

## Introduction

This first edition of the Code comes into force on 1 September 2010. It replaces the four previous separate BCAP Codes for broadcast advertising.

- a. This Code applies to all advertisements (including teleshopping, content on self-promotional television channels, television text and interactive television advertisements) and programme sponsorship credits on radio and television services licensed by Ofcom. It is designed to inform advertisers and broadcasters of the standards expected in the content and scheduling of broadcast advertisements and to protect consumers. The basic principles of the Code are set out in Section 1: Compliance.

All Ofcom-licensed broadcasters should be familiar with the contents of this Code, which can be accessed on the ASA website, [www.asa.org.uk](http://www.asa.org.uk), or the CAP website, [www.cap.org.uk](http://www.cap.org.uk). They should also be familiar with relevant consumer protection legislation, most of which is listed on the CAP website at [www.cap.org.uk](http://www.cap.org.uk).

- b. These definitions apply to the Code:
  - i. “broadcasters” means Ofcom-licensed television and radio services provided by broadcasters within UK jurisdiction regardless of whether their main audience is in the UK
  - ii. “advertisement” means publicity by advertisers, including spot advertisements and broadcaster promotions with advertisers (outside programme time), that is broadcast in return for payment or other valuable consideration to a broadcaster or that seeks to sell products to viewers or listeners. The promotion of broadcasters’ own-branded activities, goods and events (such as websites, T-shirts and concerts), which enhance audience involvement and are not designed to make a profit or promote commercial partnerships, are excluded
  - iii. “teleshopping” means television-broadcast direct offers for the supply of goods and services, including immovable property, rights and obligations, in return for payment
  - iv. The “audience” comprises all those who are likely to see or hear a given advertisement
  - v. a “claim” can be implied or direct, written, spoken or visual. The name of a product can constitute a claim.
- c. The Code does not apply to commercial references within a programme, for which please see the Ofcom Broadcasting Code, which is available at [www.ofcom.org.uk](http://www.ofcom.org.uk). Ofcom requires adherence to the BCAP Code for the content of programme sponsorship credits but the ASA refers complaints about those and about product placement and undue prominence to Ofcom. “Special Category” advertisements and sponsorship credits on radio must be cleared for broadcast by the Radio Advertising Clearance Centre (RACC). Before being broadcast on radio, all advertisements that feature claims that need substantiation must be cleared locally or, if those claims are included in advertisements for a special category, by the RACC. See Section 1: Compliance.

- d. Television licensees should seek BCAP's permission if they want to have any rules in the Code disapplied because the advertisement in question is on a programme service addressed exclusively to audiences outside the UK.

A television advertisement that is targeted specifically and with some frequency at an audience in the territory of a single party to the 1989 Council of Europe Convention on Transfrontier Television must, with some exceptions, comply with the television advertising rules of that party. That does not apply:

- i. if the party is a Member State of the European Community or
  - ii. if its television advertising rules discriminate between advertisements broadcast on television services within its jurisdiction and those on services outside its jurisdiction or
  - iii. if the UK Government has concluded a relevant bilateral or multilateral agreement with the party concerned.
- e. Advertisers, advertising agencies or independent producers should seek pre-transmission guidance on scripted advertisements from Clearcast (for TV advertisements), the RACC (for radio advertisements) or from the broadcaster whose service they intend to use to advertise. See Section 1: Compliance for information about the "special categories" of radio advertisement that require central clearance.
  - f. Broadcasters seeking guidance about the interpretation of Code rules should speak to BCAP staff. BCAP is willing to give advice on the interpretation of the Code but it does not offer pre-transmission clearance of advertisements. BCAP cannot accept liability for loss or damage alleged to result from reliance placed on such advice. Any advice it gives is without prejudice to the right of the ASA to investigate and act in the event of an alleged breach. BCAP can raise a potential breach of this Code with the broadcaster.
  - g. When the ASA feels a complaint is justified, it can take action with the broadcaster concerned. The ASA can require the broadcaster to withdraw the advertisement immediately, amend it or suspend it while investigations are carried out. The ASA Council's interpretation of the Code is final and its adjudications are published weekly on the ASA website, [www.asa.org.uk](http://www.asa.org.uk). Complainants, advertisers and broadcasters may request a review of Council decisions by the Independent Reviewer of ASA Adjudications. Information about the review process is given in the Broadcast Complaint Handling Procedures document, available on the ASA website.
  - h. For serious or repeated breaches of the Code, Ofcom may impose sanctions, ranging from a formal warning to a request for broadcast correction or a statement of findings, a fine or the shortening, suspending or taking away of a licence to broadcast.

- i. The ASA (Broadcast) Council may have regard to decisions made by the ASA (Non-broadcast) Council under the CAP Code. Similarly, the ASA (Non-broadcast) Council may have regard to decisions made by the ASA (Broadcast) Council under the BCAP Code. Factors that help to determine whether an ASA decision 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 BCAP Code provisions correspond to those in the CAP Code.
- j. The protection of young viewers and listeners is always a priority. Section 5: Children should be considered for all advertisements that:
  - i. are targeted at children or likely to be of interest to them
  - ii. features children whether as professionals or amateurs
  - iii. could harmfully influence children even if not of direct interest to them.
- k. Where necessary, sections of this Code begin by stating the overarching principles and background information that inform the rules subsequently given and definitions of the key terms employed.
- l. Some rules that are to be found in Code sections dedicated to categories of products or services (such as alcoholic drinks or gambling) apply also to any advertisement that includes or refers to them. Those Code sections are subdivided into “rules for all advertisements” and “rules for [category of] advertisements”.
- m. Guidance and Help Notes referred to throughout the Code can be found at [www.cap.org.uk](http://www.cap.org.uk)
- n. The investigation of complaints in relation to Participation TV (long form television advertising for direct-response, remote entertainment services that typically include the possibility of interacting with broadcast content) remains a matter for Ofcom. Participation TV includes, for example, long form television advertisements for adult chat, adult sex chat, psychic chat, quiz call, dating and gambling services. For the avoidance of doubt, it excludes television spot advertisements for those services. Teleshopping content promoting other goods and services is also excluded. The ASA refers complaints about Participation TV to Ofcom who will determine whether a complaint identifies a breach of the BCAP Code; the UK Code of Broadcast Advertising.