

Removal of energy labelling rules and guidance

Committee of Advertising Practice and Broadcast Committee of Advertising Practice consultation on the removal of energy labelling and product fiche information rules from the UK Code of non-broadcast advertising and the UK Code of broadcast advertising.

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1. Executive Summary

The Committee of Advertising Practice (CAP), author of the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code) and the Broadcast Committee of Advertising Practice (BCAP), author of the UK Code of Broadcast Advertising (BCAP Code) are consulting on removing CAP Code rules 11.8 and 11.9, and BCAP Code rules 9.9 and 9.10, and accompanying Advertising Guidance.

CAP Code rules 11.8 and 11.9, and BCAP Code rules 9.9 and 9.10 (the rules) were introduced in 2011, and reflect requirements relating to the inclusion of energy labelling and product fiche information for specific products and in specific types of advertising. These requirements were as set out in Directive (EC) No 2010/30/EU, the legislation that applied at the time, and which was transposed into UK law by the [Energy Information Regulations 2011](#) (the 2011 Regulations). [Advertising Guidance on how to describe a product's energy efficiency class](#) (the guidance) which accompanied the rules was also published in 2011.

In 2017, [Regulation EU 2017/1369](#) repealed Directive (EC) No 2010/30/EU, and introduced amended energy labelling requirements and rescaled energy efficiency ratings for some of the product types covered by the legislation. The rules were amended to include a holding statement, to inform marketers of this change, and direct them to the applicable delegated regulations whilst the rescaling process for the new requirements was ongoing. That rescaling process completed between March 2021 and April 2023, depending on the product type; therefore, the existing rules and guidance no longer reflect current legislation.

Because of these changes, CAP and BCAP are obliged to consider how to update the rules, and have taken the opportunity to consider whether it is necessary for the UK Advertising Codes to reflect energy labelling legislation in its rules at all. This consultation is the result of that process.

As part of this process CAP and BCAP have engaged in discussions with the Department for Energy Security and Net Zero (DESNZ), the government department that has responsibility for energy labelling and information policy and legislation, and the Office of Product Safety and Standards (OPSS), the appointed Market Surveillance Authority, with responsibility for enforcing the Regulations. CAP and BCAP have considered whether it is necessary and proportionate for the requirements to be reflected in the Codes and enforced by the ASA. The ASA has received no complaints under these rules since they were introduced, and there is already a statutory body, the OPSS, which is responsible for the enforcement of the relevant regulations, has the expertise, and, for reasons explained in this document, is better placed to more effectively enforce the legal requirements. The removal of the rules from the Codes would not affect the requirements set out in legislation. Consumers and businesses can raise concerns with the OPSS, without contacting the ASA, and this would not be affected by the removal of the rules and guidance.

This document explains the background and legal framework (section 2), and the rationale for these proposals (section 3) are in full detail. It also provides an introduction to UK advertising regulation (section 5).

Respondents are invited to indicate whether they agree or disagree with CAP and BCAP's proposals (section 4).

The consultation will close at 5pm on 4 March 2025. For more information on how to respond, please see section 7.

2. Background and legal framework

2.1 Background to the current rules

CAP rules 11.8 and 11.9, and BCAP rules 9.9 and 9.10 were introduced in 2011, following discussion with the Department for the Environment, Food and Rural Affairs (DEFRA), the government department that was responsible for the legislation at that time. The rules reflected requirements set out in [Directive \(EC\) No 2010/30/EU](#), which were transposed into UK law by the [Energy Information Regulations 2011](#) (the 2011 Regulations). [Advertising Guidance on how to describe a product's energy efficiency class](#), which accompanied the rules was also published in 2011. The rules and guidance reflect the relevant legislation; they do not replace it. Following governmental changes, the department which is now responsible for the energy labelling and information policy and legislation is the Department for Energy Security and Net Zero (DESNZ), and the appointed Market Surveillance Authority is the Office of Product Safety and Standards (OPSS). The OPSS is the UK's national product regulator, within the Department for Business and Trade (DBT), and has responsibility for monitoring and enforcing the requirements in a range of product regulations, including the energy labelling regulations, to ensure compliance.

In 2017, [Regulation EU 2017/1369](#) repealed Directive (EC) No 2010/30/EU. Regulation EU 2017/1369 introduced amended energy labelling requirements and rescaled energy efficiency ratings for some of the product types covered by the legislation.

Following introduction of Regulation EU 2017/1369, the rules were amended to include a holding statement, to inform marketers of this change, and direct them to the applicable delegated regulations whilst the rescaling process for the new requirements was ongoing. The current rules, including that holding statement (italicised) are provided below.

2.2 Current CAP and BCAP rules

CAP rules

11.8 This rule must be read in conjunction with Directive (EC) No 2010/30/EU and the Energy Information Regulations 2011 on labelling and standard product information of the consumption of energy and other resources by energy-related products and its subsequent delegated regulations. The Directive introduces an information and labelling framework whereby delegated regulations will detail which products need to contain an energy efficiency rating or fiche. The rule only applies to products which are subject to a delegated regulation.

From 1 August 2017 Regulation EU 2017/1369 mandates a rescaling of existing energy labelling to provide more accurate information for consumers, including in advertising, where the energy efficiency class of a product and the range of classes available will need to be given. The existing delegated regulation continues to apply whilst that rescaling process is ongoing.

For more information on delegated regulations, go to [energy](#).

Marketing communications for specific energy-related products, subject to a delegated regulation, that include energy-related information or disclose price information, must include an indication of the product's energy efficiency class i.e. in the range A+++ to G.

- 11.9** This rule must be read in conjunction with Directive (EC) No 2010/30/EU and the Energy Information Regulations 2011 on labelling and standard product information of the consumption of energy and other resources by energy-related products and its subsequent delegated regulations. The Directive introduces an information and labelling framework whereby delegated regulations will detail which products need to contain an energy efficiency rating or fiche. The rule only applies to products which are subject to a delegated regulation.

From 1 August 2017 Regulation EU 2017/1369 mandates a rescaling of existing energy labelling to provide more accurate information for consumers, including in advertising, where the energy efficiency class of a product and the range of classes available will need to be given. The existing delegated regulation continues to apply whilst that rescaling process is ongoing.

For more information on delegated regulations, go to [energy](#).

Marketers must make product fiche information about products that fall under delegated regulations available to consumers before commitment.

BCAP rules

- 9.9** This rule must be read in conjunction with Directive (EC) No 2010/30/EU and the Energy Information Regulations 2011 on labelling and standard product information of the consumption of energy and other resources by energy-related products and its subsequent delegated regulations. The Directive introduces an information and labelling framework whereby delegated regulations will detail which products need to contain an energy efficiency rating or fiche. The rule only applies to products which are subject to a delegated regulation.

From 1 August 2017 Regulation EU 2017/1369 mandates a rescaling of existing energy labelling to provide more accurate information for consumers, including in advertising, where the energy efficiency class of a product and the range of classes available will need to be given. The existing delegated regulation continues to apply whilst that rescaling process is ongoing.

For more information on delegated regulations, go to [energy](#).

Advertisements for specific energy-related products, subject to a delegated regulation, that include energy-related information or disclose price information, must include an indication of the product's energy efficiency class i.e. in the range A+++ to G.

- 9.10** This rule must be read in conjunction with Directive (EC) No 2010/30/EU and the Energy Information Regulations 2011 on labelling and standard product information of the consumption of energy and other resources by energy-related products and its subsequent delegated regulations. The Directive introduces an information and labelling framework whereby delegated regulations will detail which products need to contain an energy efficiency rating or fiche. The rule only applies to products which are subject to a delegated regulation.

From 1 August 2017 Regulation EU 2017/1369 mandates a rescaling of existing energy labelling to provide more accurate information for consumers, including in advertising, where the energy efficiency class of a product and the range of classes

available will need to be given. The existing delegated regulation continues to apply whilst that rescaling process is ongoing.

For more information on delegated regulations, go to [energy](#).

Advertisers must make product fiche information about products that fall under delegated regulations available to consumers before commitment.

2.3 Changes since last rule update

The energy efficiency ratings rescaling process mandated in Regulation EU 2017/1369 completed between March 2021 and April 2023, depending on the product type. Therefore, it is necessary for these rules to be amended, or removed, to ensure they remain up to date.

EU Delegated regulations (which are now assimilated Great Britain (GB) law) set out what the requirements are for specific product types and the 2011 Regulations (Schedule 1) list which delegated regulations apply to which product type. Different regulations, and therefore different requirements about the information required, and where it should be included, apply to different product types.

Since the UK left the EU, Regulation EU 2017/1369 and all delegated regulations which apply are now assimilated GB law. EU law continues to apply in Northern Ireland, under the Windsor Framework Agreement.

Because of these changes, CAP and BCAP are obliged to review the rules, and have taken the opportunity to consider whether it is necessary for the Code to reflect energy labelling legislation in its rules at all. This consultation is the result of that process.

3. Proposals

CAP and BCAP have engaged in discussion with the Department for Energy Security and Net Zero (DESNZ), as the department responsible for the energy labelling and information policy and legislation, and the Office for Product Safety and Standards (OPSS) (as the relevant Market Surveillance Authority) and are consulting to remove these rules from the CAP and BCAP Code. The below provides important contextual information to the proposal.

The primary consideration, alongside others, is whether it is necessary, and proportionate for the energy labelling requirements to be reflected in the CAP and BCAP Codes and enforced by the ASA. The OPSS is responsible for enforcement of the relevant regulations, as the appointed governmental Market Surveillance Authority. The government guidance on these energy requirements: '[Regulations: energy information](#)', includes OPSS contact details which can be used if consumers or businesses have "*a specific enquiry about compliance or wish to contact us regarding suspected non-compliance*". The removal of the rules from the Codes would not affect the requirements set out in legislation. Therefore, consumers and businesses can raise concerns about non-compliance to the OPSS without contacting the ASA. This would not be affected by the removal of the rules from the Codes.

As the OPSS is the department with expertise on the enforcement of these regulations, CAP and BCAP consider it is better placed to more effectively enforce the legal requirements. In addition, the ASA has received no complaints under these rules for the whole period in which they have been in force, and there is no indication, that the ASA is aware of, of compliance issues. If compliance issues do exist, these are not being raised via the ASA system.

Although many Code rules do reflect requirements set out in legislation, an assessment is made on the need for rules to do so in each case. In some situations the Codes do not reflect legislation where the Codes were not considered the appropriate means of enforcement, and where there is a separate statutory enforcement body (see, for example, [CAP's removal of rules on distance selling](#), enforced by trading standards, and requirements for the display of vehicle CO2 and fuel consumption values, which are enforced by the Vehicle Certification Agency (VCA)).

CAP and BCAP propose, based on the above considerations, to remove the rules and guidance from the Codes.

4. Consultation questions

Respondents are invited to provide comments in answer to the questions below.

1. Do you object to CAP's proposal to remove Code rule 11.8 and 11.9 from the CAP Code, and the accompanying Advertising Guidance? If so, please indicate why.
2. Do you object to BCAP's proposal to remove Code rule 9.9 and 9.10 from the BCAP Code, and the accompanying Advertising Guidance? If so, please indicate why.

5. Introduction to UK advertising regulation

5.1 The Committee of Advertising Practice (CAP)

CAP is the self-regulatory body that creates, revises and enforces the UK Code of Non-Broadcast Advertising and Direct & Promotional Marketing (the CAP Code). The CAP Code covers non-broadcast marketing communications, which include those placed in traditional and new media, promotional marketing, direct marketing communications and marketing communications on marketers' own websites. The marketer has primary responsibility for complying with the CAP Code and their ads must comply with it. Ads that are judged not to comply with the Code must be withdrawn or amended. Parties that do not comply with the CAP Code could be subject to adverse publicity, resulting from rulings by the Advertising Standards Authority (ASA), or further sanctions including the denial of media space.

CAP's members include organisations that represent advertising, promotional and direct marketing and media businesses. Through their membership of CAP member organisations, or through contractual agreements with media publishers and carriers, those organisations agree to comply with the Code so that marketing communications are legal, decent, honest and truthful, and consumer confidence is maintained.

By practising self-regulation, the marketing community ensures the integrity of advertising, promotions and direct marketing. The value of self-regulation as an alternative to statutory control is recognised in EC Directives, including Directive 2005/29/EC (on unfair business to consumer commercial practices). Self-regulation is accepted by the Department for Business, Energy and Industrial Strategy and the courts as a first line of control in protecting consumers and the industry.

Further information about CAP is available at www.asa.org.uk.

5.2 The Broadcast Committee of Advertising Practice (BCAP)

BCAP is the regulatory body responsible for maintaining the UK Code of Broadcast Advertising (the BCAP Code) under agreement with the Office of Communications (Ofcom). Ofcom has a statutory duty, under the Communications Act 2003, to maintain standards in TV and radio advertisements. In 2004, Ofcom entrusted BCAP and the broadcast arm of the ASA with the regulation of broadcast advertisements in recognition of CAP and the ASA's successful regulation of non-broadcast marketing for over 40 years, and in line with better regulation principles.

The BCAP Code regulates all advertisements on television channels and radio stations licensed by Ofcom and all advertisements on Sianel Pedwar Cymru (S4C) and S4C digital, including teleshopping channels and any additional television service (including television text services and interactive television services). The BCAP Code is enforced against Ofcom-licensed broadcasters, Sianel Pedwar Cymru (S4C) and S4C digital. Broadcasters are required by the terms of their Ofcom licence, and, for S4C, by statute, to adhere to the standards set out in the BCAP Code.

BCAP members include broadcasters and trade associations representing advertisers, broadcasters and agencies. BCAP must seek advice on proposed Code changes from an expert consumer panel, the Advertising Advisory Committee (AAC). Under Section 324 of the Communications Act 2003, BCAP must consult on proposed Code changes. BCAP strives to ensure that its rule-making is transparent, accountable, proportionate, consistent

and targeted where action is needed, in accordance with the Communications Act 2003. Ofcom must approve Code changes before BCAP implements them.

Further information about BCAP and the AAC is available at www.asa.org.uk.

5.3 The Advertising Standards Authority (ASA)

The ASA is the independent body responsible for administering the CAP and BCAP Codes (the Codes) and ensuring that the self-regulatory system works in the public interest. The Codes require that all advertising is legal, decent, honest and truthful.

The ASA assesses complaints from the public and industry. Decisions on investigated complaints are taken by the independent ASA Council. The ASA Council's rulings are published on the ASA's website and made available to the media. If the ASA Council upholds a complaint about an ad, it must be withdrawn or amended.

An Independent Review Procedure exists for interested parties who are dissatisfied with the outcome of a case. CAP conducts compliance, monitoring and research to help enforce the ASA Council's decisions.

Information about the ASA is available at www.asa.org.uk.

5.4 Funding

The entire system is funded by a levy on the cost of advertising space, administered by the Advertising Standards Board of Finance (Asbof) and the Broadcast Advertising Standards Board of Finance (Basbof). Both finance boards operate independently of the ASA to ensure there is no question of funding affecting the ASA's decision-making.

Information about Asbof and Basbof is available at www.asa.org.uk/asbof and www.asa.org.uk/basbof.

6. Regulatory framework and the BCAP Code

6.1 Communications Act 2003

The [Communications Act 2003](#) (the Act) sets out provisions for the regulation of broadcasting and television and radio services, including provisions aimed at securing standards for broadcast advertisements. The most relevant standards objective to this consultation is:

[319\(2\)\(h\)](#) that the inclusion of advertising which may be misleading, harmful or offensive in television and radio services is prevented.

The Act requires Ofcom to set and, from time to time, review and revise, a Code containing standards for the content of broadcast advertisements carried by TV and radio services licensed under the Broadcasting Acts [1990](#) and [1996](#). Ofcom has contracted out the setting of advertising standards to BCAP under the [Contracting Out \(Functions Relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004](#). That function is exercised in consultation with and agreement of Ofcom.

7. How to respond and next steps

CAP and BCAP are committed to considering all responses carefully and with an open mind.

The following summarises the consultation process and subsequent stages of CAP's consideration of the proposed changes to the Code:

the consultation will run for 4 weeks, closing at 5pm on 4 March 2025;

- CAP will consider each response carefully and evaluate all significant points explaining the reasons behind the decisions they make; and
- the evaluation will be published on the CAP website when the outcome of the consultation is announced.

How to respond

CAP and BCAP invite written comments and supporting information on the proposals contained in this document by 5pm on 4 March 2025.

Responses via email with attachments in Microsoft Word format are preferred to assist in their processing.

Please send responses to: AdPolicy@cap.org.uk

If you are unable to respond by email you may submit your response by post to: Regulatory Policy Team, Committee of Advertising Practice, Castle House, 37-45 Paul Street, London EC2A 4LS

Confidentiality

CAP and BCAP considers that everyone who is interested in the consultation should see the consultation responses. In its evaluation document, CAP will publish all the relevant significant comments made by respondents and identify all non-confidential respondents. The evaluation and copies of original consultation responses will be published with the outcome of the consultation.


All comments will be treated as non-confidential unless you state that all or a specified part of your response is confidential and should not be disclosed. If you reply by email, unless you include a specific statement to the contrary in your response, the presumption of non-confidentiality will override any confidentiality disclaimer generated by your organisation's IT system. If part of a response is confidential, please put that in a separate annex so that nonconfidential parts may be published with your identity. Confidential responses will be included in any statistical summary of numbers of comments received.

Contact us

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