

The Regulation of Unfair Practices in TV and Radio Advertisements

Attachment B

31 prohibited practices in Schedule 1 of the Consumer Protection from Unfair Trading Regulations 2008 and the corresponding amendments proposed for the BCAP TV and Radio Advertising Standards Codes.

WORDING IN CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS	PROPOSED AMENDMENT TO TV ADVERTISING STANDARDS CODE	PROPOSED AMENDMENT TO RADIO ADVERTISING STANDARDS CODE
1. Claiming to be a signatory to a code of conduct when the trader is not.	INSERT: 5.4.10b: Advertisements must not falsely claim that the advertiser, or other entity referred to in the advertisement, 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 other body.	INSERT: 18.2 Advertisements must not falsely claim that the advertiser, or other entity referred to in the advertisement, is a signatory to a code of conduct. They must not claim falsely that a code of conduct has an endorsement from a public or other body.
2. Displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation.	INSERT: 5.4.10a Advertisements must not display a trust mark, quality mark or equivalent without the necessary authorisation and must not claim that the advertiser (or any other entity referred to in the advertisement) the advertisement or the advertised product has been approved, endorsed or authorised by a public or private body if it has not or without complying with the terms of the approval, endorsement or authorisation.	INSERT: 18.2 Advertisements must not display a trust mark, quality mark or equivalent without the necessary authorisation and must not claim that the advertiser (or any other entity referred to in the advertisement) has been approved, endorsed or authorised by a public or private body if it has not or without complying with the terms of the approval, endorsement or authorisation.
3. Claiming that a code of conduct has an endorsement from a public or other body which it does not have.	INSERT: 5.4.10b:	INSERT: 18.2

	<p>Advertisements must not falsely claim that the advertiser, or other entity referred to in the advertisement, 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 other body.</p>	<p>Advertisements must not falsely claim that the advertiser, or other entity referred to in the advertisement, 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 other body.</p>
<p>4. Claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation.</p>	<p>INSERT: 5.4.10a</p> <p>Advertisements must not display a trust mark, quality mark or equivalent without the necessary authorisation and must not claim that the advertiser (or any other entity referred to in the advertisement) the advertisement or the advertised product has been approved, endorsed or authorised by a public or private body if it has not or without complying with the terms of the approval, endorsement or authorisation.</p>	<p>INSERT: 18.2</p> <p>Advertisements must not claim or imply that the advertiser (or any other entity referred to in the advertisement) has been approved, endorsed or authorised by a public or private body if it has not or without complying with the terms of the approval, endorsement or authorisation.</p>
<p>5. Making an invitation to purchase products at a specified price without disclosing the existence of any reasonable grounds the trader may have for believing that he will not be able to offer for supply or to procure another trader to supply, those products or equivalent products at that price for a period that is, and in quantities that are, reasonable having regard to the product, the scale of advertising of the product and the price offered (bait advertising).</p>	<p>MAINTAIN EXISTING RULE: 11.2.2 (i)</p> <p>Licensees must be satisfied ...</p> <p>(a) that the advertiser is able to meet any reasonably foreseeable demand created by the advertising. Licensees operating as teleshopping channels must have access to adequate stocks to fulfil such demand.</p> <p>INSERT: 5.3.5 Availability of products advertised at a specified price</p> <p>a) advertisements must state any reasonable</p>	<p>INSERT: 17.2c)</p> <p>advertisements must state any reasonable grounds the advertisers might have for believing that they might not be able to supply the advertised or an equivalent product at the advertised price, for a reasonable period and in reasonable quantities.</p>

	grounds the advertisers might have for believing that they might not be able to supply the advertised or an equivalent product at the advertised price, for a reasonable period and in reasonable quantities.	
6. Making an invitation to purchase products at a specified price and then: (a) refusing to show the advertised item to consumers; or (b) refusing to take orders for it or deliver it within a reasonable time; or (c) demonstrating a defective sample of it, with the intention of promoting a different product (bait and switch)	<p>INSERT:</p> <p>5.3.5 Availability of products advertised at a specified price</p> <p>(b) licensees must be satisfied that the advertisers will not use the technique of switch selling, where their sales staff refuse 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, in order to promote a different product.</p>	<p>INSERT:</p> <p>17.2</p> <p>b) If a product is advertised at a specific price, licensees must be satisfied that the advertisers will not use the technique of switch selling, where their sales staff refuse 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, in order to promote a different product.</p>
7. Falsely stating that a product will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice.	<p>INSERT:</p> <p>5.2.8 Pressure to purchase</p> <p>a) Advertisements must not falsely claim that the advertiser 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 very limited time in order to deprive consumers of the time or opportunity to make an informed choice.</p>	<p>INSERT:</p> <p>3.1</p> <p>Advertisements must not falsely state that a product, or the terms on which it is offered, will be available only for a very limited time in order to deprive consumers of the time or opportunity to make an informed choice. Advertisements must not mislead consumers about market conditions or the possibility of finding the product elsewhere in order to induce consumers to buy the product at conditions less favourable than normal market conditions.</p>

<p>8. Undertaking to provide after-sales service to consumers with whom the trader has communicated prior to a transaction in a language which is not an official language of the Member State where the trader is located and then making such service available only in another language without clearly disclosing this to the consumer before the consumer is committed to the transaction.</p>	<p>INSERT: 5.2.9 After sales service</p> <p>If an advertisement in a language other than English offers after-sales service, licensees must be satisfied that the advertiser will tell consumers, before a contract is concluded, if the after-sales service is not available in the language of the advertisement.</p>	<p>INSERT: 19.2</p> <p>If an advertisement in a language other than English offers after-sales service, licensees must be satisfied that the advertiser will tell consumers, before a contract is concluded, if the after-sales service is not available in the language of the advertisement.</p>
<p>9. Stating or otherwise creating the impression that a product can legally be sold when it cannot.</p>	<p>INSERT: 1.3 Legal sale</p> <p>Advertisements must not state or otherwise create the impression that a product can legally be sold when it cannot.</p>	<p>INSERT: 3.1</p> <p>Legality</p> <p>Advertisements must not state or otherwise create the impression that a product can legally be sold when it cannot.</p>
<p>10. Presenting rights given to consumers in law as a distinctive feature of the trader's offer.</p>	<p>INSERT: 5.2.10 Exaggeration</p> <p>a) Advertisements must not present rights given to consumers in law as distinctive features of the advertiser's offer.</p>	<p>INSERT: 3.1</p> <p>Advertisements must not present rights given to consumers in law as distinctive features of the advertisers' offer.</p>
<p>11. Using editorial content in the media to promote a product where a trader has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the consumer (advertorial). This is without prejudice to Council Directive 89/552/EEC (1).</p>	<p>MAINTAIN EXISTING RULE: 2.1.1</p> <p>There must be a clear distinction between programmes and advertisements</p> <p>Note: <i>In ambiguous cases, advertisements must be identified as such on screen.</i></p>	<p>MAINTAIN EXISTING RULE: 1 Transparency and Clear Separation of Advertising</p> <p>Advertising must be clearly distinguishable from programming</p>

<p>12. Making a materially inaccurate claim concerning the nature and extent of the risk to the personal security of the consumer or his family if the consumer does not purchase the product.</p>	<p>INSERT</p> <p>5.2.10 b) Advertisements must not mislead about the nature or extent of the risk to consumers' personal security if they do not buy the advertised product.</p>	<p>INSERT</p> <p>3.1 Advertisements must not mislead about the nature or extent of the risk to consumers' personal security if they do not buy the product.</p>
<p>13. Promoting a product similar to a product made by a particular manufacturer in such a manner as deliberately to mislead the consumer into believing that the product is made by that same manufacturer when it is not.</p>	<p>INSERT:</p> <p>5.4.8 Imitation</p> <p>Advertisements must not mislead consumers about who manufactures the product.</p>	<p>INSERT:</p> <p>3.1</p> <p><u>Imitation</u></p> <p>Advertisements must not mislead consumers about who manufactures the product.</p>
<p>14. Establishing, operating or promoting a pyramid promotional scheme where a consumer gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products.</p>	<p>INSERT</p> <p>3.1 (k) pyramid promotional schemes</p> <p>Note to 3.1(k)</p> <p><i>Pyramid promotional schemes are those under which consumers pay or give other consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme, not the sale or consumption of products.</i></p>	<p>INSERT:</p> <p>16.3 pyramid schemes: unacceptable categories</p> <p>Advertisements must not promote pyramid promotional schemes.</p> <p>Pyramid schemes are those under which consumers pay or give other consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme, not the sale or consumption of products.</p>
<p>15. Claiming that the trader is about to cease trading or move premises when he is not.</p>	<p>INSERT:</p> <p>5.2.8 a) Advertisements must not falsely claim that the advertiser is about to cease trading or move premises.</p>	<p>INSERT:</p> <p>3.1</p> <p>Advertisements must not falsely claim that the advertisers are about to cease trading or move premises.</p>

16. Claiming that products are able to facilitate winning in games of chance.	<p>INSERT:</p> <p>11.10.1 (k) Advertisements must not claim that products or services can facilitate winning in games of chance.</p>	<p>INSERT:</p> <p>21.2p) p) Advertisements must not claim that products or services can facilitate winning in games of chance.</p>
17. Falsely claiming that a product is able to cure illnesses, dysfunction or malformations.	<p>MAINTAIN EXISTING RULE:</p> <p>8.2.9 Cure</p> <p>Unless allowed by a marketing authorisation, words, phrases or illustrations that claim or imply the cure of any ailment, illness, disease or addiction, as distinct from the relief of its symptoms, are unacceptable</p>	<p>MAINTAIN EXISTING RULE:</p> <p>4.15</p> <p>Unless otherwise allowed by its marketing authorisation, words or phrases that claim or imply the cure of any ailment, illness, disease or addiction, as distinct from the relief of its symptoms, are unacceptable. (Words such as 'help' or 'relieve' should be used).</p>
18. Passing on materially inaccurate information on market conditions or on the possibility of finding the product with the intention of inducing the consumer to acquire the product at conditions less favourable than normal market conditions.	<p>INSERT:</p> <p>5.2.8 b) Advertisements must not pass on misleading information to consumers about market conditions or the possibility of finding the product elsewhere in order to induce consumers to buy the product at conditions less favourable than normal market conditions.</p>	<p>INSERT:</p> <p>3.1 Advertisements must not pass on misleading information to consumers about market conditions or the possibility of finding the product elsewhere in order to induce consumers to buy the product at conditions less favourable than normal market conditions.</p>
19. Claiming in a commercial practice to offer a competition or prize promotion without awarding the prizes described or a reasonable equivalent.	<p>NO AMENDMENT</p> <p>The TV Code presently contains no rules specific to competitions and prize promotions.</p>	<p>NO AMENDMENT</p> <p>The radio Code presently contains no rules specific to competitions and prize promotions.</p>

<p>20. Describing a product as 'gratis', 'free', 'without charge' or similar if the consumer has to pay anything other than the unavoidable cost of responding to the commercial practice and collecting or paying for delivery of the item.</p>	<p>DELETE:</p> <p>5.2.4 (a) Advertisements must not describe an offer as 'free' if there are costs to consumers other than actual postage or carriage, non-premium rate telephone charges or reasonable travel required to collect the offer. Advertising must make clear the extent of the consumer's liability for any costs</p> <p>INSERT:</p> <p>5.2.11 (a) Advertisements must not describe an offer as 'free', or similar, if there are costs to consumers other than actual postage or carriage, non-premium rate telephone charges or reasonable travel required to collect the offer. Advertising must make clear the extent of the consumer's liability for any costs</p> <p>MAINTAIN EXISTING RULE:</p> <p>(MOVED TO 5.2.11)</p> <p>b) No element of an offer may be described as 'free' if viewers are likely to be misled as to whether it is genuinely additional to the offer</p>	<p>DELETE:</p> <p>20 Advertisements must not describe products or samples as 'free' unless they are supplied at no cost or no extra cost (other than postage or carriage) to the recipient.</p> <p>INSERT:</p> <p>20.1 Advertisements must not describe products or samples as 'free', or similar, unless they are supplied at no cost or no extra cost (other than postage or carriage) to the recipient.</p>
<p>21. Including in marketing material an invoice or similar document seeking payment which gives the consumer the impression that he has already ordered the marketed product when he has not.</p>	<p>NO AMENDMENT</p> <p>TV advertisements cannot contain invoices. The CAP Code addresses this practice.</p>	<p>NO AMENDMENT</p> <p>Radio advertisements cannot contain invoices. The CAP Code addresses this practice.</p>
<p>22. Falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer.</p>	<p>INSERT:</p> <p>5.4.11</p> <p>b) Advertisements must not create a false impression that the advertisers are acting as consumers or for purposes that do not relate to their</p>	<p>INSERT:</p> <p>3.1 Advertisements must not create a false impression that the advertisers are acting as consumers or for purposes that do not relate to their trade, business, craft or profession.</p>

	trade, business, craft or profession.	
23. Creating the false impression that after-sales service in relation to a product is available in a Member State other than the one in which the product is sold.	<p>INSERT:</p> <p>5.2.9 a) Advertisements must not falsely claim or imply that after-sales service is available in an EU member state other than the one where the advertised product is sold.</p>	<p>INSERT:</p> <p>19.2 a) Advertisements must not falsely claim or imply that after-sales service is available in an EU member state other than the one where the advertised product is sold.</p>
24. Creating the impression that the consumer cannot leave the premises until a contract is formed.	<p>NO AMENDMENT</p> <p>This practice concerns face-to-face contact between traders and consumers and falls outside the scope of the TV Ad Standards Code.</p>	<p>NO AMENDMENT</p> <p>This practice concerns face-to-face contact between traders and consumers and falls outside the scope of the Radio Ad Standards Code.</p>
25. Conducting personal visits to the consumer's home ignoring the consumer's request to leave or not to return except in circumstances and to the extent justified, under national law, to enforce a contractual obligation.	<p>NO AMENDMENT</p> <p>This practice concerns face-to-face contact between traders and consumers and falls outside the scope of the TV Ad Standards Code.</p>	<p>NO AMENDMENT</p> <p>This practice concerns face-to-face contact between traders and consumers and falls outside the scope of the Radio Ad Standards Code.</p>
26. Making persistent and unwanted solicitations by telephone, fax, e-mail or other remote media except in circumstances and to the extent justified under national law to enforce a contractual obligation. This is without prejudice to Article 10 of Directive 97/7/EC and Directives 95/46/EC (1) and 2002/58/EC.	<p>NO AMENDMENT</p> <p>Because this is about direct solicitations to the consumer, it is not relevant to TV advertisements. The practice is covered in the CAP Code.</p>	<p>NO AMENDMENT</p> <p>Because this is about direct solicitations to the consumer, it is not relevant to radio advertisements. The practice is covered in the CAP Code.</p>
27. Requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or failing systematically to respond	<p>NO AMENDMENT</p> <p>This practice concerns the conduct of traders towards consumers with whom they already have a contractual relationship and therefore falls outside</p>	<p>NO AMENDMENT</p> <p>This practice concerns the conduct of traders towards consumers with whom they already have a contractual relationship and therefore falls outside</p>

to pertinent correspondence, in order to dissuade a consumer from exercising his contractual rights.	the scope of the TV Ad Standards Code.	the scope of the Radio Ad Standards Code.
28. Including in an advertisement a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy advertised products for them. This provision is without prejudice to Article 16 of Directive 89/552/EEC on television broadcasting.	<p>MAINTAIN EXISTING RULE:</p> <p>7.3.1:</p> <p>Advertisements must not directly advise or ask children to buy or to ask their parents or others to make enquiries or purchases</p>	<p>MAINTAIN EXISTING RULE:</p> <p>11.5</p> <p>Advertisements must neither encourage children to pester nor directly urge children to buy products or to ask adults to buy products for them. For example, children must not be directly invited to “ask Mum” or “ask Dad” to buy them an advertiser’s product.</p>
29. Demanding immediate or deferred payment for or the return or safekeeping of products supplied by the trader, but not solicited by the consumer except where the product is a substitute supplied in conformity with Article 7(3) of Directive 97/7/EC (inertia selling).	<p>NO AMENDMENT</p> <p>Because this annex practice relates to direct marketing, it falls outside the scope of the TV Advertising Standards Code. It is incorporated in the CAP Code.</p>	<p>NO AMENDMENT</p> <p>Because this annex practice relates to direct marketing, it falls outside the scope of the Radio Advertising Standards Code. It is incorporated in the CAP Code.</p>
30. Explicitly informing a consumer that if he does not buy the product or service, the trader’s job or livelihood will be in jeopardy.	<p>INSERT:</p> <p>5.2.8c</p> <p>Advertisements must not explicitly claim that, if consumers do not buy the advertised product or service, the advertiser’s job or livelihood will be jeopardised.</p>	<p>INSERT:</p> <p>3.1</p> <p>Advertisements must not explicitly claim that, if consumers do not buy the advertised product or service, the advertiser’s job or livelihood will be jeopardised.</p>
31. Creating the false impression that the consumer has already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either: — there is no prize or other equivalent benefit, or — taking any action in relation to claiming the prize or other equivalent benefit is	<p>NO AMENDMENT</p> <p>The TV Code presently contains no rules specific to competitions and prize promotions.</p>	<p>NO AMENDMENT</p> <p>The radio Code presently contains no rules specific to competitions and prize promotions.</p>

<p>subject to the consumer paying money or incurring a cost.</p>		
<p>1.—1) A commercial practice is a misleading omission if, in its factual context, taking account of the matters in paragraph (2)—</p> <ul style="list-style-type: none"> (a) the commercial practice omits material information, (b) the commercial practice hides material information, (c) the commercial practice provides material information in a manner which is unclear, unintelligible, ambiguous or untimely, or (d) the commercial practice fails to identify its commercial intent, unless this is already apparent from the context, <p>and as a result it causes or is likely to cause the average consumer to take a transactional decision he would not have taken otherwise.</p> <p>(3)In paragraph (1) “material information” means—</p> <ul style="list-style-type: none"> (a) the information which the average consumer needs, according to the context, to take an informed transactional decision; and (b) any information requirement which 	<p>INSERT:</p> <p>5.1.3</p> <p>Advertisements must not omit material information if that omission is likely to affect consumers’ decisions about whether and how to buy the advertised product, unless the information is obvious from the context or the advertisement is limited by time or space and the advertiser takes steps to make that information available to consumers by other means.</p> <p>5.1.4</p> <p>For advertisements that quote prices for advertised products, material information includes:</p> <ul style="list-style-type: none"> a. the main characteristics of the product b. the identity of the marketer and any other trader on whose behalf the advertiser is acting c. the geographic address of the advertiser d. the price of the advertised product, including taxes e. delivery charges f. the arrangement for payment, delivery, performance or complaint handling, if those differ from the arrangements that consumers are likely to reasonably expect g. that consumers have the right to 	<p>INSERT:</p> <p>3.1 b)</p> <p>Advertisements must not omit material information if that omission is likely to affect consumers’ decisions about whether and how to buy the advertised product, unless the information is obvious from the context or the advertisement is limited by time or space and the advertiser takes steps to make that information available to consumers by other means.</p> <p>For advertisements that quote prices for advertised products, material information includes:</p> <ul style="list-style-type: none"> a. the main characteristics of the product b. the identity of the marketer and any other trader on whose behalf the advertiser is acting c. the geographic address of the advertiser d. the price of the advertised product, including taxes e. delivery charges f. the arrangement for payment, delivery, performance or complaint handling, if those differ from the arrangements that consumers are likely to reasonably expect g. that consumers have the right to

<p>applies in relation to a commercial communication as a result of a Community obligation.</p> <p>(4) Where a commercial practice is an invitation to purchase, the following information will be material if not already apparent from the context in addition to any other information which is material information under paragraph (3)—</p> <p>(a) the main characteristics of the product, to the extent appropriate to the medium by which the invitation to purchase is communicated and the product;</p> <p>(b) the identity of the trader, such as his trading name, and the identity of any other trader on whose behalf the trader is acting;</p> <p>(c) the geographical address of the trader and the geographical address of any other trader on whose behalf the trader is acting;</p> <p>(d) either—</p> <p>(i) the price, including any taxes; or</p> <p>(ii) where the nature of the product is such that the price cannot reasonably be calculated in advance, the manner in which the price is calculated;</p> <p>(e) where appropriate, either—</p> <p>(i) all additional freight, delivery or postal charges; or</p> <p>(ii) where such charges cannot reasonably be calculated in</p>	<p>withdraw or cancel, if they have that right.</p>	<p>withdraw or cancel, if they have that right.</p>
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<p>advance, the fact that such charges may be payable;</p> <p>(f) the following matters where they depart from the requirements of professional diligence—</p> <ul style="list-style-type: none">(i) arrangements for payment,(ii) arrangements for delivery,(iii) arrangements for performance,(iv) complaint handling policy; <p>(g) for products and transactions involving a right of withdrawal or cancellation, the existence of such a right.</p>		
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