

ASA System response to the Women and Equalities consultation on egg donation and freezing

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 Women and Equalities consultation on egg donation and freezing. We will only be responding to the terms of reference related to the regulatory regime on advertising.
- 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 20, 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, Competition and Markets Authority, Information Commissioner’s Office, Ofcom, Trading Standards, the Gambling Commission and the Financial Conduct Authority.
- 1.6.** We call our model of partnering with businesses and other regulators ‘collective ad regulation.’ The ASA’s 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.

2. The ASA's role and remit in regulating claims about egg donation and freezing

- 2.1.** Claims in advertising that refer to fertility treatments such as egg donation and freezing must comply with the CAP Code.
- 2.2.** Claims in advertising for medicines, medical devices, treatments, health-related products and beauty products, including fertility treatments, must comply with the CAP Code.
- 2.3.** We are only concerned with ensuring that advertisers' marketing claims for fertility treatments comply with the CAP Code. We are not seeking to regulate the business practices of clinics or their consultations.
- 2.4.** We work closely alongside the Human Fertility and Embryology Authority (HFEA) and CMA in relation to how these services are advertised – with particular reference to the way information is displayed on advertisers' own websites.
- 2.5.** Where advertisers appear unwilling or unable to comply with our rules, we are able to refer to our legal backstop, Trading Standards, or another enforcement partner such as the CMA and/or HFEA.
- 2.6.** To date, we have had limited regulatory activities and interventions on egg donation and egg freezing services. However, we have rules that would enable us to act if spotted problems with egg donation and freezing ads.
- 2.7.** We have also undertaken work around the fertility sector more broadly, such as ensuring fertility clinics advertise responsibly and do not mislead consumers.

3. Our Rules

- 3.1.** The [CAP Code](#) contains a set of rules which ensure that people and responsible business are protected from harmful and irresponsible advertising.
- 3.2.** We have a dedicated [section](#) of the Code on misleading advertising.

- 3.3.** We have a dedicated [section](#) of the Code to ensure ads must be prepared with a sense of responsibility to consumers and to society.
- 3.4.** We also have a dedicated [section](#) of the Code on medicines, medical devices, health-related products and beauty products.
- 3.5.** Our Rules should be considered in conjunction with the CMA's [consumer law guidance](#) to fertility clinics.
- 3.6.** The navigation and consideration of different fertility treatments can be challenging, not least because of the high emotional and financial stakes involved. It is also likely to be a complex process for individuals because of the extensive scientific terminology and 'jargon' associated with them.
- 3.7.** We understand that success rates are a key influencing factor for individuals when determining which clinic to go to for fertility treatment, which means that clinics must take care to ensure transparency and to avoid misleading consumers in their presentation of success rates.
- Ads should not mislead by omitting material information that consumers would need in order to make an informed decision in relation to purchasing fertility treatment.
 - Ads should be clear when using technical terminology to illustrate success rates.
- 3.8.** Along with success rates, price is another determining factor for individuals, and therefore advertisers must also manage cost expectations.
- Ads should not feature misleadingly low headline prices to attract consumers, only for costs to unexpectedly escalate further down the line. For example, if they are charging per cycle, what constitutes a "cycle"? Also, is the cost of the actual embryo transfer included?
 - Ads should make the basis of any promotions, packages or refund programmes suitably clear.
- 3.9.** Advertisers must be transparent with regards to "add-ons", ranging from additional products, equipment and surgical procedures.
- The HFEA website provides a useful traffic light system for a number of different add-ons, which assesses their evidence base and associated risks. We recommend that clinics directly link to or signpost consumers towards this section of the HFEA website when advertising such add-ons.

4. Monitoring and enforcement

Enforcement Notice (Fertility Clinics)

4.1. In June 2021 CAP issued an [Enforcement Notice](#) in conjunction with the [HFEA](#) to all HFEA-licensed fertility clinics in the UK. It provided detailed guidance to advertisers of fertility treatments, setting out how clinics should advertise their success rates, prices, add-on treatments and complementary therapies to ensure consumers were not misled.

4.2. Follow-up monitoring work in September 2021 found a compliance rate approaching 100%.

CAP Enforcement Report: Claims in ads for IVF clinics

4.3. In response to new intelligence about advertising practices in this sector, we resumed monitoring in September 2024, with a particular focus on paid-for ads on Google and Meta. On 11 December 2025, we published a '[CAP Enforcement Report](#)' which outlined the findings of a proactive monitoring sweep of ads by UK fertility clinics.

4.4. Using our [AI-based Active Ad Monitoring system \(AAMs\)](#), we scanned and reviewed 2,380 paid- for online ads by more than 60 fertility clinics to detect any instances of non-compliance in the sector.

4.5. Positively, we found that fertility clinics are largely sticking to the rules when it comes to advertising. As of October 2025:

- 96.7% of the ads assessed were compliant with the misleadingness rules of the [CAP Code](#) and the advice and guidance contained within the [2021 Enforcement Notice](#).
- 3.3% of ads were identified as non-compliant in October, representing a total of 19 ads from 6 advertisers.
- This means that, in the vast majority of cases, people considering fertility treatment are seeing ads that support informed, confident choices rather than adding confusion or pressure at an already challenging time.

4.6. Of the ads which breached the CAP Code, the most prevalent clear-cut issues identified were:

- The use of unsubstantiated superiority or “best” claims.
- Misleading claims relating to efficacy or success rates, including the advertising of success rates as a percentage without making clear the number of actual patients treated.
- Success rates being framed in the context of “clinical pregnancy rates”, rather than “live birth rates”, the latter being the metric which results in an actual birth, as opposed to a positive pregnancy test, which may not ultimately result in a live birth.

4.7. Given the importance of responsible advertising in this sector, we take swift action when ads break the rules. Following our proactive monitoring, 13 fertility clinics agreed to amend or remove the ads that breached the Advertising Code. In the one instance where a clinic didn't engage with us, the ad was removed by our platform partner Meta.

4.8. We'll continue working closely with advertisers to resolve any remaining issues and maintain high standards in this sector. By doing so, we help protect people at a time when they may be vulnerable and ensure they can make decisions about their fertility treatment with clarity, confidence, and care.

For more information, please contact:

Grace Curley, Public Affairs Adviser

gracec@asa.org.uk