

Help Note

The use of experts by the ASA and CAP

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 Copy Advice team, are intended to help marketers, agencies and the media understand the procedures the ASA and CAP follow when seeking expert advice. They are guidance only.

The ASA's and CAP's review of evidence

The ASA or CAP are sometimes asked to examine evidence sent by marketers in support of claims. On receipt of evidence, these steps will normally be followed:

1. Have the ASA or CAP seen evidence before? If so, they are likely to come to the same decision or offer the same advice as before (other things being equal);
2. Is the data relevant? If not, it is likely to be dismissed;
3. Is the data obviously flawed? If so, it is likely to be dismissed;
4. Does data supporting “new” or “breakthrough” health, beauty or slimming claims include a study (or studies) that has been published in a relevant, reputable, peer-reviewed journal or has been objectively and competently reviewed by a suitably qualified expert? If not, it is likely to be dismissed; and
5. Are authoritative reports (e.g. in the food area, those issued by: COMA; the Food Advisory Committee; CODEX; and the Scientific Committee for Foods), readily available guidelines or other published sources (those that represent or reflect general scientific opinion) available to shed light on the acceptability of the evidence? If so, these are likely to be consulted and followed.

If the acceptability of the evidence is still in doubt, the ASA or CAP are likely to seek advice from an expert consultant.

The Expert's review of evidence

The ASA and CAP aim to obtain experts' reviews that are:

1. Appropriate. The experts should be sufficiently qualified to offer an impartial, competent and considered review of the evidence. They should, where possible, reflect generally accepted expert opinion;

2. Thorough. Reviews should ideally follow this framework:

a summary - this should outline the review's conclusion;

b introduction - this should set out clearly the questions asked of the expert, including any relevant past history on the subject;

c method - where appropriate, definitions and terminologies should be explained and their level of acceptance identified. The methodology of the marketers' studies should be examined;

d evaluation - this should outline the relative merits and flaws of the marketers' substantiation;

e conclusion - this should encapsulate the expert's considered position on the questions posed in the introduction; and,

If recommendation - where an effect is not considered supported, experts are encouraged both to suggest any other effect that might be apparent and to explain what other data might be required to render adequate the evidence submitted.

3. Prompt. The ASA and CAP encourage their experts to provide reviews within 2 to 3 weeks of their receipt of the evidence. This is an approximate figure; variables such as the amount or complexity of evidence and the availability of experts make it impossible to predict accurately how long it will be before the ASA or CAP can respond to marketers with an expert's review; and,

4. Transparent. The name of the expert and the review itself will be given to the marketers on request.

Countering an expert's review

If marketers disagree with the ASA's or CAP's expert's review, they should:

1. Respond in writing in a concise and constructive way, where appropriate with their comments endorsed by a suitably qualified expert of their own;

2. Engage, if necessary, in an exchange of correspondence, comprising of objective discussion of the points of contention; and

3. As a last resort, and if the ASA or CAP agrees that a genuine disagreement between experts, in terms of their competent but subjective interpretation of the data, exists, a meeting or dialogue between them may be arranged

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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