

CAP call for evidence

Committee of Advertising Practice's call for evidence on young children's recognition of online marketing

Issue date: 24/10/2019

Closing date: 5/12/2019



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1. Executive summary

The [Committee of Advertising Practice \(CAP\)](#) is announcing an open call for evidence on children's ability to recognise online marketing communications: the CAP Code requires that marketing communications must be obviously identifiable as such ([rule 2.1](#)).

Recognising when we are being marketed to is important for all consumers. It is a central principle of the [UK Code of non-Broadcast Advertising, Direct & Promotional Marketing](#) (the CAP Code) and a requirement of UK consumer protection legislation. The ability to recognise marketing communications is particularly important for younger children who are still developing their understanding of the commercial world, including the persuasive intent behind marketing messages.

CAP developed dedicated guidance, which came into effect in December 2017, to identify situations in online media where particular care should be taken to ensure young audiences recognise marketing and offer suggestions for how that might be achieved.

[Recognition of advertising: online marketing to children under 12](#) guides the Advertising Standards Authority (ASA) in its interpretation and enforcement of the CAP Code. The guidance also helps marketers to prepare their online campaigns in a responsible way. It responds to evidence, which calls into question younger children's ability to recognise certain kinds of online advertising. Online marketing communications directed at under-12s and significantly integrated into the surrounding editorial or other non-advertising content are required to clarify up-front the identity and commercial intent of the marketer, if it is not otherwise clear from the context.

After carrying out a 12-month review of the guidance, CAP is keen to update its understanding of the evidence base and ensure that its policies on children's recognition are in the right place.

Submissions are invited **by 5pm on 5 December**.

2. Introduction to the UK advertising regulatory system

2.1 The Committee of Advertising Practice (CAP)

CAP is the self-regulatory body that creates, revises and enforces the CAP Code. The CAP Code covers non-broadcast marketing communications, which include those placed in traditional and new media, promotional marketing, direct marketing communications and marketing communications on marketers' own websites. The marketer has primary responsibility for complying with the CAP Code and ads must comply with it. Ads that are judged not to comply with the Code must be withdrawn or amended. Parties that do not comply with the CAP Code could be subject to adverse publicity, resulting from rulings by the Advertising Standards Authority (ASA), or further sanctions including the denial of media space.

CAP's members include organisations that represent advertising, promotional and direct marketing and media businesses. Through their membership of CAP member organisations, or through contractual agreements with media publishers and carriers, those organisations agree to comply with the Code so that marketing communications are legal, decent, honest and truthful, and consumer confidence is maintained.

By practising self-regulation, the marketing community ensures the integrity of advertising, promotions and direct marketing. The value of self-regulation as an alternative to statutory control is recognised in EC Directives, including Directive 2005/29/EC (on misleading advertising). Self-regulation is accepted by the Department for Business, Energy and Industrial Strategy and the courts as a first line of control in protecting consumers and the industry. Further information about CAP is available at www.asa.org.uk.

2.2 The Advertising Standards Authority (ASA)

The ASA is the independent body responsible for administering the CAP and BCAP Codes and ensuring that the self-regulatory system works in the public interest. The Codes require that all advertising is legal, decent, honest and truthful.

The ASA assesses complaints from the public and industry. Decisions on investigated complaints are taken by the independent ASA Council. The ASA Council's rulings are published on the ASA's website and made available to the media. If the ASA Council upholds a complaint about an ad, it must be withdrawn or amended.

An Independent Review Procedure exists for interested parties who are dissatisfied with the outcome of a case. CAP conducts compliance, monitoring and research to help enforce the ASA Council's decisions.

Information about the ASA is available at www.asa.org.uk.

2.3 Funding

The entire system is funded by a levy on the cost of advertising space, administered by the Advertising Standards Board of Finance (Asbof) and the Broadcast Advertising Standards Board of Finance (Basbof). Both finance boards operate independently of the ASA to ensure there is no question of funding affecting the ASA's decision-making. Information about Asbof and Basbof is available at www.asbof.co.uk and www.basbof.co.uk.

3. A Call for Evidence

3.1 Children and online marketing

Protecting children is at the heart of CAP and the ASA's work regulating advertising in the UK.

The CAP Code includes [a range of dedicated protections](#) for children. These recognise the vulnerabilities of children at different stages of their development. Furthermore, the enforcement of general rules protecting all audiences – such as those setting out the requirements for recognising marketing communications – take into account the needs of children when considering marketing communications directed at them.

Online environments present new challenges. As children's media use shifts increasingly to online platforms, it is important that ad regulation keeps pace. The ASA's new five year strategy, [More impact online](#), recognises the challenges and sets out ambitious goals for online ad regulation. An enduring principle remains clear, however: the rules and policies that apply in traditional media should apply online too, ensuring consistent and effective protections for all.

3.2 Recognition of marketing communications

It is important that consumers recognise when they are being marketed to. In simple terms, this allows them to understand that a communication is trying to sell something. Selling messages are diverse; ranging from a direct appeal to buy a specific product to the more indirect aims like raising awareness of a brand. All, however, should be recognisable as marketing communications.

The potential for harm and resultant consumer detriment is evident. Failure to recognise a marketing communication as such jeopardises consumers' ability to interpret the messages contained critically. Believing information is from an impartial source might, in turn, lead to a detrimental impact on their economic behaviour. This could be a direct purchasing decision or a more general positive impression of product or brand that might not otherwise have occurred, if the consumer had recognised they were being marketed to. This principle is particularly important when communicating with younger audiences, since children are still developing their ability to discern the persuasive intent behind certain forms of language, such as that used in marketing.

The CAP Code has long included rules on recognition of marketing communications responding to this potential for harm:

- 2.1 Marketing communications must be obviously identifiable as such.
- 2.2 Unsolicited e-mail marketing communications must be obviously identifiable as marketing communications without the need to open them (see rule 10.6).
- 2.3 Marketing communications must not falsely claim or imply that the marketer is acting as a consumer or for purposes outside its trade, business, craft or profession; marketing communications must make clear their commercial intent, if that is not obvious from the context.
- 2.4 Marketers and publishers must make clear that advertorials are marketing communications; for example, by heading them "advertisement feature".

Alongside the general principle embodied in rule 2.1, rule 2.3 requires marketers to take positive steps to make clear their commercial intent, if that is not obvious from the context.

The Code's approach reflects, in part, provisions of the [Consumer Protection from Unfair Trading Regulations 2008](#) – a key pillar of the UK's statutory consumer protection framework – which prohibit certain practices explicitly. Those that confuse editorial and marketing content ([Schedule 1\(11\)](#)) or where a marketer creates the impression that they are not acting for the purposes of trade ([Schedule 1\(22\)](#)).

3.3 CAP's recognition guidance

The role of CAP [Advertising Guidance](#) is to explain how the Code is intended to be interpreted by Code users; in particular, by the ASA as it enforces the Code. The ASA agrees to have regard to guidance when it considers relevant cases. However, importantly, the ASA is not subsequently bound in its decision-making. This allows for flexibility in the Code's enforcement; policy can adapt to meet the challenges of the specific circumstances of each marketing communication.

CAP guidance also plays an important role in setting industry and practitioner expectations of marketing approaches, claims or images that are likely to be in breach of the Codes. The underlying objective is to ensure that advertising is compliant when it appears.

CAP has produced a [variety of pieces](#) of guidance and advice on aspects of the wider recognition issue. As part of this, CAP's Advertising Guidance, [Recognition of advertising: online marketing to children under 12](#) focuses on the specific needs of younger children in online environments. It came into effect in December 2017 and is based on a review of the evidence available when it was developed.

The evidence CAP assessed suggested strongly that online marketing communications that look like or otherwise blend into the surrounding content may frustrate children's ability to recognise it as a marketing communication (see section 3.5 below for a more detailed discussion of the evidence that informed development of the guidance).

Examples of where the guidance is likely to apply to online marketing communications targeted at under-12s include:

- endorsements by vloggers, bloggers or other online 'influencers' where the endorsement is paid for and controlled by the marketer;
- video content on third-party sites where the video has the effect of promoting products or a brand;
- marketing communications appearing in virtual online worlds and other games;
- display advertising or other types of advertising that is, by its nature or design, not clearly separated from the surrounding content; and
- marketer-created games appearing on third-party websites.

Marketing communications subject to this guidance are required to include "enhanced disclosure". In short, this means up-front clarification of the marketer's identity and the commercial intent of the communication. Often the use of common and recognisable company branding is likely to be sufficient to identify the marketer but the disclosure should also make clear the marketer's commercial intent in a way likely to be understood by under-

12s (for instance, “This game is created by X”). The [guidance](#) includes several visual examples to illustrate its requirements in common online scenarios.

3.4 Aims in issuing this call for evidence

CAP’s primary aim is to ensure that its guidance on younger children’s recognition of advertising is up to date and effective.

As part of a 12-month review of the guidance following its implementation, an evaluation of ASA casework involving the recognition rules shows there have been few complaints about recognition of online advertising involving children. Engagement with industry suggests key sectors that advertise to children, principally the toy industry, are aware of the requirements and are taking steps to comply with them. However, online environments are fast-evolving and regulation needs to keep pace.

CAP also notes insights from recent research that continue to highlight the risks related to children’s recognition of marketing in online spaces:

- The ASA recently [published the findings](#) of its research into recognition of influencer marketing. The focus was mainly adults but the sample included a proportion of older children; the findings overall cast doubt on consumers’ ability to recognise such advertising without appropriate steps to disclose commercial intent.
- Ofcom’s latest [media literacy research](#) found that while a majority of online 12-15s think critically about websites visited, only a third correctly understood search engine advertising.

3.5 Present understanding of the evidence base

In 2013, CAP published a [literature review](#) it had commissioned to explore the evidence around the advertising of food and soft drink products to children in online media. The review identified a body of evidence calling into question the extent to which children recognise certain online marketing communications. CAP launched a separate project to consider the matter further, including gathering more evidence.

This evidence provided a broader perspective on the issue, including an account of the wider theoretical basis behind recognition and experimental studies involving children in real online environments. This section provides a brief narrative outline of the key findings; the studies considered are listed in the bibliography in Annex A (below).

It is well established in the literature¹ that individuals need to be able to both:

- recognise the format of a marketing communications; and
- understand the persuasive intent of the marketer publishing it.

Some models in the literature offer a more detailed picture of audience comprehension, involving recognition of bias and deception, understanding of marketing tactics and appeals and the activation of cognitive defences. However, there is a general agreement –

¹ Friestad & Wright (1994) devised the Knowledge Persuasion Model to explain how adults process commercial messages. More recently, the literature (including several experimental studies) has sought to adapt it to children’s cognitive development (Moses & Baldwin, 2005; Buijzen et al, 2010).

particularly in relation to children – on the fundamental importance of understanding the commercial or persuasive intent behind the communication.

Children’s ability to understand commercial intent is strongly linked² to their general stage of cognitive development. As children get older, cognitive abilities and skills develop, allowing for progressively more complex understanding of the commercial world. The literature notes older studies focusing on TV advertising³ that established a basic model of how children recognise advertising. They found that children can begin to recognise certain advertising formats from as early as the age of 3 and begin to properly understand the persuasive intent behind them around the age of 8.

The evidence CAP assessed reveals an effort, since the early 2000s, to reappraise matters in light of the growth and rapid evolution of online media. Marketing and surrounding editorial content can be integrated in many ways; among the most common are native advertising, advergames, brand and product placement and content sponsorship.

The evidence points strongly to certain online marketing formats frustrating children’s recognition abilities. Several experimental studies assessed found that even children over 8 years have difficulties in recognising and understanding the persuasive intent behind advergames⁴. These findings were mirrored in studies looking at other media⁵ including marketing content integrated into website editorial and brand placements in media such as video games. Although it is well-established that children have the ability to understand commercial and persuasive intent, they fail to do so in circumstances where they cannot recognise something as a marketing communication in the first place⁶.

The evidence does not suggest that the issue affects all online marketing. Concern centres on marketing communications that are highly integrated with the surrounding editorial content or that form part of immersive content, for example interactive or story-based media. They lack the necessary cuing mechanisms (or signifiers) found in traditional media⁷, making it likely that children will not fully process the information contained within those types of marketing communication.

Information can be processed through both cognitive (conscious) and affective (passive) channels. Where children fail to recognise something as a marketing communication, they are less likely to understand the commercial and persuasive intent behind it. Evidence suggests, for instance, that when children do not recognise marketing they are more likely

² Several studies assessed acknowledge Piaget’s (1929 and 1960) work on cognitive development theory, which established the idea of distinct stages in children’s cognitive development.

³ Ideas from cognitive development theory were applied to advertising, most notably by Robertson & Rossiter (1974).

⁴ Van Reijmersdal et al (2010) found that only 40% of 7-12s understood that brands created advergames and only 57% understood the persuasive intent of advergames. Waiguny et al (2012) found that interactivity frustrated children’s recognition of advertising and that children aged 7-10 performed poorly in recognising an advergame as advertising, when compared to TV advertising.

⁵ Ali et al (2009) found that children aged 6 recognised only around 25% of integrated marketing on websites and those aged 8 only around 50%. Hang (2012) found that only 15% of children aged 9-11 could recognise a highly integrated brand placement in a video game. Owen et al (2013), Panic et al (2013) and Hang (2012) identified brand placements as a particular problem when they were “highly embedded”.

⁶ Oates et al (2014) found that children aged 7 were fully competent in identifying and recognising the persuasive intent behind TV advertising but struggled with highly integrated website advertising, whereas older children performed both tasks well.

⁷ Several studies noted Brucks, Armstrong & Goldberg (1988) description of older children as “cued processors” needing assistance to recognise commercial content. Owen et al (2013) found that children’s ability to recognise a variety of non-traditional marketing techniques improved between open-ended questioning and pictorially cued questioning. Ali et al (2009) suggested the difference in recognition performance between TV and integrated websites can be explained in part by the absence of effective cuing mechanisms like separation.

to associate positive experiences and attitudes derived from enjoying a game or programme with marketing content contained within it.

How different types of cuing mechanism prompt children's recognition has not been explored in fuller detail. However, having identified the underlying problem, studies have begun to examine the influence of different factors⁸. For instance, the presence of price indications and prominent branding were found to have some positive effect. However, the available evidence calls into question the extent to which basic labelling would be effective in more challenging scenarios⁹.

CAP concluded that the evidence clearly supported the need for intervention focused on more integrated or immersive marketing communications directed at younger children (under-12s)¹⁰. It therefore opted for the approach set out in the guidance.

⁸ Ali et al (2009) found that children aged 10 performed better at recognising marketing integrated into a website, if it included price indications. Van Reijmersdal et al (2012) found that clear presence of branding led to more cognitive responses to an advergaming, although this did not counteract the affective processing of marketing messages. Quilliam et al (2014) also found that brand prominence did have some effect, in line with Van Reijmersdal et al (2012), but it was not clear that prominent branding alone was sufficient to activate children's persuasion knowledge.

⁹ An & Stern (2011) found that an explanatory disclosure next to an advergaming had some impact on purchase requests subsequently, but not on attitudes toward the brand and it did not increase use of persuasion knowledge. They suggested that the approach was not prominent enough, given the immersive nature of the content. This was reflected by Panic et al (2013). In terms of the level of disclosure of commercial intent, An & Stern (2011) and Panic et al (2013) provide support for the need to go beyond simple disclosure. Hang (2012) found that the interruptive brand placements (an audio placement over a video game) improved recognition.

¹⁰ Rozendal et al (2011) explored responses to different marketing tactics and found that eight was a key age at which children's understanding of selling intent began to develop significantly towards adult levels. However, the evidence suggests strongly that having the cognitive ability to recognise and understand marketing does not necessarily result in effective recognition in practice.

4. How to respond, next steps and confidentiality

4.1 How to respond

CAP is publishing a call for evidence now because it wishes to understand what developments there might have been in the evidence base, taking into account the time that has elapsed since the development of the current guidance and the fast-moving nature of the online environment.

Anyone can respond to this call for evidence. We are particularly interested in submissions from those with expertise in this field; for instance, academics, policy makers, NGOs, or bodies with statutory roles relating to the protection of children.

CAP provides a [document](#) to support stakeholders' submission of evidence, including for those who wish to argue for regulatory change or to better understand CAP's approach to policy-making.

If you believe that there is a case for change, please set out:

- i) what that change should be;
- ii) why the present guidance does not address the issue of concern; and
- iii) the evidential basis for considering it.

Submissions should be sent to Andrewt@cap.org.uk by 5pm on 5 December 2019.

If you are unable to respond by email you may submit your response by fax to +44(0)20 7404 3404 or post to:

Regulatory Policy Team
Castle House
37-45 Paul Street
London
EC2A 4LS

4.2 Next steps

Although this is not a formal consultation process with specific proposals for regulatory change, CAP will assess the evidence and arguments you submit against its present guidance and understanding of the evidence set out above.

We commit to reporting publicly on what we find, including where responses present a substantive case to consider change. We will also set out what further work is necessary to respond in such an eventuality.

4.3 Confidentiality

CAP considers that responses should be made available to everyone who is interested. In its evaluation document, CAP will publish all the relevant significant comments made by respondents and identify all non-confidential respondents. The evaluation and copies of original responses will be published with the outcome of the consultation.

All comments will be treated as non-confidential unless you state that all or a specified part of your response is confidential and should not be disclosed.

If you reply by email or fax, unless you include a specific statement to the contrary in your response, the presumption of non-confidentiality will override any confidentiality disclaimer generated by your organisation's IT system or included as a general statement on your fax cover sheet.

If part of a response is confidential, please put that in a separate annex so that non-confidential parts may be published with your identity. Confidential responses will be included in any statistical summary of numbers of comments received.

Annex A – Bibliography of evidence base assessed

Ali, Blades & Oates (2009), Young children's ability to recognise advertisements in web page designs

An & Kang (2013), Do online ad breaks clearly tell kids that advergames are advertisements that intend to sell things?

An, Jin & Park (2014), Children's Advertising Literacy for Advergames: Perception of the Game as Advertising

An & Stern (2011), Mitigating the Effects of Advergames on Children: Do Advertising Breaks Work?

Auty, Owen, Lewis & Berridge (2007), Children's Understanding of Advertising: an Investigation Using Verbal and Pictorially Cued Methods

Buijzen, Van Reijmersdal & Owen (2010), Introducing the PCMC Model: An Investigative Framework for Young People's Processing of Commercialized Media

Carter, Patterson, Donovan, Ewing & Roberts (2011), Children's understanding of the selling versus persuasive intent of junk food advertising Implications for regulation

Hang (2012), The implicit influence of bimodal brand placement on children: information integration or information inference?

Huh & Faber (2012), Developmental antecedents to children's responses to online advertising

Ini, Michel & Ponnet (2013), Children and Advergames: the role of product involvement, prior brand attitude, persuasion knowledge and game attitude in purchase intentions and changing attitudes

Kunkel (2010), Commentary: Mismeasurement of children's understanding of the persuasive intent of advertising

Leslie, Levine, Loughlin & Pechmann (2009), Adolescents' Psychological and Neurobiological Development: Implications for Digital Marketing

McAllister & Cornwell (2009), Preschool Children's Persuasion Knowledge: The Contribution of Theory of the Mind

Oates, Shiyong & Blades (2014), Becoming Knowledgeable Consumers The ability of young children to recognise when they are being targeted by marketers in different media

Owen, Lewis, Auty & Buijzen (2013), Is Children's Understanding of Nontraditional Advertising: Comparable to Their Understanding of Television Advertising?

Panic, Cauberghe & De Pelsmacker (2013), Comparing TV Ads and Advergames Targeting Children: The Impact of Persuasion Knowledge on Behavioral Responses

Panic, Cauberghe, De Pelsmacker, Hudders & Destoop (2012), Children and a changing media environment: Investigating persuasion knowledge for integrated advertising formats

Rifon, Quilliam, Weatherspoon, Kim & Smerker (2014), Age-dependent effects of food advergame brand integration and interactivity

Rozendaal, Buijzen & Valkenburg (2011), Children's Understanding of Advertisers' Persuasive Tactics

Van Reijmersdal, Rozendaal & Buijzen (2010), Children's responses to advergames: The role of game and child characteristics

Van Reijmersdal, Rozendaal & Buijzen (2012), Effects of Prominence, Involvement, and Persuasion Knowledge on Children's Cognitive and Affective Responses to Advergames

Van Reijmersdal, Rozendaal, Smink, van Noort & Buijzen (2012), How Children are Persuaded by Profile-Targeted Online Advertising

Waiguny, Nelson & Terlutter (2012i), Entertainment matters! The relationship between challenge and persuasiveness of an advergame for children

Waiguny, Nelson & Terlutter (2012ii), The Relationship of Persuasion Knowledge, Identification of Commercial Intent and Persuasion Outcomes in Advergames – the Role of Media Context and Presence


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