

# Placement and scheduling of cosmetic interventions advertising

Committee of Advertising Practice and Broadcast Committee of Advertising Practice's regulatory statement on new rules prohibiting cosmetic interventions advertising from being targeted at under-18s



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## 1. Executive summary

Following public consultation, the Committee of Advertising Practice (CAP), author of the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (the CAP Code), and the Broadcast Committee of Advertising Practice (BCAP), author of the UK Code of Broadcast Advertising (the BCAP Code), are introducing new rules prohibiting cosmetic interventions advertising from being targeted at under-18s.

CAP and BCAP received responses from a cross-section of industry practitioners, professional associations, professional standards bodies, civil society organisations and a private individual. None of the responses challenged CAP and BCAP's proposals to introduce the new targeting rules, with some respondents making suggestions regarding the proposed wording of the rules. A summary of these responses can be found in part 3 below and a detailed evaluation can be found in the accompanying [evaluation table](#).

Taking into account children and young people's vulnerability to body image pressures and the inherent risks of such procedures, CAP and BCAP consulted on whether it is justified to limit children and young people's exposure to advertising for cosmetic interventions by introducing restrictions on the placement and scheduling of those ads in the CAP and BCAP Codes.

Having evaluated the consultation responses, CAP and BCAP consider that the new rules would help appropriately limit children and young people's exposure to cosmetic interventions advertising and play a part in mitigating the potential harms relating to body image that are experienced by those age groups.

**The new rules, which will take effect in both Codes from 25 May 2022 and will be subject to review after 12 months, are as follows:**

- New CAP Code rule in Section 12 ("Medicines, medical devices, health-related products and beauty products"), under a new sub-section '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.*

- New BCAP Code rule in Section 32 ("Scheduling"), under rule 32.2:

***32.2** These may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:*

...

***32.2.9** Cosmetic interventions. 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.*

## 2. Policy background and the decision to consult

### 2.1 Policy background

The provision of surgical cosmetic interventions, such as rhinoplasty (nose reshaping) and liposuction, are subject to complex legal requirements relating to the capacity to consent of the patient or individual seeking the treatment or procedure. A number of non-surgical cosmetic interventions (for example, teeth whitening<sup>1</sup>, sunbeds<sup>2</sup>, tattooing<sup>3</sup>, and cosmetic piercing<sup>4</sup>) are not legally available to under-18s, with exceptions in some circumstances. The regulation of surgical and non-surgical cosmetic interventions, and who can administer them, can vary depending on the treatment, procedure or product being administered. Additionally, advertising for cosmetic interventions is not legally prohibited from targeting people aged 17 or younger.

The General Medical Council (GMC) has published guidance<sup>5</sup> for doctors who offer cosmetic interventions, which are defined as “*any intervention, procedure or treatment carried out with the primary objective of changing an aspect of a patient’s physical appearance. This includes surgical and non-surgical procedures, both invasive and non-invasive.*” The guidance allows for the provision of such treatments to children or young people in some circumstances, but explicitly requires that marketing activities must not target children or young people, through their content or placement. The guidance states:

**35** *Your marketing activities must not target children or young people, through either their content or placement.*

This is also supported by guidance<sup>6</sup> published by the Royal College of Surgeons on professional standards for all surgeons who perform cosmetic surgery.

The Joint Council for Cosmetic Practitioners (JCCP) operates a Professional Standards Authority (PSA) approved voluntary register of both medical and non-medical practitioners, and the Cosmetic Practice Standards Authority (CPSA) comprises an expert group that sets standards for practitioners who provide non-surgical interventions. Joint guidance<sup>7</sup> produced by those two bodies contains provisions for marketing and advertising which reflect the requirements of the CAP and BCAP Codes, as well as a specific provision on targeting advertising of those interventions away from children and young people which reflects the above provision in the GMC guidance.

Save Face, another PSA-approved register of accredited medical practitioners (doctors, nurses/midwives, dentists and prescribing pharmacists) who provide non-surgical cosmetic interventions requires members to undergo an accreditation process against its standards.

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<sup>1</sup> Cosmetic Products Enforcement Regulations 2013.

<sup>2</sup> Section 2 of Sunbeds (Regulation) Act 2010 imposes duty on a person who carries a sunbed business to prevent sunbed use by children.

<sup>3</sup> Section 1 of Tattooing of Minors Act 1969 prohibits the tattooing of a person under the age of 18 except when performed for medical reasons by a duly qualified medical practitioner or by a person working under his direction.

<sup>4</sup> Section 95 of Public Health (Wales) Act 2017 prohibits a person in Wales from performing, or making arrangements to perform, an intimate piercing, in Wales on a person under the age of 18.

<sup>5</sup> <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/cosmetic-interventions>

<sup>6</sup> <https://www.rcseng.ac.uk/library-and-publications/rcs-publications/docs/professional-cosmetic-surgery/>

<sup>7</sup> <https://www.jccp.org.uk/ckfinder/userfiles/files/Final%20JCCPCPSA%20Code%20of%20Practice%202020.pdf>

Those standards<sup>8</sup> include provisions relating to marketing and communications, some of which reflect the requirements of the CAP and BCAP Codes and a requirement that members' marketing activities must not target children or young children through either content, context or placement.

## **Cosmetic interventions ads under the CAP and BCAP Codes**

ASA investigations into cosmetic interventions advertising are usually considered under the CAP and BCAP Code rules listed in Section 4 of the consultation document. The application of those rules in such cases is supported by the [CAP Advertising Guidance on Cosmetic Interventions](#). The guidance, which was updated in response to the Keogh Review<sup>9</sup>, includes advice on misleading claims, claims about qualifications, before and after photographs, production techniques, prescription only medicines (POM), Botox, promotions, endorsements and testimonials, responsibility and targeting. In relation to targeting, the guidance (page 10) urges caution when advertising on social media websites which might be of particular appeal to younger audiences. Where marketers hold information about the age of the potential recipients, they are advised to take that factor into account when considering advertising treatments through text messages and email.

Complaints to the ASA about ads for cosmetic interventions tend to cite three main issues: the risks of treatments are downplayed in those ads; concerns that these ads promote a narrow beauty ideal; and concerns that those ads place undue pressure on young people to conform to a particular ideal, at a time when they are already under considerable pressure to conform to certain looks. Some also raise concerns about misleading claims in those ads, such as efficacy claims or pricing claims, as well as the advertising of Botox which is a POM.

The Codes do not contain specific placement or scheduling rules that prevent ads for cosmetic interventions from being targeted at children or young people. Complaints about those ads which raise concerns about potential harm in relation to those under the age of 18 have mostly been considered under the general social responsibility and harm rules. Most of those cases involve an assessment of the content of the ads.

The ASA exceptionally upheld complaints about a TV ad by [The Hospital Group](#) in 2014, concluding that its scheduling should have been restricted to post-9pm.

### **2.2 CAP and BCAP's decision to consult**

There are currently no legal restrictions on the advertising of legally available cosmetic interventions to under-18s; only medical doctors, and no other groups of cosmetic interventions practitioners, are subject to mandatory age-specific placement and scheduling restrictions on ads for those interventions. The GMC guidance containing that restriction on cosmetic interventions advertising, referred to above, builds on the GMC's core ethical

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<sup>8</sup> <https://www.saveface.co.uk/save-face-standards/>

<sup>9</sup> Bruce Keogh, [Review of the Regulation of Cosmetic Interventions](#) (the Keogh Review), 2013. Research commissioned as part of the Keogh Review found that technology had changed how those procedures were marketed and the pervasiveness and accessibility of images, advertising and celebrity endorsements had encouraged changes in attitudes and growth of the industry. Technology had changed how the procedures were marketed, with social media being cited as a key driver, particularly among younger people. However, recommendations made in the Review relating to advertising and marketing did not include a recommendation for age-based advertising restrictions.

guidance for all registered doctors, Good Medical Practice<sup>10</sup>, which includes ethical principles surrounding patients' vulnerabilities and lack of medical knowledge in relation to advertising<sup>11</sup>. Other groups of practitioners in this sector are not subject to similar mandatory restrictions imposed by a statutory professional standards body.

CAP and BCAP are aware of ongoing public health and political concerns about the potential harm of cosmetic interventions advertising on children and young people. Senior NHS and public health figures raised concerns with the ASA, during the course of an investigation into an ad for a cosmetic surgery provider, about the potentially harmful impact of cosmetic interventions advertising. CAP and BCAP understand, through engagement with those stakeholders, that those concerns were premised on the inherent risks associated with those procedures, and also the potential detrimental impact of those ads on children and young people by the contribution they might make to body image pressures that could also be prevalent through online and social media interactions, posing a risk to their mental health.

CAP and BCAP recognise that individuals, including under-18s, may undergo, or wish to undergo, cosmetic procedures to change their appearance for a number of reasons; for example, to help improve self-confidence or self-esteem, to emulate a certain look or body shape, as a means to deal with a changing body, because of a medical need, to help with a symptom or effects associated with a condition, or as part of the transitioning process. However, CAP and BCAP understand the concerns surrounding the vulnerabilities of children and young people, whose bodies are still growing and who may already be facing a certain level of insecurities about their bodies: children and young people might experience undue pressure from exposure to cosmetic interventions advertising and contemplate those interventions as the primary means to address body image pressures, notwithstanding the potential risks and complications associated with those procedures.

In support of their policy objectives, CAP and BCAP must take into account the vulnerabilities and protection of children and young people, as they do, for example, in advertising policy areas such as alcohol, gambling, food or drink that are high in fat, salt or sugar. The Codes offer protection for children (under-16s) and young people (those aged 16 or 17) in two principal ways: restrictions on the content of the ads, and placement or scheduling restrictions. The ASA has typically considered complaints about cosmetic intervention advertising in relation to children and young people by assessing the content of those ads under general social and responsibility rules, although it has, exceptionally, also considered the placement and scheduling of those ads.

Given the above factors, as well as the inherent risks and possible complications associated with those interventions, CAP and BCAP decided to explore, through public consultation, whether it is justified to limit children and young people's exposure to advertising for cosmetic interventions by introducing restrictions on the placement and scheduling of those ads. CAP and BCAP consider that the proposals would provide protection to children and young people by appropriately limiting under-18's exposure to cosmetic interventions advertising, whilst ensuring that those interventions can still continue to be advertised to those aged 18 or over.

Section 5 of the CAP and BCAP's [consultation document](#) sets out, in full, the policy background and the basis for their decision to consult.

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<sup>10</sup> <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice>

<sup>11</sup> [https://www.gmc-uk.org/-/media/documents/guidance-for-all-doctors-who-offer-cosmetic-interventions---published-version\\_pdf-69113414.pdf](https://www.gmc-uk.org/-/media/documents/guidance-for-all-doctors-who-offer-cosmetic-interventions---published-version_pdf-69113414.pdf)

### 3. Consultation responses

The consultation received 18 responses from a cross-section of industry practitioners, professional associations, professional standards bodies, civil society organisations and a private individual.

None of the responses challenged CAP and BCAP's proposals to introduce age-based targeting restrictions on cosmetic interventions advertising. Some respondents disagreed with or made suggestions to the wording of the rules. CAP and BCAP have published the responses they received, and carried out a detailed evaluation of all significant points made in those responses. The chief points raised are as follows:

#### ***Patients' access to cosmetic interventions***

The respondents supported the introduction of the rules but some expressed concerns that the rules should not restrict patients' access to cosmetic interventions or inhibit innovation. A few respondents noted that certain cosmetic intervention procedures may be beneficial for under-18s, for example, corrective surgery for prominent ears, breast asymmetry or gynecomastia.

The proposed restrictions are intended to reduce, rather than eliminate, children and young people's exposure to cosmetic interventions advertising and the related potential harms, whilst ensuring that such procedures can still be legitimately advertised to those aged 18 or above. CAP and BCAP consider that cosmetic interventions providers would still be able to advertise their treatments and services; for example, on their websites (provided that the websites are not aimed at children and young people or do not have an audience in which more than 25% are children and young people) where individuals can access information if they actively seek those out. In addition, children and young people would still be able to access information and advice for cosmetic procedures, including those administered for medical reasons, from the NHS and/or other medical support services.

#### ***Age limit in the rules***

A few respondents considered that the age limit in the targeting restrictions should be raised to under-21s; some cited evidence that indicate negative body image perceptions are also experienced by those above the age of 18.

CAP and BCAP note that the provision of surgical cosmetic interventions is legally available but subject to legal requirements relating to an individual's capacity to consent, rather than a blanket prohibition based on age. The majority of non-surgical cosmetic interventions are not legally restricted for under-18s, with some exceptions. CAP and BCAP consider that the rules complement existing GMC guidance on cosmetic interventions advertising to children and young people (under-18s), which is underpinned by the wider principles in GMC guidance for doctors which treats children and young people as a specific set of patients requiring special considerations in the provision of treatments. Other practitioner codes of practices, such as that of JCCP and Save Face, also include similar restrictions.

#### ***Concerns about the impact of online advertising and enforcement***

A number of respondents expressed concerns about the potential impact of online advertising, particularly from exposure to social media and influencer marketing of cosmetic

interventions. Some respondents consider that social media platforms and media owners also have responsibility in ensuring effective level of safeguarding is in place for under-18s.

CAP considers that the new rule in the CAP Code would help appropriately limit children and young people's exposure to cosmetic interventions advertising in non-broadcast media and help mitigate the potential harms arising from such exposure. Primary responsibility in ensuring compliance with the rules rests with the advertisers, but media owners do have secondary responsibility under the CAP Code. In complying with the new rule, marketers should refer to CAP guidance on [media placement restrictions: protecting children and young people](#) and recently updated guidance on [age-restricted ads online](#), which set out the principles which support advertisers in demonstrating that they have taken reasonable steps to target age-restricted advertising appropriately in non-broadcast and online media respectively. Those principles also apply to age-restricted advertising by influencers and the ASA has already ruled on a number of such cases.

### ***Distinction between surgical and non-surgical cosmetic interventions***

One respondent suggested that further consideration should be given to the difference between surgical and non-surgical cosmetic interventions, and questioned whether a separate regulatory pathway should be warranted for the latter. The growth in the UK market is largely driven by the provision of non-surgical cosmetic interventions, such as dermal injections. The range of people who can provide such interventions, the environments in which non-surgical cosmetic interventions take place and the level of regulation are all different when compared with surgical interventions.

On the other hand, one respondent urged caution over the use of '*non-invasive*' in the wording of the rules as all examples of procedures listed in the consultation document are invasive by nature; the term could suggest triviality and downplay the physical risks that may be involved. Another respondent considered that the use of '*patient*' in the rule "*Cosmetic interventions, procedures or treatments carried out with the primary objective of changing an aspect of a consumer's physical appearance...*" could potentially be misleading and infer there is a medical need for a treatment or procedure.

Notwithstanding the differences in the practice, CAP and BCAP consider that further differentiation of surgical and non-surgical cosmetic interventions is not warranted for the purpose of the ad targeting restrictions, as the rules seek to establish a broad definition of cosmetic interventions. This complements existing GMC guidance and would ensure the same standard of restriction applies across the sector.

CAP and BCAP consider that by retaining '*invasive or non-invasive*', and replacing '*patient*' with '*consumer*', it would help to establish a broad definition of procedures that are intended to be captured by the targeting rules. This is on the basis CAP and BCAP note that there is not currently a standardised definition of '*non-invasive*' procedures and that some cosmetic interventions procedures are carried in non-medical settings by non-medical professionals.

### ***Potential regulatory changes in the wider context***

Some respondents considered that CAP and BCAP's introduction of the targeting rules would complement wider potential regulatory changes, such as the Botulinum Toxin and Cosmetic

Fillers (Children) Bill, which has since passed into law<sup>12</sup> in England on 29 April 2021, in enhancing protection for under-18s in relation to the practice and marketing of cosmetic interventions.

Notwithstanding potential legislative changes to further regulate the cosmetic interventions sector, CAP and BCAP consider that there is a persuasive case to introduce the age-based targeting rules, based on the consultation responses and evidence base cited. CAP and BCAP's rationale for implementing the rules is set out in full in section 4 below.

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<sup>12</sup> [Botulinum Toxin and Cosmetic Fillers \(Children\) Act 2021](#)

## 4. Outcome

### 4.1 CAP and BCAP's considerations

The evidence base cited by respondents forms a clear picture that children and young people are particularly vulnerable to body image pressures and negative body image perceptions are prevalent amongst those groups, which can have an impact on their self-esteem, wellbeing, mental health and behaviours. The period of adolescence, in particular, has been highlighted as a life stage in which children and young people's body image positivity may rapidly decline.

The evidence indicates that the children and young people's negative body image perceptions and their susceptibility to pressures to change their appearance are likely to be multi-factorial and shaped by a number of social and cultural factors, including media, social media, celebrity culture and advertising. It also suggests that many children, including young children, attach importance to body image and consider there to be an 'ideal' body type, and some would consider undergoing cosmetic interventions as a means to alter their appearance to address their body image concerns.

CAP and BCAP recognise that individuals, including children and young people, undergo cosmetic interventions for a variety of reasons, some of which are linked to medical conditions or the effects of those. While the majority of cosmetic interventions are legally available to under-18s, some of which are subject to assessment of their capacity to consent, the codes of practice and guidance issued by a number of professional bodies, such as the GMC, JCCP and Save Face, treat children and young people as a group the treatment of which requires specific considerations, and impose restrictions on their own practitioner members in targeting cosmetic interventions advertising to under-18s either through placement or ad content.

Children and young people's body image concerns and their reasons for considering cosmetic interventions as a means to address those concerns are influenced by multiple factors. Nevertheless, the evidence base shows that, in addition to children and young people's susceptibility to body image related pressures and negative perceptions, there is potential that exposure to different forms of media, particularly those that focus on body image 'improvements' including cosmetic intervention procedures, is likely to exacerbate body image dissatisfaction and negativity during vulnerable stages of their lives.

For the above reasons, and taking into account the inherent risks of cosmetic interventions and potential post-procedural complications, CAP and BCAP consider that there is a persuasive case for implementing the age-based targeting restrictions for cosmetic interventions advertising. In view of their policy objectives, including the protection of children and young people, CAP and BCAP consider that the rules would help appropriately limit children and young people's exposure to cosmetic interventions advertising and play a part in mitigating the potential wider body image related harms experienced by those age groups.

### 4.2 CAP and BCAP's decision

In light of the reasons set out in the consultation proposal and the evaluation of consultation responses, which contained significant support for the proposals, CAP and BCAP are introducing the following new rules:

- New CAP Code rule in Section 12 (“Medicines, medical devices, health-related products and beauty products”), under a new sub-section ‘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.*

- New BCAP Code rule in Section 32 (“Scheduling”), under rule 32.2:

**32.2** *These may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:*

...

**32.2.9** *Cosmetic interventions. 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.*

Under the new rules, non-broadcast ads for cosmetic interventions are prohibited from being directed at under-18s through the selection of media or context in which they appear, including online media, social media platforms, and influencer marketing on social media. This means that cosmetic interventions advertising cannot be placed in media that are aimed at under-18s, and in media in which 25% or more of the audience profile is under-18s (see CAP guidance on [Media placement restrictions](#) and [Children and age-restricted ads online](#)).

Broadcast ads for cosmetic interventions are prohibited from being scheduled to appear during or adjacent to television and radio programmes commissioned for, principally directed at or likely to appeal to audiences below the age of 18. For TV advertising, see BCAP guidance on [Identifying TV programmes likely to appeal to children](#) and the use of audience indexing with BARB data.

The [Advertising Guidance on Cosmetic Interventions](#) has been revised to reflect the new rules and clarify the types of treatments and procedures that are likely to fall within the scope of “cosmetic interventions” to which the new restrictions would apply.

## 5. Implementation

In order to allow advertisers sufficient time to make changes to planned marketing activity, the implementation of CAP Code rule 12.25 and BCAP Code 32.2.9 will be subject to a 6-month grace period; the ASA will enforce the new rules and revised guidance from **25 May 2022**.

CAP and BCAP will carry out a review after 12 months from **25 May 2022** to ensure that the new rules are functioning as intended.

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