

Cosmetic interventions

Advertising Guidance (non-broadcast and
broadcast)

Legal, decent, honest and truthful



Foreword

The Committee of Advertising Practice (CAP) offers guidance on the interpretation of the UK Code of Advertising (the CAP Code) in relation to non-broadcast marketing communications.

The Broadcast Committee of Advertising Practice (BCAP) offers guidance on the interpretation of the UK Code of Broadcast Advertising (the BCAP Code) in relation to broadcast marketing communications.

Advertising Guidance is intended to guide advertisers, agencies and media owners how to interpret the Codes but is not a substitute for those Codes. Advertising Guidance reflects CAP's and/or BCAP's intended effect of the Codes but neither constitutes new rules nor binds the ASA Councils in the event of a complaint about an advertisement that follows it.

For pre-publication advice on specific non-broadcast advertisements, consult the CAP Copy Advice team by telephone on 020 7492 2100, by fax on 020 7404 3404 or you can log a written enquiry via our [online request form](#).

For advice on specific radio advertisements, consult the [Radio Centre](#), and for TV advertisements, [Clearcast](#).

For the full list of Advertising Guidance, please [visit our website](#).

Background

CAP and BCAP offer guidance on the interpretation of The UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (the CAP Code), in relation to non-broadcast marketing communications, and The UK Code of Broadcast Advertising (the BCAP Code). CAP and BCAP guidance is intended to help advertisers, agencies and media owners interpret the Codes but it is not a substitute for those Codes. This Help Note reflects CAP and BCAP's intended effect of the Codes but neither constitutes new rules nor binds the ASA Councils in the event of a complaint about an advertisement that follows it.

Because the same principles apply to marketing for cosmetic interventions whether in broadcast or non-broadcast advertising, a single

This Guidance

This guidance covers the marketing of surgical and non-surgical cosmetic interventions. Surgical interventions include procedures such as breast augmentation / uplift, abdominoplasty, blepharoplasty etc. Non-surgical interventions include treatments such as injectable fillers, chemical peels and non-ablative laser treatments. However, these are only examples; marketers in need of further assistance as to when to apply this guidance should contact CAP's Copy Advice team, Clearcast or the RACC as relevant

The Codes

The CAP Code states:

III. d. a claim can be implied or direct, written, spoken or visual; the name of a product can constitute a claim

- 1.3 Marketing communications must be prepared with a sense of responsibility to consumers and to society.
- 3.1 Marketing communications must not materially mislead or be likely to do so.
- 3.7 Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove claims that consumers are likely to regard as objective and that are capable of objective substantiation. The ASA may regard claims as misleading in the absence of adequate substantiation.
- 3.11 Marketing communications must not mislead consumers by exaggerating the capability or performance of a product.

- 4.1 Marketing communications must not contain anything that is likely to cause serious or widespread offence. Particular care must be taken to avoid causing offence on the grounds of race, religion, gender, sexual orientation, disability or age. Compliance will be judged on the context, medium, audience, product and prevailing standards.

Marketing communications may be distasteful without necessarily breaching this rule. Marketers are urged to consider public sensitivities before using potentially offensive material. The fact that a product is offensive to some people is not grounds for finding a marketing communication in breach of the Code.

- 12.1 Objective claims must be backed by evidence, if relevant consisting of trials conducted on people. If relevant, the rules in this section apply to claims for products for animals. Substantiation will be assessed on the basis of the available scientific knowledge. Medicinal or medical claims and indications may be made for a medicinal product that is licensed by the MHRA or EMEA, or for a CE-marked medical device. A medicinal claim is a claim that a product or its constituent(s) can be used with a view to making a medical diagnosis or can treat or prevent disease, including an injury, ailment or adverse condition, whether of body or mind, in human beings. Secondary medicinal claims made for cosmetic products as defined in the appropriate European legislation must be backed by evidence. These are limited to any preventative action of the product and may not include claims to treat disease.
- 12.3 Marketers offering individual treatments, especially those that are physically invasive, may be asked by the media and the ASA to provide full details together with information about those who supervise and administer them. Practitioners must have relevant and recognised qualifications. Marketers should encourage consumers to take independent medical advice before committing themselves to significant treatments, including those that are physically invasive.

The BCAP Code states:

b. v. a “claim” can be implied or direct, written, spoken or visual. The name of a product can constitute a claim.

- 1.2 Advertisements must be prepared with a sense of responsibility to the audience and to society.
- 3.1 Advertisements must not materially mislead or be likely to do so.
- 3.9 Broadcasters must hold documentary evidence to prove claims that the audience is likely to regard as objective and that are capable of objective substantiation. The ASA may regard claims as misleading in the absence of adequate substantiation.

- 3.12 Advertisements must not mislead by exaggerating the capability or performance of a product or service.
- 4.2 Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards.
- 11.1 Radio Central Copy Clearance – Radio broadcasters must ensure advertisements subject to [section 11 of the BCAP Code] are centrally cleared.
- 11.2 If they are necessary for the assessment of claims, broadcasters must, before the advertisement is broadcast, obtain generally accepted scientific evidence and independent expert advice.
- 11.9 Services including Clinics, Establishments and the like Offering Advice on, or Treatment in, Medical, Personal or other Health Matters – Advertisements are acceptable only if the advertiser can provide suitable credentials, for example, evidence of: relevant professional expertise or qualifications; systems for regular review of their skills and competencies and suitable professional indemnity insurance covering all services provided; accreditation by a professional or regulatory body that has systems for dealing with complaints and taking disciplinary action and has registration based on minimum standards for training and qualifications.

Surgeons' Qualifications

1. Doctors who practise surgery and hold FRCS qualifications or other countries' equivalents may be described as surgeons. Surgeons may be described as cosmetic surgeons if they have chosen to specialise, and have received training and gained experience, in plastic surgery; oral and maxillofacial surgery; ear, nose and throat (ENT) or ophthalmological surgery or other surgical specialty if the marketing communication refers to a procedure in that speciality.

In general cosmetic surgery marketing communications, (those that do not specify the types of surgery they offer or those that mention a wide variety of procedures), the claim "qualified" and derivatives such as "highly qualified" or "fully qualified" should be used only if the surgeons involved are on the Specialist Register of the General Medical Council (GMC) in respect of a relevant surgical specialty or were practicing cosmetic surgery independently before 1 April 2002 and:

- a. hold a Certificate of Completion of Training (CCT formerly CCST) in that specialty or

- b. hold another country's equivalent (those not holding a recognised qualification from a European state, as provided for in articles 24 to 27 of Council Directive 2005/36/EC and The Medical Act, should have applied to the relevant regulator to ensure that the surgeon is eligible for inclusion in the relevant GMC Specialist Register) or
 - c. are successfully revalidated in a relevant surgical specialty, hold NHS Consultant posts (excluding Locum Consultant posts) or are eligible for inclusion in the Specialist Register under the transitional arrangement or grandfather clause.
- 2. In cosmetic surgery marketing communications that refer to only one or some types of procedure, the claim "qualified" and derivatives such as "highly qualified" or "fully qualified" should be used only if the surgeons involved comply with paragraph 2 for the relevant speciality.
- 3. Marketers should hold proof of surgeons' qualifications from a reputable, independent source before making claims that relate to the qualifications.
- 4. Surgeons who cannot claim to be qualified in cosmetic surgery or related disciplines under paragraph 2 or paragraph 3 may use other claims such as "experienced" or "skilled". The length of time surgeons have been practising and the number and type of operations performed have a bearing on their experience. For practical reasons, however, the ASA will normally expect marketers claiming that surgeons are "experienced" or "highly experienced" to be able to show that the surgeons have practised their surgical speciality full-time for at least five years (the minimum time most surgeons take in higher surgical training to completion of specialist training in the NHS is six years).
- 5. Surgeons who are not qualified in accordance with paragraph 2 or experienced in accordance with paragraph 5 should not be associated with the advertising of cosmetic procedures, even if they are recognised to be, for example, the best brain surgeon in the world.
- 6. If they can demonstrate suitable training and experience in that type of cosmetic surgery, and if they have held an NHS Consultant post (but not a Locum Consultant post) or a foreign equivalent of an NHS Consultant in the speciality to which the marketing communication refers, surgeons may be termed "Consultants" or "consultants" but marketers should neither state nor imply surgeons are an NHS Consultant if they are not.

7. “Specialist” or “specialising in” will denote a surgeon whose main expertise is in a particular type of surgery. The terms will not necessarily denote that a surgeon is qualified under paragraph 2 or paragraph 3, but, if the context of the claim implies it (for example by referring to the GMC Specialist Register or to the NHS), marketers should hold relevant evidence.
8. Marketers should be able to prove claims such as “leading surgeons”, “best surgeons”, “foremost surgeons” and “surgeons of the highest calibre”. They would need to show that the surgeons’ achievements and experience put them near the top of the profession in their surgical speciality nationally or internationally, depending on the context. Showing that the surgeons have held high administrative posts in the medical profession is unlikely, on its own, to be enough.

Non-surgical Practitioners

9. Marketers should hold proof of practitioners’ qualifications from a reputable, independent source before making claims that relate to those qualifications.
10. Marketers should not make claims which misleadingly exaggerate the skills, qualifications or experience of the practitioner of the intervention.
11. Marketers should not misleadingly claim or imply that a practitioner is a medical professional or regulated by a professional body if that is not the case. They should take care not to claim or imply that such practitioners have professional systems of complaint or redress if they do not.
12. Marketers should ensure that they do not misleadingly imply that they operate in a regulated clinical environment, if that is not the case.

Cosmetic Interventions (Surgical and non-surgical)

All objective efficacy claims for interventions must be supported by robust evidence, if relevant consisting of trials conducted on people. CAP publishes separate guidance on the substantiation required for health, beauty and slimming claims.

13. Ads must not mislead as to what an advertised intervention is likely to achieve for the average consumer.
14. Marketers should not imply that invasive surgery is a “minor procedure” or similar if that claim is likely to mislead as to the complexity or duration of the operation, the pain experienced either during or after the operation, the length of the recovery time or the potential side-effects. Ads should not mislead as to the likely commitment required for pre-consultation, surgery, recovery and post-operative assessments.

Marketers wishing to make secondary claims about an intervention, such as that it is “suitable for all”, “pain-free”, “without side-effects” or similar will need to hold evidence to that effect.

15. References to a “consultation” should not mislead as to the purpose of that appointment. Marketers should take care not to give the impression that such an appointment will be with a medical professional if that is not the case
16. Marketers should not imply unrealistic claims, for example that the permanent removal of localised areas of fat will prevent subjects from gaining fat elsewhere, that tattoos can be removed without trace or that surgically replaced hair will last permanently or with minimal risk of untoward complications.
17. Marketers should accurately describe cosmetic interventions. Colloquial terms such as “boob job” should not mislead as to the intervention that is being referenced.
18. Obvious exaggerations (“puffery”) and claims that the average consumer who sees the marketing communication is unlikely to take literally are allowed provided they do not materially mislead. Claims such as “a new you” or “feel fantastic” are likely to be acceptable as puffery. However the ASA is likely to regard claims that a procedure is “revolutionary” or “turns back time” as objective and in need of substantiation.
19. The word “guarantee” should not be used in a way that could confuse consumers about their legal rights but may be used colloquially provided the meaning is clear. Marketers should distinguish between offering a guarantee and making a claim that, for example, a certain outcome is guaranteed.
20. Marketers claiming that a particular technology or technique is used in all clinics or is unique to them should ensure that they hold evidence to that effect.
21. Prices quoted must relate to the advertised product. If an advertised procedure will be performed abroad or in a location particularly remote to where the ad is seen, that fact should be made clear. For procedures being offered at foreign clinics, the financial commitment required by the patient should also be made clear, e.g. costs for flights and accommodation and whether this cost is included or to be borne by the patient.

Use of production techniques

22. Advertised claims, including visual claims, should not misleadingly exaggerate the effect the cosmetic intervention is capable of achieving. Marketers should ensure that they do not manipulate an image to the point that it goes beyond the look which the treatment alone can achieve.

23. The ASA expects marketers to ensure they retain appropriate material to be able to demonstrate whether any re-touching has been carried out. This might include 'before' and 'after' images showing the effect of both pre and post-production techniques as appropriate.
24. Marketers should ensure that the before and after photographs which they hold as evidence relate to the image shown in the ad. If the ASA cannot assess any post-production work on the model featured, the ASA may consider the ad misleading
25. Qualifications within advertisements may clarify but must not contradict the claims they qualify.
26. Disclaimers used by advertisers do not excuse misleading impressions of advertisements. Text which states that a photograph has been enhanced in post-production could be problematic if the photograph has been digitally re-touched in an area which relates specifically to the performance of the product, or an area in which the treatment has been carried out, irrespective of the inclusion of a disclaimer.

The Help Note on Cosmetic advertising: Use of production techniques in cosmetics advertising sets out the principles which marketers should consider when creating marketing material in the application of pre and post-production techniques.

Before and after photographs

27. Marketers must hold documentary evidence that the before and after photographs used in their marketing communications are genuine and hold signed and dated proof from the subject shown.
28. While marketers might be able to show that before and after photographs are genuine they still need to hold evidence which substantiates the level of efficacy implied by the photos.
29. Marketers should not imply that they can offer treatments for obesity by showing "before" images of obese subjects unless such treatments are supervised by a suitably qualified health professional
30. Before and after photos illustrating the claimed benefits of botulinum toxin injections such as Botox are unlikely to be acceptable because this could amount to advertising of a POM.
31. Marketers do not have to label photographs as "before" and "after" to mislead readers about the effect a product or treatment can achieve.

You can read some more about Before and After photos and the use of production techniques in our guidance.

Responsibility

32. Ads must be prepared with a sense of responsibility to consumers and to society.
33. Ads should not trivialise cosmetic interventions or suggest that they be undertaken lightly. Creative treatments should not detract from the seriousness of the interventions offered.
34. Marketers should not play on consumers' insecurities. They should not irresponsibly imply that a cosmetic intervention will be able to solve a consumer's personal or emotional problems or improve their situation after a difficult life event.
35. Marketers should avoid irresponsibly describing cosmetic interventions as "safe" or "easy", because it is likely that all such interventions will carry some level of risk to the patient.
36. Colloquial terms such as "boob job", "tummy tuck" etc. should not have the effect of detracting from the seriousness of the intervention/s offered.
37. Marketers may use depictions of the human body and relevant nudity. They should ensure that such images are responsible, relevant to the procedure offered and not likely to cause serious or widespread offence; for example by being graphic, gratuitous or overtly sexual in nature.

Targeting

38. Particular care must be taken when advertising on social media websites which might be of particular appeal to younger audiences.
39. SMS and electronic mail marketing communications should not be sent to people too young to receive them or to receive an advertised treatment.

Endorsements and testimonials

The CAP Code states:

- 3.45 Marketers must hold documentary evidence that a testimonial or endorsement used in a marketing communication is genuine, unless it is obviously fictitious, and hold contact details for the person who, or organisation that, gives it.
- 3.46 Testimonials must relate to the advertised product.
- 3.47 Claims that are likely to be interpreted as factual and appear in a testimonial must not mislead or be likely to mislead the consumer.

The BCAP Code states:

- 3.45 Testimonials or endorsements used in advertising must be genuine, unless they are obviously fictitious, and be supported by documentary evidence. Testimonials and endorsements must relate to the advertised product or service. Claims that are likely to be interpreted as factual and appear in advertisements must not mislead or be likely to mislead.
40. Testimonials and endorsements should not mislead about what the advertised intervention is likely to achieve for the average consumer.
41. Testimonials and endorsements, and particularly celebrity endorsements, should not detract from the seriousness of the intervention offered.
42. Marketers must not claim or imply that their technology or intervention has been approved or endorsed by a professional or public body unless that is the case.

Clinics

43. Claims such as “the leading clinic” or “a leading clinic” are likely to be seen to refer to the clinic and not purely to the surgeons it uses. Marketers should be able to demonstrate that the clinic has qualities (for example track record, facilities, nursing and other staff) that put it above most or all other clinics. Although that might include showing that a clinic’s surgeons are “leading” or similar, the latter on its own is unlikely to be considered enough to prove the claims.
44. Marketers should not imply that all of a clinic’s surgeons are of a certain standard if they are not. For example, a clinic employing four cosmetic surgeons, two of whom are suitably qualified, should not claim “our qualified surgeons”; the claim “we have in our service qualified surgeons” would probably be acceptable.
45. Clinics must be registered with the Care Quality Commission (CQC); the ASA or CAP may require proof of registration.
46. Marketers should not imply that they give “independent advice” if they have a vested interest in recommending some surgeons or clinics above others. The same applies if the company name suggests that the marketers are non-commercial or independent advisory services.
47. Marketers should not link themselves with renowned locations such as Harley Street unless they can show that they carry out consultations or surgery there. Similarly, marketers should number as branches of a clinic only those premises where they carry out consultations or surgery. Service providers who do not hold

the requisite qualifications, training or expertise but who practice in locations formerly linked with high-quality independent specialist practice should not mislead about their competence or the level of service or care patients will receive.

Prescription only medicines (POMs)

48. The Human Medicines Regulations 2012 (“the Regulations”) prohibit the issue of any advertisement wholly or mainly directed to the general public which is likely to lead to the use of a prescription only medicine (POM).
49. Advertisements for POMs are only acceptable if they are directed at healthcare professionals. Healthcare professionals are “persons qualified to prescribe or supply” medicines as defined in the Regulations. These include doctors, dentists, nurses, pharmacists, veterinary and allied professions.
50. Marketers should not encourage consumers to access information which is aimed at healthcare professionals only and they should not direct members of the public to advertising material for POMs.
51. Online services such as clinics or pharmacies may provide information on certain conditions. However such material should not draw attention to specific POMs.
52. Marketers’ own websites may include disease-related information aimed at the public provided that the information is compatible with the wording found on patient information leaflets (PILs), the information found in the Summary of Product Characteristics (SPCs) or other non-promotional reference information about the product that adequately reflects the up-to-date evidence about the product. Otherwise, marketers risk promoting a medicine as a treatment for a condition for which it has not been licensed. It might be acceptable for the wording of this information to be adjusted to take into account the levels of knowledge of the audience reading the material. If marketers are unsure they should seek advice from the Copy Advice Team.
53. A website could make limited references to a POM, provided that those references are presented in the context of a balanced and factual overview of all the treatment options which are available.
54. Marketers must not use health professionals or celebrities to endorse a POM.
55. Advertising of medicines should not be directed exclusively or principally at children (for the purposes of the Codes a child is someone under 16). Nor should marketing material targeted at parents or guardians be included in non-promotional material directed at children.

Further information and specific advice is available from the Medicines and Healthcare Products Regulatory Agency (MHRA) Advertising Standards Unit at advertising@mhra.gsi.gov.uk and in the MHRA Disease Awareness Guidelines in the Blue Guide, Advertising and Promotion of medicines in the UK, available on the MHRA website.

Botulinum toxin injections

56. Botulinum toxin is the trade name for a pharmaceutical preparation, produced by bacteria called Clostridium Botulinum, which can be used for the treatment of lines and wrinkles. Botox is a trade mark for a specific botulinum toxin type A product originating from Allergan, Inc. There are other botulinum toxin brands available, including Vistabel, Dysport, Bocouture, and Azzalure.
57. Botulinum toxin products are regulated as prescription-only medicines which should be injected by a suitably qualified health professional. They may not be advertised to the public: however, they may be advertised to healthcare professionals (see section above on POMs).
58. Materials such as magazine advertisements and flyers distributed to the public must not mention “Botox”, “Dysport”, “botulinum toxin” or any abbreviation of these products.
59. Advertising for cosmetic clinics and beauty salons may promote the services they provide. However, they should do so in a non-specific way without a reference to botulinum toxin injections, for example “a consultation for the treatment of lines and wrinkles.”
60. The homepage of a website could focus on the service the website provides, for example “consultations for the treatment of lines and wrinkles”. However marketers should not include references to botulinum toxin products such as Botox, Azzalure and Dysport, including price information. Hover text, links, and any small print at the bottom of a homepage should also not refer to, or link consumers to a page that refers to botulinum toxin injections. It might be acceptable for other website pages to contain information about botulinum toxin products as a treatment option, presented in the context of the promotion of a consultation where a range of options would be discussed, provided the focus is on the promotion of the consultation rather than botulinum toxin injections as a treatment. It should be clear that the patient is being offered a consultation, and that this may or may not lead to the provision of a POM.

61. Any price lists included on a website should not include product claims or encourage viewers to choose botulinum toxin injections based on the price.

Sales promotions

Marketers are advised to seek guidance from CAP's Copy Advice team, Clearcast or the Radio Centre before embarking on sales promotions related to cosmetic interventions.

62. By their nature sales promotions will usually be time limited. Marketers must ensure that the limited amount of time for which the offer is available does not pressurise consumers to take up the offer. Appropriate lengths of time should be given for consumers to respond and marketing communications which announce the promotion should be displayed at the outset so that consumers have the longest possible period to consider whether they wish to enter.
63. For promotions advertised online promoters should take steps to ensure that casual browsers cannot encounter the promotion at a late stage, when they do not have adequate time to consider it. They could, for example, archive the page so that it is only accessible to those who received an emailed link at the beginning of the promotion.
64. Countdown clocks and claims such as "Hurry, offer must end Friday" should not be used.
65. The existence of cooling-off periods, long lead times between purchase and treatment or long periods of offer validity after purchase do not absolve marketers of the requirement to make sure the initial marketing is responsible.
66. Marketers should ensure that promotions do not encourage consumers to undergo unnecessary or unwanted interventions. Particular care should be taken when offering discounts for packages for procedures or promotional mechanics such as loyalty schemes or incentives for, for example, referring a friend.

Financial products

Marketers may choose to offer credit products to assist consumers in paying for their surgery. Consumer loans are regulated by The Office of Fair Trading (OFT) under the Consumer Credit Act 1974 (as amended) and the Consumer Credit (Advertisements) Regulations 2010. Those regulatory responsibilities will pass to the Financial Conduct Authority from April 2014.

67. Marketers should ensure that ads which offer credit for procedures do not have the effect of encouraging consumers to undergo unnecessary or unwanted interventions.

The GMC in its Guidance advises against doctors making claims about the quality of the services they provide or comparing their services with those provided by colleagues. Contact the GMC for information about compliance with Good Medical Practice against which all senior surgeons must be appraised by peer-group assessors each year.

Advice on cosmetic and surgical matters is available from the Independent Healthcare Advisory Services (IHAS), www.independenthealthcare.org.uk.

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.cap.org.uk/Bespoke>. The CAP website at <http://www.cap.org.uk/Advice> 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.

Clearcast is the body responsible for approving TV, Video on Demand and Teleshopping ads on behalf of its shareholders and broadcaster clients. They provide a range of clearance and training services. More information is available at www.clearcast.co.uk.

The Radio Centre is commercial radio's advertising clearance body. They provide a range of clearance and training services. More information is available at www.radiocentre.org

Committee of Advertising Practice

Mid City Place, 71 High Holborn

London WC1V 6QT

Telephone 020 7492 2200

Textphone 020 7242 8159

Email: enquiries@cap.org.uk

 [@CAP_UK](https://twitter.com/CAP_UK)

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