

Omission of Material Information

ASA statement on research into consumer attitudes to the timely provision of material information in ads.



Background

Research background and purpose

The ASA commissioned qualitative research to explore consumer attitudes about the provision of material information in space-constrained online advertising, such as paid search and social media ads. 'Material information' is information that the average consumer needs to take an informed transactional decision. The research examined whether consumers react or respond differently when material information appears in the initial paid ad compared with when it is presented on the landing page reached by clicking the ad.

Regulatory context: misleading by omission

One of the core principles of the UK Advertising Codes (the Codes¹) is that advertising must not materially mislead consumers or be likely to do so. Ads may mislead either by action (for example through false or inaccurate claims) or by omission, where material information is absent or presented too late in the consumer journey. This research focuses on the potential for ads to mislead by omission: specifically, situations where information that the average consumer requires to make an informed transactional decision is not included in the initial paid ad, but is instead included on the landing page to which the ad links.

Space-constrained advertising and the provision of material information

The law, and therefore the Codes, acknowledge that some advertising formats, particularly online formats, may be constrained by space (or time). In such circumstances it may be acceptable for material information to be provided in a timely way by other means, which might include on a landing page reached through the ad, helping to ensure the overall presentation of the ad does not materially mislead.

The 'average consumer' test in ASA assessments

When assessing whether an ad is misleading, the ASA considers how the 'average consumer' would interpret the ad. This is a legal construct representing a notional consumer who is considered to be reasonably well-informed, reasonably observant, and reasonably circumspect. Importantly, the ASA does not need to conclude that a majority of consumers would be misled. In line with the law, an ad may be found misleading if a significant minority of (average) consumers are likely to be misled by it.

This research therefore provides useful insights into consumer expectations about the placement and timing of material information in online advertising. However, it does not alter the legal framework under which the ASA must assess whether advertising is misleading.

Consumer expectations in the online environment

Acceptance of 'one-click-away' information

A central finding of the research is that many consumers are accustomed to information being 'one click away' in online advertising. Participants generally viewed this as consistent with the norms of the online environment and accepted that ads often function as an initial prompt or headline, with fuller information available after clicking through to a landing page.

Irritation vs. perceived misleadingness

In response to many of the ads they were presented with, research participants suggested that discovering material information (for example, important information qualifying or expanding on a claim in the initial paid ad) after clicking the paid ad would be more likely to cause irritation or inconvenience than a sense of having been misled, provided the information was presented before the opportunity to purchase was provided.

Consumer concerns and perceived risks in online advertising

The research also highlights that the online advertising environment is perceived by many consumers as carrying both opportunity and risk. Participants referred to concerns about scams, ad tracking or targeting bombardment techniques and impulsive purchasing in online advertising.

Habituation to online advertising practices

It is therefore possible that participants' responses reflect certain advertising practices that consumers have become inured or otherwise accustomed to over time; that's the way things are, as distinct from what they should ideally be. In the online environment, participants reported being exposed to ads containing exaggerated claims or headlines to catch attention. While such approaches may initially have been perceived as frustrating or misleading, consumers may have become habituated to them and learned to tolerate them as part of the online advertising ecosystem. If this is the case, it makes it difficult to disentangle what consumers regard as acceptable in principle from what they have simply become used to encountering in practice. Consumer tolerance of certain practices does not necessarily mean those practices meet the standards required by the UK Advertising Codes.

When consumers expect qualifying information

The research is most helpful in highlighting where consumers are likely to expect qualifying information in the initial paid ad, because the risk of harm or mistaken assumptions from the omission of material information is considered to be higher. Participants drew clearer lines where omission could conceal financial commitment or create a false impression about the offer – particularly around subscriptions/recurring charges, contracts and longer-term commitments, variable or tiered pricing, and in-app purchases. They also wanted qualifying information in the initial paid ad in higher-risk contexts, with especially strong reactions to gambling ad examples, and in other high-stakes situations (including financial and medical products/services).

Lower-risk contexts and greater consumer flexibility

By contrast, participants were often more relaxed about material information being provided after click-through in lower-stakes contexts or where caveats are widely expected. For example, this related to material information such as offer end dates/timeframes, conditions of free delivery, and information related to 'trivial' purchases (those of low monetary value or everyday items incurring minimal risk). The research found, however, that a minority of participants considered it important for these types of material information to be presented upfront in the initial paid ad.

Applying the average consumer test in practice

The ASA assesses how the average consumer is likely to interpret an ad in context and whether it is likely to cause them to take a transactional decision they otherwise wouldn't have taken. The test applies no matter the kind of product being advertised or the kinds of

material information involved. Whether the average consumer has been, or is likely to be, misled is a qualitative judgement, not a statistical test – and given that it can be sufficient for a significant minority to be misled, the ASA notes that the research shows that such a minority view did exist in many of the examples where the majority were more accepting of some detail being provided after click-through.

Limits of the research

Given the complex nature of the topic, a qualitative approach was deemed most appropriate as it allows for the discussion of subjective viewpoints and exploration of underlying attitudes. As a qualitative study, it provides insights into participants' expectations and reasoning. The report explains that while those views are not necessarily representative of the wider population, they are arguably indicative of it. It does not, on its own, determine what the average consumer would understand from a specific ad in its full context or precisely when different consumers form their transactional decisions in real-world journeys. Those are questions the ASA must continue to determine by applying the established tests in the Codes and underpinning legislation to the facts of each case. However, the insights did suggest in certain circumstances the existence of a significant minority who may feel misled by an ad.

What does this mean for ASA and CAP?

Overall, the research reinforces the importance of assessing advertising in context. The findings would strongly appear to support the existing regulatory approach that, in space-constrained formats, some material information may in certain circumstances be provided via a landing page rather than in the initial ad. Importantly, the results do not fundamentally alter the way the ASA assesses advertising under the Codes. The ASA will continue to consider whether the overall presentation of an ad is likely to mislead the average consumer, including whether a significant minority of consumers may be misled by the omission of material information.

The research therefore provides useful insight into consumer attitudes towards online advertising, while reinforcing the need for advertisers to ensure that material information is presented clearly and at an appropriate stage in the consumer journey.

¹[The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing \(CAP Code\)](#) and [the UK Code of Broadcast Advertising \(BCAP Code\)](#)