Edition 12

The CAP Code

The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing

Legal, decent, honest and truthful

v12.2.108

CAP

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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 has been recognised across Europe (including in legislation) for a number of years. Self-regulation is accepted by the

Department for Business and Trade, Trading Standards and the CMA 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 Digital Markets, Competition and Consumers Act 2024 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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Introduction

This twelfth edition of the Code comes into force on 1 September 2010. It replaces all previous editions.

As well as this Code, non-broadcast marketing communications are subject to legislation.

The advertising rules that apply to video-on-demand services which are subject to statutory regulation are reflected in the rules set out in Appendix 2.

I The Code applies to:

a. advertisements in newspapers, magazines, brochures, leaflets, circulars, mailings, e-mails, text transmissions (including SMS and MMS), fax transmissions, catalogues, follow-up literature and other electronic or printed material

b. posters and other promotional media in public places, including moving images, except where they appear unlawfully

c. cinema, video, DVD and Blu-ray advertisements

d. advertisements in non-broadcast electronic media, including but not limited to: online advertisements in paid-for space (including banner or pop-up advertisements and online video advertisements); paid-for search listings; preferential listings on price comparison sites; viral advertisements (see III l); in-game advertisements; commercial classified advertisements; advergames that feature in display advertisements; advertisements transmitted by Bluetooth; advertisements distributed through web widgets and online promotions and prize promotions

e. marketing databases containing consumers' personal information

f. promotions in non-broadcast media

g. advertorials (see III k)

h. Advertisements and other marketing communications by or from companies, organisations or sole traders on their own websites, or in other non-paid-for space online under their control, that are directly connected with the supply or transfer of goods, services, opportunities and gifts, or which consist of direct solicitations of donations as part of their own fund-raising activities.

II The Code does not apply to:

a. broadcast advertisements (The BCAP Code sets out the rules that govern broadcast advertisements on any television channel or radio station licensed by Ofcom)

b. the contents of premium-rate services, which are the responsibility of the Phone-paid Services Authority; marketing communications that promote those services are subject to Phone-paid Services Authority regulation and to the CAP Code

c. marketing communications on websites, apps and cross-border platforms (for example, social media platforms or retail platforms) unless they meet at least one of the following criteria:

- Non-paid-for marketing communications from or by marketers with a UK registered company address and / or who are subject to licensing conditions requiring compliance with the CAP Code, which are imposed by either a UK public authority or UK public body.
- Marketing communications appearing on websites with a “.uk” top-level domain.
- Paid-for marketing communications from or by marketers targeting people in the UK.

Marketing communications on websites, apps and cross-border platforms that do not meet at least one of these criteria will fall outside of the scope of the CAP Code.

Most members of the European Union, and many non-European Union countries, have a self-regulatory organisation that is a member of the European Advertising Standards Alliance (EASA). EASA co-ordinates the cross-border complaints system for its members (which include the ASA). The ASA will use the cross-border complaints system in the following situations involving marketing communications on websites, apps and cross-border platforms:

- Where non-paid-for marketing communications which are outside the remit of the CAP Code target UK consumers, the ASA will refer complaints about them to the relevant authority in the country in which the marketer is registered if that authority operates a suitable cross-border complaint system. If a suitable cross-border complaint system is not operated, the ASA will take what action it can.
- Where the ASA receives complaints about paid-for marketing communications by marketers without a UK-registered address which target UK consumers, and the ASA considers that it is unable to take action in response to such complaints, the ASA will

refer the complaints to the relevant authority in the country in which the marketer is registered if that authority operates a suitable cross-border complaint system.

Direct marketing communications by or from marketers with a non-UK-registered company address are subject to the jurisdiction of the relevant authority in the country in which the marketer is registered if that authority operates a suitable cross-border complaint system. If a suitable cross-border complaint system is not operated, the ASA will take what action it can.

d. claims, in marketing communications in media addressed only to medical, dental, veterinary or allied practitioners, that relate to those practitioners' expertise

e. classified private advertisements, including those appearing online

f. statutory, public, police and other official notices or information, but not marketing communications, produced by public authorities and the like

g. works of art exhibited in public or private

h. private correspondence, including correspondence between organisations and their customers about existing relationships or past purchases

i. live oral communications, including telephone calls and announcements or direct approaches from street marketers

j. press releases and other public relations material not covered by part I above

k. editorial content; for example, of the media or of books and regular competitions such as crosswords

l. [Deleted 10 May 2018].

m. packages, wrappers, labels, tickets, timetables and price lists unless they advertise another product or a promotion or are visible in a marketing communication

n. point-of-sale displays, except those containing promotional marketing (as defined in section 8) or pertaining to rolling papers or filters, in which case the entire Code applies to the promotional material or content which pertains to rolling papers or filters

o. political advertisements as defined in Section 7

p. marketing communications for causes and ideas in non-paid-for space, except where they contain a direct solicitation for donations as part of the marketer's own fund-raising activities

q. website content not covered by I d and I h, including (but not limited to) editorial content, news or public relations material, corporate reports and natural listings on a search engine or a price comparison site

r. sponsorship; marketing communications that refer to sponsorship are covered by the Code

s. customer charters and codes of practice

t. investor relations (see III m)

u. 'heritage advertising' by or from companies, organisations or sole traders on their own websites, or in other non-paid for space online under their control, where that advertising is not part of their current promotional strategy and is placed in an appropriate context. In cases where advertisements or other marketing communications recently ruled against by the ASA are featured, rule 1.2 (the spirit of the Code) may be invoked to bring those advertisements or other marketing communications within remit.

III These definitions apply to the Code:

a. a product encompasses goods, services, ideas, causes, opportunities, prizes or gifts

b. a consumer is anyone who is likely to see a given marketing communication, whether in the course of business or not

c. the United Kingdom covers the Isle of Man and the Channel Islands

d. a claim can be implied or direct, written, spoken or visual; the name of a product can constitute a claim

e. the Code is divided into numbered rules

f. a marketing communication includes all forms of communication listed in part I

g. a marketer includes an advertiser, promoter or direct marketer

h. a supplier is anyone who supplies a product that is sold by a distance-selling marketing communication (and can be the marketer)

i. a child is anyone under 16

j. a corporate subscriber includes corporate bodies such as limited companies in the UK, limited liability partnerships in England, Wales and Northern Ireland or any partnerships in

Scotland. It also includes schools, hospitals, Government departments or agencies and other public bodies. It does not include sole traders or non-limited liability partnerships in England, Wales and Northern Ireland. See rule 10.14

k. An advertorial is an advertisement feature, announcement or promotion, the content of which is controlled by the marketer, not the publisher, that is disseminated in exchange for a payment or other reciprocal arrangement

l. A viral advertisement is an e-mail, text or other non-broadcast marketing communication designed to stimulate significant circulation by recipients to generate commercial or reputational benefit to the marketer. Viral advertisements are usually put into circulation ("seeded") by the marketer with a request, either explicit or implicit, for the message to be forwarded to others. Sometimes they include a video clip or a link to website material or are part of a promotional campaign

m. Investor relations material is information about an organisation (including its goods or services) addressed to the financial community, including shareholders and investors, as well as others who might be interested in the company's stock or financial stability.

IV These criteria apply to the Code:

a. the ASA Council's interpretation of the Code is final

b. if it is not clear whether a communication falls within the remit of the Code, the ASA will be more likely to apply the Code if the material complained about is in paid-for space

c. compliance with the Code is assessed according to the marketing communication's probable impact when taken as a whole and in context. That will depend on the medium in which the marketing communication appeared, the audience and its likely response, the nature of the product and any material distributed to consumers

d. the Non-broadcast ASA Council may have regard to decisions made by the Broadcast ASA Council under the BCAP Code and, similarly, the Broadcast ASA Council may have regard to decisions made by the Non-broadcast ASA Council under the CAP Code. Factors that help to determine whether an ASA ruling is likely to apply across media include, but are not limited to, the characteristics of the medium, how the advertisement is targeted, the context in which a claim is made and the extent to which the relevant CAP Code provisions correspond to those in the BCAP Code

e. the Code does not have the force of law and its interpretation will reflect its flexibility. The Code operates alongside the law; the Courts may make rulings on matters covered by the Code

f. an indication of the statutory rules governing marketing communications is given on www.asa.org.uk; professional advice should be taken about their application

g. no spoken or written communication from the ASA or CAP should be understood as containing legal advice

h. the Code is primarily concerned with the content of advertisements, promotions and direct marketing communications and not with terms of business or products. Some rules, however, go beyond content; for example, those that cover the administration of promotions, the suitability of promotional items and the use of personal information in direct marketing. Editorial content is specifically excluded from the remit of the Code (see II k) although it might be a factor in determining the context in which a marketing communication is judged (see IV c)

i. the Code makes due allowance for public sensitivities but will not be used by the ASA to diminish freedom of speech unjustifiably

j. the ASA does not arbitrate between conflicting ideologies

k. in assessing compliance with the Code, the ASA may take account of honest market practices and the general principle of good faith in the traders' field of activity

l. in relevant cases the ASA will have regard to existing statutory enforcement bodies. The ASA reserves the right to refer complainants to the relevant statutory regulator in cases where a complaint about a marketing communication relates to a Code rule that reflects a legal provision for a regulated product.

1

COMPLIANCE

Principle

The central principle for all marketing communications is that they should be legal, decent, honest and truthful. All marketing communications should be prepared with a sense of responsibility to consumers and society and should reflect the spirit, not merely the letter, of the Code.

Background

Marketers should use the ASA website, www.asa.org.uk, to inform themselves of recent ASA rulings, the latest text of the Code and CAP guidance on the Code.

The fact that a marketing communication complies with the Code does not guarantee that every publisher will accept it. Media owners can refuse space to marketing communications that break the Code and are not obliged to publish every marketing communication offered to them.

The ASA/CAP self-regulatory system is recognised by the Government, Trading Standards and the Courts as one of the "established means" of consumer protection in non-broadcast marketing communications. Any matter that principally concerns a legal dispute will normally need to be resolved through law enforcement agencies or the Courts.

The ASA and CAP will treat in confidence any genuinely private or secret material supplied unless the Courts or officials acting within their statutory powers compel its disclosure.

Rules

1.1 Marketing communications should be legal, decent, honest and truthful..

1.2 Marketing communications must reflect the spirit, not merely the letter, of the Code.

1.3 Marketing communications must be prepared with a sense of responsibility to consumers and to society.

1.4 Marketers must comply with all general rules and with relevant sector-specific rules.

1.5 No marketing communication should bring advertising into disrepute.

1.6 Marketing communications must respect the principles of fair competition generally accepted in business.

1.7 Any unreasonable delay in responding to the ASA's enquiries will normally be considered a breach of the Code.

1.7.1 The full name and geographical business address of the marketer must be given to the ASA or CAP without delay if requested.

1.8 Marketing communications must comply with the Code. Primary responsibility for observing the Code falls on marketers. Others involved in preparing or publishing marketing communications, such as agencies, publishers and other service suppliers, also accept an obligation to abide by the Code.

1.8.1 [Deleted 6 November 2018]

1.9 Marketers should deal fairly with consumers.

Legality

1.10 Marketers have primary responsibility for ensuring that their marketing communications are legal. Marketing communications should comply with the law and should not incite anyone to break it.

1.10.1 Marketers must not state or imply that a product can legally be sold if it cannot.*

(This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

2

RECOGNITION OF MARKETING COMMUNICATIONS

Background

Other sections of the Code contain product-specific or audience-specific rules that are intended to protect consumers from misleading marketing communications. For example, the Charity-linked Promotions and Children sections of the Code contain rules that apply, as well as the general rules, to marketing communications that fall under those sections.

Rules

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 apparent from the context*. (This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

2.4 Marketers and publishers must make clear that advertorials are marketing communications; for example, by heading them "advertisement feature"*. (This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

3

MISLEADING ADVERTISING

Background

Most rules in this section engage the transactional decision test (see Appendix 1). Those rules generally refer to marketing communications “misleading” the consumer.

Other rules reflect prohibited practices that are considered unfair in all circumstances, and do not therefore require the application of a transactional decision test. Those rules generally state marketing communications “must not” engage in a practice, rather than referring to misleading the consumer. Where a rule does reflect a prohibited practice, either in part or in its entirety, it is marked with an asterisk.
The ASA will take the Unfair Commercial Practices (UCP) provisions in Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024 into account when it rules on complaints about marketing communications that are alleged to be misleading. See Appendix 1 for more information about the Act.

The ASA will take into account the impression created by marketing communications as well as specific claims. It will rule on the basis of the likely effect on consumers, not the marketer's intentions.

Other sections of the Code contain product-specific or audience-specific rules that are intended to protect consumers from misleading marketing communications. For example, the Children and Medicines sections of the Code contain rules that apply, as well as the general rules, to marketing communications that fall under those sections.

If a marketing communication encourages consumers to buy a product or service through a distance-selling mechanism, marketers should seek legal advice to ensure they comply with the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Rules

General

3.1 Marketing communications must not materially mislead or be likely to do so.

3.2 Obvious exaggerations ("puffery") and claims that the average consumer who sees the marketing communication is unlikely to take literally are allowed provided they do not materially mislead.

3.3 Marketing communications must not omit material information or information required to be included by law. This includes providing such information in a way that is unclear or untimely, or in a way that the consumer is unlikely to see or hear it.

Regard will be had to any limitations (e.g. as to time or space) resulting from the means of communication used and steps taken by the marketer to overcome these by providing the information by other means. “Material information” is information that the average consumer needs to take an informed transactional decision (as defined in Appendix 1).

3.4 For marketing communications that quote prices for advertised products, omitting material information (for the purposes of rule 3.3) includes omitting any of the following information, unless it is already apparent from the context:

3.4.1 the main characteristics of the product

3.4.2 the identity (and, if different, trading name) and business address (and, if different, the service address) and any business email address of the marketer and any other trader on whose behalf the marketer is acting

3.4.3 the total price of the advertised product, including any fees, taxes, charges or other payments that the consumer will necessarily incur if the consumer purchases the product

If, owing to the nature of the product, the whole or any part of the total price cannot be calculated in advance, how the price (or that part of it) will be calculated

3.4.4 any freight, delivery, or postal charges, including any taxes, not included in the total price of the product but which the consumer may choose to incur (or, where those additional taxes or charges cannot reasonably be calculated in advance, the fact that they may be payable)

3.4.5 the arrangements for payment, delivery, performance or complaint handling, if those depart from the marketer’s published practice in relation to those arrangements

3.4.6 that consumers have the right to withdraw or cancel, if they have that right (see rule 3.56).

3.5 Marketing communications must not materially mislead by omitting the identity of the marketer.

Some marketing communications must include the marketer's identity and contact details. Marketing communications that fall under the Use of Data for Marketing or Employment sections of the Code must comply with the more detailed rules in those sections.

Marketers should note the law requires marketers to identify themselves in some marketing communications. Marketers should take legal advice.

3.6 Subjective claims must not mislead the consumer; marketing communications must not mislead by implying that expressions of opinion are objective claims.

Substantiation

3.7 Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove claims that consumers are likely to regard as objective and that are capable of objective substantiation. The ASA may regard claims as misleading in the absence of adequate substantiation.

3.8 Claims for the content of non-fiction publications must not mislead by exaggerating the value, accuracy, scientific validity or practical usefulness of the product. Marketers must ensure that claims that have not been independently substantiated but are based merely on the content of a publication do not mislead consumers.

Qualification

3.9 Marketing communications must not mislead by omitting significant limitations and qualifications. Qualifications may clarify but must not mislead by contradicting the claims that they qualify.

3.10 Qualifications must not mislead by not being presented clearly.

CAP has published Advertising Guidance on Misleading advertising: use of qualifications.

Exaggeration

3.11 Marketing communications must not mislead consumers by exaggerating the capability or performance of a product.

3.12 Marketing communications must not present rights given to consumers in law as a distinctive feature of the marketer's offer.*

3.13 Marketing communications must not mislead by suggesting that their claims are universally accepted if a significant division of informed or scientific opinion exists.

Prohibited Claims

These rules apply regardless of any substantiation presented in support of the claims:

3.14 Marketing communications must not claim that products can facilitate winning in games of chance.*

3.15 Marketing communications must not explicitly claim that the advertiser's job or livelihood is at risk if the consumer does not buy the advertised product.*

3.16 No marketing communication may promote a pyramid promotional scheme. Pyramid promotional schemes are those in which consumers pay for the opportunity to receive payments derived primarily from the introduction of other consumers into the scheme, not from the sale or consumption of products.*

Prices

Background

Price statements in marketing communications should take into account the Chartered Trading Standards Institute’s Guidance for traders on pricing practices.

Definition

Price statements include statements about the manner in which the price will be calculated as well as definite prices.

3.17 Price statements must not mislead by omission, undue emphasis or distortion. They must relate to the product featured in the marketing communication.

3.18 Quoted prices must include non-optional taxes, duties, fees and charges that apply to all or most buyers. However, VAT-exclusive prices may be given if all those to whom the price claim is clearly addressed pay no VAT or can recover VAT. Such VAT-exclusive prices must be accompanied by a prominent statement of the amount or rate of VAT payable.

3.19 If a tax, duty, fee or charge cannot be calculated in advance, for example, because it depends on the consumer's circumstances, the marketing communication must make clear that it is excluded from the advertised price and state how it is calculated.

3.20 Marketing communications that state prices must also state any optional delivery, freight or postal charges, including any taxes, or, if those cannot reasonably be calculated in advance, state that such charges are payable (see rule 3.4).

3.21 If the price of one product depends on another, marketing communications must not mislead by failing to make clear the extent of the commitment the consumer must make to obtain the advertised price.

3.22 Price claims such as "up to" and "from" must not mislead by exaggerating the availability or amount of benefits likely to be obtained by the consumer.

Free

3.23 Marketing communications must not describe a product as "free", "gratis", "without charge" or similar if the consumer has to pay anything other than the unavoidable cost of responding and collecting or paying for delivery of the item*, including if:

3.23.1 the consumer has to pay packing, packaging, handling or administration charges for the "free" product

3.23.2 the cost of response, including the price of a product that the consumer must buy to take advantage of the offer, has been increased, except where the increase results from factors that are unrelated to the cost of the promotion, or

3.23.3 the quality of the product that the consumer must buy has been reduced.

CAP and BCAP have published joint guidance on the use of "free".

3.24 Marketing communications must make clear the extent of the commitment the consumer must make to take advantage of a "free" offer.

3.25 Marketers must not describe an element of a package as "free" if that element is included in the package price unless consumers are likely to regard it as an additional benefit because it has recently been added to the package without increasing its price.

3.26 Marketers must not use the term "free trial" to describe "satisfaction or your money back" offers or offers for which a non-refundable purchase is required.

Availability

3.27 Marketers must make a reasonable estimate of demand for advertised products.

3.28 Marketing communications that quote a price for a featured product must disclose if the marketer has any reasonable grounds for believing that it will not be possible to supply the advertised (or an equivalent) product at the advertised price within a reasonable period and in reasonable quantities.*

3.29 Marketers must not use the technique of switch selling, in which their sales staff decline to show the advertised product, refuse to take orders for it or to deliver it within a reasonable time or demonstrate a defective sample of it to promote a different product.*

3.30 Marketing communications must not falsely claim that the marketer is about to cease trading or move premises. They must not falsely state that a product, or the terms on which it is offered, will be available only for a limited time to deprive consumers of the time or opportunity to make an informed choice.*

3.31 Marketing communications must not provide materially inaccurate information on market conditions or the availability of the product with the intention of inducing the consumer to acquire the product at conditions less favourable than normal market conditions.*

Comparisons

Principle

The ASA will consider unqualified superlative claims as comparative claims against all competing products. Superiority claims must be supported by evidence unless they are obvious puffery (that is, claims that consumers are unlikely to take literally). Objective superiority claims must make clear the aspect of the product or the marketer's performance that is claimed to be superior.

Comparisons with identifiable competitors

3.32 Marketing communications that include a comparison with an identifiable competitor must not mislead, or be likely to mislead, the consumer about either the advertised product or the competing product.

3.33 They must compare products meeting the same needs or intended for the same purpose.

3.34 They must objectively compare one or more material, relevant, verifiable and representative feature of those products, which may include price.

3.35 They must not create confusion between the marketer and its competitors or between the marketer's product, trade mark, trade name or other distinguishing mark and that of a competitor.

3.36 Certain EU agricultural products and foods are, because of their unique geographical area and method of production, given special protection by being registered as having a "designation of origin". Products with a designation of origin must be compared only with other products with the same designation.

Other comparisons

3.37 Marketing communications that include a comparison with an unidentifiable competitor must not mislead, or be likely to mislead, the consumer. The elements of the comparison must not be selected to give the marketer an unrepresentative advantage.

Price comparisons

3.38 Marketing communications that include a price comparison must not mislead by failing to make the basis of the comparison clear.

3.39 Price comparisons must not mislead by falsely claiming a price advantage. Comparisons with recommended retail prices (RRPs) are likely to mislead if the RRP differs significantly from the price at which the product or service is generally sold.

Imitation and denigration

3.40 Marketing communications must not mislead the consumer about who manufactures the product.*

3.41 Marketing communications that include a comparison with an identifiable competitor must not discredit or denigrate another product, marketer, trade mark, trade name or other distinguishing mark.

3.42 Marketing communications must not take unfair advantage of the reputation of a competitor's trade mark, trade name or other distinguishing mark or of the designation of origin of a competing product.

3.43 Marketing communications must not present a product as an imitation or replica of a product with a protected trade mark or trade name.

Endorsements and testimonials

Note

The below rules relate to marketing materials under the remit of the CAP Code (see the Scope of the Code). Marketers are advised to seek legal advice on other obligations in relation to the prohibition on fake consumer reviews.

3.44 Marketing communications must not contain fake consumer reviews.
“Consumer review” means a review of a product, a trader or any other matter relevant to a transactional decision.
A fake consumer review is a consumer review that purports to be, but is not, based on a person’s genuine experience*.

3.45 Marketing communications must make clear where consumer reviews have been incentivised.*

3.46 Marketers must not publish consumer reviews, or consumer review information, in a misleading way in marketing communications. Publishing in a misleading way includes (for example):

- Failing to publish, or removing from publication, negative consumer reviews whilst publishing positive ones (or vice versa)
- Giving greater prominence to positive consumer reviews over negative ones (or vice versa)
- Omitting information that is relevant to the circumstances in which a consumer review has been written (including that a person has been commissioned to write the review).

"Consumer review information" means information that is derived from, or is influenced by, consumer reviews*.

3.47 Marketers must hold documentary evidence that a testimonial or endorsement used in a marketing communication is genuine, unless it is obviously fictitious, and hold contact details for the person who, or organisation that, gives it.

3.48 Testimonials must relate to the advertised product.

3.49 Claims that are likely to be interpreted as factual and appear in a testimonial must not mislead or be likely to mislead the consumer.

3.50 Marketing communications must not feature a testimonial without permission; exceptions are normally made for accurate statements taken from a published source, quotations from a publication or references to a test, trial, professional endorsement, research facility or professional journal, which may be acceptable without express permission.

3.51 Marketers must not refer in a marketing communication to advice received from CAP or imply endorsement by the ASA or CAP.

3.52 Marketing communications must not display a trust mark, quality mark or equivalent without the necessary authorisation. Marketing communications must not claim that the marketer (or any other entity referred to), the marketing communication or the advertised product has been approved, endorsed or authorised by any public or private body if it has not or without complying with the terms of the approval, endorsement or authorisation.*

3.53 Marketing communications must not falsely claim that the marketer, or other entity referred to in the marketing communication, is a signatory to a code of conduct. They must not falsely claim that a code of conduct has an endorsement from a public or private body.*

3.54 Marketing communications must not use the Royal Arms or Emblems in a misleading way that implies due authorisation or approval by a member of the Royal Family where none has been given. If such authorisation or approval is required (which it normally will be), the Lord Chamberlain's Office should be contacted in the first instance. References to a Royal Warrant should be checked with the Royal Warrant Holders' Association.

Guarantees and after-sales service

Definition

In the rules below, "guarantee" includes warranties, after-sales service agreements, care packages and similar products.

3.55 Marketing communications must not use the word "guarantee" in a way that could cause confusion about a consumer's rights.

3.56 Marketing communications must not mislead by omitting significant limitations to an advertised guarantee (of the type that has implications for a consumer's rights). Marketers must supply the full terms before the consumer is committed to taking up the guarantee.

3.57 Marketers must promptly refund consumers who make valid claims under an advertised money-back guarantee.

3.58 Marketing communications must not falsely claim or imply that after-sales service is available, including falsely claiming that it is available in, or accessible from, any particular country or location*.

3.59 If a marketing communication offers after-sales service but the after-sales service is not available in the language of the marketing communication, the marketer must explain that to the consumer before the contract is concluded*.

4

HARM AND OFFENCE

Principle

Marketers should take account of the prevailing standards in society and the context in which a marketing communication is likely to appear to minimise the risk of causing harm or serious or widespread offence.

Rules

4.1 Marketing communications must not contain anything that is likely to cause serious or widespread offence. Particular care must be taken to avoid causing offence on the grounds of: age; disability; gender; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. Compliance will be judged on the context, medium, audience, product and prevailing standards.

Marketing communications may be distasteful without necessarily breaching this rule. Marketers are urged to consider public sensitivities before using potentially offensive material.

The fact that a product is offensive to some people is not grounds for finding a marketing communication in breach of the Code.

4.2 Marketing communications must not cause fear or distress without justifiable reason; if it can be justified, the fear or distress should not be excessive. Marketers must not use a shocking claim or image merely to attract attention.

4.3 References to anyone who is dead must be handled with particular care to avoid causing offence or distress.

4.4 Marketing communications must contain nothing that is likely to condone or encourage violence or anti-social behaviour.

4.5 Marketing communications, especially those addressed to or depicting a child, must not condone or encourage an unsafe practice (see Section 5: Children).

4.6 Marketing communications must not encourage consumers to drink and drive. Marketing communications must, where relevant, include a prominent warning on the dangers of drinking and driving and must not suggest that the effects of drinking alcohol can be masked.

4.7 Marketers must take particular care not to include in their marketing communications visual effects or techniques that are likely to adversely affect members of the public with photosensitive epilepsy.

4.8 Marketing communications must not portray or represent anyone who is, or seems to be, under 18 in a sexual way. However, this rule does not apply to marketing communications whose principal function is to promote the welfare of, or to prevent harm to, under-18s, provided any sexual portrayal or representation is not excessive.

4.9 Marketing communications must not include gender stereotypes that are likely to cause harm, or serious or widespread offence.

See Advertising Guidance: "Depicting gender stereotypes likely to cause harm or serious or widespread offence"

5

CHILDREN

Principle

Care should be taken when featuring or addressing children in marketing communications.

The way in which children perceive and react to marketing communications is influenced by their age, experience and the context in which the message is delivered. Marketing communications that are acceptable for young teenagers will not necessarily be acceptable for younger children. The ASA will take those factors into account when assessing whether a marketing communication complies with the Code.

Definition

For the purposes of the Code, a child is someone under 16.

Rules

Harm

5.1 Marketing communications addressed to, targeted directly at or featuring children must contain nothing that is likely to result in their physical, mental or moral harm:

5.1.1 children must not be encouraged to enter strange places or talk to strangers

5.1.2 children must not be shown in hazardous situations or behaving dangerously except to promote safety. Children must not be shown unattended in street scenes unless they are old enough to take responsibility for their own safety.

Pedestrians and cyclists must be seen to observe the Highway Code

5.1.3 children must not be shown using or in close proximity to dangerous substances or equipment without direct adult supervision

5.1.4 children must not be encouraged to copy practices that might be unsafe for a child

5.1.5 distance selling marketers must take care when using youth media not to promote products that are unsuitable for children.

Credulity and unfair pressure

5.2 Marketing communications addressed to, targeted directly at or featuring children must not exploit their credulity, loyalty, vulnerability or lack of experience:

5.2.1 children must not be made to feel inferior or unpopular for not buying the advertised product

5.2.2 children must not be made to feel that they are lacking in courage, duty or loyalty if they do not buy or do not encourage others to buy a product

5.2.3 it must be made easy for children to judge the size, characteristics and performance of advertised products and to distinguish between real-life situations and fantasy

5.2.4 adult permission must be obtained before children are committed to buying complex or costly products.

5.3 Marketing communications addressed to or targeted directly at children:

5.3.1 must not exaggerate what is attainable by an ordinary child using the product being marketed

5.3.2 must not exploit children's susceptibility to charitable appeals and must explain the extent to which their participation will help in any charity-linked promotions.

Direct appeal and parental authority

5.4 Marketing communications:

5.4.1 must not actively encourage children to make a nuisance of themselves to parents or others and must not undermine parental authority

5.4.2 must not include a direct appeal to children to buy an advertised product or persuade their parents or other adults to buy an advertised product for them.*

(This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

5.5 Marketing communications that contain a direct appeal to buy a product via a direct-response mechanism must not be directly targeted at children. Direct-response mechanisms are those that allow consumers to place orders without face-to-face contact with the marketer.

Promotions

5.6 Promotions addressed to or targeted directly at children:

5.6.1 must make clear that adult permission is required if a prize or an incentive might cause conflict between a child's desire and a parent's, or other adult's, authority

5.6.2 must contain a prominent closing date if applicable (see rule 8.17.4)

5.6.3 must not exaggerate the value of a prize or the chances of winning it.

5.7 Promotions that require a purchase to participate and include a direct appeal to make a purchase must not be addressed to or targeted at children. See Section 8: Promotional Marketing.

6

PRIVACY

Principle

Individuals should be protected from unwarranted infringements of privacy.

Rules

6.1 Marketers must not unfairly portray or refer to anyone in an adverse or offensive way unless that person has given the marketer written permission to allow it. Marketers are urged to obtain written permission before:

- referring to or portraying a member of the public or his or her identifiable possessions; the use of a crowd scene or a general public location may be acceptable without permission
- referring to a person with a public profile; references that accurately reflect the contents of a book, an article or a film might be acceptable without permission
- implying any personal approval of the advertised product; marketers should recognise that those who do not want to be associated with the product could have a legal claim.

Prior permission might not be needed if the marketing communication contains nothing that is inconsistent with the position or views of the featured person.

6.2 Members of the royal family should not normally be shown or mentioned in a marketing communication without their prior permission but an incidental reference unconnected with the advertised product, or a reference to material such as a book, article or film about a member of the royal family, may be acceptable.

7

POLITICAL ADVERTISEMENTS

Rules

7.1 Claims in marketing communications, whenever published or distributed, whose principal function is to influence voters in a local, regional, national or international election or referendum are exempt from the Code.

7.2 Marketing communications by central or local government, as distinct from those concerning party policy, are subject to the Code.

8

PROMOTIONAL MARKETING

Background

The promotional marketing rules apply to consumer and trade promotions, incentive schemes and the promotional elements of sponsorships; they regulate the nature and administration of promotions.

Promoters should take legal advice before embarking on promotions with prizes, including competitions, prize draws, instant-win offers and premium promotions, to ensure that the mechanisms involved do not make them unlawful lotteries (see the Gambling Act 2005 for Great Britain and the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (as amended) for Northern Ireland).

Promoters should comply with all other relevant legislation, including data protection legislation for which guidance is available from the Information Commissioner's Office.

The promotional marketing rules must be read in conjunction with all other parts of the Code, including the relevant rules in Section 5: Children and Section 18: Alcohol.

Definition

Promotional marketing can provide an incentive for the consumer to buy by using a range of added direct or indirect benefits, usually on a temporary basis, to make the product more attractive. A non-exhaustive list of promotional marketing techniques includes: "two for the price of one" offers, money-off offers, text-to-wins, instant-wins, competitions and prize draws. The rules do not apply to routine, non-promotional, distribution of products or product extensions, for example one-off editorial supplements (in printed or electronic form) to newspapers or magazines.

Rules

8.1 Promoters are responsible for all aspects and all stages of their promotions.

8.2 Promoters must conduct their promotions equitably, promptly and efficiently and be seen to deal fairly and honourably with participants and potential participants. Promoters must avoid causing unnecessary disappointment.

Protection of consumers, safety and suitability

8.3 Promoters must do everything reasonable to ensure that their promotions, including product samples, are safe and cause no harm to consumers or their property. Literature accompanying promotional items must give any necessary warnings and safety advice.

8.4 Alcoholic drinks must not feature in promotions directed at people under 18. Alcohol must not be available on promotion to anyone under 18.

8.5 Promotions must not be socially undesirable to the audience addressed by encouraging excessive consumption or irresponsible use.

8.6 Promoters must do everything reasonable to ensure that unsuitable or irresponsible material does not reach consumers or other recipients.

8.7 No promotion or promotional item should cause serious or widespread offence to consumers.

Children

8.8 Special care must be taken with promotions addressed to children or if products or items intended for adults might fall into the hands of children. (See Section 5: Children)

Availability

8.9 Phrases such as “subject to availability” do not relieve promoters of their obligation to do everything reasonable to avoid disappointing participants.

8.10 Promoters must be able to demonstrate that they have made a reasonable estimate of the likely response and either that they were capable of meeting that response or that consumers had sufficient information, presented clearly and in a timely fashion, to make an informed decision on whether or not to participate - for example regarding any limitation on availability and the likely demand.

8.11 If promoters rely on being able to meet the estimated response but are unable to supply demand for a promotional offer because of an unexpectedly high response or some other unanticipated factor outside their control, they must ensure relevant timely communication with applicants and consumers and, in cases of any likely detriment, offer a refund or a reasonable substitute product.

8.12 Promoters must not encourage the consumer to make a purchase or series of purchases as a precondition to applying for promotional items if the number of those items is limited, unless the limitation is made sufficiently clear at each stage for the consumer accurately to assess whether participation is worthwhile.

8.13 If a prize promotion is widely advertised, the promoter must ensure the widespread availability of the requisite forms and any goods needed to establish proof of purchase.

Administration

8.14 Promoters must ensure that their promotions are conducted under proper supervision and make adequate resources available to administer them. Promoters, agencies and intermediaries should not give consumers justifiable grounds for complaint.

8.15 Promoters must allow adequate time for each phase of the promotion: notifying the trade; distributing the goods; issuing rules if relevant; collecting wrappers and the like and judging and announcing results.

8.15.1 Promoters must award the prizes as described in their marketing communications or reasonable equivalents, normally within 30 days.*

(This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

8.16 [Rule deleted 30 April 2015].

Significant conditions for promotions

Background

Please see the Children section and the Prize Promotions sub-section.

8.17 All marketing communications or other material referring to promotions must communicate all applicable significant conditions or information where the omission of such conditions or information is likely to mislead. Significant conditions or information may, depending on the circumstances, include:

8.17.1 **How to participate**
How to participate, including significant conditions and costs, and other major

factors reasonably likely to influence consumer's decision or understanding about the promotion

8.17.2 **Free-entry route explanation**
Any free-entry route should be explained clearly and prominently

8.17.3 **Start date**

The start date, if applicable

8.17.4 **Closing date**

8.17.4.a A prominent closing date, if applicable, for purchases and submissions of entries or claims. Closing dates are not always necessary, for example: comparisons that refer to a special offer (whether the promoter's previous offer or a competitor's offer) if the offer is and is stated to be "subject to availability"; promotions limited only by the availability of promotional packs (gifts with a purchase, extra-volume packs and reduced-price packs) and loyalty schemes run on an open-ended basis

8.17.4.b Unless the promotional pack includes the promotional item or prize and the only limit is the availability of that pack, prize promotions and promotions addressed to or targeted at children are likely to need a closing date

8.17.4.c Promoters must be able to demonstrate that the absence of a closing date will not disadvantage consumers

8.17.4.d Promoters must state if the deadline for responding to undated promotional material will be calculated from the date the material was received by consumers, if the omission of that information is likely to mislead

8.17.4.e Closing dates must not be changed unless unavoidable circumstances beyond the control of the promoter make it necessary and either not to change the date would be unfair to those who sought to participate within the original terms, or those who sought to participate within the original terms will not be disadvantaged by the change.

8.17.5 **Proof of purchase**
Any proof of purchase requirements

8.17.6 **Prizes and gifts**
Promoters must specify the number and nature of prizes or gifts, if applicable. If the exact number cannot be predetermined, a reasonable estimate of the number and a statement of their nature must be made. Promoters must:

8.17.6.a distinguish those prizes that could be won, including estimated prize funds, from those prizes that will be won by someone by the end of the promotional period and

8.17.6.b state whether prizes are to be awarded in instalments or are to be shared among recipients

8.17.7 **Restrictions**
Geographical, personal or technological restrictions such as location, age or the need to access the Internet. Promoters must state any need to obtain permission to enter from an adult or employer

8.17.8 **Availability**
The availability of promotional packs if it is not obvious; for example, if promotional packs could become unavailable before the stated closing date of the offer. Any limitation on availability should be sufficiently clear for a consumer to assess whether participation is worthwhile.

8.17.9 **Promoter's name and address**
Unless it is obvious from the context or if entry into an advertised promotion is only through a dedicated website containing that information in an easily found format, the promoter's full name and correspondence address must be stated.

8.18 Marketing communications that include a promotion and are significantly limited by time or space must include as much information about significant conditions as practicable and must direct consumers clearly to an easily accessible alternative source where all the significant conditions of the promotion are prominently stated. Participants should be able to retain those conditions or easily access them throughout the promotion.

Prize promotions

8.19 Promoters must not claim that consumers have won a prize if they have not. The distinction between prizes and gifts, or equivalent benefits, must always be clear. Ordinarily, consumers may expect an item offered to a significant proportion of participants to be described as a 'gift', while an item offered to a small minority may be more likely to be described as a 'prize'. If a promotion offers a gift to a significant proportion and a prize to a minority, special care is needed to avoid confusing the two: the promotion must, for example, state clearly that consumers "qualify" for the gift but have merely an opportunity to win the prize. If a promotion includes, in a list of prizes, a gift for which consumers have qualified, the promoter must distinguish clearly between the two.

8.20 Promoters must not exaggerate consumers' chances of winning prizes. They must not include a consumer who has been awarded a gift in a list of prize winners.

8.21 Promoters must not claim or imply that consumers are luckier than they are. They must not use terms such as "finalist" or "final stage" in a way that implies that consumers have progressed, by chance or skill, to an advanced stage of a promotion if they have not.

8.21.1 Promoters must not falsely claim or imply that the consumer has already won, will win or will on doing a particular act win a prize (or other equivalent benefit) if the consumer must incur a cost to claim the prize (or other equivalent benefit) or if the prize (or other equivalent benefit) does not exist.*

(This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

8.22 Promoters must not claim that consumers must respond by a specified date or within a specified time if they need not.

8.23 Promoters must avoid rules that are too complex to be understood and they must only exceptionally supplement or amend conditions of entry with extra rules. In such circumstances, promoters must tell participants how to obtain the supplemental or amended rules and they must contain nothing that could reasonably have influenced consumers against buying or participating.

8.24 Promoters of prize draws must ensure that prizes are awarded in accordance with the laws of chance and, unless winners are selected by a computer

process that produces verifiably random results, by an independent person, or under the supervision of an independent person.

8.25 Participants in instant-win promotions must get their winnings at once or must know immediately what they have won and how to claim without delay, cost or administrative barriers. Instant-win tickets, tokens or numbers must be awarded on a fair and random basis and verification must take the form of an independently audited statement that all prizes have been distributed, or made available for distribution, in that manner.

8.26 In competitions, if the selection of a winning entry is open to subjective interpretation, an independent judge, or a panel that includes one independent member must be appointed. In either case, the judge or panel member must be demonstrably independent, especially from the competition's promoters and intermediaries and from the pool of entrants from which the eventual winner is picked. Those appointed to act as judges should be competent to judge the competition and their full names must be made available on request.

8.27 Withholding prizes (see rules 8.15.1 and 8.28.2) is justified only if participants have not met the qualifying criteria set out clearly in the rules of the promotion.

8.28 Participants must be able to retain conditions or easily access them throughout the promotion. In addition to rule 8.17, prize promotions must specify on all marketing communications or other material referring to them, the following information, clearly before or at the time of entry, where the omission of any of the specified items is likely to mislead.

8.28.1 any restriction on the number of entries

8.28.2 whether the promoter may substitute a cash alternative for any prize

8.28.3 if more than 30 days after the closing date, the date by which prizewinners will receive their prizes

8.28.4 how and when winners will be notified of results

8.28.5 Promoters must either publish or make available information that indicates that a valid award took place – ordinarily the surname and county of major prizewinners and, if applicable, their winning entries. At or before the time of entry, promoters must inform entrants of their intention to publish or make available the information and give them the opportunity to object to their information being published or made available, or to reduce the amount of

information published or made available. In such circumstances, the promoter must nevertheless still provide the information and winning entry to the ASA if challenged. The privacy of prizewinners must not be prejudiced by the publication of personal information and in limited circumstances (for example, in relation to National Savings) promoters may need to comply with a legal requirement not to publish such information.

8.28.6 in a competition, the criteria and mechanism for judging entries (for example, the most apt and original tiebreaker)

8.28.7 if relevant, who owns the copyright of the entries

8.28.8 if applicable, how the promoter will return entries

8.28.9 any intention to use winners in post-event publicity.

Front-page flashes

8.29 Publishers announcing reader promotions on the front page or cover must ensure that consumers know whether they are expected to buy subsequent editions of the publication. Major conditions that might reasonably influence consumers significantly in their decision to buy must appear on the front page or cover.

Trade incentives

8.30 Incentive schemes must be designed and implemented to take account of the interests of everyone involved and must not compromise the obligation of employees to give honest advice to consumers.

8.31 If they intend to ask for help from, or offer incentives to, another company's employees, promoters must require those employees to obtain their employer's permission before participating. Promoters must observe any procedures established by companies for their employees, including any rules for participating in promotions.

8.32 Incentive schemes and relevant promotions must make clear if a tax liability might arise.

Charity-linked Promotions

8.33 Promotions run by third parties (for example commercial companies) claiming that participation will benefit a registered charity or cause must:

8.33.1 name each charity or cause that will benefit and be able to show the ASA or CAP the formal agreement with those benefiting from the promotion

8.33.2 if it is not a registered charity, define its nature and objectives

8.33.3 specify exactly what will be gained by the named charity or cause and state the basis on which the contribution will be calculated (see rule 8.34)

8.33.4 state if the promoter has imposed a limit on its contributions

8.33.5 not impose a cut-off point for contributions by consumers if an amount is stated for each purchase. If a target total is stated, extra money collected should be given to the named charity or cause on the same basis as contributions below that level

8.33.6 be able to show that targets set are realistic

8.33.7 not exaggerate the benefit to the charity or cause derived from individual purchases of the promoted product

8.33.8 if asked, make available to consumers a current or final total of contributions made

8.33.9 not directly encourage children to buy, or exhort children to persuade an adult to buy for them, a product that promotes charitable purposes.

8.34 Where a promotion states or implies that part of the price paid for goods or services will be given to a charity or cause, state the actual amount or percentage of the price that will be paid to the charity or cause.

8.34.1 For any other promotion linked to a charity or where a third party states or implies that donations will be given to a charity or cause, the promotion must state the total (or a reasonable estimate) of the amount the charity or cause will receive.

9

DISTANCE SELLING

Background

Most business-to-consumer distance selling contracts are subject to the Consumer Contracts (Information, Cancellation, and Additional Charges) Regulations 2013. Contracts that wholly consist of exempt activities are not subject to the Regulations. These exemptions relate to:

- gambling;
- banking, credit, insurance, personal pension, investment or payment services;
- the creation of or rights in immovable property;
- residential rental agreements;
- construction of new or substantially new buildings;
- foodstuffs, beverages or goods intended for regular, general household consumption;
- package holidays, tours or travel; and
- certain aspects of timeshare, long-term holiday product, resale and exchange contracts.

In August 2015, CAP removed its distance selling rules after consultation. Marketers should seek legal advice to ensure they comply with the Regulations.

The Data & Marketing Association (DMA) requires its members to observe the DMA Code of Practice, which covers some practices that are not covered in the CAP Code.

10

USE OF DATA FOR MARKETING

Background

****Note: *The rules on the use of data for marketing are presently under review. CAP is considering the implications of the provisions of the Data (Use and Access) Act 2025 (DUAA), which amends, but does not replace the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (DPA), and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR).*

*Marketers are advised to refer to the DUAA along with other relevant data protection law provisions when preparing or distributing ads. The ASA will have regard to it when applying the rules below.****

In considering complaints under these rules, the ASA will have regard to retained Regulation (EU) 2016/679 (the General Data Protection Regulation, “UK GDPR”) and the Data Protection Act 2018 in the case of personal data, and the Privacy and Electronic Communications (EC Directive) Regulations 2003 in the case of activities relating to electronic communications. Marketers must comply with this legislation and guidance is available from the Information Commissioner's Office. Although the legislation has a wide application, these rules relate only to data used for direct marketing purposes. The rules should be observed in conjunction with the legislation, and do not replace it: in the event of doubt, marketers are urged to seek legal advice.

Responsibility for complying with the rules on the use of personal data rests primarily with marketers who are controllers of personal data. Others involved in sending marketing communications (for example, agencies or service suppliers) also have a responsibility to comply.

These rules do not seek to cover all circumstances. Other narrow grounds for processing or limited exemptions set out in the UK GDPR may be available to marketers, but if a marketer wishes to rely on them it would need to be able readily to explain how they are applicable.

Definitions

"Consent" is any freely given, specific, informed and unambiguous indication of a consumer's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.

A "controller" is any person or organisation that, alone or jointly with others, determines the purposes and means of the processing of personal data;

"Electronic mail" in this section encompasses text, voice, sounds or image message, including e-mail, Short Message Service (SMS), Multimedia Messaging Service (MMS).

"Personal data" is any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

A "preference service" is a service that, to reduce unsolicited contact, enables consumers and businesses to have their names and contact details in the UK removed from or added to lists that are used by the direct marketing industry.

"Special categories" of personal data means: personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership; and genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

Rules

10.1 Marketers must not make persistent and unwanted marketing communications by any means.*

(This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

10.2 At the time of collecting consumers' personal data from them, marketers must provide consumers with the following information (in, for example, a privacy notice), unless the consumer already has it:

10.2.1 the identity and the contact details of the marketer or the marketer's representative

10.2.2 the contact details of the data protection officer of the marketer, where applicable

10.2.3 the purposes for which the collection of the personal data are intended and the legal basis for collection

10.2.4 the legitimate interests of the marketer or third party, where processing is based on these interests (see rule 10.5)

10.2.5 the recipients or categories of recipients of the personal data, if any

10.2.6 where applicable, that the marketer intends to transfer personal data to a recipient in a third country or international organisation. If so, marketers must refer to the existence or absence of an adequacy decision by the European Commission, or to the appropriate or suitable safeguards or binding corporate rules referred to in Article 46 or 47 of the UK GDPR, or to the compelling legitimate interests under the second subparagraph of Article 49(1) UK GDPR, and the means to obtain a copy of the transfer mechanisms relied on or where they have been made available

10.2.7 the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period

10.2.8 the existence of the right to request from the marketer access to and rectification or erasure of personal data or restriction of processing concerning the consumer or to object to processing as well as the right to data portability

10.2.9 if relying on consent as the legal basis, the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal

10.2.10 the right to lodge a complaint with a data protection supervisory authority

10.2.11 whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the consumer is obliged to provide the personal data and of the possible consequences of failure to provide such data

10.2.12 the existence of automated decision-making, including profiling producing legal or similarly significant effects on consumers, referred to in Article 22(1) and (4) of the UK GDPR and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the consumer.

10.3 Where marketers have obtained consumers' personal data from other sources (for example, third party list providers), they must provide consumers with the information listed in rule 10.2 (in, for example, a privacy notice), unless the consumer already has it, in compliance with at least one of these three options: (i) within a reasonable period, at the latest within one month after obtaining the personal data; or (ii) if the data are to be used for communication with the consumer, at the latest at the time of the first communication with the consumer; or (iii) where a disclosure to another recipient is envisaged, no later when the personal data is first disclosed. In such cases, marketers must also provide, within the same timeframes, information on the categories of personal data concerned, the source from which the personal information originates, and if applicable, whether it came from publicly accessible sources but a marketer does not need to provide the information in rule 10.2.11 above.

10.4 In all cases where marketers intend to further process personal data for a purpose other than that for which it was obtained and referred to (for example, in the original privacy notice), they must ensure that the new purpose is not incompatible with the original purpose, and provide consumers with information (in, for example, a further privacy notice) on that other purpose before processing it.

10.5 Marketers must either obtain prior consent (see Definitions) from consumers before processing their personal data to send marketing communications, or be in a position to demonstrate that the processing is necessary for the purposes of their or a third party's legitimate interests. The legitimate interests provision does not apply where such interests are overridden by the interests or fundamental rights and freedoms of the consumer which require protection of personal data, in particular where the consumer is a child; and it does not provide a basis for processing personal data to send marketing communications by electronic mail (although, see rule 10.6 below).

10.6 Marketers must have obtained consent before using contact details to send marketing communications to consumers by electronic mail, unless (i) the communications are for the marketer's similar products and services, (ii) the contact details have been obtained during, or in negotiations for, a sale; and (iii) marketers tell those consumers that they may opt out of receiving future

marketing communications, both when they collect their contact details and on every subsequent occasion they send marketing communications to them. Marketers must give consumers a simple means to opt out. Certain organisations cannot rely on this exception from consent – charities, political parties and not-for-profits where there is no sale or negotiation for a sale. This rule does not apply where the consumer is a corporate subscriber: see rule 10.14 below.

10.7 Marketing communications sent by electronic mail (but not those sent by Bluetooth technology) must contain the marketer's full name (or, in the case of SMS messages, a recognisable abbreviation) and a valid address; for example, an e-mail address or a SMS short code to which recipients can send opt-out requests.

10.8 Fax and non-live-sound automated-call marketing communications must contain the marketer's full name and a valid address or freephone number to which recipients can send opt-out requests.

10.9 Marketers must obtain explicit consent before processing special categories (see Definitions) of personal data, unless the data has already manifestly been made public by the consumer and the use of it was fair and within the reasonable expectations of the consumer.

10.10 Consumers are entitled to have their personal data suppressed so that they do not receive marketing. Marketers must ensure that, before use, databases have been run against relevant suppression files within a suitable period. Marketers must hold limited information, for suppression purposes only, to ensure that no other marketing communications are sent to those consumers as a result of information about those consumers being reobtained through a third party.

10.11 Marketers must do everything reasonable to ensure that anyone who has been notified to them as dead is not contacted again and the notifier is referred to the relevant preference service.

10.12 When relying on consent as the basis for processing personal data, marketers must inform consumers that they have the right to withdraw their consent, at any time. Marketers must ensure that it is as easy for consumers to withdraw consent as it was to give consent.

10.13 When relying on legitimate interests as the basis for processing personal data, marketers must stop such processing if the consumer objects. Marketers must explicitly inform consumers, clearly and separately from any other information,

of their right to object no later than the time of their first communication with the consumer.

10.14 Consent is not required when marketing business products by fax or by electronic mail to corporate subscribers (see III j), including to their named employees. Marketers must nevertheless comply with rule 10.10 and offer opt-outs in line with rules 10.6 and 10.7.

Children

Background

Please see Section 5: Children

10.15 Marketers must comply with rule 10.5 when processing the personal data of children. Where marketers process the personal data of children under 13 in relation to an offer of online services on the basis of consent, they must obtain the verifiable consent of the child's parent or guardian. Where marketers process the personal data of children under 13 for other marketing purposes (in other words, not in relation to an offer of online services) on the basis of consent, marketers must obtain the verifiable consent of the child's parent or guardian, unless they can demonstrate compelling reasons for relying on the child's consent and that they have had particular regard to the child's privacy rights.

10.16 When collecting personal data from a child, marketers must ensure that the information provided in Rule 10.2 is readily intelligible to a child (or their parents if relying on Rule 10.15).

10.17 Marketers should avoid using the personal data of a child to create personality or user profiles especially in the context of automated decision-making that produces legal effects or similarly significantly affects a child.

11

ENVIRONMENTAL CLAIMS

Background

Marketers should take account of the Green Claims Code published by the Competition and Markets Authority.

Rules

11.1 The basis of environmental claims must be clear. Unqualified claims could mislead if they omit material information.

11.2 The meaning of all terms used in marketing communications must be clear to consumers.

11.3 Absolute claims must be supported by a high level of substantiation. Comparative claims such as "greener" or "friendlier" can be justified, for example, if the advertised product provides a total environmental benefit over that of the marketer's previous product or competitor products and the basis of the comparison is clear.

11.4 Marketers must base environmental claims on the full life cycle of the advertised product, unless the marketing communication states otherwise, and must make clear the limits of the life cycle. If a general claim cannot be justified, a more limited claim about specific aspects of a product might be justifiable. Marketers must ensure claims that are based on only part of the advertised product's life cycle do not mislead consumers about the product's total environmental impact.

11.5 Marketers must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists.

11.6 If a product has never had a demonstrably adverse effect on the environment, marketing communications must not imply that the formulation has changed to improve the product in the way claimed. Marketers may, however, claim that a product has always been designed in a way that omits an ingredient or process known to harm the environment.

11.7 Marketing communications must not mislead consumers about the environmental benefit that a product offers; for example, by highlighting the absence of an environmentally damaging ingredient if that ingredient is not usually found in competing products or by highlighting an environmental benefit that results from a legal obligation if competing products are subject to that legal obligation.

11.8 [Rule deleted 24 October 2025].

11.9 [Rule deleted 24 October 2025].

12

MEDICINES, MEDICAL DEVICES, HEALTH-RELATED PRODUCTS AND BEAUTY PRODUCTS

Background

The rules in this section are designed to ensure that marketing communications for medicines, medical devices, treatments, health-related products and beauty products receive the necessary high level of scrutiny. The rules apply to marketing communications and not the products, which are regulated by health regulators such as the Medicines and Healthcare products Regulatory Agency (MHRA), www.mhra.gov.uk, Veterinary Medicines Directorate (VMD), www.vmd.defra.gov.uk, and the Department of Health and Social Care, www.dh.gov.uk. Marketing communications for those products must comply with the rules and professional codes of conduct of relevant professional bodies.

Scope

The rules in the first part of this section apply to all marketing communications for medicines, medical devices, treatments, health-related products and beauty products. The rules in subsequent parts apply to marketing communications for specific products and/or services. If relevant, the rules in this section also apply to claims for products for animals.

As they could apply to medicinal products for human use, the rules should be read in conjunction with the relevant sections of the Human Medicines Regulations 2012 (as amended). This is particularly the case in relation to the definition of a marketing communication. Rules in this section apply to marketing communications, as set out in the Scope of the Code, that are also subject to the Regulations. Other activities defined as advertising in the Human Medicines Regulations 2012 that are outside the remit of the Code, specifically those listed in Regulation 7(2), are not covered by this section.

As they could apply to medicines for veterinary use, the rules should be read in conjunction with the Veterinary Medicines Regulations. For more information about how veterinary medicines can be advertised, please refer to:

https://www.gov.uk/guidance/legal-controls-on-veterinary-medicines.

Law

Title VIII of European Directive 2001/83/EC (as amended) concerns "The Advertising of Medicinal Products for Human Use" and has been implemented in the UK by the Human Medicines Regulations 2012. The ASA is obliged to consider complaints about breaches of Regulations 286 to 290, which have been incorporated into these rules. With the introduction of new or changed products, diverse licensing requirements and changes in medical opinion,

this Code cannot provide a complete guide to all requirements for health claims or the advertising of products or classes of medicines and treatments.

Advertisements for products subject to licensing under the Human Medicines Regulations 2012 (as amended) must comply with the requirements of the Regulations and any conditions contained in the marketing authorisation, certificate, licence or traditional herbal registration for the advertised product.

For more information on medicinal products and treatments, see the MHRA's guidance, The Blue Guide: Advertising and promotion of medicines in the UK at:

https://www.gov.uk/government/publications/blue-guide-advertising-and-promoting-medicines.

The rules governing the advertising of medicines, treatments, medical devices and health claims are set out below; they apply also to advertisements for veterinary products and services. Directive 2001/82/EC on the Community code relating to veterinary medicinal products (as amended by Directive 2004/28/EC), which has been implemented in the UK via The Veterinary Medicines Regulations, contains provisions relating to the advertising of such products. The Veterinary Medicines Regulations are revoked and remade regularly. For more information about how veterinary medicines can be advertised, please refer to:

https://www.gov.uk/guidance/legal-controls-on-veterinary-medicines.

In Great Britain, medical devices are currently regulated under the Medical Devices Regulations 2002 (SI 2002 No 618, as amended) (UK MDR 2002), which transpose into UK law, the directives: Directive 90/385/EEC on active implantable medical devices; Directive 93/42/EEC on medical devices; and Directive 98/79/EC on in vitro diagnostic medical devices.

Under the terms of the Northern Ireland Protocol following the UK's withdrawal from the European Union on 31 January 2020, certain products on the Northern Ireland market, including medical devices, are required to comply with relevant EU legislation as well as with UK law. The EU Medical Devices Regulation (2017/745) took effect in Northern Ireland, subject to transitional provisions, on 26 May 2021; the EU *in vitro* Diagnostics Medical Devices Regulation (2017/746) took effect in Northern Ireland from 26 May 2022.

The MHRA is the body responsible for ensuring medical devices in the UK meet the applicable standards of safety, quality and efficacy. From 1 July 2023, medical devices placed on the Great Britain market will be required to bear a UK Conformity Assessed (UKCA) marking to attest that they conform to the regulatory requirements. Manufacturers can affix a UKCA marking on a voluntary basis ahead of this date so long as the relevant regulatory

requirements have been met. Where third party conformity assessment is required for the UKCA marking, a UK Approved Body must be used. Devices that have been CE marked in conformance with the relevant EU legislation will be unilaterally accepted on the Great Britain market until 30 June 2023. Where third party conformity assessment is required for the CE marking, an EU-recognised Notified Body must be used. The UKCA marking is valid in Great Britain only and a CE marking continues to be required for the Northern Ireland market. For more information about the transitional arrangements relating to conformity marking, please refer to the following MHRA guidance: https://www.gov.uk/guidance/regulating-medical-devices-in-the-uk.

Marketers are strongly urged to take legal advice about relevant requirements applicable, including conformity marking and third party conformity assessment bodies, for medical devices placed on the markets for Great Britain and Northern Ireland, and to have due regard to available guidance from the MHRA, including the following:

https://www.gov.uk/guidance/regulating-medical-devices-in-the-uk

https://www.gov.uk/guidance/medical-devices-eu-regulations-for-mdr-and-ivdr

https://www.gov.uk/guidance/medical-devices-conformity-assessment-and-the-ukca-mark

Definition

For the purposes of this Code, "licence" includes certificate, authorisation or registration.

"Applicable conformity marking" means conformity marking required by legislation set out earlier this section, under "Law".

“Disease” includes any injury, ailment or adverse condition, whether of body or mind.

For more information, see CAP Help Notes, especially those on: Substantiation for Health, Beauty and Slimming Claims; Health, Beauty and Slimming Advertisements that Refer to Medical Conditions; and Cosmetic Surgery Marketing.

Rules

12.1 Objective claims must be backed by evidence, if relevant consisting of trials conducted on people. Substantiation will be assessed on the basis of the available scientific knowledge.

Medicinal or medical claims and indications may be made for a medicinal product that is licensed by the MHRA, VMD or under the auspices of the EMA, or for a medical device with the applicable conformity marking. A medicinal claim is a claim that a product or its constituent(s) can be used with a view to making a medical diagnosis or can treat or prevent disease in human beings.

Secondary medicinal claims made for cosmetic products as defined in the appropriate European legislation must be backed by evidence. These are limited to any preventative action of the product and may not include claims to treat disease.

12.2 Marketers must not discourage essential treatment for conditions for which medical supervision should be sought. For example, they must not offer specific advice on, diagnosis of or treatment for such conditions unless that advice, diagnosis or treatment is conducted under the supervision of a suitably qualified health professional. Accurate and responsible general information about such conditions may, however, be offered (see rule 12.11).

Health professionals will be deemed suitably qualified only if they can provide suitable credentials, for example, evidence of: relevant professional expertise or qualifications; systems for regular review of members' skills and competencies and suitable professional indemnity insurance covering all services provided; accreditation by a professional or regulatory body that has systems for dealing with complaints and taking disciplinary action and has registration based on minimum standards for training and qualifications.

12.2.1 Marketing communications for medicinal products must not offer to provide a diagnosis or suggest a treatment by correspondence, for instance, by post, by e-mail or by other means of an electronic communications network.

12.3 Marketers offering individual treatments, especially those that are physically invasive, may be asked by the media and the ASA to provide full details together with information about those who supervise and administer them. Practitioners must have relevant and recognised qualifications. Marketers should encourage consumers to take independent medical advice before committing themselves to significant treatments, including those that are physically invasive.

12.4 Marketers must not confuse consumers by using unfamiliar scientific words for common conditions.

12.5 Marketers inviting consumers to diagnose their minor ailments must not make claims that might lead to a mistaken diagnosis.

12.6 Marketers should not falsely claim that a product is able to prevent or treat disease or a malformation; restore, correct or modify a physiological function; or modify a person's appearance.*
(This rule reflects a prohibited practice from Schedule 20 of the DMCCA. See note in Section 3 for more details).

12.7 References to the relief of symptoms or the superficial signs of ageing are acceptable if they can be substantiated. Unqualified claims such as "cure" and "rejuvenation" are not generally acceptable, especially for cosmetic products.

12.8 Marketers must hold proof before claiming or implying that a minor addiction or a bad habit can be treated without effort from those suffering.

12.9 Marketers must not encourage consumers to use a product to excess and must hold proof before suggesting their product or therapy is guaranteed to work, absolutely safe or without side-effects (subject to rule 12.19).

12.10 Marketing communications must not suggest that any product is safe or effective merely because it is "natural" or that it is generally safer because it omits an ingredient in common use.

Medicines

Title VIII of European Directive 2001/83/EC (as amended) concerns "The Advertising of Medicinal Products for Human Use" and has been implemented in the UK by the Human Medicines Regulations 2012 (as amended). Advertisements for products subject to licensing under the Human Medicines Regulations 2012 must comply with the requirements of the Regulations and any conditions contained in the marketing authorisation, certificate, licence or traditional herbal registration for the advertised product.

For more information on the advertising of medicinal products, see the MHRA's guidance, The Blue Guide: Advertising and promotion of medicines in the UK at:

https://www.gov.uk/government/publications/blue-guide-advertising-and-promoting-medicines.

For more information on medical treatments, go to: www.cqc.org.uk.

Advertisements for products subject to authorisation under the Veterinary Medicines Regulations must comply with the requirements of the Regulations and any conditions contained in the marketing authorisation, certificate or registration for the advertised product.

For more information about how veterinary medicines can be advertised, please refer to:

https://www.gov.uk/guidance/legal-controls-on-veterinary-medicines.

12.11 Medicines must have a licence from the MHRA, VMD or under the auspices of the EMA before they are marketed. Marketing communications for medicines must conform with the licence and the product's summary of product characteristics. For the avoidance of doubt, by conforming with the product's indicated use, a marketing communication would not breach rule 12.2.

Marketing communications must not suggest that a product is "special" or "different" because it has been granted a licence by the MHRA, VMD or under the auspices of the EMA.

12.12 Prescription-only medicines or prescription-only medical treatments may not be advertised to the public.

12.13 Marketing communications which include a product claim for a medicinal product (including legible on-pack product claims within a pack shot) must include the name of the product, an indication of what it is for, text such as "Always read the label" and the common name of the sole active ingredient, if it contains only one.

Marketing communications for a traditional herbal medicinal product or a homeopathic medicinal product must include mandatory information, which can be found in the MHRA's guidance, The Blue Guide: Advertising and promotion of medicines in the UK at:

https://www.gov.uk/government/publications/blue-guide-advertising-and-promoting-medicines.

12.14 Marketing Communications for medicinal products must not:

12.14.1 use, in improper, alarming or misleading terms, images of changes in the human body caused by disease, injury or a medicinal product

12.14.2 refer, in improper, alarming or misleading terms, to claims of recovery

12.14.3 suggest that using or avoiding a product can affect normal health

12.14.4 present a description or detailed representation of a case history that might lead to erroneous self-diagnosis.

12.15 Illustrations of the effect or action of a product should be accurate.

12.16 Marketing communications for a medicine must not be addressed to children.

12.17 Marketers must not suggest that a medicinal product is either a food or a cosmetic.

12.18 Marketers must not use health professionals or celebrities to endorse medicines.

12.19 Marketing communications for a medicine may not claim that its effects are guaranteed, that it is absolutely safe or without side-effects or as good as or better than those of another identifiable product.

12.20 Homeopathic medicinal products must be registered in the UK. Any product information given in the marketing communication should be confined to what appears on the label. Marketing communications must include a warning to consult a doctor if symptoms persist. Marketing communications for an unlicensed product must not make a medicinal or therapeutic claim or refer to an ailment unless authorised by the MHRA to do so.

12.21 Marketers of traditional herbal medicines may advertise for the indications listed in the product's summary of product characteristics and must include mandatory information, which can be found in the MHRA's guidance, The Blue Guide: Advertising and promotion of medicines in the UK at:

https://www.gov.uk/government/publications/blue-guide-advertising-and-promoting-medicines.

Marketing communications for products that hold a Traditional Herbal Medicines Registration must not imply that registration is based upon clinical trials.

Cosmetics

12.22 Claims made about the action that a cosmetic has on or in the skin should distinguish between the composition of the product and any effects brought about by the way in which it is applied, such as massage. Scientific evidence must also make that distinction.

12.22.1 Some cosmetics have an effect on the type of skin changes that are caused by environmental factors. Marketing communications for them may therefore refer to temporarily preventing, delaying or masking premature ageing.

Hair and Scalp

12.23 Marketers must be able to provide scientific evidence, if relevant consisting of trials conducted on people, for any claim that their product or therapy can prevent baldness or slow it down, arrest or reverse hair loss, stimulate or improve hair growth, nourish hair roots, strengthen the hair or improve its health as distinct from its appearance.

Services offering advice on unplanned pregnancy

12.24 Marketing communications for services offering advice on unplanned pregnancy must make clear if the service does not refer women directly for a termination. Given that terminations are lawful only in some circumstances, and are subject to particularly stringent requirements in Northern Ireland, marketers may wish to seek legal advice.

Cosmetic interventions

12.25 Marketing communications for cosmetic interventions must not be directed at those aged below 18 years through the selection of media or context in which they appear.

Cosmetic interventions mean any intervention, procedure or treatment carried out with the primary objective of changing an aspect of a consumer's physical appearance. This includes surgical and non-surgical interventions, both invasive and non-invasive. This does not include cosmetic products as defined in Regulation (EC) No 1223/2009. See Advertising Guidance: Cosmetic Interventions.

13

WEIGHT CONTROL AND SLIMMING

Background

The rules in this section are designed to ensure that marketing communications for slimming and weight control products receive the necessary high level of scrutiny.

Definition

This section applies to marketing communications for weight control and slimming foodstuffs, aids (including exercise products that make weight-loss or slimming claims), clinics and other establishments, diets, medicines, treatments and the like. If applicable, they must comply with Section 12: Medicines, Medical Devices, Health-related Products and Beauty Products and Section 15: Food, Food Supplements and Associated Health or Nutrition Claims).

Rules

13.1 A weight-reduction regime in which the intake of energy is lower than its output is the most common self-treatment for achieving weight reduction. Any claim made for the effectiveness or action of a weight-reduction method or product must be backed, if applicable, by rigorous trials on people; testimonials that are not supported by trials do not constitute substantiation.

13.2 Obesity in adults is defined by a Body Mass Index (BMI) of more than 30 kg/m2. Obesity is frequently associated with a medical condition and, except where stated in 13.2.1, a treatment for it must not be advertised to the public unless it is to be used under suitably qualified supervision. Non-prescription medicines that are indicated for the treatment of obesity and that require the involvement of a pharmacist in the sale or supply of the medicine may nevertheless be advertised to the public.

13.2.1 Lifestyle weight management programmes which meet the following standards may make responsible references to obesity in their marketing communications. These programmes must:

- be shown to be effective at 12 months or beyond
- last at least three months
- be multi-component; addressing dietary intake, physical activity levels and behaviour change
- be developed by a multi-disciplinary team; including input from a registered dietician, registered practitioner psychologist and a qualified physical activity instructor, and
- be provided by staff who are trained to deliver the programme in question.

Marketers should have regard to the guidance on "Managing overweight and obesity in adults – lifestyle weight management services" published by the National Institute for Health and Care Excellence (NICE).

13.3 Marketing communications for any weight-reduction regime or establishment must neither be directed at nor contain anything that is likely to appeal particularly to people who are under 18 or those for whom weight reduction would produce a potentially harmful body weight (BMI of less than 18.5 kg/m2). Those marketing communications must not suggest that being underweight is desirable or acceptable.

13.4 Before they make claims for a weight-reduction aid or regimen, marketers must show that weight-reduction is achieved by loss of body fat. Combining a diet with an unproven weight-reduction method does not justify making weight-reduction claims for that method.

13.5 Marketers must be able to show that their diet plans are nutritionally well-balanced (except for producing a deficit of energy) and that must be assessed in relation to the category of person who would use them.

13.6 Vitamins and minerals do not contribute to weight reduction but may be offered to slimmers as a safeguard against any shortfall in recommended intake when dieting.

13.7 Marketers promoting Very Low Calorie Diets or other diets that fall below 800 kilo-calories a day must do so only for short-term use and must encourage users to take medical advice before embarking on them. Marketers should have regard to the guidance on "Obesity: the prevention, identification, assessment and management of overweight and obesity in adults and children" (2006) published by the National Institute for Health and Care Excellence.

13.8 Marketing communications for diet aids must make clear how they work. Prominence must be given to the role of the diet and marketing communications must not give the impression that dieters cannot fail or can eat as much as they like and still lose weight.

13.9 Marketing communications must not contain claims that people can lose precise amounts of weight within a stated period or, except for marketing communications for surgical clinics, establishments and the like that comply with rule 12.3, that weight or fat can be lost from specific parts of the body.

13.9.1 Marketing communications for surgical clinics, establishments and the like that comply with rule 12.3 must not refer to the amount of weight that can be lost.

13.10 Claims that an individual has lost an exact amount of weight must be compatible with good medical and nutritional practice. Those claims must state the period involved and must not be based on unrepresentative experiences. For those who are normally overweight, a rate of weight loss greater than 2 lbs (just under 1 kg) a week is unlikely to be compatible with good medical and nutritional practice. For those who are obese, a rate of weight loss greater than 2 lbs a week in the early stages of dieting could be compatible with good medical and nutritional practice.

13.10.1 Health claims in marketing communications for food products that refer to a rate or amount of weight loss are not permitted.

13.11 Resistance and aerobic exercise can improve muscular condition and tone and that can improve body shape and posture. Marketers must be able to substantiate any claim that such methods used alone or in conjunction with a diet plan can lead to weight or inch reduction. Marketing communications for intensive exercise programmes should encourage users to check with a doctor before starting.

13.12 Short-term loss of girth may be achieved by wearing a tight-fitting garment. That loss must not be portrayed as permanent or confused with weight or fat reduction.

14

FINANCIAL PRODUCTS

Background

Marketers must have regard to the financial promotion restriction in Section 21 of the Financial Services and Markets Act 2000 and in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended), as reflected in the rules and guidance issued and enforced by the Financial Conduct Authority (FCA). The scope of that legislation, rules and guidance extends to marketing communications for: investments and investment advice; deposit taking (for example, banking); home finance transactions (regulated mortgages, home purchase plans and home finance plans); general insurance and pure protection policies (for example, term assurance). The FCA is responsible for the regulation of first-charge mortgage lending and selling, as well as certain secured loans and the activities of insurance intermediaries. The FCA does not provide pre-publication advice on proposed financial marketing communications; technical guidance is available on specific matters or rule interpretation only. For more information, contact the FCA (see www.fca.org.uk).

The FCA also regulates other consumer loans under FSMA, the Consumer Credit Act 1974 (as amended), the Consumer Credit Act 2006 and the FCA's Consumer Credit sourcebook (CONC). CONC Chapter 3 requires financial promotions concerning consumer credit, among other more detailed requirements, to be "clear, fair and not misleading".

Debt management companies must ensure they comply with the financial promotions requirements imposed by FSMA and the FCA's rules set out in Chapter 3 of CONC. The rules that follow apply to financial marketing communications that are not regulated by the FCA and to marketing communications for debt advice. All financial marketing communications are, however, subject to Code rules that cover non-technical elements of communications; for example, serious or widespread offence, social responsibility and the truthfulness of claims that do not relate to specific characteristics of financial products.

Rules

14.1 Offers of financial products must be set out in a way that allows them to be understood easily by the audience being addressed. Marketers must ensure that they do not take advantage of consumers' inexperience or credulity.

14.2 Marketing communications should state the nature of the contract being offered, any limitation, expense, penalty or charge and the terms of withdrawal. Alternatively, if a marketing communication is short or general in its content, free material explaining the offer must be made readily available to consumers before a binding contract is entered into.

14.3 The basis used to calculate any rate of interest, forecast or projection must be apparent immediately.

14.4 Marketing communications must make clear that the value of investments is variable and, unless guaranteed, can go down as well as up. If the value of the investment is guaranteed, the marketing communication must explain the guarantee.

14.5 Marketing communications should make clear that past performance or experience does not necessarily give a guide for the future; if they are used in marketing communications, examples of past performance or experience should not be unrepresentative.

15

FOOD, FOOD SUPPLEMENTS AND ASSOCIATED HEALTH OR NUTRITION CLAIMS

Principle

Public health policy increasingly emphasises good dietary behaviour and an active lifestyle as a means of promoting health. Commercial product advertising cannot reasonably be expected to perform the same role as education and public information in promoting a varied and balanced diet but should not undermine progress towards national dietary improvement by misleading or confusing consumers and ensuring appropriate protections for children.

Rules in the first part of this section reflect relevant provisions of legislation as they relate to advertising food and drink products to consumers in general. The second part of the section sets out rules on advertising food or drink products and children.

General rules for food and soft drink product marketing communications

Background

These rules apply to all marketing communications for food products, and must be read in conjunction with the relevant legislation.

In July 2007, a Regulation of the European Parliament and of the Council of the European Union on nutrition and health claims made on foods (the NHCR) came into force; as a Regulation, the NHCR is directly applicable in EU Member States. The NHCR seeks to protect consumers from misleading or false claims by prescribing specific conditions of use associated with authorised health and nutrition claims, which are determined at a European level. The EU Register of nutrition and health claims (the EU Register) lists all authorised nutrition and health claims as well as non-authorised health claims that have been rejected.

Following the UK's departure from the EU on 31 January 2020, the UK entered a time-limited transition period until 31 December 2020. Following the end of the transition period, regulation of nutrition and health claims for foods became an autonomous matter for both Great Britain and the EU as two separate legal and regulatory systems.

From 1 January 2021, European Regulations (including the NHCR) and tertiary legislation relating to nutrition were retained under the powers contained within the European Union (Withdrawal) Act 2018 as domestic law. That retained EU legislation was subsequently amended by the Nutrition (Amendment etc.) (EU Exit) Regulations 2019 and the Nutrition (Amendment etc.) (EU Exit) Regulations 2020. These Regulations transferred responsibilities from EU organisations involved in the risk assessment and risk management processes covered by nutrition legislation to appropriate authorities and bodies in Great Britain, and

gave effect to the Protocol on Ireland / Northern Ireland (the NIP) in respect of nutrition labelling, composition and standards. This legislation also led to the creation of the Great Britain nutrition and health claims register (the GB Register), which replaced the EU Register for health and nutrition claims made in Great Britain from 1 January 2021. However, Regulations listed in Annex 2 to the NIP also apply to, and in, the United Kingdom in respect of Northern Ireland. Consequently, the EU Register continues to apply to nutrition and health claims made in Northern Ireland.

In these rules, the term “applicable register” is used to refer to the EU Register and / or the GB Register, and the register or registers which apply to a particular marketing communication will be determined with reference to the legislation set out earlier in this section. Updated versions of both registers are available here:

EU Register

GB Register

CAP urges marketers to take legal advice on the effect of the legislation set out in this section, as well as any other relevant legislation (for example, the Food Safety Act 1990 and the Food Information Regulations 2014), and to consider the Department of Health and Social Care’s *Guidance on nutrition and health claims on foods*.

Definitions

For the purposes of the rules in this section:

'Nutrition claim' means any claim which states, suggests or implies that a food has particular beneficial nutritional properties due to:

(a) the energy (calorific value) it provides; provides at a reduced or increased rate; or does not provide; and/or

(b) the nutrients or other substances it contains; contains in reduced or increased proportions; or does not contain;

'Health claim' means any claim that states, suggests or implies that a relationship exists between a food category, a food or one of its constituents and health.

'Reduction of disease risk claim' means any health claim that states, suggests or implies that the consumption of a food category, a food or one of its constituents significantly reduces a risk factor in the development of a human disease.

References to food apply also to drink products.

Rules

These rules should be read in conjunction with other rules in this Code, especially Section 5: Children and Section 13: Weight Control and Slimming.

General

15.1 Marketing communications that contain nutrition or health claims must be supported by documentary evidence to show they meet the conditions of use associated with the relevant claim, as specified in the applicable register. Claims must be presented clearly and without exaggeration.

15.1.1 Only nutrition claims listed in the applicable register may be used in marketing communications.

Only health claims listed as authorised in the applicable register, or claims that would have the same meaning to the consumer, may be used in marketing communications.

15.2 References to general benefits of a nutrient or food for overall good health or health-related well-being are acceptable only if accompanied by a specific authorised health claim.

15.3 Comparative nutrition claims must compare the difference in the claimed nutrient to a range of foods of the same category which do not have a composition which allows them to bear a nutrition claim.

15.3.1 A marketing communication may use one product as the sole reference for comparison only if that product is representative of the products in its category.

15.3.2 The difference in the quantity of a nutrient or energy value must be stated in the marketing communication and must relate to the same quantity of food.

15.4 Marketing communications must not condone or encourage excessive consumption of a food.

15.5 Marketing communications must not condone or encourage damaging oral health care practices, especially in children.

15.6 These are not acceptable in marketing communications for products within the remit of this section:

15.6.1 Claims that state or imply health could be affected by not consuming a food

15.6.2 Claims that state or imply a food prevents, treats or cures human disease. Reduction-of disease-risk claims are acceptable if authorised on the applicable register.

15.6.3 Health claims that refer to the recommendation of an individual health professional. Health claims that refer to the recommendation of an association are acceptable only if that association is a health-related charity or a national representative body of medicine, nutrition or dietetics

15.6.4 References to changes in bodily functions that could give rise to or exploit fear in the audience

15.6.5 Claims of a nutrition or health benefit that gives rise to doubt the safety or nutritional adequacy of another product

15.6.6 Health claims that refer to a rate or amount of weight loss.

Food supplements and other vitamins and minerals

CAP advises marketers to ensure that claims made for dietary supplements and other vitamins and minerals are in line with the requirements of the NHCR or other relevant legislation.

15.7 Nutrition and health claims for food supplements must be permitted or authorised as provided for at rule 15.1.1 above. Marketing communications that contain nutrition or health claims must be supported by documentary evidence to show they meet the conditions of use associated with the relevant claim as specified in the applicable register.

15.8 Marketers must not state or imply that a balanced or varied diet cannot provide appropriate quantities of nutrients in general. Individuals should not be encouraged to swap a healthy diet for supplementation, and without well-established proof, no marketing communication may suggest that a widespread vitamin or mineral deficiency exists.

15.9 Marketing communications for foods must not claim to treat clinical vitamin or mineral deficiency.

Infant and follow-on formula

The rules on infant and follow-on formula are presently under review. CAP is considering the implications of the provisions of the Commission Delegated Regulation (EU) 2016/127 as retained in UK law. This replaces The Infant Formula and Follow-on Formula (England) Regulations 2007, which have been repealed.

Marketers are advised to refer to the Commission Delegated Regulation along with other relevant food law when preparing ads. The ASA will have appropriate regard to it when applying the rules below.

15.10 Except for those in a scientific publication or, for the purposes of trade before the retail stage, a publication of which the intended readers are not the general public, marketing communications for infant formula are prohibited.

15.10.1 Marketing communications must not confuse between infant formula and follow-on formula.

Food and soft drink product marketing communications and children

Background

These rules set general responsibility standards for all marketing communications for food and soft drink products. There are also specific content rules for HFSS products as well as a media placement restriction for HFSS products (see rule 15.20) and a prohibition on paid advertising for identifiable less healthy products on the internet (see rule 15.19).

"HFSS products" are those food or soft drink products that are assessed as high in fat, salt or sugar in accordance with the Department of Health and Social Care's Nutrient Profiling Technical Guidance issued in 2011. Information on the nutrient profiling model is available on the Department of Health and Social Care's website here.

Diet and lifestyle

15.11 Marketing communications must not condone or encourage poor nutritional habits or an unhealthy lifestyle in children.

15.12 Marketing communications must not disparage good dietary practice or the selection of options, such as fresh fruit and fresh vegetables, that accepted dietary opinion recommends should form part of the average diet.

Promotional offers

15.13 Marketing communications featuring a promotional offer must be prepared with a due sense of responsibility.

15.14 HFSS product advertisements that are targeted through their content directly at pre-school or primary school children must not include a promotional offer. Additionally, for children under 16:

15.14.1 Except those for fresh fruit or fresh vegetables, marketing communications must not seem to encourage children to eat or drink a product only to take advantage of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Marketing communications featuring a promotional offer must ensure a significant presence for the product

15.14.2 Marketing communications featuring a promotional offer linked to a food product of interest to children must avoid creating a sense of urgency or encouraging the purchase of an excessive quantity for irresponsible consumption

15.14.3 Marketing communications must not encourage children to eat more than they otherwise would

15.14.4 Marketing communications for collection-based promotions must not seem to urge children or their parents to buy excessive quantities of food.

Licensed characters and celebrities

15.15 Licensed characters and celebrities popular with children must be used with a due sense of responsibility. HFSS product advertisements that are targeted directly at pre-school or primary school children through their content must not include licensed characters or celebrities popular with children. For the avoidance of doubt, that prohibition applies to food or drink advertisements only.

The prohibition does not apply to advertiser-created equity brand characters (puppets, persons or characters), which may be used by advertisers to sell the products they were designed to sell.

Licensed characters and celebrities popular with children may present factual and relevant generic statements about nutrition, safety, education or similar.

Pressure to purchase

15.16 Although children might be expected to exercise some preference over the food they eat or drink, marketing communications must be prepared with a due sense of responsibility and must not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases for them (see rule 5.4.2).

15.16.1 Marketing communications must neither try to sell to children by directly appealing to emotions such as pity, fear or self-confidence nor suggest that having the advertised product somehow confers superiority; for example, making a child more confident, clever, popular or successful.

15.16.2 Marketing communications addressed to children must not urge children to buy or persuade others to buy and must avoid high-pressure or hard-sell techniques. Nothing must suggest that children could be bullied, cajoled or otherwise put under pressure to acquire the advertised item.

15.16.3 Products or prices must not be presented in marketing communications in a way that suggests children or their families can easily afford them.

Nutrition claims and health claims

15.17 Claims referring to children's development and health are acceptable if authorised on the applicable register.

15.18 Rule renumbered and moved to 15.20 on 5 January 2026.

Placement of less healthy food and drink product advertisements online

Background

The Communications Act 2003 section 368Z14 states that a person must not pay for advertisements for an identifiable less healthy food or drink product to be placed on the internet. The restriction is reflected in rule 15.19.

15.19 Persons must not pay for advertisements for an identifiable less healthy food or drink product to be placed on the internet.

Definitions and supporting information

A food or drink product is “less healthy” if:

- it falls within a food or drink category specified in The Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024; and
- it is a food or drink product high in fat, salt or sugar (an HFSS product).

For guidance on the less healthy product categories set out in the 2024 Regulations, see the Department of Health and Social Care’s guidance, *Restricting advertising of less healthy food or drink on TV and online: products in scope*.

"HFSS products" are those food or soft drink products that are assessed as high in fat, salt or sugar in accordance with the Department of Health and Social Care's *Nutrient Profiling Technical Guidance* issued in 2011.

Paying for advertisements to be placed on the internet includes providing any consideration (monetary or non-monetary) and paying under a sponsorship agreement as result of which advertisements are placed on the internet.

A less healthy food or drink product is identifiable, in relation to advertisements, if persons in the UK (or any part of the UK) could reasonably be expected to be able to identify the advertisement as being for that product.

The following exemptions apply to Rule 15.19.

- Brand advertisements – In accordance with The Advertising (Less Healthy Food and Drink) (Brand Advertising Exemption) Regulations 2025, advertisements that promote a brand, including the brand of a range of products are exempt. This exemption does not apply to an advertisement:
    - the content of which depicts a specific less healthy food or drink product (unless such depiction of the product is only by way of the name of the product, including where the name of the product appears in the logo of a company, franchise or other commercial entity or in the logo of a brand of a range of products, and that product’s name falls within the criteria listed in the next sub-bullet);
    - that promotes a brand the name of which is the name of a specific less healthy food or drink product (unless the product’s full name is the name or is included in

the name of a company, franchise or other commercial entity which was established before 16th July 2025 and which held that name immediately before that date; or it is the name of the brand of a range of products, where that brand was in use, as the brand of that range, for the purposes of marketing, advertising or retail sale immediately before 16th July 2025 and held that name immediately before 16th July 2025); or
    - the content of which includes a realistic image of a food or drink product where the realistic image shows the food or drink itself and is not only of the product's packaging, and the food or drink product is visually indistinguishable from a specific less healthy food or drink product.
- Advertisements by food and/or drink SMEs – where the person paying for the advertisement is, at the time when the payment is made, a food or drink small or medium enterprise ("food or drink SME"), within the meaning given by The Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024 (in general terms, a food or drink SME is a business that employs fewer than 250 people, including as part of a franchise agreement).
- Advertisements on the internet which are not intended to be accessed principally by persons in the UK.
- Advertisements directed solely at persons who are engaged in, or employed by, a business which involves or is associated with the manufacture or sale of food or drink;
- Advertisements in services connected to regulated radio services, where visual advertisements for less healthy products included in the connected service are not to be treated as part of that service, and where the connected service is:
    - provided by means of the internet; and
    - corresponds to a service broadcast by a relevant radio service (i.e. the majority of the audio items included in the connected service are broadcast on the relevant radio service at the same time as they are provided by the connected service; a relevant radio service is a radio service regulated by Ofcom).
- Advertisements included in other online audio services that are not visual advertisements.
- Advertisements included in a television licensable content service, which is a regulated television service (these are subject to BCAP Code rule 32.21).
- Advertisements included in an unregulated television licensable content service, which:
    - is provided by means of the internet; and
    - corresponds to a regulated television service (i.e. all the programmes, including advertisements, provided by the regulated television service are provided at the same time on both services).
- Advertisements included in regulated on-demand programmes services (these are subject to rule 30.16 in Appendix 2 of the CAP Code).

Where terms are used in the rules and supporting information above that reflect legislation, their meaning should be understood with reference to the relevant legislation.

Guidance on the application of the less healthy product advertising rule (including information on the definition of terms used and the exemptions to which the rule is subject) is available here.

Placement of HFSS product advertisements

15.20

15.20 HFSS product advertisements 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 HFSS products, if more than 25% of its audience is under 16 years of age.

Guidance to help marketers identify brand advertising that has the effect of promoting an HFSS product is available here.

16

GAMBLING

Principle

The rules in this section are designed to ensure that marketing communications for gambling are socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited.

Background

"Gambling" for the purposes of this section covers:

- gaming, betting and other activities defined as gambling by the Gambling Act 2005 (as amended); and
- spread betting as defined in financial services legislation.

Rules on marketing communications for lotteries are set out separately in Section 17.

The legal framework for gambling in Great Britain, including the requirements for licensing gambling operators, is set out in the Gambling Act 2005 (as amended). The Gambling Commission regulates commercial gambling and permits gambling on the basis that the licensing objectives to keep gambling safe, fair and crime out, are met.

To advertise in Great Britain, and to advertise remote gambling in Northern Ireland, gambling operators must comply with the relevant licensing requirements set out in statutes. The ASA will refer marketing communications for unlicensed operators to the Gambling Commission. The Gambling Commission's Licence Conditions and Codes of Practice make it a direct requirement on licensed operators to ensure their marketing communications comply with the UK Advertising Codes.

The Gambling Act 2005 and Gambling (License & Marketing) Act 2014 apply to Great Britain and Northern Ireland for remote gambling.

Specialist legal advice should be sought when considering advertising any gambling product in Northern Ireland, the Channel Islands or the Isle of Man. The ASA will cooperate with the relevant authorities to address complaints relating to these jurisdictions.

Spread betting may be advertised as an investment under the Financial Services and Markets Act 2000 (as amended) (FSMA), the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) and other Financial Conduct Authority (FCA) rules and guidance (see Background, Section 14, Financial Products). A "spread bet" is a contract for difference that is a gaming contract, as defined in the glossary to the FCA Handbook.

Scope

Unless otherwise stated, the rules in this section apply to marketing communications by:

- gambling operators licensed in Great Britain that are likely to have the effect of promoting gambling; and
- firms authorized to provide spread betting products.

This includes marketing by third parties (for example, affiliate marketers) acting on an advertiser's behalf.

Although they do not apply to marketing communications for non-gambling operators, the ASA may draw on the principles established in the rules to assess whether ads for products likely to encourage gambling (for example, betting tipsters) meet the standards required by the general social responsibility provisions of the Code (see Section 1).

The rules are not intended to inhibit marketing communications by non-gambling operators that aim to counter problem gambling provided they are responsible and unlikely to promote a brand or type of gambling. Safer gambling messaging and marketing by gambling operators must comply with the rules.

Unless they portray or refer to gambling, this section does not apply to marketing communications for non-gambling leisure events or facilities, for example, hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities.

For the purposes of this section, "children" are people of 15 and under and "young persons" are people aged 16 or 17.

Rules

16.1 Marketing communications for gambling must be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited.

16.2 In line with rule 1.2, the spirit as well as the letter of the rules in this section apply whether or not a gambling product is shown or referred to.

16.3 Marketing communications must not:

16.3.1 portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm

16.3.2 exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons

16.3.3 suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression

16.3.4 suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security

16.3.5 portray gambling as indispensable or as taking priority in life; for example, over family, friends or professional or educational commitments

16.3.6 suggest that gambling can enhance personal qualities, for example, that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration

16.3.7 suggest peer pressure to gamble nor disparage abstention

16.3.8 link gambling to seduction, sexual success or enhanced attractiveness

16.3.9 portray gambling in a context of toughness or link it to resilience or recklessness

16.3.10 suggest gambling is a rite of passage

16.3.11 suggest that solitary gambling is preferable to social gambling

16.3.12 be likely to be of strong appeal to children or young persons, especially by reflecting or being associated with youth culture.

They must not include a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.

Where appropriate steps have been taken to limit the potential for an advertisement to appeal strongly to under-18s, this rule does not prevent the advertising of gambling products associated with activities that are themselves of strong appeal to under-18s (for instance, certain sports or playing video games).

CAP has published guidance on the application of the rule, including for advertising of gambling products associated with activities that are themselves of strong appeal to under-18s.

16.3.13 be directed at those aged below 18 years (or 16 years for 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) through the selection of media or context in which they appear

16.3.14 include a child or a young person. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way.

Individuals who are, or seem to be under 25 years old (18-24 years old) may be featured playing a significant role only in marketing communications that appear in a place where a bet can be placed directly through a transactional facility, for instance, a gambling operator's own website. The individual may only be used to illustrate specific betting selections where that individual is the subject of the bet offered. The image or other depiction used must show them in the context of the bet and not in a gambling context.

16.3.15 exploit cultural beliefs or traditions about gambling or luck

16.3.16 condone or encourage criminal or anti-social behaviour

16.3.17 condone or feature gambling in a working environment. An exception exists for licensed gambling premises.

16.4 Marketing communications for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities, for example, as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 (as amended) does not restrict by age.

16.5 Marketing communications for events or facilities that can be accessed only by entering gambling premises must make that condition clear.

17

LOTTERIES

Principle

The rules in this section are designed to ensure that marketing communications for lotteries are socially responsible, with particular regard to the need to protect children, young persons under 18 and other vulnerable persons from being harmed or exploited by advertising that features or promotes lotteries. It should be noted, however, that although the minimum age limit for purchasing National Lottery products is 18, the minimum age limit for participation in society lotteries is 16.

This section applies to the marketing communications of the National Lottery and 'large' society lotteries licensed and regulated by the Gambling Commission and, in the case of 'small' society lotteries, those promoters registered with local authorities in England and Wales or licensing boards in Scotland.

This section also applies to marketing communications for lottery products that are licensed and regulated by the Gambling Commission for National Lottery products.

The UK National Lottery may be advertised under The National Lottery etc Act 1993 (as amended). Society lotteries are promoted under the requirements of the Gambling Act 2005.

Rules

17.1 Marketing communications must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.

17.2 Marketing communications must not suggest that participating in a lottery can provide an escape from personal, professional or educational problems such as loneliness or depression.

17.3 Marketing communications must not suggest that participating in a lottery can be a solution to financial concerns, an alternative to employment or a way to achieve financial security. Advertisers may, however, refer to other benefits of winning a prize.

17.4 Marketing communications must not portray participating in a lottery as indispensable or as taking priority in life; for example, over family, friends or professional or educational commitments.

17.5 Marketing communications must neither suggest peer pressure to participate nor disparage abstention.

17.6 Marketing communications must not suggest that participating in a lottery can enhance personal qualities, for example, that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration.

17.7 Marketing communications must not link participating in a lottery to seduction, sexual success or enhanced attractiveness.

17.8 Marketing communications must not portray participation in a context of toughness or link it to resilience or recklessness.

17.9 Marketing communications must not suggest participation is a rite of passage.

17.10 Marketing communications must not suggest that solitary gambling is preferable to social gambling.

17.11 Marketing communications for lotteries that can be participated in only by entering gambling premises must make that condition clear.

17.12 Marketing communications for lotteries must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons.

17.13 Marketing communications for lotteries must not be likely to be of strong appeal to children or young persons, especially by reflecting or being associated with youth culture. They must not include a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.

Where the subject of a lotteries product (for example, good causes benefitting from lottery funds) or features of the product itself (for example, the creative content, gameplay or a prize involved) are of strong appeal to under-18s, a marketing communication for that lottery may depict the subject and/or product, but it must not feature a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.

Lotteries marketing communications that solely depict the good causes supported by the lottery may include persons or characters whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18 provided that:

- they are directly associated with the lottery good cause (for example, an athlete who has received lottery funding directly);

- there is no explicit encouragement to purchase a lottery product; and
- there is no reference to scratchcards or online instant-win lottery products.

Lotteries marketing communications including product references that comply with rule 17.16.2 are also acceptable.

17.14 Marketing communications for lotteries should not be directed at those aged under 16 years (or 18 years for National Lottery products) through the selection of media or context in which they appear.

17.15 Marketing communications for lotteries must not feature anyone who is, or seems to be, under 25 years old participating in gambling.

17.16 Marketing communications for lotteries which include any reference to scratchcards or online instant-win lottery products must not feature anyone who is, or seems to be, under 25 years old in a significant role. Other advertisements for lotteries must not feature anyone who is, or seems to be, under 25 years old in a significant role unless either:

17.16.1 they are featured solely to depict the good causes supported by the lottery and there is no explicit encouragement to purchase a lottery product; or

17.16.2 they are representative of the primary beneficiaries of the lottery and the lottery primarily benefits under-25s (including in a family setting).

17.17 Marketing communications for lotteries must not exploit cultural beliefs or traditions about gambling or luck.

17.18 Marketing communications for lotteries must not condone or encourage criminal or antisocial behaviour.

17.19 Marketing communications for lotteries must not condone or feature gambling in a working environment (an exception exists for workplace lottery syndicates and gambling premises).

18

ALCOHOL

Principle

Marketing communications for alcoholic drinks should not be targeted at people under 18 and should not imply, condone or encourage immoderate, irresponsible or anti-social drinking.

The spirit as well as the letter of the rules applies.

Definition

The rules in this section apply to marketing communications for alcoholic drinks and marketing communications that feature or refer to alcoholic drinks, including where a soft drink is promoted as a mixer. For the purposes of applying these rules, alcoholic drinks are defined as drinks containing more than 0.5% alcohol; low-alcohol drinks are defined as drinks containing more than 0.5% and up to and including 1.2% alcohol. Where an ad for a drink at or below 0.5% has the effect of promoting an alcoholic drink, these rules apply in full.

These rules are not intended to inhibit responsible marketing communications that are intended to counter problem drinking or tell consumers about alcohol-related health or safety themes. Those marketing communications should not be likely to promote an alcohol product or brand.

For the purposes of the rules in this section, the word 'drink(s)' refers to drinks with a strength above 0.5% ABV.

Rules

18.1 Marketing communications must be socially responsible and must contain nothing that is likely to lead people to adopt styles of drinking that are unwise. For example, they should not encourage excessive drinking. Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.

18.2 Marketing communications must not claim or imply that alcohol can enhance confidence or popularity.

18.3 Marketing communications must not imply that drinking alcohol is a key component of the success of a personal relationship or social event. The consumption of alcohol may be portrayed as sociable or thirst-quenching.

18.4 Drinking alcohol must not be portrayed as a challenge. Marketing communications must neither show, imply, encourage or refer to aggression or

unruly, irresponsible or anti-social behaviour nor link alcohol with brave, tough or daring people or behaviour.

18.5 Marketing communications must neither link alcohol with seduction, sexual activity or sexual success nor imply that alcohol can enhance attractiveness.

18.6 Marketing communications must not imply that alcohol might be indispensable or take priority in life or that drinking alcohol can overcome boredom, loneliness or other problems.

18.7 Marketing communications must not imply that alcohol has therapeutic qualities. Alcohol must not be portrayed as capable of changing mood, physical condition or behaviour or as a source of nourishment. Marketing communications must not imply that alcohol can enhance mental or physical capabilities; for example, by contributing to professional or sporting achievements.

18.8 Marketing communications must not link alcohol to illicit drugs.

18.9 Marketing communications may give factual information about the alcoholic strength of a drink. They may also make a factual alcohol strength comparison with another product, but only when the comparison is with a higher-strength product of a similar beverage.

Marketing communications must not imply that a drink may be preferred because of its alcohol content or intoxicating effect. However, low-alcohol drinks may be presented as preferable because of their low alcoholic strength, provided that the alcohol content of the drink is stated clearly in the marketing communication.

In the case of a drink with relatively high alcoholic strength in relation to its category, the factual information should not be given undue emphasis.

18.10 Marketing communications that include a promotion must not imply, condone or encourage excessive consumption of alcohol.

18.11 Marketing communications must not feature alcohol being handled or served irresponsibly.

18.12 Marketing communications must not link alcohol with activities or locations in which drinking would be unsafe or unwise.

Marketing communications must not link alcohol with the use of potentially dangerous machinery or driving. Marketing communications may feature sporting and other physical activities (subject to other rules in this section; for example, appeal to under-18s or link with daring or aggression) but must not imply that those activities have been undertaken after the consumption of alcohol.

18.13 Only in exceptional circumstances may marketing communications feature alcohol being drunk by anyone in their working environment.

18.14 Marketing communications must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18 in a way that might encourage the young to drink. People shown drinking or playing a significant role (see rule 18.16) should not be shown behaving in an adolescent or juvenile manner.

18.15 Marketing communications 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 alcoholic drinks if more than 25% of its audience is under 18 years of age.

18.16 People shown drinking or playing a significant role must neither be nor seem to be under 25. People under 25 may be shown in marketing communications, for example, in the context of family celebrations, but must be obviously not drinking.

18.17 Marketing communications may give factual information about product contents, including comparisons, but must not make any health, fitness or weight-control claims.

The only permitted nutrition claims are "low-alcohol", "reduced alcohol" and "reduced energy" and any claim likely to have the same meaning for the consumer.

Alcohol alternatives

Alcohol alternatives are non-alcoholic drinks (for the purposes of the CAP Code, those at or under 0.5% ABV) that are intended to replace alcoholic drinks in contexts where they would normally be consumed, such as non-alcoholic beer. A marketing communication for a non-alcoholic drink will be subject to the below rules if it is likely to be understood by the audience as an ad specifically for an alternative to alcohol, whether in general or as a non-alcoholic

version of a particular alcoholic drink. Where an ad for a drink at or below 0.5% has the effect of promoting an alcoholic drink, the Alcohol rules apply in full.

18.18 If a marketing communication for an alcohol alternative refers to or depicts alcohol, those references or depictions must comply with the rules relating to responsible portrayal of alcohol consumption, which are 18.1-18.8 and 18.10-18.13.

Where a marketing communication is for an alcohol alternative that shares the same brand as an alcoholic drink then this rule will not apply to references to or depictions of the brand name, provided that the primary effect of the marketing communication is to promote the alcohol alternative. References to the shared brand name, in any part of the marketing communication, without a reference to the alcohol alternative, are likely to be understood as references to alcohol.

18.19 Marketing communications for alcohol alternatives must include a prominent statement of their ABV. Marketing communications for alcohol alternatives are not prohibited from making a feature of their ABV or from making preference claims on this basis.

18.20 Marketing communications for alcohol alternatives may depict the product in circumstances where consumption of alcoholic drinks would be inappropriate or unsafe – such as prior to driving or daring physical activities – if it is clear the product is an alcohol alternative. Marketing communications must not encourage or condone consumption of alcohol in the same circumstances or imply the product is alcoholic. Resemblance to an alcoholic drink (as in rule 18.18) is acceptable as long as the ad makes explicitly clear the product featured is an alcohol alternative.

18.21 Marketing communications for alcohol alternatives must not contain content likely to disparage sobriety, or condone or encourage heavy, problematic, or otherwise higher-risk alcohol consumption as desirable. They must not present alcohol alternatives as a way to increase alcohol consumption beyond responsible levels.

18.22 Marketing communications for alcohol alternatives must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18 in a way that might encourage the young to drink alcohol or alcohol alternatives. People shown drinking or playing a significant role (see rule 18.24) should not be shown behaving in an adolescent or juvenile manner.

18.23 Marketing communications for alcohol alternatives 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 alcohol alternatives if more than 25% of its audience is under 18 years of age.

18.24 People shown drinking or playing a significant role in marketing communications for alcohol alternatives must neither be nor seem to be under 25. People under 25 may be shown in marketing communications, for example, in the context of family celebrations, but must be obviously not drinking.

19

MOTORING

Principle

Marketing communications should not condone or encourage unsafe or inconsiderate driving practices. If they make environmental claims, marketing communications for motor vehicles, fuel or accessories should comply with the rules in Section 11.

Rules

19.1 Marketing communications for motor vehicles, fuel or accessories must not depict or refer to practices that condone or encourage anti-social behaviour.

19.2 Marketing communications must not condone or encourage unsafe or irresponsible driving. If it could be emulated, marketing communications must not depict a driving practice that is likely to condone or encourage a breach of those rules of the Highway Code that are legal requirements if that driving practice seems to take place on a public road or in a public space. Vehicles' capabilities may be demonstrated on a track or circuit if it is obviously not in use as a public highway.

19.3 Marketing communications must not depict speed in a way that might encourage motorists to drive irresponsibly or to break the law.

To avoid the implication of irresponsible driving through excessive speed, care must be taken in the style of presentation of marketing communications. Particular care must be taken in, for example, cinema commercials and in marketing communications that appear in electronic media to avoid moving images that imply excessive speed. If they are shown in normal driving circumstances on public roads, vehicles must be seen not to exceed UK speed limits.

19.4 Marketers must not make speed or acceleration the main message of their marketing communications. Marketing communications may give general information about a vehicle's performance, such as acceleration and mid-range statistics, braking power, road-holding and top speed.

19.5 Safety claims must not exaggerate the benefit to consumers. Marketers must not make absolute claims about safety unless they hold evidence to substantiate them.

20

EMPLOYMENT, HOMEWORK SCHEMES AND BUSINESS OPPORTUNITIES

Rules

Employment

20.1 Marketing communications must distinguish clearly between offers of employment and business opportunities. Before publication, media owners normally require marketers' full details and any terms and conditions imposed on respondents.

20.2 Employment marketing communications must relate to genuine vacancies and potential employees must not be asked to pay for information.

Living and working conditions must not be misrepresented. Quoted earnings must be precise; if one has to be made, a forecast must not be unrepresentative. If income is earned from a basic salary and commission, commission only or in some other way, that must be made clear.

Employment agencies and employment businesses

20.3 Employment agencies and employment businesses must make clear in their marketing communications their full names and contact details and, in relation to each position they advertise, whether it is for temporary or permanent work.

Homework schemes

20.4 Marketing communications for homework schemes must contain no forecast of earnings if the scheme is new. Marketers may state the likely level of earnings only if it can be supported with evidence of the experience of existing homeworkers. Marketers must not exaggerate the support available to homeworkers.

20.5 Marketing communications for homework schemes must state:

20.5.1 limitations or conditions that might influence consumers before their decision to participate

20.5.2 whether the marketers will buy any products made

20.5.3 if a financial outlay is, or might be, required.

20.6 Marketers of homework schemes must include this information in the initial marketing communication or in follow-up literature made available to all consumers before commitment:

20.6.1 the full name and geographical address of the marketer

20.6.2 a clear description of the work

20.6.3 whether participants are self-employed or employed by a business

20.6.4 charges for raw materials, machines, components, administration and the like.

Business opportunities

20.7 Marketing communications for business opportunities must neither contain unrepresentative or overstated earnings figures nor exaggerate the support available to investors.

20.8 Marketers of business opportunities must include in their initial marketing communications or in follow-up literature made available to all consumers before commitment:

20.8.1 the full name and geographical address of the marketer

20.8.2 a clear description of the work involved

20.8.3 a statement of the extent of investors' commitments, including any financial investment or outlay.

Vocational training and instruction courses

20.9 Marketing communications for vocational training or other instruction courses must not give a misleading impression about the potential for employment that might follow.

Marketing communications must make clear significant conditions for acceptance onto vocational training or instruction courses, such as the level of attainment, and significant conditions likely to affect a consumer's decision to embark on a course, such as the cost or the duration of a course.

Employment, homeworking schemes and business opportunities directories

20.10 Marketing communications for the sale of directories giving information about employment, homeworking schemes or business opportunities must state plainly the nature of what is being offered.

21

TOBACCO, ROLLING PAPERS AND FILTERS

Scope

The scope of the Tobacco products rule, in particular, as it relates to advertisements appearing on marketer's own websites where tobacco products are offered for sale, is determined by the relevant UK legislation on tobacco advertising.

The Rolling papers and filters rules govern the content of marketing communications, including point-of-sale material, for:

a. rolling papers and filters

b. any product if the marketing communication concerned features rolling papers, filters or a pack design of a recognisable brand available in the UK

c. a product displaying the colours, livery, logo or name of a rolling paper or a brand of filter in a way that promotes smoking and not that branded product.

The Rolling papers and filters rules do not apply to marketing communications:

d. addressed to the trade in its professional capacity in media not targeted at the public

e. for schemes, events or activities sponsored or financially supported by manufacturers or importers, including sports sponsorship, so long as undue emphasis is not placed on the rolling papers or filters as opposed to the scheme, event or activity

f. on manufacturers' or importers' websites (see Scope of the Code II q).

Other rules in the CAP Code, such as the promotional marketing rules, apply to (d) and (e).

Rules

Tobacco products

21.1 Tobacco products may not be advertised to the public.

Rolling papers and filters

21.2 Marketing communications for rolling papers or filters must neither encourage people to start smoking nor encourage people who smoke to increase their consumption.

21.3 Marketing communications for rolling papers or filters must not:

21.3.1 play on the susceptibilities of those who are physically or emotionally vulnerable, especially the young or immature

21.3.2 suggest that smoking is natural, safe, popular, glamorous or aspirational or that it can lead to social, sexual, romantic or business success

21.3.3 suggest that smoking can enhance people's femininity, masculinity or appearance

21.3.4 appeal to the adventurous or rebellious or suggest that it is daring to smoke or that smoking can enhance people's independence

21.3.5 link smoking with people who are well known, wealthy, fashionable, sophisticated or successful or who possess other attributes or qualities that may reasonably be expected to command admiration or encourage emulation

21.3.6 must not suggest that smoking is healthy, can be enjoyed as part of a healthy lifestyle or that it can aid relaxation or concentration.

21.4 Marketing communications for rolling papers or filters must not depict anyone smoking.

21.5 Marketing communications for rolling papers or filters must not be targeted at, or be likely to appeal to, people under 18. Anyone depicted in a marketing communication for rolling papers or filters must be, and be seen to be, over 25. No medium may be used to advertise rolling papers or filters if more than 25% of its audience is or is likely to be under 18. No direct marketing communication for rolling papers or filters may be distributed to anyone under 18.

21.6 Marketing communications for rolling papers or filters must not condone or encourage the use of illegal drugs. Except in exceptional circumstances, for example, in the context of an anti-drug message, any reference to illegal drugs will be regarded as condoning their use.

21.7 Marketing communications for rolling papers or filters must not be sexually titillating.

22

ELECTRONIC CIGARETTES

The Tobacco and Related Products Regulations 2016

The Tobacco and Related Products Regulations 2016 ('the Regulations') became law in the UK on 20 May 2016. The Regulations implement Directive 2014/40/EU (on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC).

The Regulations prohibit the advertising of nicotine-containing electronic cigarettes (e-cigarettes) which are not licensed as medicines, but only in some media channels. These prohibitions are set out in rule 22.12. CAP has produced Advertising Guidance which explains the legal basis for and effect of these prohibitions, particularly in relation to the types of claims marketers may make online and how they might avoid indirectly promoting prohibited products in media subject to the Regulations through the marketing of non-nicotine or other products.

Overview

Other than in rule 22.12 which relates only to unlicensed, nicotine-containing products, for the purposes of this section "e-cigarette" means a product that is intended for inhalation of vapour via a mouth piece, or any component of that product, including but not limited to cartridges, tanks and e-liquids. Therefore rules 22.1 – 22.11 apply to marketing communications for, and which refer to, e-cigarettes and related products, including but not limited to e-shisha and e-hookah products, whether or not they contain nicotine. The e-cigarette market continues to innovate rapidly and new products may emerge which may not be caught precisely by the above definition. The ASA may apply these rules in circumstances where it considers that an advertised product is sufficiently similar to warrant the protection provided by this section.

The majority of e-cigarettes are currently sold as consumer goods; however marketers may seek a medicines licence for their product from the Medicines and Healthcare Products Regulatory Agency (MHRA). Except for rule 22.12 this section applies to marketing communications for e-cigarettes which are licensed as medicines by the MHRA. For products licensed as medicines, the rules in section 12 (Medicines, medical devices, health-related products and beauty products) apply in addition to any other relevant CAP rules.

Depending on the formulation of their product and the means by which it is supplied, marketers may have obligations relating to their advertising under chemical classification, labelling and packaging legislation. Marketers are advised to take legal advice to ensure compliance with the relevant law.

Rules

22.1 Marketing communications for e-cigarettes must be socially responsible.

22.2 Marketing communications must contain nothing which promotes any design, imagery or logo style that might reasonably be associated in the audience's mind with a tobacco brand.

22.3 Marketing communications must contain nothing which promotes the use of a tobacco product or shows the use of a tobacco product in a positive light. This rule is not intended to prevent cigarette-like products being shown.

22.4 Marketing communications must make clear that the product is an e-cigarette and not a tobacco product.

22.5 Marketing communications must not contain medicinal claims unless the product is authorised for those purposes by the MHRA. E-cigarettes may be presented as an alternative to tobacco but marketers must do nothing to undermine the message that quitting tobacco use is the best option for health.

22.6 Marketers must not use health professionals to endorse electronic cigarettes.

22.7 Marketing communications must state clearly if the product contains nicotine. They may include factual information about other product ingredients.

22.8 Marketing communications must not encourage non-smokers or non-nicotine-users to use e-cigarettes.

22.9 Marketing communications must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18. People shown using e-cigarettes or playing a significant role should not be shown behaving in an adolescent or juvenile manner.

22.10 People shown using e-cigarettes or playing a significant role must neither be, nor seem to be, under 25. People under 25 may be shown in an incidental role but must be obviously not using e-cigarettes.

22.11 Marketing communications 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 e-cigarettes if more than 25% of its audience is under 18 years of age.

22.12 Except for media targeted exclusively to the trade, marketing communications with the direct or indirect effect of promoting nicotine-containing e-cigarettes and their components which are not licensed as medicines are not permitted in the following media:

- Newspapers, magazines and periodicals
- Online media and some other forms of electronic media

Factual claims about products are permitted on marketers' own websites and, in certain circumstances, in other non-paid-for space online under the marketer's control. Please refer to the Advertising Guidance.

HOW THE SYSTEM WORKS

The self-regulatory system

The self-regulatory system comprises three bodies: the Advertising Standards Authority (ASA), the Advertising Standards Board of Finance (ASBOF) and the Committee of Advertising Practice (CAP). Their work is described below.

The strength of the system depends on the long-term commitment of all those involved in advertising, promotions and direct marketing. Practitioners in every sphere share an interest in seeing that marketing communications are welcomed and trusted by their audience: unless they are accepted and believed, marketing communications cannot succeed. If they are offensive or misleading, they discredit everyone associated with them and the industry as a whole.

The UK Code of Non-broadcast Advertising, Direct and Promotional Marketing (the CAP Code), and the details of the guidance and training offered by CAP Services to help advertisers comply with the rules, can be found at www.asa.org.uk. The ASA publishes rulings weekly on www.asa.org.uk.

The Advertising Standards Authority

The ASA was established in 1962 to provide independent scrutiny of the newly created self-regulatory system set up by the industry. Its chief tasks are to promote and enforce high standards in marketing communications, to investigate complaints, to identify and resolve problems through research, to ensure that the system operates in the public interest and to act as the channel for communications with those who have an interest in marketing communication standards.

The ASA is a limited company and is independent of both the Government and the marketing business. The Chairman of the ASA is appointed by ASBOF and is unconnected with the marketing business. Most of the 12-member Council appointed by the Chairman to govern the ASA is also unconnected with the marketing business. All Council members sit as individuals and are selected, as far as possible, to reflect a diversity of background and experience. Vacancies for independent members of Council are publicly advertised. Members serve for a maximum of two three-year terms.

The ASA investigates complaints from any source against marketing communications in non-broadcast media. Marketers are told the outcome of the ASA Council's rulings and, if necessary, are asked to withdraw or amend their marketing communications. The rulings reached by the Council are published weekly on www.asa.org.uk. The ASA website contains

information about the ASA's procedures for handling complaints about a marketing communication.

The ASA gives equal emphasis to conducting a substantial research and monitoring programme by reviewing marketing communications that fall within its scope. Specific media and product categories may be identified for scrutiny. In that way the ASA can identify trends and prevent future problems.

Publicising the ASA's policies and actions is essential to sustaining wide acceptance of the system's integrity. A comprehensive programme of seminars and speeches, advertising, e-mail and website updates, briefing notes on a wide range of topics, articles written for professional journals and newspaper, magazine, TV and radio coverage all augment the ASA's extensive media presence.

The Advertising Standards Board of Finance

The Advertising Standards Board of Finance sets the framework for industry policy making and is responsible for the Committee of Advertising Practice and for funding the self-regulatory system.

The self-regulatory system is funded principally by a levy on advertising and direct marketing expenditure collected by ASBOF. The separation of operation and responsibilities helps to ensure that the independent judgement of the ASA is not compromised.

ASBOF's members are advertisers, promoters and direct marketers, their agencies, the media and the trade and professional organisations of the advertising, direct and promotional marketing businesses.

The Committee of Advertising Practice

CAP's role is to ensure that marketing communications within the Code's remit that are commissioned, prepared, placed or published in the UK comply with the CAP Code.

CAP co-ordinates the activities of its members to achieve the highest degree of compliance with the Code. It creates, reviews and amends the Code. From time to time, it produces for the industry Help Notes that give detailed guidance on specific sectors or subjects that are covered only generally in the Code. It oversees the sanctions operated by its members. It operates a website, www.asa.org.uk, to provide information and guidance to the industry, including access to Help Notes, Advice Online and relevant Ad Alerts. It convenes ad hoc

Working Groups for limited periods to address specific subjects arising out of the self-regulatory process.

The Code establishes a standard against which marketing communications are assessed. Other codes exist in many sectors; many require practitioners to comply with the CAP Code.

The Chairman of CAP works on a part-time basis and is appointed for an agreed period and remunerated by ASBOF.

CAP actively encourages participation in the self-regulatory system. Suggestions for improving Code rules or modifying their application should be sent in writing to the Chairman. If changes are adopted by CAP their introduction is normally deferred for a short time to give marketers an adequate opportunity to amend their marketing communications.

CAP Services

As well as writing and maintaining the rules, CAP also places great emphasis on the prevention of breaches and works to promote high compliance. CAP Services are a range of bespoke advice, training seminars and online resources to help all practitioners stay on top of advertising regulation, the requirements of the CAP and BCAP Codes, and how those are interpreted by the ASA.

Full details of CAP Services can be found at www.asa.org.uk. Practitioners are urged to register on the site and subscribe to the newsletters to help them keep up-to-date with regulatory developments, training events and updates to guidance.

The Copy Advice team

The Copy Advice team gives bespoke advice to marketers, their agencies, the media and other practitioners on the likely conformity with the CAP Code of marketing communications before they are published or distributed. It also checks marketing communications produced by marketers subject to mandatory pre-vetting (for example, those subject to the poster pre-vetting sanction).

Copy Advice is free, provided by a specialist team of advertisers and confidential from competitors. Advice is not binding either on enquirers or on the ASA. Favourable pre-publication advice does not automatically protect marketers from complaints being investigated and upheld by the ASA. It is, however, the best guide to what is likely to comply with the Code.

Online resources, including a comprehensive library of advice entries and Advertising Guidance documents, are available at advice.

Online: advice

The Compliance team

The Compliance team ensures that marketing communications comply with the Code to protect consumers and ensure a level playing-field. It enforces ASA rulings, disseminates any ramifications of them for an industry sector and acts against marketers that persistently break the Code. Exceptionally, if a marketing communication obviously breaches the Code, for example, if it contains a claim that is blatantly misleading, the team takes immediate compliance action to stop the marketing communication from reappearing. If it seems necessary to avoid harm, the Executive may take interim action during an ASA investigation (see "Sanctions").

The team co-ordinates the sanctions operated by the Executive and by CAP members; in particular, it issues Ad Alerts to CAP members, including the media, advising them to withhold their services from non-compliant marketers or deny those marketers access to advertising space.

Information on compliance is available on www.asa.org.uk. Companies that are members of a CAP trade association or professional body can access a database of relevant Ad Alerts on a secure section of the CAP website.

The Panels

Much of the detailed work of CAP is done by its Panels. The Promotional Marketing and Direct Response Panel concentrates on promotions and direct marketing. The Online Publications Media Panel advises on the proper distinction between editorial and advertising in online publications. The Industry Advisory Panel concentrates on all other CAP-related and BCAP-related matters. The Promotional Marketing and Direct Response Panel and the Industry Advisory Panel are composed of industry experts and one ASA Council member; the Online Publications Media Panel is composed of the Chairmen of ASBOF and The Regulatory Funding Company.

The Panels guide the Executive and help the ASA and CAP to produce advice for the industry and to interpret the Code.

The Panels provide a forum to reassess recommendations and advice given by the Executive. The parties to a complaint can request a Panel assessment before the ASA Council has ruled; Council will take account of the Panel's opinion. Council's judgement on the interpretation of the Code is, however, final. Anyone directly affected by copy advice given by the Executive on behalf of CAP can ask for it to be considered by the relevant Panel. The Panel Chairmen can reject requests and will do so if it seems that a Panel is being used to hamper the effective running of the self-regulatory system.

The Independent Review Procedure

In exceptional circumstances, the ASA Council can be asked to reconsider its ruling (including a Council decision not to investigate a complaint). Details of how to make a request for Independent Review can be found in the ASA's Complaint Handling Procedures for broadcast and non-broadcast advertising.

Administration of the system

The ASA and CAP share a joint Executive whose duties are organised to recognise the distinct functions of the two bodies. The Executive carries out the day-to-day work of the system and acts as a channel of communication, ensuring that industry expertise, specialist advice and the decisions of the ASA Council are co-ordinated and disseminated. The ASA Council and CAP form an independent judgement on any matter reported to them after they have considered the Executive's recommendation.

Marketers bear principal responsibility for the marketing communications they produce and must be able to prove the truth of their claims to the ASA; they have a duty to make their claims fair and honest and to avoid causing serious or widespread offence. Agencies have an obligation to create marketing communications that are accurate, ethical and neither mislead nor cause serious or widespread offence. Publishers and media owners recognise that they should disseminate only those marketing communications that comply with the Code. That responsibility extends to any other agent involved in producing, placing or publishing marketing communications. They accept the rulings of the ASA Council as binding.

The ASA Council judges whether marketing communications breach the Code. Everyone responsible for commissioning, preparing, placing or publishing a marketing communication that breaches the Code is asked to act promptly to amend or withdraw it.

The law

Marketers, agencies and publishers have primary responsibility for ensuring that everything they do is legal. Since the Code was first published, the number of laws designed to protect consumers has greatly increased. More than 200 statutes, orders and regulations affect marketing communications here (see www.asa.org.uk for a non-exhaustive list). The ASA maintains a rapport with those responsible for initiating or administering any law that has a bearing on marketing communications. The system is reinforced by the legal backup provided for the work of the ASA by the Digital Markets, Competition and Consumers Act 2024 and the Business Protection from Misleading Marketing Regulations 2008 (see Scope of the Code).

The Code, and the self-regulatory framework that exists to administer it, was designed and has been developed to work within and to complement those legal controls. It provides an alternative, and in some instances the only, means of resolving disputes about marketing communications. It stimulates the adoption of high standards of practice in matters, such as taste and decency, that are extremely difficult to judge in law but fundamentally affect consumer confidence in marketing communications.

Some important aspects are governed by legislation enforced by local authority trading standards and environmental health officers. They include product packaging (except for on-pack promotions), weights and measures, statements on displays at point-of-sale and the safety of products.

Many Government agencies administer consumer protection legislation that ranges far wider and deeper than could be enforced through self-regulatory codes of practice. Marketers who break the law risk criminal prosecution or civil action. The Code requires marketers to ensure that all their marketing communications are legal but any matter that principally concerns a legal dispute will normally need to be resolved through law enforcement agencies or the Courts.

Europe

Most member States of the European Union, and many non-EU European countries, have self-regulatory organisations (SROs) that are broadly similar to those in the self-regulatory system in the UK. Together with organisations representing the advertising industry in Europe, those SROs are members of the European Advertising Standards Alliance (EASA), the single voice of the advertising industry in Europe on advertising self-regulation. The ASA is a founder member of EASA. EASA is located in Brussels and meets regularly to co-ordinate the promotion and development of self-regulation at a European level.

Among its wide range of operations, EASA acts as a focal point for cross-border complaints investigated by individual members; consumers need complain only to the SRO in their country, no matter where the marketing communication originated. EASA is a source of information and research on self-regulation. It helps in the development and establishment of SROs in Europe and corresponds internationally.

EASA has published a statement of common principles, the core values that underpin each of its constituent SROs, and recommended standards for operating best practice in self-regulation that all SROs should seek to achieve. Both are available on www.easa-alliance.org.

Information on EASA's objectives, activities and publications, including the Alliance Update and order forms for The Blue Book, which contains an analysis of self-regulation in 24 European countries, is available from the EASA website, www.easa-alliance.org.

Sanctions

Compliance surveys published periodically by the Executive have demonstrated that the vast majority of marketing communications comply with the Code. By providing advice, guidance or pressure, media owners, agencies and other intermediaries play a crucial role in ensuring compliance. If a marketing communication breaks the Code, the marketer responsible is told to amend or withdraw it. Most willingly undertake to do so. If they do not, the Compliance team will consider the sanctions available to it.

The ASA and CAP do not adopt a legalistic attitude towards sanctions and they ensure that sanctions are both proportionate to the nature of the breach and effective. They focus on ensuring that noncompliant marketing communications are amended, withdrawn or stopped as quickly as possible.

The ASA and CAP are not restricted to applying sanctions only against marketers that have been subject to a formal investigation. If a marketing communication is obviously misleading or offensive, the ASA and CAP may take compliance action in the absence of complaints or during an investigation (see "The Compliance team").

Adverse publicity

Publicising the ASA's rulings is essential to sustaining wide acceptance of the system's integrity and the principal sanction available to the ASA is the unwelcome publicity that could result from the rulings it publishes weekly on www.asa.org.uk. Adverse publicity is damaging to most marketers and serves to warn the public. Marketers may face more adverse publicity if they cannot or will not amend their own non-compliant marketing communication on their

own website or in other non-paid-for space online under their control. Their name and their non-compliance may be featured on a dedicated section of the ASA website and, if necessary, in an ASA advertisement appearing on an appropriate page of an internet search website. Anyone who is interested can access ASA rulings quickly and easily on the website and can set up a profile-specific account so they are automatically notified by e-mail of relevant rulings as soon as they are published. ASA rulings receive a substantial amount of coverage in local, regional, national and international media.

An adverse ASA ruling could have consequences for compliance with other codes or legal requirements. For example, personal data gathered as a result of a misleading marketing communication might not comply with the fair processing requirement in the first data protection principle of the Data Protection Act 1998.

Denial of media space

Ad Alerts

CAP may issue Ad Alerts to its members, including the media, advising them to consult the Copy Advice team before accepting advertisements for publication or, in some circumstances, to withhold their services from non-compliant marketers or deny the latter access to advertising space. Ad Alerts are issued at short notice, are carefully targeted for greatest impact, are sent electronically and, once issued, are available on a secure section of www.asa.org.uk to those who might need to consult them. They contain the name and contact details of the non-compliant marketer, a description of the compliance problem and, if possible, a scanned image of the marketing communication in question. CAP may issue Ad Alerts that cover an entire sector if it perceives a widespread problem. CAP may ask internet search websites to remove a marketer's paid-for search advertisement if that links directly to a page hosting the marketer's own non-compliant marketing communication on the its own website or in other non-paid-for space under the marketer's control.

Trading privileges and recognition

Many CAP trade associations and professional bodies offer their members, and others, recognition and trading privileges, which they may revoke, withdraw or temporarily withhold. For example, agency recognition offered by the print media members of CAP may be withdrawn or the substantial direct mail discounts offered by the Royal Mail on bulk mailings withheld. In exceptional cases of noncompliance, CAP members may expel companies from membership.

Pre-publication vetting

The ASA and CAP may require persistent offenders, or those whose marketing communications bring advertising into disrepute, to have some or all of their marketing communications vetted by the CAP Copy Advice team until the ASA and CAP are satisfied that future communications will comply with the Code.

The poster industry members of CAP operate a poster pre-vetting sanction to deter abuse of the medium. If the ASA rules against a poster on the grounds of serious or widespread offence or social irresponsibility, the poster advertiser becomes a candidate for mandatory pre-vetting. If they believe that the advertiser either is incapable of complying with the Code or seems to have deliberately flouted the Code with the intention of generating complaints, PR and subsequent notoriety, the poster industry members of CAP and the CAP Executive will compel the advertiser to check future posters with the CAP Copy Advice team for a fixed period (usually two years).

Legal backstop

The self-regulatory system is recognised by the Government, the Competition and Markets Authority (CMA), Trading Standards and the Courts as one of the "established means" of consumer protection in non-broadcast marketing communications. If certain types of marketing communication, including those that are misleading or contain an impermissible comparison, continue to appear after the ASA Council has ruled against them, the ASA can refer the matter to Trading Standards for action under the Digital Markets, Competition and Consumers Act 2024 or the Business Protection from Misleading Marketing Regulations 2008. Trading Standards can seek an undertaking that the marketing communication will be stopped from anyone responsible for commissioning, preparing or disseminating it. If that is not given or is not honoured, Trading Standards can seek an injunction from the Court to prevent its further appearance. Anyone not complying can be found to be in contempt of court and is liable to be penalised.

The ASA and CAP maintain a rapport with Trading Standards and with other bodies that have a responsibility for creating, administering or enforcing laws that have a bearing on marketing communications. If necessary, they may notify those bodies of non-compliant marketers and work with them to ensure that unacceptable marketing communications are amended, withdrawn or stopped.

The CMA, Trading Standards Authorities and other enforcement bodies have powers to enforce consumer protection laws, including under the Digital Markets Competition and Consumers Act 2024, and the Business Protection from Misleading Marketing Regulations

2008. Both the Act and the Regulations provide that, before taking action, qualified entities should have regard to the desirability of encouraging control by the "established means".

Cross-border marketing communications

The Code does not apply to marketing communications in foreign media. If marketing communications appear in media based in countries that have self-regulatory organisations (SROs) that are members of EASA or if direct marketing originates from countries that have SROs that are members of EASA, EASA will co-ordinate cross-border complaints so the SRO in the country of origin of the marketing communication has jurisdiction; consumers need complain only to their SRO. If not, the ASA will take what action it can. The SROs with jurisdiction are formally responsible for applying any sanctions, though the ASA and CAP will, whenever they can, adopt a pragmatic approach to ensure that consumers are protected.

The ASA and CAP work closely with CAP trade associations and professional bodies, Trading Standards officers, Government departments, the CMA and other UK regulators, EASA and overseas SROs and statutory authorities to stop unacceptable marketing communications, especially misleading or offensive mailings sent direct to UK consumers from overseas. That work has achieved some success but the ASA, CAP and other authorities, whether statutory or self-regulatory, experience difficulties in enforcing the Code and laws against companies based overseas. Statutory authorities can, however, act to ensure compliance with Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market throughout the European Union.

To clarify what can and cannot be done, the ASA and CAP have produced a fact sheet, "Overseas Mailings", to explain how they tackle unacceptable mailings that originate outside the UK and to warn consumers to treat those mailings with the utmost caution. That fact sheet is available on www.asa.org.uk.

HISTORY OF SELF-REGULATION

History of self-regulation

Self-regulation is nothing new: the medieval guilds practised self-regulation in that they inspected markets and measures, judged the quality of merchandise and laid down rules for their trades.

In advertising and marketing, self-regulation can be traced back to the poster industry in the 1880s. The first code of advertising was launched in 1925 by the Association of Publicity Clubs. And systematic scrutiny of advertising claims operated from 1926, when the newly established Advertising Association set up its Advertising Investigation Department to "investigate abuses in advertising and to take remedial action".

In 1937, the International Chamber of Commerce developed an international code of advertising practice, the first of several international marketing codes that have provided a bench mark for many national systems of self-regulation.

The Committee of Advertising Practice (or the British Code of Advertising Practice Committee, as it then was) came into existence in 1961 and was responsible for the first British Code of Advertising Practice and all subsequent Codes including this one. The Code covered all non-broadcast advertisements and, in 1962, an independent body – the Advertising Standards Authority (ASA) – was established to administer the first Code.

1974 saw the creation of a new, improved funding mechanism for self-regulation in the form of the Advertising Standards Board of Finance (ASBOF). The new system brought an automatic levy of 0.1% on all display advertisements to fund the system. With it came an increased emphasis on public awareness of self-regulation and increased staffing to facilitate pre-vetting and monitoring.

1974 also saw the establishment of the first Code of Sales Promotion Practice – a recognition of the need to expand the role of the system to encompass promotional marketing.

Since 1962, advertising self-regulation has grown in stature. It now has all-party support and enjoys a widespread acceptance of its role in protecting the consumer. That acceptance led to European legislation governing misleading advertising being implemented nationally in 1988 in a way that allowed the ASA to remain the principal regulator for misleading advertisements in non-broadcast media but with statutory reinforcement through the Office of Fair Trading (OFT) as was, and presently Trading Standards. It is a measure of the success of that approach that the ASA has referred few advertisers to the OFT or Trading Standards.

Nothing better illustrates the maturity of the self-regulatory system than the extension, in 2004, of the ASA's remit to cover broadcast advertisements. Previously, broadcast advertising had been the subject of a separate statutory regime. The change came in 2003, when the Communications Act gave the newly formed Office of Communications (Ofcom) statutory responsibility for broadcasting standards. Using its powers under the Act, Ofcom contracted out responsibility for advertising standards to the ASA in the guise of a separate, but related, body called ASA (Broadcast) in a partnership often referred to as co-regulation.

As a result, all licensed broadcast services carrying advertisements fall within the extended remit of the self-regulatory system; they include television, radio and teletext services, which were previously regulated by the Independent Television Commission or the Radio Authority. The broadcast self-regulatory system has powers to direct advertisements to be taken off air, amended or re-scheduled and broadcasters fund and use pre-vetting services. The system provides for the ASA to refer to Ofcom any broadcaster that flouts an ASA adjudication or instruction.

A separate body known as the Broadcast Committee of Advertising Practice (BCAP) took over responsibility for the existing television and radio advertising codes. Its members include representatives from the advertising and marketing industry with an interest in broadcast advertising: advertisers, agencies and television and radio broadcasters.

Today, the self-regulatory system covers non-broadcast advertising, and many aspects of direct and promotional marketing. It is supported by a range of other self-regulatory initiatives by the industry, including the various preference services run by the Data & Marketing Association.

From its limited original remit, the UK system of self-regulation has, with the ASA as its public face, evolved into a comprehensive one-stop shop for regulating marketing communications, both broadcast and non-broadcast. With a degree of flexibility denied to statutory controls, the self-regulatory system is constantly reviewing both the content of its codes and its remit, recently especially in relation to digital media and the challenges presented by the growth of online marketing communications.

The world of advertising and marketing has changed beyond recognition since the inception of the UK self-regulatory system in the early 1960s. Yet the purpose of self-regulation remains as it was in the beginning: to maintain, in the best way possible, the integrity of marketing communications in the interests of both the consumer and business.

APPENDIX 1 THE DMCCA AND THE BPRS

Background

Non-broadcast marketing communications are subject to legislation as well as to this Code. See www.asa.org.uk for a non-exhaustive list.

The Digital Markets, Competition and Consumers Act 2024 (DMCCA)

One important piece of legislation that affects marketing communications is the The Digital Markets, Competition and Consumers Act 2024 (DMCCA). For the purpose of the legislation and in this Appendix, "consumers" refers to individuals acting outside the course of their business. Chapter 1 of Part 4 of the DMCCA prohibits unfair marketing to consumers, including misleading or aggressive advertising. Whenever it considers complaints that a marketing communication misleads consumers or is aggressive or unfair to consumers, the ASA will have regard to the relevant section of the DMCCA. That means it will take factors identified in the DMCCA into account when it considers whether a marketing communication breaches the CAP Code.

The notes below summarise those factors.

Code rules that refer to misleading marketing communications should be read, in relation to business-to-consumer marketing communications, in conjunction with these notes.

Consumers

The likely effect of a marketing communication is generally considered from the point of view of the average consumer whom it reaches or to whom it is addressed. The average consumer is assumed to be reasonably well-informed, observant and circumspect.

The average consumer is to be treated as not knowing information in relation to a commercial practice where such information has been concealed by the trader (even if the average consumer might know the information from another source).

In some circumstances, a marketing communication may be considered from the point of view of the average member of a specific group:

- If it is directed to a particular audience group, the marketing communication will be considered from the point of view of the average member of that group.
- If it is likely to affect the economic behaviour of a group of people who are particularly vulnerable, in a way that the advertiser could reasonably be expected to foresee, because of mental or physical health, age, credulity, or the circumstances that group of

people are in, the marketing communication will also be considered from the point of view of the average member of the affected group.

Unfair marketing communications

Marketing communications are unfair if they:

- are likely to cause the average consumer to take a transactional decision that the consumer would not have taken otherwise, as a result of a practice involving one or more of the following:
    - a misleading action
    - a misleading omission
    - an aggressive practice
    - a contravention of the requirements of professional diligence
- omit material information from an invitation to purchase
- involve a practice prohibited in all circumstances under the DMCCA

"Professional diligence" is the standard of skill and care that a trader may reasonably be expected to exercise towards consumers, commensurate with honest market practice or the general principle of good faith in the trader's field of activity.

An “invitation to purchase” is a commercial practice involving the provision of information to a consumer which indicates the characteristics of a product and its price, and which enables, or purports to enable, the consumer to decide whether to purchase the product or take another transactional decision in relation to the product.

Misleading marketing communications

Marketing communications are misleading if they

- are likely to deceive consumers and
- are likely to cause consumers to take transactional decisions that they would not otherwise have taken.

A "transactional decision" is any decision made by a consumer relating to the purchase or supply of a product (including whether, how or on what terms to make the purchase or supply); the retention, disposal or withdrawal of a product (including whether, how or on what terms to retain or dispose of it); or the exercise of contractual rights in relation to a product (including whether, how or on what terms to exercise such rights).

Marketing communications can deceive consumers by ambiguity, through presentation or by omitting important information that consumers need to make an informed transactional decision, as well as by including false information.

Aggressive marketing communications

Marketing communications are aggressive if they use harassment, coercion or undue influence.

The Business Protection from Misleading Marketing Regulations 2008

Business-to-business marketing communications are subject to the Business Protection from Misleading Marketing Regulations 2008 (the BPRs). Business-to-business marketing communications that breach the CAP Code may be referred to Trading Standards for consideration under the BPRs. Under the BPRs, a marketing communication is misleading if it:

- in any way, including its presentation, deceives or is likely to deceive the traders to whom it is addressed or whom it reaches and by reason of its deceptive nature, is likely to affect their economic behaviour
- or, for those reasons, injures or is likely to injure a competitor.

The BPRs also set out the conditions under which comparative marketing communications, directed at either consumers or business, are permitted. This Code incorporates those conditions.

APPENDIX 2 ADVERTISING RULES FOR ON-DEMAND SERVICES REGULATED BY STATUTE

Principle

The rules in Appendix 2 reflect the legal requirements in the Communications Act 2003 (as amended) with which media service providers must ensure they comply. Failure to ensure that advertising included in a regulated on-demand service complies with these rules may result in the matter being referred to Ofcom. If Ofcom concludes that the media service provider has contravened the relevant requirements of the Act, this may lead to Ofcom considering imposing a statutory sanction against the provider.

Definition

Some video-on-demand services are subject to regulation under the Communications Act 2003 (as amended). ('the Act'). In this section, "regulated on-demand services" refers to those services that are subject to statutory regulation and "media service providers" means providers of regulated on-demand services.

The rules in this section apply only to advertising "included" in a regulated on-demand service, which is advertising that can be viewed by a user of the service as a result of the user selecting a programme to view.

> Advertisements on regulated on-demand services are also separately subject to the CAP Code. The marketer, not the media service provider, bears the primary responsibility for ensuring compliance with the CAP Code.

Rules

30.1 Advertising must be readily recognisable as such.

30.2 Advertising must not use techniques which exploit the possibility of conveying a message subliminally or surreptitiously.

30.3 Advertising must not prejudice respect for human dignity.

30.4.1 Advertising must not contain any material likely to incite violence or hatred against a group of persons or a member of a group of persons based on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union of 7 December 2000, as adopted at Strasbourg on 12 December 2007.

30.4.2 Advertising must not contain any prohibited material, as defined in section 368E(3) of the Communications Act 2003.

30.5 Advertising must not include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation.

30.6 Advertising must not encourage behaviour prejudicial to health or safety.

30.7 Advertising must not encourage behaviour grossly prejudicial to the protection of the environment.

30.8 Advertising of the following products is prohibited:

30.8.1 cigarettes or other tobacco products

30.8.2 any prescription-only medicine.

30.8.3 electronic cigarettes or electronic cigarette refill containers (as defined in the section 368R of the Act)

30.9 Advertising of alcoholic drinks is only permitted in on-demand programme services if

30.9.1 it is not aimed specifically at persons under the age of eighteen, nor does it, in particular, depict such persons consuming alcoholic drinks;

30.9.2 it does not link the consumption of alcohol to enhanced physical performance or to driving;

30.9.3 it does not create the impression that the consumption of alcohol contributes towards social or sexual success;

30.9.4 it does not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;

30.9.5 it does not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light; and

30.9.6 it does not place emphasis on high alcoholic content as being a positive quality of alcoholic drinks.

30.10 Advertising must not cause physical or moral detriment to persons under the age of eighteen.

30.11 If advertising contains material which might seriously impair the physical, mental or moral development of persons under the age of eighteen, the material must be made available in a manner which secures that such persons will not normally see or hear it.

30.12 Advertising must not directly exhort persons under the age of eighteen to purchase or rent goods or services in a manner which exploits their inexperience or credulity.

30.13 Advertising must not directly encourage persons under the age of eighteen to persuade their parents or others to purchase or rent goods or services.

30.14 Advertising must not exploit the trust of persons under eighteen in parents, teachers or others.

30.15 Advertising must not unreasonably show persons under eighteen in dangerous situations.

Less healthy food and drink product advertisements

Background

The Communications Act 2003 section 368FA states that on-demand programme services must not, between 5.30 am and 9.00 pm, include advertisements for an identifiable less healthy food or drink product. The restriction is reflected in rule 30.16.

Rule

30.16 Regulated on-demand programme services must not include advertisements for an identifiable less healthy food or drink product between 5.30am and 9.00pm.

Definitions and supporting information

A food or drink product is "less healthy" if:

- it falls within a food or drink category specified in The Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024; and
- it is a food or drink product high in fat, salt or sugar (an HFSS product).

For guidance on the less healthy product categories set out in the 2024 Regulations, see the Department of Health and Social Care's guidance, *Restricting advertising of less healthy food or drink on TV and online: products in scope*.

"HFSS products" are those food or soft drink products that are assessed as high in fat, salt or sugar in accordance with the Department of Health and Social Care's *Nutrient Profiling Technical Guidance* issued in 2011.

A less healthy food or drink product is identifiable, in relation to advertisements, if persons in the UK (or any part of the UK) could reasonably be expected to be able to identify the advertisement as being for that product.

The following exemptions apply to Rule 30.16.

- Brand advertisements – In accordance with The Advertising (Less Healthy Food and Drink) (Brand Advertising Exemption) Regulations 2025, advertisements that promote a brand, including the brand of a range of products are exempt. This exemption does not apply to an advertisement:
    - the content of which depicts a specific less healthy food or drink product (unless such depiction of the product is only by way of the name of the product, including where the name of the product appears in the logo of a company, franchise or other commercial entity or in the logo of a brand of a range of products, and that product's name falls within the criteria listed in the next sub-bullet);
    - that promotes a brand the name of which is the name of a specific less healthy food or drink product (unless the product's full name is the name or is included in the name of a company, franchise or other commercial entity which was established before 16th July 2025 and which held that name immediately before

that date; or it is the name of the brand of a range of products, where that brand was in use, as the brand of that range, for the purposes of marketing, advertising or retail sale immediately before 16th July 2025 and held that name immediately before 16th July 2025); or
    - the content of which includes a realistic image of a food or drink product where the realistic image shows the food or drink itself and is not only of the product's packaging, and the food or drink product is visually indistinguishable from a specific less healthy food or drink product.
- Advertisements by food and/or drink SMEs – advertisements included in on-demand programme services as a result of arrangements made by or on behalf of a person who is, at the time when the arrangements are made, a food or drink small or medium enterprise ("food or drink SME"), within the meaning given by The Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024 (in general terms, a food or drink SME is a business that employs fewer than 250 people, including as part of a franchise agreement).

Where terms are used in the rules and supporting information above that reflect legislation, their meaning should be understood with reference to the relevant legislation.

Media service providers and marketers should also have regard to the other rules on less healthy and HFSS product advertising in section 15. Guidance on the application of the less healthy product advertising rule (including information on the definition of terms used and the exemptions to which the rule is subject) is available here.

APPENDIX 3 VSPS ADVERTISING RULES FOR VIDEO-SHARING PLATFORMS REGULATED BY STATUTE

This section was removed following repeal of the UK's Video-Sharing Platforms (VSP) regime on 25 July, 2025.