

## Intermediary and Platform Principles

### Notes:

- These Principles are voluntary and complement but do not substitute participating companies' obligations to comply with applicable consumer protection or other law.
- The Principles relate to the ways in which participating companies help to promote advertisers' awareness of the rules as they apply to programmatic paid-for advertising and how they help the ASA to secure compliance in exceptional cases when an advertiser refuses to amend or withdraw a paid-for programmatic ad that breaks the rules. Programmatic paid-for ads can take the form of, for example, paid search, paid social display or paid open display.
- The Principles do not cover programmatic paid-for fraudulent ads (including ads featuring unlicensed financial promotions, ads by fraudsters impersonating legitimate businesses and ads for fake companies) or ads in non-paid-for space online e.g. a retailer's post via its social media account, or any other form of advertising, which is not delivered programmatically e.g. influencer advertising.
- To support the ASA's assessment of how these Principles have been implemented, it will be important for participating companies to explain, where appropriate, how they have acted proportionately and reasonably taking into account the advertisers, agencies and, as appropriate, public users of their services. Alongside information demonstrating how the Principles have been implemented, participating companies are encouraged to provide explanatory or contextual information to the ASA, where appropriate, including about any additional relevant activities or steps they undertake in the areas covered by the Principles.

### Participating companies will:

1. Bring to advertisers' attention\* in a reasonably prominent way, the requirement for advertisements aimed at a UK audience to comply with the CAP Code.

\*or, where they are acting for advertisers, agencies' attention.

### Guidance:

There are different ways in which participating companies may fulfil this Principle.

The presentation of the requirement for ads aimed at a UK audience to comply with the CAP Code should be sufficiently prominent to capture the attention of a reasonably observant, reasonably circumspect, but potentially inexperienced advertiser or agency.

In its consideration of how participating companies meet this Principle, the ASA will have particular regard to clarity, prominence and location of the required information.

For example, the ASA is more likely to consider this Principle has not been met if the information is:

- drafted in a way that is difficult to understand, including by suggesting, incorrectly, that advertisers' compliance with the CAP Code is voluntary.
- placed amongst dissimilar information or otherwise located in a way that is likely to adversely affect its prominence. Participating companies are advised to locate the information at a suitable part of the pre-publication process, for example at account registration, advertisement publication booking process etc.

The ASA welcomes information from participating companies about the steps they take to periodically remind advertisers and/or agencies about the requirement to comply with the CAP Code, recognising the need to strike a balance: while a one-off notification of the information is unlikely to be sufficient in most cases, repeated notifications during the publication process, especially for more prolific advertisers, may lose their impact and unduly disrupt the advertiser's use of the service.

The required information should include a hyperlink to the CAP Code (<https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>).

If participating companies bring to advertisers' or agencies' attention the requirement for ads aimed at a UK audience to comply with specific rules in the CAP Code, for example, the requirement for alcohol ads to not be directed at people under 18 through the selection of media or the context in which they appear (Rule 18.15), they should bring this to the ASA's attention. The ASA welcomes the targeted provision of information of this type.

In recognition that participating companies can serve as intermediaries for advertisers and agencies targeting consumers in non-UK countries, the ASA welcomes information about how participating companies meet this Principle in relation to advertisers targeting a UK audience, including any constraints they face in identifying these advertisers and agencies.

**2. Ensure their advertising policies and applicable contractual terms require advertisements aimed at a UK audience to comply with the CAP Code.**

**Guidance:**

There are different ways in which participating companies may fulfil this Principle.

In its consideration of how participating companies meet this Principle, the ASA will have particular regard to the clarity of the required information. For example, the ASA is more likely to consider this Principle has not been met if the information is drafted in a way that is difficult to understand, including by suggesting, incorrectly, that advertisers' compliance with the CAP Code is voluntary.

The required information should include a hyperlink to the CAP Code:  
<https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>.

In recognition that participating companies can serve as intermediaries for advertisers and agencies targeting consumers in non-UK countries, the ASA welcomes information about how participating companies meet this Principle in relation to advertisers targeting a UK audience, including any constraints they face in identifying these advertisers and agencies.

**3.** Assist the ASA in promoting the public's and advertisers' awareness of the ASA system.

**Guidance:**

There are different ways in which participating companies may fulfil this Principle. It is ultimately for participating companies to choose an approach or approaches and demonstrate how they meet this Principle in practice.

In general, awareness raising of the ASA system can include, for example, raising consumers' awareness of the ASA or raising advertisers' and agencies' awareness of CAP advice and training services.

Specific measures might include online and/or offline collaborations with the ASA, for example:

- joint awareness-raising campaigns;
- distribution of ASA or CAP regulatory guidance, CAP enforcement notices etc. to advertisers in a given business sector;
- the granting of advertising credits to the ASA to help fund its online awareness-raising ads; or
- donation of inventory (recognising that participating companies that do not own or control inventory cannot directly make inventory available to the ASA).

Participating companies may choose to support awareness raising campaigns initiated by the ASA, and/or use their own initiative to help fulfil this Principle, cooperating with ASA as appropriate, and the ASA will liaise with participating companies, where relevant, to ensure that appropriate materials and content are made available to them

**4.** In relation to the requirement for advertisers to minimise children's and young persons' exposure to ads attracting an age-targeting restriction\* under the CAP Code (and where such ads are permitted by the participating company's own policies), take reasonable and appropriate measures to make advertisers\*\* aware of:

- the tools or controls that can be used on the service to support advertisers to comply with the requirement;
- who provides and/or selects the tools/controls; and
- who is responsible for activating and controlling them.

\*Guidance to this Principle lists ads for products which must not be directed at children (under 16s) and/or young people (aged 16 or 17) through the selection of media or the context in which they appear.

\*\*or, where they are acting for advertisers, agencies

### **Guidance:**

There are different ways in which participating companies may fulfil this Principle.

Primary responsibility for compliance with the CAP Code's age-targeting restrictions rests with the advertiser.

Participating companies control or make available different tools or controls that support advertisers to comply with age-targeting restrictions in the CAP Code. There is no presumption that participating companies will provide specific tools or be required to do so. Types of tools and controls may include, but are not restricted to:

- proprietary tools and controls provided by the participating company for their clients' use/application
- non-proprietary tools/controls made available by the participating company for its clients' use/application
- enabling clients to use/apply their own chosen tools and controls on the participating company's service

Different tools may use, or accommodate the use of, different types/sources of data.

The ASA welcomes information from participating companies about whether and, if so, how they support advertisers' or agencies' practical use of their proprietary tools or controls to help them target their desired audience. In the case of ads attracting an age-targeting restriction under the CAP Code, the ASA also welcomes information about how participating companies support advertisers or agencies to minimise children's and young people's exposure to ads attracting an age-targeting restriction under the CAP Code. For example, support through the production of online tutorials or 'how to' guides; specific communications to advertisers or agencies in a given advertising sector; or, promotion of CAP Guidance on Age-restricted Ads Online: <https://www.asa.org.uk/resource/children-age-restricted-ads-online.html>

#### Ads attracting an age-targeting restriction under the CAP Code

Participating companies are encouraged to promote advertisers' use of relevant CAP guidance, which supports advertisers' compliance with age-targeting restrictions in the CAP Code. For example, CAP produces guidance on 'Age-restricted Ads Online' and 'Media placement restrictions: protecting children and young people': <https://www.asa.org.uk/resource/guidance-on-media-placement-restrictions.html>

Ads for the following products or services must not be directed at people under **18** through the selection of media or the context in which they appear. No medium should be used to advertise these products or services if more than 25% of its audience is under **18** years of age:

- Alcohol
- Cosmetic interventions
- Gambling (with the exception of gambling products specified in the next section)
- National Lottery
- Rolling papers or filters
- Weight-reduction regimes or establishments

Ads for the following products or services must not be directed at people under **16** through the selection of media or the context in which they appear. No medium should be used to advertise these products or services if more than 25% of its audience is under **16** years of age:

- Food and soft drink high in fat, salt or sugar
- Football pools, equal-chance gaming (under a prize gaming permit or at a licensed family entertainment centre), prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines.
- Medicines
- Society lotteries

Ads appearing in third party paid-for space for these products are not permitted:

- E-Cigarettes and e-cigarette refill containers
- Infant formula
- Prescription-only medicines
- Tobacco

Whilst some other products such as knives or nicotine pouches do not attract an explicit age-targeting restriction under the CAP Code, the ASA would expect advertisers of those products to avoid directing their ads at audiences under the age of 18. The same expectation would apply to ads unsuitable for under-18s because of the creative content of the ad; for example, because it is sexually explicit, depicts or suggests especially violent acts etc.

**5. a)** On receipt of a relevant notice from the CAP Compliance function, act swiftly to remove a non-compliant ad that is the subject of a specific breach of the CAP Code as determined by, or directly related to, a published ASA ruling, in instances where the advertiser fails to appropriately amend or withdraw its non-compliant ad.

#### **Guidance:**

Notice from the CAP Compliance function will be given to the participating company following the function's efforts to engage with, educate and apply appropriate sanctions to the non-complying advertiser and, ultimately, a determination that the advertiser is unwilling or unable to comply with the CAP Code. The CAP

Compliance function will provide the basis of its determination to accompany the issuing of a notice.

Implementation of this Principle will be assessed by reference to a published ASA ruling or reference to marketing practices 'directly related to' a published ASA ruling. 'Directly related to' acknowledges that, on the basis of published rulings, the ASA has formed a policy position that certain marketing practices are accepted as misleading or otherwise harmful; for example, specific, misleading presentations of recommended retail prices in ads.

To inform a participating company's decision to remove an ad notified to it by the CAP Compliance function, it may request additional information from the function in circumstances where it considers this necessary. If participating companies have not been able to 'act swiftly' to remove the ad, they should explain the reasons for this, including any extenuating circumstances, to the CAP Compliance function.

Under this Principle, participating companies are expected to deal with individual cases of non-compliance notified to them by the CAP Compliance function. The Principle does not create an expectation for the participating company to act independently and proactively to identify and remove other ads that raise the same non-compliant issue or to take additional steps to prevent such ads from being published via booking services controlled or made available by the participating company. They are nevertheless encouraged to submit information to the ASA about any such actions they have taken.

(Note: Principle 3 offers scope for participating companies to distribute ASA/CAP regulatory guidance, CAP enforcement notices etc. to advertisers falling within a given business sector, in circumstances where the CAP Compliance function identifies widespread non-compliance relating to certain marketing practices.)

**5. b)** On receipt of a relevant notice from the CAP Compliance function, act swiftly to remove a non-compliant ad that is indisputably a prima facie breach of the CAP Code, in instances where the advertiser fails to appropriately amend or withdraw its non-compliant ad.

**Guidance:**

Notice from the CAP Compliance function will be given to the participating company following the function's efforts to engage with, educate and apply appropriate sanctions to the non-complying advertiser and, ultimately, a determination by the CAP Compliance function that the advertiser is unwilling or unable to comply with the CAP Code. The CAP Compliance function will provide the basis of its determination to accompany the issuing of a notice.

Implementation of this Principle will be assessed by reference to requests to remove advertising that amounts to a prima facie breach of the Code; in other words, on its face, evidence exists to establish, or raise strong presumption that, such advertising represents a breach of a specific rule in the CAP Code, with or without reference to a specific ASA ruling. For example, an ad for a prescription-only medicine (Rule 12.12 bans ads for POMs advertising to the public) or an ad for an alcohol product

appearing on a website obviously designed for and attracting a clear majority child audience (Rule 18.15 bans alcohol ads in media if more than 25% of the audience is under 18 years of age).

To inform a participating company's decision to remove an ad notified to it by the CAP Compliance function, it may request additional information from the CAP Compliance function in circumstances where it considers this necessary. If participating companies have not been able to 'act swiftly' to remove the ad, they should explain the reasons for this, including any extenuating circumstances, to the CAP Compliance function.

Under this Principle, participating companies are expected to deal with individual cases of non-compliance notified to them by the CAP Compliance function. The Principle does not require the participating company to act independently and proactively to identify and remove other ads that raise the same non-compliant issue or require the participating company to take additional steps to prevent such ads from being published via booking services controlled or made available by the participating company. They are nevertheless encouraged to submit information to the ASA about any such actions they have taken. (Note: Principle 3 offers scope for participating companies to distribute regulatory guidance, enforcement notices etc. to advertisers falling within a given sector, in circumstances where the CAP Compliance function identifies widespread non-compliance relating to certain marketing practices.)

**6.** Respond in a timely way to reasonable requests for information from the ASA in relation to advertisers' use of the company's services, to assist investigation of a suspected breach of the CAP Code, in instances where the information cannot be obtained from the advertiser\*.

\*or, where appropriate, their agency

### **Guidance:**

ASA information requests under this Principle will be specific and, in determining whether the request is reasonable, the ASA will consider, on the one hand, the nature of the potential detriment the ASA is seeking to address and, on the other hand, the resource burden the request places on the participating company. ASA requests do not override the need for participating companies to comply with all relevant legislation, including, for example The Data Protection Act 2018 and UK GDPR, and no requests will seek to identify an individual user of the service or be made in circumstances where there is a likelihood of a particular company doing so by responding.

Requests may include, for example, the provision of contact details for, or the facilitation of correspondence to, an advertiser subject to an ASA investigation of a suspected breach of the CAP Code.

The ASA recognises that the participating company will want to assess each request on a case-by-case basis, alongside any relevant law and its own company policies, to inform its response. If participating companies have not been able to fulfil the

request, they should explain the reasons for this, including any extenuating circumstances to the ASA.