

**CHANGING STANDARDS:
CONDOM ADVERTISING ON AMERICAN TELEVISION**

*A Special Report of the
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By Michael Wilke
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Changing Standards: Condom Advertising on American Television

In 1991, Fox Television became the first broadcast TV network in this country to air a paid condom commercial. A decade later, three of the six major networks (CBS, Fox, and NBC) officially allow condom advertising at the network level, although all three limit the times at which such ads can run, and at least one (Fox) prohibits them from focusing on pregnancy prevention. The three other broadcast networks – ABC, UPN and The WB – all have policies in place prohibiting condom advertising at the network level.

Several major cable networks also accept condom advertising, including MTV, Comedy Central, BET, CNN, TNT, USA, and TBS. In addition, local broadcast affiliates in several major markets have accepted condom advertising, including stations affiliated with networks that don't accept such ads on the national level. On balance, however, the restrictions placed on condom advertising by some networks and local stations, combined with the modest advertising budgets of condom marketers, has kept condom advertising at low to imperceptible levels.

Several factors appear to be behind the increasing willingness of some media companies to air condom commercials: the devastation wrought by HIV/AIDS; the increasingly sexual nature of many TV shows; the willingness of several local stations to test the waters by airing condom ads years before the networks agreed to do so; the Food and Drug Administration's landmark 1997 decision loosening the restrictions on prescription drug advertising on TV; and a major ad campaign by Johnson & Johnson in support of its Ortho Tri-cyclen birth control pill.

Even with the opening up of some networks' policies, advertising for condoms remains more restricted than advertising for many other products, including other contraceptives. And whether it is due to those restrictions, or for other financial reasons, the advertising budgets of condom companies have been so low that condom ads have been relatively rare even on those networks and affiliates willing to accept such ads.

The Early Years

Throughout the 1960s and 70s, condom advertising was prohibited by the National Association of Broadcasters' (NAB) Code of Conduct. The first station to carry a condom commercial was KNTV, San Jose, which despite that code decided to carry a spot for Trojan in 1975. The brand's current manufacturer, Carter-Wallace, says the station's switchboard was inundated with calls, and the station then put the ad onto the evening news to solicit viewer opinion. Carter-Wallace says viewers were overwhelmingly in favor of keeping the commercial but the station decided against it. In 1979, the NAB Code was rescinded when the Justice Department opposed it in an antitrust lawsuit, but that decision had no significant impact on the level of condom advertising on TV.

As concern about the AIDS epidemic grew during the 1980s, ABC ran a Public Service Announcement (PSA) about condoms in 1986. Under pressure from then Surgeon General C. Everett Koop, other networks followed the next year. Many of these PSAs were part of the "America Responds to AIDS" (ARTA) campaign. The ads were seen mostly by late-night viewers. Only 7 percent of the "ARTA" spots appeared during primetime television between 8 p.m. and 11 p.m. (predominately during news shows), according to Broadcast Advertisers Reports. The remaining 69 percent of the "ARTA" PSAs were broadcast in the late-night hours between 11 p.m. and 6 a.m.

NBC's vice president of advertising standards and program compliance, Richard Gitter, said the network "anguished over these spots quite a while and eventually took the milder ones." A CBS executive recalled that the network received "thousands of complaints" at the time, a "flood" of calls and letters that appeared to be primarily the result of an organized opposition campaign.

Network affiliates in markets large and small also began to accept condom commercials during the late 1980s and early 1990s. The ads focused on disease prevention, and according to condom marketers did not usually meet with audience opposition. However, advertising at the national level continued to lag behind.

Finally, in 1991, the upstart five-year-old Fox network became the first broadcast network to air a condom ad at the national level. It would be seven years before another network followed suit.

Prescription Drug Advertising Opens Doors

Things started to change dramatically for health-oriented commercials in July 1997, as the Food & Drug Administration made a landmark decision significantly relaxing previous restrictions on prescription drug advertising on television. Suddenly, viewers became used to seeing previously undiscussed subjects airing on TV, from Zovirax commercials about herpes to Viagra ads about "male erectile dysfunction."

Seizing the opportunity, Johnson & Johnson's Ortho-McNeil Pharmaceutical unit also enjoyed a breakthrough when it convinced the major broadcast networks to accept commercials for its Ortho Tri-cyclen brand of birth control pills. Johnson & Johnson knew it had to provide extensive research to convince broadcasters that audiences were open to the idea of seeing such advertising on network television. While Johnson & Johnson declines to provide details on the research, which it considers proprietary, the company says it collected data from consumers, doctors and the Food & Drug Administration to shape its commercial message, and later to convince networks to carry the ad.

At that time, though it had carried PSAs about AIDS prevention in 1986 and again in 1994, ABC had never aired a branded condom or contraceptive commercial. The network's policy, still in effect today, reads:

"ABC does not accept advertising of condoms or other non-prescription contraceptives. Advertising for prescription contraceptives is generally unacceptable, but in ABC's sole discretion, advertising for such prescription products may, however, be deemed acceptable *provided that* product itself meets ABC's prescription drug advertising and other applicable policies *and* advertiser submits extensive public opinion research about product and its advertising to allow ABC to determine the acceptability of such advertising for its mass audience."

Johnson & Johnson was very successful with its effort, and ABC as well as the other major broadcast networks carried the breakthrough spot. More significantly, after airing the Ortho Tri-cyclen commercial, CBS and NBC modified their policies on carrying condom advertising as well.

ABC, UPN and The WB continued to prohibit condom advertising. UPN accepted a Trojan commercial once in 1998, but the response from affiliates was so negative – network executives say that half its stations covered the ad – that a blanket policy against future condom ads was applied and has not been reviewed since. This prohibition on condom ads – and other contraceptives – continues today, although the network broadcasts PSAs promoting STD awareness and healthy sexual decision-making in partnership with the Kaiser Family Foundation.

Officials for The WB network note, “While we do not accept condom ads on The WB, the network doesn’t take its responsibility as a broadcaster lightly.” In particular, network staff point out that the network “has worked closely with our program producers, and has welcomed input from health professionals, to explore issues of sexuality, particularly among teens, within our programs in a responsible and relatable way. Teen sexuality, condom use, ramifications to irresponsible sexual behavior and alternatives including abstinence are continually explored on our shows as we take our position as a leader among teen and young adult viewers seriously.” The network’s co-President for Entertainment, Susanne Daniels, sits on the board of the National Campaign to Prevent Teen Pregnancy, and she and several of the network’s series have received SHINE Awards from The Media Project, for responsible depictions of sexual health issues (the Kaiser Family Foundation operates The Media Project in partnership with Advocates for Youth).

Rick Mater, The WB’s senior vice president for broadcast standards, says the network has no “official policy” on ads for birth control pills, which he says they would review “on a case by case basis” although none have been submitted to the network recently. The prohibition on condom ads, Mater says, stems from “respect for the fact that each of our affiliates has their own policies that may prohibit condom advertising, which may be an issue for some of their viewers.” Mater also notes that The WB, which broadcasts as a network only between 8-10 p.m. (7-10 p.m. on Sundays) “lacks a late-night option to experiment with condom ads.”

Mater points out that the network’s inclusion of condoms in programming with sexually-related content “is a pro-active policy” that encourages producers to include a variety of approaches to sexuality, including not being sexually active. Examples include teens purchasing condoms on *Dawson’s Creek*, and Felicity visiting a health clinic before becoming sexually active. Mater also mentioned that the network has had occasional “advertiser issues” with condom portrayals in shows, although he says “it’s not what it used to be.”

By contrast, after running the Ortho Tri-cyclen spot in 1998, CBS modified its network ad policy to accept all types of contraceptive commercials and was surprised to find that it received “virtually no complaints” from viewers, according to Matthew Margo, the network’s vice president for program practices. “It was time for a change,” Margo said, “and there was so much good research supporting the ads.”

When asked about the fact that some networks will run ads for birth control pills but not for condoms, Margo wouldn’t comment directly, but said that CBS “did not feel there was a meaningful distinction between types of contraceptives, just as you cannot be a little bit pregnant. If anything,” he continued, “from a public health point of view condoms have an even greater potential in that they can reduce the risk of AIDS and other STDs, so we felt we couldn’t justify turning them down while accepting other contraceptive ads.”

The network no longer carries a written policy specifically addressing contraceptive ads (although they are covered by the general standards of taste and appropriateness that would apply to all personal products). Margo says that there still is “judicious scheduling” for contraceptive commercials and that they generally run after 9 p.m. (with some allowances for adult-targeted daytime soaps, though the network said it has not yet been asked to consider condom ads for them). “On a case-by-case basis, we will run them earlier if the demographics support it,” he added. In terms of the specifics of the messages in condom and other contraceptive advertising, Margo notes that the network asks that the ads “not be inconsistent with monogamy and marriage.”

After NBC accepted the Ortho Tri-cyclen commercial, Carter-Wallace renewed efforts to encourage them to take Trojan condom ads as well, and the network agreed to a policy change in 1999. Condom ads are

now allowed on NBC, but remain limited to post-11 p.m. time slots. In addition, according to NBC executives, the network's unwritten policies require that such advertising be "clearly adult oriented, should not do things that would be overly erotic or potentially controversial, and ideally would have a sexual responsibility message."

Sometimes considered more progressive because of their more specialized audiences, cable networks vary in their openness to condom advertising. Some, such as MTV, Black Entertainment Television, Turner Television Network, CNN, Comedy Central and E! have accepted such ads, and MTV and BET have worked extensively with the Kaiser Family Foundation for years to create public health education campaigns promoting STD awareness and safer sex, including condom use, among sexually active young people. Discovery, Lifetime, USA Network, Oxygen and Sci-Fi Network have also accepted the Ortho Tri-cyclen commercial.

On the other hand, the male-oriented cable sports network ESPN said that although it does not have a specific policy against condom ads, it hasn't aired any since 1985, when it briefly ran an Ansell LifeStyles ad. After initially running the LifeStyles ad, the network decided to implement time restrictions on the spot, but Ansell decided to pull it instead. According to ESPN spokeswoman Rosa Gatti, the network hasn't run any condom ads since then. She said the network has turned down at least one condom ad, for having an "overt reference to sexual conduct," but also noted that, to the best of her knowledge, the network hasn't received any submissions from condom companies in at least the past two years.

Limits On Condom Advertising

Some of the networks and stations that accept condom commercials impose certain limits on them, such as restricting the time of day they can be run, or requiring their messages to be focused on disease prevention rather than birth control.

Condom marketers express frustration with the time limits networks impose. "We'd prefer to be in primetime but the choice of time is not ours," said Carol Corrozza, Vice President of Marketing and Business Development at Ansell. When buying time, "We don't just assume they'll say no. We always try to buy more and let them come back and say no — that's the only way they'll know our intentions." One media buyer for a condom company expressed frustration that she could not place her condom ad during primetime even though Reebok was able to run a network commercial that she said simulated gay oral sex during CBS's first season of *Survivor*.

Some networks draw a strong line between messages about disease prevention — which may be allowed — and those about pregnancy prevention, which may be considered controversial for religious and moral reasons. Since 1993, Trojan has used an intentionally vague tagline with dual meaning — "helps reduce the risk" — which could refer to both disease and pregnancy, yet has been accepted by some networks. The company is also finding success with its tongue-in-cheek, pseudo-superhero "Trojan Man" ads. Dick Kline, group vice president at Carter-Wallace, said, "It is easier to get serious ads on air, however, we find that the target audience responds more to humor that delivers a serious message since it is hipper and cooler."

Ansell's Carol Corrozza says her company has also faced problems with the tone of certain LifeStyles ads. "Today, we may approach 10 stations and get six okay's and four no's." Corrozza estimated that about half of the rejections she gets have to do with details of the commercial's content, although she added that sometimes no amount of reworking of a commercial will suffice. "When you start to peel the onion," she says, "you find there is a hidden agenda and they simply don't want to accept a condom ad

but they don't say so." Carter-Wallace's Kline said, "No question, we'd like more flexibility in buying time. And each commercial has to be scrutinized and approved. It still is a give-and-take and you have to be very sensitive to their policies."

Even as overall cable, network and affiliate acceptance is up, condom marketers say that ad acceptance today by individual stations still remains somewhat unpredictable and dependent more often on management whims than documented local viewer opposition, market size or geographic location. Ansell's Corrozza said, "CBS and NBC affiliates might take them but then the local cable interconnect for MTV might turn us down," which happened in 2000 for the carrier in Philadelphia. "It's extremely expensive doing it this way, but it's the only way we've been successful at this point."

Condom manufacturers point out the irony of increasing explicitness in programming but a general lack of equivalent network allowances in advertising, particularly during such programs. NBC's Gitter said, "There is no question advertising is held to a higher standard than programming, which has a context. Almost any commercial in a sense is a mini-program that has minimal context, providing little or no opportunity for an informed viewing choice. Ads emerge unexpectedly. Parents who might want to prevent their children from seeing what they consider inappropriate material are unable to do so. On the other hand," he continued, "programs are announced in published schedules, promoted on-air for weeks, in some instances accompanied by a viewer discretion advisory and in virtually all instances with program ratings, all of which are a more appropriate way of dealing with potentially controversial subject matter such as contraceptive advertising."

Asked if networks must please the most conservative elements of society to avoid offending anyone, Gitter said the network seeks a middle-of-the-road approach. "We try not to do just what is least offensive, otherwise you'd have only cartoons on the air and certainly no condom ads or even toilet paper commercials. Or, on the other end of the scale, if we pandered to the least sensitive, we'd be a porno network. We recognize it's an artificial construct."

Condoms aren't the only contraceptive commercials that face a challenge in finding acceptance on network television. In January 2001, Blairex Laboratories, which makes a vaginal spermicide suppository called Encare, conducted a national telephone survey of 530 women to determine their receptiveness to a planned commercial that would directly discuss pregnancy. But according to Al

Network Policies

ABC does not accept condom advertising. Its official written policy also calls ads for prescription contraceptives "generally unacceptable" but allows for certain exceptions. The network has broadcast ads for Johnson & Johnson's Ortho Tri-cyclen birth control pills.

CBS accepts ads for condoms and other contraceptives. The network eliminated its prohibition on such advertising in 1998, but usually limits such ads to 9 p.m. or later, depending on program content.

FOX accepts condom ads, but limits them to 9 p.m. or later, and requires the ads to focus on "health-related concerns" rather than "alleviating the risk of pregnancy." The scheduling of any contraceptive advertising must be approved on a case-by-case basis contingent on the content of the specific program or episode in which the ad is to air. The network has run Johnson & Johnson's Ortho Tri-cyclen ads.

NBC accepts condom ads but limits them to post-11 p.m. time slots, and requests that the ads have "a sexual responsibility theme" and not be "overly erotic." The network eliminated its prohibition on all contraceptive advertising in 1999, and has run ads for both condoms and birth control pills.

The WB does not accept condom ads. The network has no official policy prohibiting ads for birth control pills, which it says it would review on a case-by-case basis.

UPN carried a condom ad in 1998, but then banned such advertising after half of its affiliates covered the commercial. The network does not carry advertising for birth control pills.

Cable channels that have carried condom ads include:
Black Entertainment Television, CNN, Comedy Central, E!, MTV, TNT and VH-1.

Kestnbaum, president of Encare's ad agency Chestnut Communications, when the study was presented to ABC, the network rejected the ad. Kestnbaum says the company also sought to air the commercial on Fox's primetime *Temptation Island*, a "reality" show about four unmarried couples who submit to the challenge of remaining faithful to their partners, but was rejected. "They told me the only person who could clear the commercial was Rupert Murdoch," Kestnbaum said. The commercial did air in January 2001 on CBS and NBC with time restrictions, as well as on USA Network.

Darlene Lieblich, executive director of broadcast standards for Fox, said that the network rejected the Encare ad on "a number of grounds" but pointed out that Kestnbaum began claiming network rejection prior to submission of the ad. Fox presently accepts condom ads but not those for certain other contraceptives or "items of public controversy such as abortion," said Lieblich. Still, the network did carry Johnson & Johnson's Ortho Tri-cyclen ad because it also discussed acne, she said.

The current Fox policy reads:

"FBC does accept advertisements for certain types of contraceptive methods and devices on a case-by-case basis, subject to review by senior management. Contraceptive advertising must stress health-related concerns rather than alleviating the risk of pregnancy. In no case will contraceptive advertising be scheduled earlier than 9 p.m. Pacific and Eastern time; later scheduling may be deemed appropriate. In all cases, specific scheduling of these spots must be approved on a case-by-case basis by FBC Broadcast Standards, contingent in part upon the content of a specific program or program episode in which the spot is to be scheduled."

Public Opposition And Low Advertising Budgets

In forming their policies toward condom advertising, network executives say they rely heavily on audience feedback. The less they hear from viewers on issues around condom advertising, they say, the better they assume such advertising is received. "Silence is golden," said Fox's Lieblich. "The less response we have, the better."

Another pressure point on networks, aside from viewers, is other advertisers. Executives report that some advertisers object to being in the same commercial break with contraceptive commercials, requiring a juggling of ad positions. "Advertisers, as a rule, are far more conservative than we are," said Fox's Lieblich. "A big problem is that other advertisers are pulling out of [advertising] pods who don't want to be next to condom ads. It does have an economic impact on us."

Even those networks that accept condom advertising say they often go years without condom marketers attempting to buy any time. Several executives in broadcast standards noted the small number of condom ad submissions to their networks. One Fox executive called the question of running condom ads a "tempest in a teapot" due to the low number of ads submitted to the network.

By far the largest TV spender in the contraceptive advertising category, Johnson & Johnson spent \$33 million on behalf of Ortho Tri-cyclen birth control pills in 1999 on network, cable and spot television and another \$34 million in 2000, according to Competitive Media Reporting. Carter-Wallace spent a high of just \$2.2 million in a year on advertising for Trojan condoms on cable TV, and less than \$500,000 on broadcast; in 2000 its cable buy fell to \$1.7 million. Its competitor Ansell registered less than \$40,000 in annual TV spending for LifeStyles condoms during the 1997-2000 period. London International spent \$1.8 million on MTV in 1997 to support the launch of its Durex condoms brand in the U.S. (the new

name represented an elimination of the American Sheik and Ramses brands it marketed here, merging them with the worldwide name Durex) but the British company has not invested in American TV since.

“The condom category just isn’t very big, about \$275 million in the U.S.,” said John Register of London International, explaining his company’s lack of advertising spending. He added that station and network resistance has discouraged him from committing his marketing budget to television. “There’s not the same opportunity to spend a substantial amount on advertising,” he says, adding “It’s still a taboo subject on TV — there are clearly still some challenges.”

Industry executives agree that the landscape for condom ads has improved markedly in the last several years but note that there are still significant obstacles to overcome for greater consistency in policy and broader acceptance. Advertisers vow to continue trying to reach a broad market through network television and say they will grow their budgets when they can more easily place their ads. Most networks say they will continue to evaluate viewer reception to ads from this small but increasingly less controversial advertiser.

CONDOM ADVERTISING TIMELINE

- 1960s** The National Association of Broadcasters maintains a voluntary Code of Conduct, part of which includes a ban on ads for hard liquor, fortune tellers, astrology, occult-related products, and contraceptives.
- 1975** **KNTV, San Jose, airs the first condom commercial on TV** (for Trojans), despite the NAB Code that bans such ads.
- 1979** The NAB Code is dropped in the face of an antitrust lawsuit by the Justice Department.
- 1984** Independent Los Angeles station KCOP carries a Trojan condom ad.
- 1985** **ESPN airs an Ansell ad for LifeStyles condoms**, but later imposes limits on the advertising, which is then withdrawn.
- 1986** **ABC airs a Public Service Announcement (PSA) about condoms as a precaution against AIDS.**
- 1987** With pressure from U.S. Surgeon General C. Everett Koop, other major broadcast networks accept PSAs promoting condom use to prevent the spread of AIDS.
- 1987-89** **MTV airs ads for Trojan condoms.** The same ads run on spot TV in the Los Angeles market.
- 1991** **Fox becomes the first broadcast network to air a condom ad at the national level.**
- 1992** Trojan ads air on Atlanta and Houston stations, as well as on the Fox network during a U2 concert.
- 1993** LifeStyles ads run on independent stations in various cities. Salt Lake City runs without controversy, but in Boston the president of the Catholic League goes on TV to denounce the effort.
- 1994** MTV airs ads for LifeStyles condoms. ABC runs new government PSAs promoting condom use.
- 1996** Ansell contacts 44 local affiliates of ABC, CBS and NBC and 18 accept its LifeStyles condom commercial featuring an animated skeleton.
- 1997** The Female Health Co. airs a TV ad for the female condom in San Antonio. The ad, which focuses on disease protection, airs in the late evening for one month.
- The Food & Drug Administration loosens restrictions on prescription drug advertising on TV.**
- Pharmacia & Upjohn's new female contraceptive injection, Depo-Provera, airs spots on ABC, CBS, Fox, NBC and UPN affiliates in several markets.

1998 Johnson & Johnson's Ortho-McNeil Pharmaceutical unit conducts extensive research of the public, doctors and TV stations and, after running commercials for its Ortho Tri-cyclen birth control pill on local stations, convinces the major networks to accept the ads with a dual message about pregnancy prevention and acne control.

For its Trojan condom ads, Carter-Wallace presents extensive research about condom advertising and pregnancy prevention to several broadcast networks.

CBS modifies its network ad policy and begins accepting ads for condoms and prescription contraceptives.

UPN broadcasts a Trojan ad, but half of its affiliates cover the spot. The network then officially prohibits condom advertising.

Trojan clears a commercial for late-night airing on major ABC, Fox, and CBS affiliates, as well as on MTV and Comedy Central.

LifeStyles condom ads run on CBS-owned stations in Chicago and Boston during the late-night "Howard Stern Show." Ansell claims theirs is the first condom campaign to use a message about "romance rather than disease prevention."

1999 After agreeing to carry the Ortho Tri-cyclen commercial, **NBC modifies its ad policy and begins to accept condom commercials, but limits them to after 11 p.m.**

NBC and Fox networks agree to carry Carter-Wallace's "December 31" Trojan Man ad about the new millennium in late-night slots. The ad also runs on CBS's top-ten affiliates, MTV and Comedy Central.