Preface

In the UK, The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (the Code) is the rule book for non-broadcast advertisements, sales promotions and direct marketing communications (marketing communications). The Code is primarily concerned with the content of marketing communications and not with terms of business or products themselves. Some rules, however, go beyond content; for example, those that cover the administration of sales promotions, the suitability of promotional items, the delivery of products ordered through an advertisement and the use of personal information in direct marketing. Editorial content is specifically excluded from the Code, though it might be a factor in determining the context in which marketing communications are judged.

The Committee of Advertising Practice (CAP) is the self-regulatory body that creates, revises and enforces the Code. CAP's members include organisations that represent the advertising, sales promotion, direct marketing and media businesses. Through their membership of CAP member organisations, or through contractual agreements with media publishers and carriers, those businesses agree to comply with the Code so that marketing communications are legal, decent, honest and truthful and consumer confidence is maintained.

Some CAP member organisations, for example, the Data & Marketing Association and the Proprietary Association of Great Britain, also require their members to observe their own codes of practice. Those codes may cover some practices that are not covered in this Code.

The Code supplements the law, fills gaps where the law does not reach and often provides an easier way of resolving disputes than by civil litigation or criminal prosecution. In many cases, self-regulation ensures that legislation is not necessary. Although advertisers, promoters and direct marketers (marketers), agencies and media may still wish to consult lawyers, compliance with the Code should go a long way to ensuring compliance with the law in areas covered by both the Code and the law.

By creating and following self-imposed rules, the marketing community produces marketing communications that are welcomed and trusted. By practising self-regulation, it 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 those on misleading and comparative advertising (Directives 2005/29/EC and 2006/114/EC). Self-regulation is accepted by the Department for Business, Innovation

and Skills and Trading Standards as a first line of control in protecting consumers and the industry.

The Advertising Standards Authority (ASA) is the independent body that endorses and administers the Code, ensuring that the self-regulatory system works in the public interest. The ASA's activities include investigating and ruling on complaints and conducting research. Full information about the ASA's complaints procedure is available on www.asa.org.uk.

The vast majority of advertisers, promoters and direct marketers comply with the Code. Those that do not may be subject to sanctions. Adverse publicity may result from the rulings published by the ASA weekly on its website. The media, contractors and service providers may withhold their services or deny access to space. Trading privileges (including direct mail discounts) and recognition may be revoked, withdrawn or temporarily withheld. Pre-vetting may be imposed and, in some cases, noncomplying parties can be referred to Trading Standards for action, where appropriate, under the Consumer Protection from Unfair Trading Regulations 2008 or the Business Protection from Misleading Marketing Regulations 2008.

The successful track record of the self-regulatory system meant that the ASA was recognised as the natural co-regulatory partner when Ofcom was required to give effect to European Union legislation governing advertising content on relevant on-demand services. The ASA was designated by Ofcom as the co-regulator of advertising content included in on-demand services with effect from August 2010. The statutory requirements applying to certain on-demand services are reflected in the rules set out in Appendix 2 in this document.

The system is structured so that it does not operate in an unfair or anti-competitive manner or restrict free speech unjustifiably. ASA decisions are subject to independent review, including in exceptional cases by the Administrative Division of the High Court.

The full text of the Code is available on at: non-broadcast-code.html.

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