

## Compliance quick guide to:

# COMMERCIALS

(This guide applies to all advertising broadcast after the 1 September 2010)

## Introduction

Media agencies and commercial planners should note that these guidelines are not a substitute for reading and understanding the ASA (Advertising Standards Authority) code in full. It is your responsibility to ensure that you comply with our Ofcom licensing conditions.

## Basic Principles

- Broadcasters must ensure that the advertising and programme elements of a service are kept separate.
- Advertisements must not materially mislead or be likely to do so
- Advertisements must be prepared with a sense of responsibility to the audience and to society
- Care must be taken when scheduling advertisements that could frighten or distress children or could otherwise be unsuitable for them

**The overarching principles of the ASA Code are that advertisements should not mislead or cause serious or widespread offence or harm, especially to children or the vulnerable.**

## Ofcom / ASA

Since Ofcom/ASA came in to effect it has become clear to broadcasters that Ofcom/ASA are very much a hands off regulatory body, which is very complaints driven. This means that:

- They will only act when complaints are received from viewers. These "viewers" may be unhappy viewers, competitive broadcasters, and competitive advertisers or media pressure groups.
- However in Dec 2009 Ofcom conducted some monitoring on our channels and some of the results were passed onto the ASA for their investigation. This resulted in a number of ads being removed from air.
- An upheld complaint may result in a warning or, if a serious breach of basic rules, a fine. Repeated breaches of the same type are very likely to result in a fine. Although in comparison to some regulatory bodies Ofcom may be slow to fine, when it does so, it fines heavily.
- We must therefore ensure that they limit the complaints they receive by giving "viewers" no cause to complain.

## Commercials

This guide does not at anytime substitute for reading and visiting the ASA website regularly at [www.asa.org.uk](http://www.asa.org.uk) and the Ofcom COSTA code which can be found here [http://www.ofcom.org.uk/tv/ifi/codes/code\\_adv/tacode.pdf](http://www.ofcom.org.uk/tv/ifi/codes/code_adv/tacode.pdf)

Television advertising must be readily recognisable as such and be distinct from other parts of the programme service.

Breaks containing advertising spots of any kind, including teleshopping spots, must be identified in vision and/or sound, e.g., station idents going in and out of breaks.

## Misleading advertising

No advertisement may directly or by implication mislead about any material fact or characteristic of a product or service

If you are unsure whether a product or service may be misleading i.e. gives false claims, then you should seek adequate objective evidence to support all claims. This can be obtained by contacting the appropriate planner or advertiser. Once you are satisfied by the evidence then you can proceed with booking the commercial.

## Claims in advertising

Viasat must obtain adequate objective evidence to support all claims. These should be requested from the advertisers prior to broadcast.

The evidence provided to Viasat must:

- Prove the claim in the ad itself
- Be based on facts
- Be conducted in accordance with recognised best practice in its product field.
- Include testing which is fair and provides fair results

Where Viasat lacks the specialised knowledge to assess the adequacy of evidence, they must consult independent experts i.e. medical claims

Absolute claims – eg 'best on the market', 'lowest prices guaranteed' – should be avoided unless they are backed up by clear evidence and are based on a formula on which an advertiser can completely deliver. In particular, licensees should be alert to the fact that such claims may be invalidated by sudden changes in the market or the actions of competitors while the advertising is still on air. For this reason, absolute price claims should be treated with great caution.

A claim can be implied or direct, written, spoken or visual. The name of a product or service may in itself be regarded as a claim.

Under the Control of Misleading Advertisements Regulations 1988 (as amended), the ASA is empowered to regard a factual claim as inaccurate unless adequate evidence of accuracy is provided to it when requested.

## Unacceptable products and services

Advertisements for products or services coming within the recognised character of, or specifically concerned with the following are not acceptable:

- Breath-testing devices and products that purport to mask the effects of alcohol
- betting systems and products that are intended to facilitate winning games of chance
- All tobacco products. Also non-tobacco products or services which share a brand name with a tobacco product
- Medicinal products or medical treatments available only on prescription
- Infant formula (food supplement for babies under 6 months)
- Guns (including replica guns), gun clubs and offensive weapons
- Escort agencies
- Prostitution and sexual massage services
- Obscene material
- Products for the treatment of alcohol and illegal-substance dependence
- Pyramid promotional schemes
- Pornography – including premium rate services of a sexually explicit nature
- The acquisition or disposal of units in collective investment schemes not authorised or recognised by the FSA, without the prior approval of BCAP
- The occult
- Commercial post-conception advice services offering individual advice on personal problems
- Products or services which have not been granted authorisation for sale in the Country of broadcast

Please note: No advertisement may indirectly publicise an unacceptable product or service.

## Disclaimers (text supers)

The consumer must be informed in the advertisement itself of any important limitations to the top-line offer or claim. Disclaimers should be used to support an offer or claim and not to explain its real meaning. This should always be clear from the ad itself.

Rules on the size and on screen time of text disclaimers can be found here:

<http://bcap.org.uk/Resource-Centre/Advice-and-guidance/Broadcast-guidance-and-help-notes/Advertising-guidance-notes.aspx>

**Advertisements for medicinal products** which include a product claim (including product claims on pack shots) must include the following information:

- the name of the product
- the name of the active ingredient, if it contains only one
- the indication (i.e. what the product is for)
- wording such as "always read the label" or "always read the leaflet" as appropriate

**Ads for betting and gaming must adhere to the following text supers:**

- An age restriction i.e. for gaming "over 18s only" 16 for lotteries and bingo.
- All advertisers are required to include a reference to a website that has been established to provide advice and information about responsible gambling such as Norway: <http://www.hjelpelinjen.no> ; Sweden: <http://www.slutaspela.nu/> and Denmark <http://www.ludomani.dk/>.
- Where a bonus or offer is made the ad must include "terms and conditions apply"
- Any incentive to bonuses or jackpots must not be excessive. To limit these amounts, a free bonus i.e. sign up bonus, must not exceed £150 or equivalent.

Rules on the size and on screen time of text disclaimers can be found here [http://www.asa.org.uk/asa/codes/tv\\_code/Guidance\\_Notes/Advertising+Guidance+Note+1.htm](http://www.asa.org.uk/asa/codes/tv_code/Guidance_Notes/Advertising+Guidance+Note+1.htm).

## **Amount of advertising**

The total amount of spot advertising in any one day must not exceed an average of 9 minutes per hour. In any one clock hour there must be no more than 12 minutes of advertising spots and/or teleshopping spots.