

ASA system submission to Scottish Government consultation on the regulation and licensing of non-surgical cosmetic procedures

1. Background and introduction

- 1.1.** This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the ‘ASA system.’
- 1.2.** The ASA system is providing this written submission in response to the Scottish Government’s consultation on the regulation and licensing of non-surgical cosmetic procedures.
- 1.3.** The ASA is the UK’s independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for over 60 years and the Broadcast Advertising Code (written and maintained by BCAP) for 19, with our remit further extended in 2011 to include companies’ advertising claims on their own websites and in social media spaces under their control.
- 1.4.** We are the UK’s independent frontline regulator of ads by legitimate businesses and other organisations in all media, including online. Our work includes undertaking proactive projects and acting on complaints to tackle misleading, harmful or offensive advertisements. We are committed to evidence-based regulation, and we continually review new evidence to ensure the rules and our application of them remain fit-for-purpose.
- 1.5.** As the UK’s frontline advertising regulator, the ASA brings together different statutory, co-regulatory and self-regulatory enforcement mechanisms so they appear seamless to people and businesses. Our system involves the active participation of a range of legal backstops in the consumer protection landscape. We work closely with a network of partners including the Medicines and Healthcare products Regulatory Agency (MHRA), the General Pharmaceutical Council (GPhC), COSLA, Trading Standards Scotland, the Competition and Markets Authority and Ofcom.
- 1.6.** We call our model of partnering with businesses and other regulators ‘collective ad regulation.’ Our independence and the buy-in and support we receive through collective ad regulation delivers faster, more flexible, more joined-up and proportionate regulation.
- 1.7.** The UK Advertising Codes include rules reflecting specific legal provisions and rules developed through separate regulatory process, which in combination ensure ads don’t mislead, harm, or seriously offend their audience. The inclusion of the rules in the UK Advertising Codes has enormous benefits for responsible businesses and for consumers, who benefit from the protection the rules afford.
- 1.8.** We are not commenting on the specific proposals in the consultation as they don’t directly concern advertising and/or issues that fall under our remit. Nevertheless, we have strict rules in place surrounding the advertising of non-surgical cosmetic procedures as well as a raft of monitoring and enforcement work in this area that we would like to highlight. We believe this is relevant in the context of and supports Scottish Government’s policy ambitions to create a framework that keeps people safe when they choose to undergo a non-surgical cosmetic procedure.

2. Consultation Response

Our rules

2.1. We recognise the potential physical harms that can arise from various non-surgical cosmetic procedures as well as the broader societal concerns articulated in the consultation about their health impacts including a negative impact on body image. As such, one area where we allocate a significant amount of resource, including through investigations, proactive monitoring and enforcement as well as the provision of guidance and training resources for advertisers, is around ads for non-surgical cosmetic interventions.

2.2. The UK Advertising Codes contain overarching principles that prohibit ads across media, including online and social media, from containing anything that is likely to be misleading, harmful or otherwise irresponsible. And the rules, and the ASA's work, place a particular emphasis on protecting young and vulnerable people.

2.3. The Advertising Codes also contain dedicated content and targeting rules on medicines, medical devices, health-related products, treatments and beauty products. The rules in this section are designed to ensure that ads for these products receive a necessary high level of scrutiny, including requiring that claims about the efficacy or safety of a treatment, or the qualifications of a healthcare practitioner are backed by suitably robust evidence, and that they're targeted away from under-18 audiences. Crucially, the rules apply to ads and not the products, which are regulated by health regulators such as the MHRA.

2.4. For cosmetic interventions, our rules state:

"Marketing communications for cosmetic interventions must not be directed at those aged below 18 years through the selection of media or context in which they appear."

Cosmetic interventions mean any intervention, procedure or treatment carried out with the primary objective of changing an aspect of a consumer's physical appearance. This includes surgical and non-surgical interventions, both invasive and non-invasive."

2.5. In terms of targeting restrictions; for non-broadcast advertising (including press, print, posters, marketers' own websites, online media, social media, influencer marketing), ads cannot be placed in media that are aimed at under-18s, and in media in which 25% or more of the audience profile is under-18s.

2.6. For broadcast advertising, cosmetic interventions must not be advertised in or adjacent to television and radio programmes commissioned for, principally directed at or likely to appeal to audiences below the age of 18.

2.7 Examples of "cosmetic interventions" that the targeting rules are intended to cover include, but are not limited to: breast augmentation or uplift procedures, breast reduction, abdominoplasty ('tummy tuck'), blepharoplasty (eyelid surgery), rhinoplasty (nose reshaping), rhytidectomy (face lift), labiaplasty, hair restoration surgery, dermal fillers, skin rejuvenation treatments such as injectable treatments, chemical peels, micro-needling, non-ablative laser treatments, laser or light treatments, micropigmentation (for example, permanent makeup tattoo), teeth whitening treatments.

2.8 Our [guidance](#) on cosmetic interventions also covers the qualifications of those administering these procedures. For non-surgical practitioners, it sets out that they should:

- Hold proof of their qualifications from a reputable, independent source before making claims that relate to those qualifications
- Not make claims which misleadingly exaggerate the skills, qualifications or experience of the practitioner of the intervention
- Not misleadingly claim or imply that a practitioner is a medical professional or regulated by a professional body if that is not the case. They should take care not to claim or imply that such practitioners have professional systems of complaint or redress if they do not
- Ensure that they do not misleadingly imply that they operate in a regulated clinical environment, if that is not the case

2.9. Claims about the efficacy of interventions must be supported by robust evidence. And our guidance sets out further that:

- Ads must not mislead as to what an advertised intervention is likely to achieve for the average consumer
- References to a “consultation” should not mislead as to the purpose of that appointment. Advertisers should take care not to give the impression that such an appointment will be with a medical professional if that is not the case
- Advertisers should not imply unrealistic results, for example that tattoos can be removed without trace or that surgically replaced hair will last permanently or with minimal risk of untoward complications
- Claims such as “a new you” or “feel fantastic” are likely to be acceptable as puffery. However, the ASA is likely to regard claims that a procedure is “revolutionary” or “turns back time” as objective and in need of substantiation

2.10. And importantly, at the heart of our rules, ads must be prepared with a sense of responsibility to consumers and to society. Where this concerns cosmetic interventions:

- Ads should not trivialise cosmetic interventions or suggest that they be undertaken lightly. Creative treatments in ads should not detract from the seriousness of the interventions offered
- Marketers should not play on consumers’ insecurities. They should not irresponsibly imply that a cosmetic intervention will be able to solve a consumer’s personal or emotional problems or improve their situation after a difficult life event
- Marketers should avoid irresponsibly describing cosmetic interventions as “safe” or “easy”, because it is likely that all such interventions will carry some level of risk to the patient

2.11. We also stipulate that practitioners take care not to exaggerate or mislead about the qualities of the service they provide, for example their track record, facilities, nursing and other staff. And clinics must be registered with the Care Quality Commission (CQC); the ASA or CAP may require proof of registration.

2.12. Our Advertising Codes reflect the law which prohibits any ad wholly or mainly directed to the general public which is likely to lead to the use of a prescription only medicine ([POM](#)). Products such as Botox, Kenalog and B12 fall into this category and, as such, are prohibited from being advertised to the public.

2.13. We detail later in this submission the ongoing monitoring and enforcement work we are carrying out in this area. But, in summary, advertising for cosmetic clinics and beauty salons may promote the services they provide. However, they should do so in a non-specific way

without a reference to Botox (or other POM), for example “a consultation for the treatment of lines and wrinkles”.

2.14. And ads for non-surgical cosmetic procedures must not put undue pressure on people or trivialise the decision to undergo a treatment; for example, sales promotions related to cosmetic interventions should be undertaken with caution and countdown clocks and claims such as “Hurry, offer must end Friday” should not be used. And advertisers should ensure that promotions do not encourage consumers to undergo unnecessary or unwanted interventions. Particular care should be taken when offering discounts for packages for procedures or promotional mechanics such as loyalty schemes or incentives such as referring a friend.

ASA rulings

2.15. The ASA has investigated and continues to take action to ban ads for various non-surgical cosmetic interventions that break our rules. The following are, non-exhaustive, examples of upheld ASA rulings in this area:

PlymGlow Ltd

PlymGlow Ltd claimed that sunbeds offered health benefits, such as preparing skin for UV exposure, maintaining healthy Vitamin D levels, and preventing conditions like depression, psoriasis, and osteoporosis. The ad was misleading and irresponsible because it discouraged essential medical treatment and suggested health benefits from sunbed use.

GMG Pharmacy Ltd t/a The IV Clinic

GMG Pharmacy Ltd's website advertised intravenous (IV) drips claiming benefits like anti-ageing, skin brightening, hydration, energy boost, detoxification, and fat burning. We ruled the claims were misleading and irresponsible because they discouraged essential medical treatment and suggested IV drips could provide health benefits without adequate substantiation.

Golden Tanning Salon Ltd t/a Golden Tanning Salon

Golden Tanning Salon Ltd posted a TikTok video claiming sunbeds offer benefits like increasing vitamin D, reducing inflammation, rebuilding collagen, and improving blood circulation. The ad was misleading, irresponsibly promoted health benefits of sunbeds, and was inappropriately targeted, potentially reaching under-18s.

Lipstick Gangster Ltd t/a The Lipstick Gangster

Lipstick Gangster Ltd's Facebook post for "Brazilian Body Contouring" with before-and-after photos, implied significant fat reduction. We considered the ad promoted an unlicensed medicinal product (a fat dissolving injection) and made misleading claims without adequate evidence. It also irresponsibly suggested guaranteed results from the treatment.

Glowery Ltd t/a Glowday

Glowery Ltd's website advertised "The best Botox in London" and "Back to School Botox," implying Botox treatments were safe, routine, and suitable for busy parents. The claims breached the advertising rules by trivializing a prescription-only medicine, promoting it to the public, and irresponsibly suggesting it was a routine beauty treatment.

Hims & Hers UK Ltd

A website for a hair loss treatment retailer promoted unlicensed medicinal products and prescription-only medicines to the public.

Monitoring, enforcement and project work

2.16. We have and continue to carry out proactive monitoring and enforcement work to identify and tackle non-compliant ads for non-surgical cosmetic procedures.

2.17. In 2019, working with over 25 trade bodies, regulators and pharmaceutical companies CAP issued an Enforcement Notice on social media Botox advertising that was sent to over 130,000 practitioners across the cosmetics services industry (with over 12,000 irresponsible Instagram posts removed in one quarter). An online ad to promote compliance with the Botox Enforcement Notice reached 1.39m people. work in this area is ongoing. In 2023 our AI-based Active Ad Monitoring system, an AI-based tool that helps us monitor online ads at pace and scale, checked 580k social media posts to look for illegal ads for prescription-only medications and we work closely with platforms to get problem ads promptly removed.

2.18. In 2020, CAP in partnership with the Medicines and Healthcare products Regulatory Agency issued an [Enforcement Notice](#) on advertising for Vitamin Shots. The notice targeted the promotion of injectable vitamin D and injectable vitamin B12 to UK consumers. These are prescription-only medicines (POMs), which cannot be advertised to the public. We were also extremely concerned to see a small number of businesses advertising vitamin shots on websites and social media which stated or implied that the drips could help to prevent or treat Coronavirus/COVID-19.

2.19. In 2022, CAP issued an [Enforcement Notice](#) jointly with the MHRA about the advertising of Kenalog injections, a prescription-only medicine, on social media. Kenalog is a brand name for triamcinolone acetonide. It is a steroid injection currently offered by a number of beauty and aesthetics clinics as a treatment for hay fever and advertised widely on clinic websites and social media. It is not licensed in the UK for the treatment of hay fever.

The Enforcement Notice makes clear that when promoting services for the treatment of hay fever on social media, advertisers must remove direct references to Kenalog in the text of a post, as well as in images and hashtags. Indirect references such as “hay fever injection” and “hay fever jab” will be considered by the ASA to have the same effect as promoting Kenalog and should be avoided. This applies to the use of emojis (i.e syringe emojis), company or social media account names, testimonials and memes.

2.20. In December 2024, we issued [a warning](#) to weight-loss prescription-only medicine advertisers. And following that, we have got proactive work well underway – pooling intelligence from a range of sources including via our AI-based Active Ad Monitoring system – that is helping inform our understanding of and prioritisation of the issues in this area and how we tackle them. This is a cross-organisational project, including close working and information sharing with MHRA and GPhC. We’ve also got a rolling programme of monitoring and enforcement action underway as well as live investigations with further proactive work to come.

2.21. Currently, we have live investigations into ‘Black Friday’ offers for liquid ‘Brazilian Butt Lifts’ (BBLs). BBLs involve injecting dermal filler into buttocks to lift them and make them look bigger. This is a high-risk unregulated procedure which can be offered by non-medical professionals. As seen in recent media coverage, this is a highly risky procedure that has left some patients with severe complications including sepsis and necrosis. Our investigations focus on the time-limited offers in the ads. When we publish our findings we will undertake follow-up enforcement work.

2.22. On a routine basis we are training our Active Ad Monitoring system on ads for various non-surgical procedures including for Botox treatments and [weight-loss injections](#). The Active Ad Monitoring system has also provided intelligence to support the launch of proactive

ASA investigations into [laser eye surgery](#) as well our current investigation in liquid BBL ads. And it's central to our [cross-organisational response](#) to weight-loss prescription-only medicines being advertised to the public.

Help and guidance for advertisers

2.23. We are also focussed on providing advertisers with the help, advice and training to get their ads right. CAP and BCAP has produced a raft of guidance for advertisers in this area. We have issued guidance, which, in part, mitigates the possibility of ads having a negative impact on audience members' body image and cautioned that particular care should be taken if an ad is likely to appeal to young people. In addition, we have produced further guidance around interventions, with a specific focus on social responsibility, as well as general guidance on sexualisation and objectification.

2.24. CAP and BCAP have [specific guidance](#) relating to the marketing of both surgical and non-surgical cosmetic interventions. The guidance covers misleading issues such as the use of exaggerated or unrealistic claims, including through the use of before and after images, and issues of responsibility, including the trivialisation of such treatments and the targeting of ads for cosmetic procedures, i.e. prohibiting [cosmetic interventions](#) advertising from being directed at under-18s.

Supporting Scottish Government

2.25. The ASA system will monitor the outcome of this consultation with interest. It stands ready to ensure its regulation of advertising for non-surgical cosmetic procedures supports the Scottish Government's development of a proportionate, robust and future-proofed framework to keep people safe when they choose to undergo these procedures.

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