

## Consultation: VAT-exclusive pricing

**Question 2: Do you agree that Code rule 3.19 should be amended to allow VAT-exclusive prices to be given in advertisements provided they are clearly addressed to business consumers who pay no VAT or can recover VAT? If you disagree, please explain why.**

	<b>Respondent making points in favour of the proposal:</b>	<b>Summary of significant points:</b>	<b>BCAP's evaluation:</b>
<b>1.1</b>	Institute of Practitioners in Advertising (IPA)	Yes, we agree that Code rule 3.19 should be amended to allow VAT-exclusive prices to be given in advertisements provided they are clearly addressed to business consumers who pay no VAT or can recover VAT.	BCAP agrees.
<b>1.2</b>	Direct Marketing Association (DMA)	The DMA also agrees to the proposed changes to 3.19 to allow VAT exclusive prices to be stated in advertisements provided it is clear the advertisements are addressed to business customers who either pay no VAT or can reclaim any VAT paid. The proposed wording clearly sets out the requirements placed on an advertiser who wants to quote VAT exclusive prices.	BCAP agrees.
<b>1.3</b>	An organisation requesting confidentiality	The diversity of our product range lends itself to purchases by small business customers, who may be able to recover VAT. Therefore any advertisements and/or price claims addressed to business consumers who pay no VAT/ recover VAT would benefit from the option to display VAT-exclusive prices where appropriate	BCAP agrees. The proposed amendments to rule 3.19 will allow advertisers to make VAT-exclusive prices in advertisements which they cannot guarantee will be heard by a business audience only provided it is clear to whom the price claim is addressed.
	<b>Respondent making points against the proposal:</b>	<b>Summary of significant points:</b>	<b>BCAP's evaluation:</b>
<b>2.1</b>	Home Retail Group	<p>We are concerned that the change may simply lead to complexity and confusion rather than avoiding the misleading of consumers or providing clarity for advertisers.</p> <p>A rule that allows VAT exclusive advertising to trade consumers would work in media where the advertisement is clearly aimed at the trade (e.g. a trade publication, a specific business customer price list.) Where the advertisement is broadcast and therefore there is no control or targeting as to whom sees the advertisement then it is likely that consumers will be exposed to the price message.</p> <p>The message may be clearly expressed that the specific offer or price is directed to trade purchasers only, and this would not be an issue for items that trade purchasers only would purchase (large plant, machinery, heavy goods vehicles etc) but there are a huge area of products that consumers may also need to hire or purchase.</p> <ul style="list-style-type: none"> <li>- Small office home office supplies - office chairs, printers, printer supplies, stationary</li> <li>- Items for DI projects (usually for hire) - small cement mixers and other plant, skips</li> <li>- Small commercial vehicles - vans and minibuses</li> </ul>	<p>BCAP disagrees. In the broadcast media environment it is very difficult, if not impossible, for advertisers to ensure that their VAT-exclusive prices will only appear to business audiences, thereby making broadcast media an inflexible environment for business-to-business advertising. By amending rule 3.19 to focus on to whom the price claim is addressed, BCAP envisages that advertising could appear which included a price clearly addressed to business customers, exclusive of VAT, in a way that is clear to audiences, adheres to the spirit of the Code, and fosters a less restrictive business-to-business advertising environment.</p> <p>BCAP understands that there are likely to be products and services which appeal equally to a business and non-business consumer, but considers that if the price claims are addressed clearly it is possible to present the range of applicable prices which, in some cases, may mean presenting two prices, one inclusive of VAT and the other one exclusive of VAT. BCAP's proposed amendment would require advertisers to 'clearly' address price claims to the appropriate audience making it unlikely that the clarification the price is VAT-exclusive in on-screen small print insufficient. When making judgements, the ASA will consider the advertisement as a whole and consider whether the price claim is clearly addressed to business or non-business consumers. If appropriately addressed, BCAP considers that VAT-exclusive prices can be presented in a way that is not misleading for consumers. For the avoidance of doubt, all other rules in the Misleading Advertising section of the Code would apply, ensuring that advertisements do not mislead.</p>

		<p>The abuse that we can potentially see is where there are cross over products that can be purchased by consumers as well as trade customers, undue influence may be placed on the ex VAT price, even though the VAT rate and some text implying that the advert is aimed at trade customers may be present in the advert.</p> <p>We would urge BCAP when considering this proposal to make sure that adequate safeguards are included to ensure that both advertisers and regulators clearly understand how to ensure that such adverts do not mislead consumers, either as an unintended consequence of poorly constructed adverts or adverts deliberately designed to take advantage created by undue emphasis on ex - VAT prices that may mislead or confuse the "average consumer".</p>	
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**Question 3: Do you agree to the revised wording of Code rule 3.19? If you disagree, please explain why.**

	<b>Respondent making points in favour of the proposal:</b>	<b>Summary of significant points:</b>	<b>BCAP's evaluation:</b>
<b>3.1</b>	Institute of Practitioners in Advertising (IPA)	Yes, we agree to the revised wording of Code rule 3.19 (as it appears in Section 5 of the consultation document).	BCAP agrees.