Telecommunications price claims

Advertising Guidance (non-broadcast)

Legal, decent, honest and truthful

CAP

Foreword

The Committee of Advertising Practice (CAP) offers guidance on the interpretation of the UK Code of Advertising (the CAP Code) in relation to non-broadcast marketing communications.

The Broadcast Committee of Advertising Practice (BCAP) offers guidance on the interpretation of the UK Code of Broadcast Advertising (the BCAP Code) in relation to broadcast marketing communications.

Advertising Guidance is intended to guide advertisers, agencies and media owners how to interpret the Codes but is not a substitute for those Codes. Advertising Guidance reflects CAP's and/or BCAP's intended effect of the Codes but neither constitutes new rules nor binds the ASA Councils in the event of a complaint about an advertisement that follows it.

For pre-publication advice on specific non-broadcast advertisements, consult the CAP Copy Advice team by telephone on 020 7492 2100, by fax on 020 7404 3404 or you can log a written enquiry via our online request form.

For advice on specific radio advertisements, consult the Radio Centre, and for TV advertisements, Clearcast.

For the full list of Advertising Guidance, please visit our website.

CAP Help Notes offer guidance for non-broadcast marketing communications under the UK Code of Non-broadcast Advertising, Sales Promotions and Direct Marketing (the CAP Code). For advice on the rules for TV or radio commercials, contact Clearcast www.clearcast.co.uk for TV ads or the RACC www.racc.co.uk for radio ads. Also, marketers should consider provisions of the law and guidance such as the Code of Practice for Traders on Price Indications.

In light of consumer research findings the ASA has announced that the current, most commonly used, approach to presenting pricing claims in fixed broadband ads is likely to mislead consumers (see here). As a result, it is raising this issue with fixed broadband providers to bring about change, by 30 May 2016, to the way fixed broadband pricing is advertised. This Advertising Guidance will be updated in due course.

Background

These guidelines, drawn up by the Copy Advice team with help from the telecommunications industry, are intended to help marketers, agencies and media interpret the CAP Code as far as it relates to the subject discussed. They neither constitute new rules nor bind the ASA Council in the event of a complaint about a marketing communication that follows them.

Basic Principles

Marketers should assume that different consumers with different call patterns will behave rationally in selecting the best-value service available, even if that is not borne out by evidence.

Comparisons should be clear and fair. The ASA will determine fairness on the basis of whether consumers would consider services comparable and whether elements of a comparison have been presented in a way that allows consumers to make an informed and rational choice.

Unless addressed exclusively to the trade, quoted prices should include VAT payable.

Footnotes should be legible to a person reading at a normal speed.

Price claims should not exaggerate the availability or extent of benefits likely to be obtained by consumers.

General

Marketers should distinguish between absolute claims, referring to all consumers or products, and conditional claims, referring to some consumers or products. Claims stating “up to” or “from” are likely to be regarded as absolute claims referring to a range of savings unless qualified otherwise. They should not exaggerate the availability of benefits likely to be obtained by consumers; for example, 10% availability of the maximum benefit attributed to an “up to” or “from” price claim is likely to be considered a reasonable proportion that avoids exaggeration.

Examples:

“Save up to 50% on international calls versus X.”

Implies that all international tariffs are cheaper with the marketer than with X and the maximum discount (which should be available on a reasonable proportion of international tariffs) is 50%.

“You could save 30% when you sign up for package Y.”

Implies that some, but not all, consumers will save when they sign up for Y and that a reasonable proportion of consumers will save 30%.

If other charges or conditions are likely to affect a consumer’s understanding of a price statement or comparison, marketers should explain the claim. The prominence of the explanation will depend on the nature and context of the claim. Marketers may generally state in a footnote whether one-off or periodic charges apply and to what extent (e.g. payments in advance, rental charges to the marketer, discount scheme charges or installation charges).

Example:

“Daytime national calls only 1p per minute with package Z.”

Consumers are likely to have some understanding that they will need to pay a periodic charge to the marketer for the package. Stating the existence and extent of that charge in a footnote is unlikely to mislead.

If the charges are unlikely to affect a consumer’s understanding of a claim, marketers should notify consumers of the charges and their extent before a purchase or rental is made. (See Tariff Comparisons section for guidance on qualifying fees for individual calls).

Significant conditions are likely to require prominent qualification. For detailed guidance on the right degree of prominence, see the CAP Help Note on Claims that Require Qualification.

Unqualified claims about calls to UK landlines or similar (e.g. “unlimited calls to UK landlines” or “local and national calls just Xp per min”) are likely to mislead because, unless told otherwise, consumers assume they include specific categories of calls (e.g. non-geographic or internet calls), which are often excluded from the price plan. If such exclusions exist, those types of claims should be accompanied by a statement of the types of calls that are either included in or excluded from the claim. A footnote is unlikely to be prominent enough unless linked to the claim with an asterisk.

Examples:

“*UK landline calls are those made to area codes beginning 01 and 02 excluding the Channel Islands.”

“*UK calls exclude those made to the Channel Islands, internet, non-geographic and premium-rate numbers (e.g. those beginning 084, 087, 090 …)”.

If consumers must continue to pay rental to a third-party line provider to access a call service, the marketer should state that in the body copy. Marketers of voice-over IP services need not state that line rental must be paid to a third party provided they state in the body copy that broadband is required to make calls.

If a package charge applies to more than one type of service (e.g. line rental provision and call provision or a telephone service and an entertainment service), the marketer should avoid referring only to the part of the charge it considers covers one of the services if consumers cannot pay the part-charge but have to pay the full charge for the ‘bundle’ of services (also see

Ideally marketers should quote inclusive prices but a prominent statement of all elements of the price might be acceptable.

Marketers should not describe an individual element of a package as “free” if the cost of that element is included in the package price. For example, if a marketer charges for line rental and packages that service with calls at no ppm cost, those calls should not be described as “free” because they are intrinsic elements of the package. Terms such as “inclusive”, “unlimited” or “at no extra cost” might be acceptable.

But, if an extra element is added, for example for a limited-period offer or to form a more attractive product, the element could be described as “free” for a reasonable period if the original package (without the extra element) had been available beforehand at the same price, again for a reasonable period. The period that the ASA would regard as “reasonable” would vary according to the circumstances. In making such judgements, the ASA is likely to take account of, for example, the typical frequency of purchase of the product category: products bought weekly could make the claim for a much shorter period than those bought once every few years.

It should be acceptable to describe an aspect of a service as “unlimited” (e.g. “for just £12 a month you can make unlimited calls to numbers beginning 01 and 02”) despite the existence of a fair-use policy, which is invoked to prevent misuse of the service, providing the policy’s existence is stated in the ad. Other significant conditions associated with an unlimited service, such as a requirement to redial after 59 minutes, should also be stated. Including those statements in a footnote is likely to be acceptable.

The nature of short-term promotional prices should be made clear in marketing communications; a footnote is unlikely to be considered prominent enough.

When using a specific call duration to illustrate a cost or saving, marketers should not select a duration that provides an unrepresentative benefit.

General Guidance on Comparisons

Marketers making comparisons should assume that consumers act rationally in selecting the best service (e.g. tariff or package) available to them. Marketers should compare their service with the competitor’s most comparable service and should name clearly the services (e.g. tariffs or packages) that form the basis of comparison.

If two or more services are equally comparable, marketers may choose which should be the subject of the comparison. They should, however, be able to show that no obviously more comparable service exists.

In the interest of consumer awareness, it should be acceptable for a marketer to compare breakthrough technology with a competitor’s existing technology despite the latter also offering similar breakthrough technology: consumers might be unaware of the breakthrough technology and benefits it might offer over more established technology that meets the same needs. The new type of product or service must meet the same needs or be intended for the same purpose as the existing product or service undergoing comparison. For example, comparing a VoIP service with a competitor’s fixed-line service should be acceptable even if the competitor also offers a VoIP service. Marketers should, however, state prominently that the competitor offers a more comparable product or service. That statement should be both near, and similar in size, to the comparative claim.

Marketers should state differences between services undergoing comparison that are likely to influence consumers’ evaluation of that comparison.

Marketers should not compare their promotional prices with their competitor's usual prices if their competitor has a more comparable promotional offer running at the same time. Marketers choosing to compare their usual price with their competitor's usual price when the latter has a relevant promotional price at the time of going to press should do so in a way that makes that limited basis of comparison clear and should prominently explain details of the competitor's promotion that are relevant to the comparison. It should be acceptable for marketers to compare their promotional price with a competitor's normal price if the competitor does not have a relevant promotional price and the basis of the comparison is clear.

If it is impossible to include competitors' discount schemes (e.g. limited numbers schemes) in comparisons, marketers should say so in a footnote.

Total Bill Comparisons

Unqualified savings claims are likely to be interpreted as market-wide total bill comparisons and, if those are not intended, marketers should provide a relevant explanation of the limited basis of the savings.

Marketers that can show that all their tariffs are lower than (or lower than and, in some respects, equal to) those of a competitor may normally state that consumers can typically save on their total bills by switching from that competitor.

If at least one of a marketer's tariffs is more expensive than the most comparable of its competitor's tariffs and no generally accepted call pattern data exists, the marketer should normally avoid making total bill savings claims addressed either to consumers in general or to specified groups of consumers (e.g. those who make international calls). Factors that might render those claims unrepresentative and misleading include: different tariff structures, different inclusive package elements, different definitions of call pattern types, the possibility that consumers with a certain call pattern type only might be attracted to an operator's service and the possibility that consumers' call patterns might change after switching providers.

In principle, marketers may make total bill savings claims that relate to an individual call pattern (e.g. after defining an individual call pattern or after inviting consumers to send in itemised bills that illustrate individual call patterns) but will usually need to explain the context of the claim more prominently than in a footnote. Variables such as time (e.g. weekday peak, weekday off-peak and weekend), type (e.g. local, national, international, non-geographic and differing mobile networks), call length and degree of usage (e.g. low, average and heavy) combine to make up different call patterns. Marketers will note the difficulty in conveying that amount of information to consumers in a meaningful way.

Tariff Comparisons

In the absence of generally accepted call pattern data, it might not be possible to deduct from price claims quoted in tariff comparisons savings that result from discount schemes (e.g. limited numbers schemes). The exclusion of those savings should be stated clearly in a footnote.

If a marketer compares tariffs with different charging styles (e.g. ppm versus pps charging) the difference should be explained in a footnote. If, however, the marketer's uncommon method of charging is unlikely to affect a consumer's understanding of a price statement or comparison, that explanation is not necessary.

When making price statements or tariff comparisons, marketers should normally state clearly in a footnote the extent of any relevant call set-up fee or minimum fee. If, however, the call set-up fee or minimum fee is more than the pence per minute charge stated in the marketing communication, marketers should state clearly in the body copy the extent of the fee.

Indirect access operators whose services require consumers to make a call over another network at extra cost should, if possible, include the cost of that call in their quoted prices. If differing factors affect the extent of that cost, marketers should state both costs with equal prominence, for example "Calls to India for just Xp per minute plus your normal rate".

If a comparison is between two tariffs that apply for non-identical periods (e.g. weekday off-peak tariffs that start or end at different times), the marketer should explain the differences in a footnote.

If a marketer that is making a comparison has a single tariff for a specified call type (e.g. an international call to a specified country) and the competitor has several time-dependent tariffs for its comparable call, the marketer should state the time when its competitor's tariff is valid. An explanatory footnote is unlikely to be considered prominent enough.

Guidance

Advice on specific marketing communications is available from the Copy Advice team by telephone on 020 7492 2100, by fax on 020 7404 3404, or you can log a specific written enquiry via our online request form http://www.copyadvice.org.uk/Ad-

Advice/Bespoke-Copy-Advice.aspx. The Copy Advice website at www.copyadvice.org.uk contains a full list of Help Notes as well as access to the AdviceOnline database, which has links through to relevant Code rules and ASA adjudications.

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Committee of Advertising Practice
Mid City Place, 71 High Holborn
London WC1V 6QT
Telephone 020 7492 2200
Textphone 020 7242 8159
Email: enquiries@cap.org.uk
@CAP_UK

Legal, decent, honest and truthful

CAP