

The UK Code of Non-broadcast Advertising (CAP Code)

Business Information Factsheet
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Introduction

The UK Code of Non-broadcast Advertising and Direct and Promotional Marketing, also known as the CAP Code, sets out rules for 'non-broadcast' advertising. This means marketing communications other than TV or radio adverts, for example on websites and social media accounts and in leaflets, catalogues and sales letters.

In general, the CAP Code requires adverts to be legal, decent, honest and truthful. It also sets specific standards for advertising certain types of product and service, for example cosmetic and health products.

The CAP Code applies to all businesses that advertise their goods or services, as well as to advertising agencies and media owners. It is written and updated by the Committee of Advertising Practice (CAP), which consists of bodies such as the Advertising Association and the Direct Selling Association and acts as a self-regulatory body for the non-broadcast advertising industry.

The CAP Code is administered and upheld by the Advertising Standards Authority (ASA), which can refer non-complying marketers to National Trading Standards for prosecution under consumer and business protection legislation.

This factsheet provides an introduction to the CAP Code and explains who must comply with it and how it is enforced.

What the CAP Code covers

The CAP Code applies to marketing communications of almost all types, including:

- Printed adverts, for example in newspapers, magazines, brochures and leaflets.
- Adverts sent in emails, faxes or by text.
- Adverts in public places, such as on billboards.
- Businesses' own websites, and other non-paid-for online space under their control.
- Paid-for online adverts, such as pop-ups and banners, adverts within apps and games, and paid-for search results.
- 'Promotions', such as two-for-the-price-of-one offers, money-off offers, competitions and prize draws.
- Advertorials, for example paid-for content in blogs and on social media.
- Adverts that request donations, for example charity fundraising adverts.

Types of marketing communication that the requirements of the CAP Code do not apply to include press releases, editorial content, political adverts and marketing communications directed at members of the medical, dental or veterinary professions, or at allied health professionals such as physiotherapists.

Responsibility for complying with the CAP Code

All businesses are responsible for ensuring that their marketing communications comply with the CAP Code. However, other parties involved in publishing adverts are also responsible for upholding the CAP Code. For example, where a business commissions an advertising agency, the agency must ensure that the advert it produces complies with the CAP Code, and media owners must refuse to run the advert if it falls short of the CAP Code requirements.

Requirements of the CAP Code

The first half of the CAP Code consists of general requirements that apply to marketing communications in all business sectors.

Key general requirements include the following:

- **Recognisability:** Marketing communications (including advertorials) must be 'obviously identifiable as such'. For example, marketing letters and emails must be identifiable as marketing communications before they are opened by the recipient.
- **Misleading advertising:** Marketing communications must not materially mislead or be likely to do so. Businesses must be able to provide evidence for the claims that they make, and must avoid exaggeration and misleading omissions.
- **Harm and offence:** Marketing communications must not cause harm, or serious or widespread offence.
- **Children:** Marketing communications that are directed at children or feature children must follow special rules, for example relating to children's safety and 'pester power'.
- **Privacy and data protection:** Marketing communications must not infringe anyone's privacy, for example by identifying them in an advert without permission, sending them unwanted marketing communications or failing to comply with data protection legislation.
- **Environmental claims:** These must comply with specific rules to ensure that they are not misleading. For example, they must be supported by a high degree of evidence and they must be based on the entire lifecycle of the advertised product.

The second half of the CAP Code deals with requirements relating to the marketing of certain products and services such as medicines, health and beauty products, food, gambling, alcohol and tobacco.

Enforcement

Enforcement measures taken by the ASA include the following:

- Publishing its rulings and 'naming and shaming' businesses that refuse or ignore repeated requests to remove adverts that breach the code.

- Asking search engine providers, such as Google, to remove non-compliant adverts and websites from their search results.
- Working with social media companies to have non-compliant content removed from their platforms.
- Monitoring social media influencers, and publishing details of those who repeatedly breach the code.
- Running its own paid-for ads in search results and on social media, to target businesses and influencers who breach the code.
- Asking members of the Committee of Advertising Practice (CAP) to sanction businesses that breach the code. For example, Royal Mail may withdraw its bulk discount, making further mailshots prohibitively expensive.
- Referring businesses that breach the code to National Trading Standards, which has the necessary authority to take enforcement action under consumer and business protection legislation. Prosecution can result in an unlimited fine and/or up to two years in prison.

For more information about enforcement measures taken by the ASA, go to www.asa.org.uk/codes-and-rulings/sanctions.html.

Useful resources

'The CAP Code'

Advertising Standards Authority (ASA)

www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html

'Advice for Small Businesses'

ASA

www.asa.org.uk/advice-and-resources/advice-for-businesses.html

'AdviceOnline'

ASA

www.asa.org.uk/advice-and-resources/resource-library/advice-online.html

'Work with the Advertising Standards Authority'

National Trading Standards

www.nationaltradingstandards.uk/work-areas/work-with-asa

Related factsheets

BIF461 A Guide to the Business Protection from Misleading Marketing Regulations 2008

BIF462 A Guide to the Consumer Protection from Unfair Trading Regulations 2008

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