

Help Note

Claims that require qualifications



CAP Help Notes offer guidance for non-broadcast marketing communications under the UK Code of Non-broadcast Advertising, Sales Promotions and Direct Marketing (the CAP Code). For advice on the rules for TV or radio commercials, contact Clearcast www.clearcast.co.uk for TV ads or the RACC www.racc.co.uk for radio ads.

Background

These guidelines, drawn up by the CAP Copy Advice team, will help marketers, agencies and media to interpret the rules in the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing as far as they relate to qualifications in marketing communications. They are based on a number of similar ASA cases but neither constitutes new rules nor binds the ASA Council in the event of a complaint about a marketing communication that follows them.

General

1. The British Code of Advertising, Sales Promotion and Direct Marketing states:

Rule 3.1

‘Marketing communications must not materially mislead or be likely to do so.’;

2. Marketers should seek legal advice or contact their home authority to ensure that their claims are legal.

Summary of Advice

3. Marketers should ensure that claims, particularly those that feature prominently in marketing communications, are either worded to reflect in full the point that the marketer wishes to make about the product, service or promotion or are suitably qualified so that consumers are not misled;

4. Qualifying claims should be clear and legible; they should be prominent enough both to capture a reader’s attention and to counter-balance potentially misleading primary claims.

Qualifying Claims

5. Qualifying claims can expand on primary claims, or qualify them in other ways, but should not constitute so great a qualification as to contradict the primary claim. There may be occasions when a qualifying claim, however prominent, does not go far enough in removing the misleading impression given by the primary claim;

6. For example, a press advertisement for a personal contract plan enables consumers to pay for a car in monthly instalments of £199 but also requires them to pay a £3,000 deposit and optional £7,000 final payment to purchase the car. A headline of “£199 a month!” could mislead readers into thinking that no further costs are payable. Even if prominent body copy explains the deposit and optional final payment it still might not be read along with the primary claim which, having initially been read in isolation, would subsequently be contradicted by the body copy. In this example, either the headline claim should be amended to more accurately reflect the offer (e.g. “£199 a month (plus deposit and optional final payment)”) or the reference to the deposit

and optional final payment could be stated in a sub-heading shown together with the headline. Alternatively, the headline claim could be amended to clarify that the £199 a month is only one element of the offer (e.g. “Our great hire purchase deal includes monthly payments of £199 a month”) with the body copy explaining the other payments in more detail;

7. The prominence of qualifying claims, and other factors such as whether they need be asterisked to primary claims, depends on their size; their clarity; their positioning (footnotes that run vertically up the side of marketing communications, for example, are usually more likely to be overlooked than those that run along the bottom); the significance of the qualification; the content and layout of the rest of the marketing communication; the nature of the medium (posters, for example, usually contain little text); and the prominence of the primary claim (see 8. below).

The Qualifying Ladder

8. Most but by no means all claims in marketing communications fall into one of these categories (listed in order of decreasing prominence): headline; sub-heading; body copy; footnote. It is not always possible to divide claims in a marketing communication into those categories and boundaries between the categories are often blurred (for example, there may be occasions when the first line of the body copy, if near to the headline, is as prominent as a sub-heading or occasions when it is difficult to determine whether a qualifying claim is a less prominent end to a headline or a sub-heading). The appropriate degree of prominence of a qualifying claim may not only depend on the factors listed in 7. above but also on the category that the primary claim falls into;

9. If a headline primary claim requires significant qualification, e.g. essential clarification is required in a sub-heading, it is reasonable to suppose that were that same primary claim to appear in a sub-heading it would then require qualifying in the body copy. It is therefore possible to move up or down the “qualifying ladder”, in this case with the qualifying claim one “step” less prominent than the primary claim;

10. For example, a marketing communication offers consumers three editions of a monthly magazine free if they subscribe for one year. A headline “Free Magazines” could mislead even if it is explained in the body copy that consumers must subscribe for one year to redeem the offer. If the headline was followed by a sub-heading that stated “... When You Subscribe for One Year”, however, it would be unlikely to mislead. If the primary claim was one “step” less prominent (i.e. in a sub-heading) it is likely that clear qualification in the body copy would be sufficient;

11. If a headline primary claim requires little qualification, i.e. the qualification provides additional information rather than essential clarification, a footnote might be sufficient. In this case, the “qualifying ladder” is redundant;

12. For example, marketers who wish to qualify the primary claim “Our Amazing 2-for-1 Offer” with the statement “Cannot be used in conjunction with any other offer” need do so in a footnote only.

Asterisks and Footnotes

13. If a qualification is at least two “steps” less prominent than the primary claim, the use of an asterisk will normally allow a marketer to account for one “step” of the “qualifying ladder”. For example, if a primary headline claim requires qualifying in the body copy, marketers can instead place the qualification in a footnote linked to the headline by an asterisk. However, marketers should note point 4. above;

14. Footnotes should be clearly visible to a normally-sighted person reading the marketing communication once, from a reasonable distance and at a reasonable speed. The prominence of a qualifying claim contained in a footnote may also depend on the total amount of copy in the footnote;

15. Marketers who are required to qualify a claim in a footnote may do so with more prominence (e.g. in the body copy).

Advice on specific marketing communications is available from the Copy Advice team by telephone on 020 7492 2100, by fax on 020 7404 3404, or you can log a specific written enquiry via our online request form <http://www.copyadvice.org.uk/Ad-Advice/Bespoke-Copy-Advice.aspx>. The Copy Advice website at www.copyadvice.org.uk contains a full list of Help Notes as well as access to the AdviceOnline database, which has links through to relevant Code rules and ASA adjudications.

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