impact of lower speeds on air quality was "very mixed", but as the claims stated there was "no evidence", rather than questioning the strength of the evidence, we concluded that the claims were misleading.

On these points, the ad breached rules 3.1, 3.3 (Misleading advertising) and 3.7 (Substantiation) of the CAP Code (Edition 12).

9. Upheld

We considered UBM's comment that this claim should be understood as meaning that the Council was not ignorant of the evaluation, but did not adequately take it into account. However, we considered that the wording of the claim did not make this clear. Rather than questioning the way in which Brighton and Hove City Council had interpreted Portsmouth City Council's evaluation of their introduction of a 20 mph scheme, the claim suggested that Brighton and Hove City Council had failed to consider the evaluation, and for that reason, we concluded that the claim was misleading.

On this point, the ad breached rules 3.1, 3.3 (Misleading advertising) and 3.7 (Substantiation) of the CAP Code (Edition 12).

10. Upheld

We accepted that the statistics quoted by UBM from the Atkins report and the BBC News page were correct. However, we noted that the ad claimed that Portsmouth City Council's scheme "resulted" in the increase in fatal road traffic accidents. We considered that the number of fatalities in Portsmouth significantly increased in 2008 when compared to 2006 and 2007, and we noted that none of the fatalities in 2008 had happened before the completion

of the implementation of the 20-mph scheme. However, we also noted that the same BBC map showed that 12 people were killed in Portsmouth in 2005, before the scheme had been implemented. In the absence of evidence demonstrating that the introduction of the scheme directly caused the increased fatalities, we considered that the scheme could not be said with certainty to have "resulted" in increased fatalities. We concluded that a number of factors other than Portsmouth City Council's scheme could have affected the statistics and the claim was therefore misleading.

On this point, the ad breached rules 3.1, 3.3 (Misleading advertising) and 3.7 (Substantiation) of the CAP Code (Edition 12).

11. Upheld

We acknowledged UBM's point that the ad clearly advocated a political viewpoint on behalf of an interest group and we appreciated that they were not aware of a need to identify themselves. We also noted that other ads had named UBM and they had provided their assurance that they would ensure they were identified in future ads. However, on this occasion we noted that it was not clear who the advertiser was, and we considered it was misleading not to include the identity of the advertiser in this ad.

On this point, the ad breached rule 3.5 (Misleading advertising) of the CAP Code (Edition 12).

Action

The ad must not appear again in its current form. We told Unchain the Brighton Motorist not to repeat the claims, to ensure that they had evidence to substantiate future claims and to ensure that they were clearly identified in future ads.