

Content & Native Disclosure Guidance

Phase 2: Non-formatted content-based advertising

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IAB UK in partnership with AOP, CMA and ISBA

Introduction

In February 2015 the IAB launched [Phase 1](#) of the disclosure guidelines for native distribution formats. This document represents Phase 2 of the guidance and outlines good practice in relation to disclosure in online content-based advertising.

Content-based advertising is not new and there are existing and well-established rules covering the identification of marketing communications set out in the [UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing \(CAP Code\)](#) and the [Consumer Protection from Unfair Trading Regulations 2008 \(CPRs\)](#). There are also long-held principles of disclosure in the 'offline' world, for example in newspapers and magazines.

The objective of this guidance is to set out clear and practical steps to help brand owners, publishers and marketing practitioners provide transparency to consumers engaging with online content-based advertising. It is not creating new rules, but setting out practical guidance to help businesses comply with existing UK rules.

What is in scope?

The IAB's Content and Native Council has produced a 'Definitions Framework' which categorises content marketing into three areas: Brand-owned content; Non-formatted advertising, and Native Distribution Formats. The first phase of the disclosure guidance covered native distribution formats. Phase 2, set out in this document, is limited to the centre column of the definitions framework (see [Annex A](#)) and covers non-formatted content-based advertising: commercial content that is advertiser-controlled or jointly publisher/advertiser controlled (and is therefore regulated by the CAP Code). This includes extracts or 'teasers' of the content that appear separately from the main body.¹

Content and native advertising online is popular and evolving rapidly, and we therefore expect this guidance to develop over time, in line with the market. The IAB is committed to keeping the guidance under review and adding to it where necessary. You can keep up to date with how this area of the industry is evolving through the IAB's thought leadership series: www.iabuk.net/content-native.

¹ For example Content Management System (CMS) placements of content.

The UK regulatory framework applying to content-based advertising²

The UK CAP Code for non-broadcast marketing communications – independently administered and enforced by the Advertising Standards Authority (ASA) – states:

- Marketing communications must be obviously identifiable as such (rule 2.1;) and
- Marketers and publishers must make clear that advertorials are marketing communications; for example, by heading them ‘advertisement feature’ (rule 2.4).

See the CAP Code in full here: <https://www.cap.org.uk/Advertising-Codes/Non-Broadcast.aspx>. CAP issues guidance on all elements of the Code, along with providing advice and training on the rules: www.cap.org.uk/Advice-Training-on-the-rules/. It also offers a free copy advice service – see www.cap.org.uk/Advice-Training-on-the-rules/Bespoke-Copy-Advice.aspx.

Editorial content that a brand has paid to be associated with but over which the publisher has full editorial control (i.e. sponsored content) **does not** fall within the remit of the CAP code. This content may, however, be subject to other legislation, regulatory codes or industry codes. More detailed information on the UK regulatory framework is in [Annex B](#).

The consumer view of disclosure and native distribution formats

In 2014, IAB UK commissioned a qualitative study into consumer comprehension of content and native advertising. The research aimed to provide a clear understanding of consumer attitudes and enable industry to ensure that commercial arrangements in online content and native marketing are, and will continue to be, transparent and clear to consumers.

We found that consumers decide what advertising to engage with based on three key factors: relevancy, value, and clarity about the author, publisher or brand associated with the marketing content. Consumers reported that their trust in a brand or publisher would diminish if they felt the provenance of a piece of content was unclear or was only disclosed at the end of the content. Clear visual cues such as brand logos allow people to quickly see that there is a commercial arrangement in place and not feel misled. Display ads alone (for example any display ads for a brand that appear on the same page as the brand’s paid content) are not sufficient to indicate that there is a commercial arrangement in place.

The research also explored what ‘good’ looks like for the disclosure of commercial content and these insights have formed the basis of the principles of this guidance. A full copy of the *Content and Native Consumer Research* is available at: www.iabuk.net/research/library.

Principles

We recommend that brand owners, marketing practitioners and publishers follow the three principles below when entering into an agreement to publish content-based advertising. All parties must agree to:

² [Annex B](#) contains more information about the regulatory framework.

1. Provide consumers with prominently visible visual cues to enable them to understand, immediately, that they are engaging with marketing content. This can be achieved via a number of means, such as deploying prominent brand logos or names at the beginning of the content to clearly display the brand's association with the content. It should be clear where the content begins and ends.
2. Ensure that the content has a reasonably visible label. The label should be upfront so that it is visible as soon as the consumer engages with the content. The language of the label must demonstrate that a commercial arrangement is in place and make clear that the content is marketing. Testing consumer interpretations of labelling is recommended, as readers/users will have different expectations of language when in different environments.
3. Ensure that the marketing communication adheres to the CPRs and the CAP Code and any other relevant legislation, regulatory codes or industry codes. For the full CAP Code see www.cap.org.uk/Advertising-Codes/Non-Broadcast.aspx. The preface to the CAP Code sets out that the Code 'supplements the law [and] fills gaps where the law does not reach'. While it does not constitute legal advice, 'compliance with the Code should go a long way to ensuring compliance with the law in areas covered by both the Code and the law.'³

Note: CAP has produced specific disclosure guidance on marketing in a vlog. This should be referred to by brand owners, publishers and marketing practitioners. The guidance is available at:

<https://www.cap.org.uk/Advice-Training-on-the-rules/Advice-Online-Database/Video-blogs-Scenarios.aspx#>

³ As set out in the preface to [edition 12 of the CAP code](#). See [Annex B](#) for more information.

Annex A: The Definitions Framework

Bucket model: Descriptions of commercial interests, budget points, brand purpose and regulation

Content Marketing				
	Advertiser owned	Media owner revenues (brand-based)		
Type	Brand-owned content	Non-formatted advertising	Native distribution ad formats	
	Owned	Paid	Owned Paid	
What it is / How it works – typical characteristics	Advertiser owned and operated: conceived, made and managed e.g. website / app Content elements (article, slides, video, app, social pages / sharing) Contract publishing	1. Publisher*-controlled content (sometimes called 'supported' or 'sponsored') <ul style="list-style-type: none"> • publisher-made, looks like surrounding editorial, enabled by brand but may have been produced without brand funding • publisher editorial control and sign-off 	Automated (scale) content delivery. Examples include: <ul style="list-style-type: none"> • Promoted posts • In-ad (IAB standard ad formats)** • Proprietary / bespoke ad formats • Newsfeed formats • In-feed*** • 3rd party recommendation tools • 3rd party discovery tools • 3rd party curated • 3rd party aggregated 	
		2. Advertiser-controlled commercial content (sometimes called 'ad feature' or 'advertorial') <ul style="list-style-type: none"> • can be made by publisher and/or brand • advertiser editorial control and sign-off 		
		3. Joint publisher/advertiser-controlled commercial content (sometimes called 'sponsored' or 'ad feature') <ul style="list-style-type: none"> • can be made by publisher and/or brand, enabled by brand but may have been produced without sponsorship • publisher and brand editorial control • client consultation/publisher sign-off 		
	Brand purpose	Destination / Brand	Publisher content experience / partnership	Traffic driving / brand / Publisher content experience / association
	Pay basis	Content marketing / PR budgets	Publisher rate card	Tenancy, CPE, CPC, CPA, CPM, CPL
Regs	ASA CAP Code (Marketing Comms)	1. May be subject to non-advertising regulatory/industry codes, e.g. IPSO 2&3. ASA CAP Code	ASA CAP Code (Advertising)	
NOTE: Organic PR is excluded from these characteristics; currently paid search results and promoted listings are excluded **Publisher* includes influencers e.g. bloggers and vloggers as well as traditional/digital media-owners ** IAB (US) Native Advertising Playbook: Dec 2013 ***In-feed Deep Dive (IAB US, July 2015)				

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Note: this framework is a living document that is kept under review and updated in line with the market.

Annex B: Summary of the provisions of the CAP code and The Consumer Protection from Unfair Trading Regulations 2008 (CPRs)

This Annex provides more information about some of the relevant provisions of the CAP code and CPRs in relation to content-based marketing, as well as other legislation and codes, to give further background and context to the existing regulatory framework and rules. It is not, however, intended to be a comprehensive or exhaustive guide.

'Advertorial'

The term 'advertorial' is defined in the [CAP code](#) as meaning:

'an advertisement feature, announcement or promotion, the content of which is controlled by the marketer, not the publisher, that is disseminated in exchange for a payment or other reciprocal arrangement.'

(CAP code Introduction III, K)

The CPRs

In addition to rules 2.1 and 2.4 of the CAP code (see pages 1-2 of this guidance), the CPRs make clear that unfair commercial practices, such as misleading omissions – basically, omitting or hiding material information, providing it in an unclear way or failing to identify the practice's commercial intent – are prohibited in law. Not only are there general prohibitions under Sections 3 and 6, but Schedule 1 to the CPRs contains a list of practices which are automatically unfair, which includes:

'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).' (Paragraph 11)

A full copy of the CPRs is available at: www.legislation.gov.uk/ukxi/2008/1277/contents/made

Other sectoral legislation, regulatory codes and industry codes

Some specific industry sectors also have their own, additional, codes regulating the content of marketing communications. For example, the Financial Conduct Authority has published [disclosure guidance on financial promotions in social media](#). Some CAP member organisations also require their members to observe their own codes of practice.

The CAP code references other legislation and codes that are relevant to advertising of particular types of products and services and that should be considered or read alongside the CAP code rules, including in relation to advertising financial products, food, gambling, medicines and health-related products. Content over which the publisher has full editorial control may also be subject to these (or other) legislation, regulatory codes or industry codes.