

SECTION 6: PRIVACY

Question 35: Given BCAP's policy consideration, do you agree that the proposed Code should not require 'generic advertising for news media' to be immediately withdrawn if a complaint is registered that a TV advertisement of that type has featured an individual without his or her prior permission? If your answer is no, please explain why.

<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Asda; Charity Law Association;</p> <p>4 organisations requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>The Charity Law Association said:</i> Charity Law Association agreed with the proposal but suggested qualifying the rule to make clear that complaints about 'generic advertising for news media' would be considered by the ASA.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP considers the Charity Law Association's suggestion unnecessary because all complaints, about any form of advertising that falls within the remit of the Code, would be considered by the ASA.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Christian Concern for our Nation and Christian Legal Centre</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>The Christian Concern for our Nation and Christian Legal Centre said:</i> The respondents commented that a need exists to draft rules in such a way that, if someone can be identified in a crowd scene in an ad, that person should have the right to stop the ad.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP proposed to remove the TV Code's existing requirement that a broadcaster should immediately suspend an ad for generic news media – without consideration of whether the complaint is justified – if a person featured in that ad registers a complaint. BCAP made that proposal because it considered the requirement</p>

		disproportionate in light of the mandatory pre-clearance regime for broadcast advertising (including against the rules that ensure people are not featured in ads in an offensive or defamatory way) and the ASA's powers to suspend an ad pending investigation in some circumstances. BCAP considered the rule had the clear potential for abuse: a person could register a frivolous or vexatious complaint about an ad, which would then have to be pulled off air immediately.
<p>Question 36:</p> <p>i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Privacy section, are necessary and easily understandable? If your answer is no, please explain why.</p> <p>ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Privacy rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?</p> <p>iii) Do you have other comments on this section?</p>		
<p><i>Responses received from:</i></p> <p>Advertising Association; Asda; Charity Law</p>	<p><i>Summaries of significant points:</i></p> <p>These organisations, and an individual, agreed the rules in the proposed Privacy section are necessary and easily understandable. Those respondents did not identify any changes from the present to the proposed rules that would amount to</p>	<p><i>BCAP's evaluation of those points and action points:</i></p>

<p>Association; Christian Concern for our Nation and Christian Legal Centre;</p> <p>3 organisations requesting confidentiality</p>	<p>a significant change in advertising policy and practice, apart from those highlighted in the consultation document:</p> <p>Advertising Association; Asda; Charity Law Association; Christian Concern for our Nation and Christian Legal Centre; 3 organisations requesting confidentiality</p> <p>1. <i>An organisation requesting confidentiality said:</i> We welcome the inclusion of the principle at the top of the Privacy section but suggest making an addition to it (underlined text would be an addition): “Broadcasters should respect an individual’s right for his or her private and family life <u>to remain private</u>”.</p>	<p>1. BCAP has, for the sake of clarity, amended the wording of the Principle so that it states:</p> <p>Principle Living individuals should be protected from unwarranted infringements of privacy. Broadcasters should respect an individual’s right to his or her private and family life, home and correspondence. Advertisements featuring an individual should not imply that that individual endorses a product if he or she does not (see Section 6: Misleading).</p>
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