

Annex 2

Mapping Document

1. The mapping document provides a side-by-side comparison of the existing and the proposed CAP Code.
2. In Part 2 of its consultation document, CAP has endeavoured to set out all the proposed substantive changes between the existing and the proposed Code. It has, nevertheless, asked the reader to bring to its attention any other such changes that are not reflected in Part 2 and that should be given dedicated consideration.
3. The mapping document contains two rows of boxes. The left hand boxes include the present rules and the right hand boxes include the proposed rules. A proposed new rule is indicated by a rule in the right hand box adjacent to an empty left hand box. A proposal to delete a rule is indicated by a rule in the left hand box adjacent to an empty right hand box.

PRESENT CODE	PROPOSED CODE
1.1 The Code applies to:	The Code applies to:
a) advertisements in newspapers, magazines, brochures, leaflets, circulars, mailings, e-mails, text transmissions, fax transmissions, catalogues, follow-up literature and other electronic and printed material	a) advertisements in newspapers, magazines, brochures, leaflets, circulars, mailings, e-mails, text transmissions (including SMS and MMS), fax transmissions, catalogues, follow-up literature and other electronic or printed material
b) posters and other promotional media in public places, including moving images	b) posters and other promotional media in public places, including moving images
c) cinema and video commercials	c) cinema, video and DVD advertisements
d) advertisements in non-broadcast electronic media, including online advertisements in paid-for space (eg banner and pop-up advertisements)	d) advertisements in non-broadcast electronic media, including but not limited to: online advertisements in paid-for space (including banner or pop-up advertisements and online video advertisements); paid-for search listings; preferential listings on price comparison sites; viral advertisements (see 'These definitions apply to the Code (l)'); in-game advertisements; commercial classified advertisements; advergames that feature in display advertisements; advertisements transmitted by Bluetooth; advertisements distributed through web widgets and online sales promotions and prize promotions.
e) viewdata services	
f) marketing databases containing consumers' personal information	e) marketing databases containing consumers' personal information
g) sales promotions	f) sales promotions in non-broadcast media
h) advertisement promotions	g) advertorials (See 'These definitions apply to the Code (k)').

PRESENT CODE	PROPOSED CODE
1.2 The Code does not apply to:	The Code does not apply to:
a) broadcast commercials. (The BCAP Advertising Standards Codes set out the rules that govern broadcast advertisements on any television channel and radio station licensed by Ofcom.)	a) broadcast advertisements. (The BCAP Code sets out the rules that govern broadcast advertisements on any television channel or radio station licensed by Ofcom)
b) the contents of premium rate services, which are the responsibility of PhonepayPlus; marketing communications that promote these services are subject to PhonepayPlus	b) the operation of premium-rate services, which are the responsibility of PhonepayPlus; marketing communications that promote those services are subject to PhonepayPlus regulation and to the CAP Code or the BCAP Code. All marketing

regulation and to the Code	communications for premium-rate services are subject to the rules that cover non-operational elements of communications, for example serious or widespread offence, social responsibility and the truthfulness of claims that do not relate to specific characteristics of a premium-rate service
c) marketing communications in foreign media. Direct marketing that originates outside the UK but is targeted at UK consumers will be subject to the jurisdiction of the relevant authority in the country where it originates so long as that authority operates a suitable cross-border complaint system. If it does not, the ASA will take what action it can. All members of the European Union, and many non-European countries, have self-regulatory organisations that are members of the European Advertising Standards Alliance (EASA). EASA co-ordinates the cross-border complaints system for its members (which include the ASA).	c) marketing communications in foreign media. Direct marketing communications that originate outside the United Kingdom and sales promotions and advertisements in paid-for space that are published on non-UK-registered websites, if targeted at UK consumers, are subject to the jurisdiction of the relevant authority in the country from which they originate if that authority operates a suitable cross-border complaint system. If it does not, the ASA will take what action it can. Most members of the European Union, and many non-European countries, have a self-regulatory organisation that is a member of the European Advertising Standards Alliance (EASA). EASA co-ordinates the cross-border complaints system for its members (which include the ASA)
d) Health-related claims in marketing communications addressed only to the medical, dental, veterinary and allied professions	d) claims, in marketing communications in media addressed only to medical, dental, veterinary or allied practitioners, that relate to those practitioners' expertise
e) classified private advertisements, including those appearing online	e) classified private advertisements, including those appearing online
f) statutory, public, police and other official notices/information, as opposed to marketing communications, produced by public authorities and the like	f) statutory, public, police and other official notices or information, but not marketing communications, produced by public authorities and the like
g) works of art exhibited in public or private	g) works of art exhibited in public or private
h) private correspondence, including correspondence between companies and their customers about existing relationships or past purchases	h) private correspondence, including correspondence between organisations and their customers about existing relationships or past purchases
i) live oral communications, including telephone calls	i) live oral communications, including telephone calls and announcements or direct approaches from street marketers
j) press releases and other public relations material, so long as they do not fall under 1.1 above	j) press releases and other public relations material not covered by ('The Code applies to')
k) editorial content, for example of the media and of books	k) editorial content, for example of the media or of books and regular competitions such as crosswords
l) regular competitions such as crosswords	see (k) above
m) flyposting (most of which is illegal)	m) flyposting (most of which is illegal)
n) packages, wrappers, labels, tickets, timetables and price lists unless they	n) packages, wrappers, labels, tickets, timetables and price lists unless they advertise another

advertise another product, a sales promotion or are visible in a marketing communication	product or a sales promotion or are visible in a marketing communication
o) point of sale displays, except those covered by the sales promotion rules and the rolling paper and filter rules	o) point-of-sale displays, except those covered by the sales promotion rules or the rolling paper and filter rules
p) election advertisements as defined in clause 12.1	p) political advertisements as defined in Section 7
q) website content, except sales promotions and advertisements in paid-for space	q) website content not covered by ('The Code applies to (d)'), including (but not limited to) editorial content, news or public relations material, corporate reports and natural listings on a search engine or a price comparison site
r) sponsorship; marketing communications that refer to sponsorship are covered by the Code	r) sponsorship; marketing communications that refer to sponsorship are covered by the Code
s) customer charters and codes of practice.	s) customer charters and codes of practice.

PRESENT CODE	PROPOSED CODE
1.3 These definitions apply to the Code:	These definitions apply to the Code:
a) a product encompasses goods, services, ideas, causes, opportunities, prizes or gifts	a) a product encompasses goods, services, ideas, causes, opportunities, prizes or gifts
b) a consumer is anyone who is likely to see a given marketing communication, whether in the course of business or not	b) a consumer is anyone who is likely to see a given marketing communication, whether in the course of business or not
c) the United Kingdom rules cover the Isle of Man and the Channel Islands	c) the United Kingdom covers the Isle of Man and the Channel Islands
d) a claim can be implied or direct, written, spoken or visual	d) a claim can be implied or direct, written, spoken or visual; the name of a product can constitute a claim
e) the Code is divided into numbered clauses	e) the Code is divided into numbered rules
f) a marketing communication includes all forms of communication listed in 1.1	f) a marketing communication includes all forms of communication listed in ('The Code applies to')
g) a marketer includes an advertiser, promoter or direct marketer	g) a marketer includes an advertiser, promoter or direct marketer
h) a supplier is anyone who supplies products that are sold by distance selling marketing communications (and may also be the marketer)	h) a supplier is anyone who supplies a product that is sold by a distance-selling marketing communication (and can be the marketer)
i) a child is anyone under 16.	i) a child is anyone under 16
j) a corporate subscriber includes corporate bodies such as limited companies in the UK, limited liability partnerships in England, Wales	j) a corporate subscriber includes corporate bodies such as limited companies in the UK, limited liability partnerships in England, Wales and

and N. Ireland or any partnerships in Scotland. It also includes schools, hospitals, Government departments or agencies and other public bodies. It does not include sole traders or non-limited liability partnerships in England, Wales and N. Ireland. See clause 43.4	Northern Ireland or any partnerships in Scotland. It also includes schools, hospitals, Government departments or agencies and other public bodies. It does not include sole traders or non-limited liability partnerships in England, Wales and Northern Ireland. See rule 10.14
	k) An advertorial is 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
	l) A viral advertisement is an e-mail, text or other non-broadcast marketing communication designed to stimulate significant circulation by recipients to generate commercial or reputational benefit to the marketer. Viral advertisements are usually put into circulation (“seeded”) by the marketer with a request, either explicit or implicit, for the message to be forwarded to others. Sometimes they include a video clip or a link to website material or are part of a sales promotion campaign.

PRESENT CODE	PROPOSED CODE
1.4 These criteria apply to the Code:	These criteria apply to the Code:
a) the ASA Council’s interpretation of the Code is final	a) the ASA Council’s interpretation of the Code is final
	b) if it is not clear whether a communication falls within the remit of the Code, the ASA will be more likely to apply the Code if the material complained about is in paid-for space
b) conformity with the Code is assessed according to the marketing communication’s probable impact when taken as a whole and in context. This will depend on the medium in which the marketing communication appeared, the audience and its likely response, the nature of the product and any additional material distributed to consumers	c) compliance with the Code is assessed according to the marketing communication’s probable impact when taken as a whole and in context. That will depend on the medium in which the marketing communication appeared, the audience and its likely response, the nature of the product and any material distributed to consumers
c) the Code is indivisible; marketers must conform with all appropriate rules	1.4 Marketers must comply with all general rules and with relevant sector-specific rules.
	d) the Non-broadcast ASA Council will have regard to decisions made by the Broadcast ASA Council under the BCAP Code and, similarly, the Broadcast ASA Council will have regard to decisions made by the Non-broadcast ASA

	Council under the CAP Code. Factors that help to determine whether an ASA adjudication is likely to apply across media include, but are not limited to, the characteristics of the medium, how the advertisement is targeted, the context in which a claim is made and the extent to which the relevant CAP Code provisions correspond to those in the BCAP Code.
d) the Code does not have the force of law and its interpretation will reflect its flexibility. The Code operates alongside the law; the Courts may also make rulings on matters covered by the Code	e) the Code does not have the force of law and its interpretation will reflect its flexibility. The Code operates alongside the law; the Courts may make rulings on matters covered by the Code
e) an indication of the statutory rules governing marketing is given on www.cap.org.uk ; professional advice should be taken if there is any doubt about their application	f) an indication of the statutory rules governing marketing communications is given on www.cap.org.uk ; professional advice should be taken about their application
f) no spoken or written communications with the ASA or CAP should be understood as containing legal advice	g) no spoken or written communication from the ASA or CAP should be understood as containing legal advice
g) the Code is primarily concerned with the content of advertisements, promotions and direct marketing communications and not with terms of business or products themselves. Some rules, however, go beyond the content, for example those that cover the administration of sales promotions, the suitability of promotional items, the delivery of products ordered through an advertisement and the use of personal information in direct marketing. Editorial content is specifically excluded from the remit of the Code (see 1.2k), although it might be a factor in determining the context in which marketing communications are judged (see 1.4b)	h) the Code is primarily concerned with the content of advertisements, promotions and direct marketing communications and not with terms of business or products. Some rules, however, go beyond content, for example those that cover the administration of sales promotions, the suitability of promotional items, the delivery of products ordered through an advertisement and the use of personal information in direct marketing. Editorial content is specifically excluded from the remit of the Code (see 'The Code does not apply to (k)') although it might be a factor in determining the context in which a marketing communication is judged (see 'These criteria apply to the Code (c)')
h) the rules make due allowance for public sensitivities but will not be used by the ASA to diminish freedom of speech unjustifiably	i) the Code makes due allowance for public sensitivities but will not be used by the ASA to diminish freedom of speech unjustifiably
i) the ASA does not arbitrate between conflicting ideologies.	j) the ASA does not arbitrate between conflicting ideologies
j) In assessing conformity with the Code, the ASA may take account of honest market practices and the general principle of good faith in the traders' field of activity.	k) In assessing compliance with the Code, the ASA may take account of honest market practices and the general principle of good faith in the traders' field of activity.

GENERAL RULES	
PRESENT CODE	PROPOSED CODE
Principles	
2.1 All marketing communications should be legal, decent, honest and truthful.	1.1 Marketing communications should be legal, decent, honest and truthful.
2.2 All marketing communications should be prepared with a sense of responsibility to consumers and to society.	1.3 Marketing communications must be prepared with a sense of responsibility to consumers and to society.
2.3 All marketing communications should respect the principles of fair competition generally accepted in business.	1.6 Marketing communications must respect the principles of fair competition generally accepted in business.
2.4 No marketing communication should bring advertising into disrepute.	1.5 No marketing communication should bring advertising into disrepute.
2.5 Marketing communications must conform with the Code. Primary responsibility for observing the Code falls on marketers. Others involved in preparing and publishing marketing communications such as agencies, publishers and other service suppliers also accept an obligation to abide by the Code.	1.8 Marketing communications must comply with the Code. Primary responsibility for observing the Code falls on marketers. Others involved in preparing or publishing marketing communications, such as agencies, publishers and other service suppliers, also accept an obligation to abide by the Code.
2.6 Any unreasonable delay in responding to the ASA's enquiries may be considered a breach of the Code.	1.7 Any unreasonable delay in responding to the ASA's enquiries may be considered a breach of the Code.
2.7 The ASA and CAP will on request treat in confidence any genuinely private or secret material supplied unless the Courts or officials acting within their statutory powers compel its disclosure.	Background The ASA and CAP will treat in confidence any genuinely private or secret material supplied unless the Courts or officials acting within their statutory powers compel its disclosure.
2.8 The Code is applied in the spirit as well as in the letter.	1.2 Marketing communications must reflect the spirit, not merely the letter, of the Code.
2.9	1.9

Marketers should deal fairly with consumers.	Marketers should deal fairly with consumers.
	<p>1.4</p> <p>Marketers must comply with all general rules and with relevant sector-specific rules.</p>

PRESENT CODE	PROPOSED CODE
Substantiation	
<p>3.1</p> <p>Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation.</p> <p>Relevant evidence should be sent without delay if requested by the ASA or CAP. The adequacy of evidence will be judged on whether it supports both the detailed claims and the overall impression created by the marketing communication. The full name and geographical business address of marketers should be provided without delay if requested by the ASA or CAP.</p>	<p>3.7</p> <p>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. The ASA may regard claims as misleading in the absence of adequate substantiation.</p> <p>1.7</p> <p>Any unreasonable delay in responding to the ASA's enquiries may be considered a breach of the Code.</p> <p>Principle:</p> <p>The ASA will take into account the impression created by marketing communications as well as specific claims. It will adjudicate on the basis of the likely effect on consumers, not the marketer's intentions.</p>
<p>3.2</p> <p>If there is a significant division of informed opinion about any claims made in a marketing communication they should not be portrayed as generally agreed.</p>	<p>3.13</p> <p>Marketing communications must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists.</p>
<p>3.3</p> <p>Claims for the content of non-fiction books, tapes, videos and the like that have not been independently substantiated should not exaggerate the value, accuracy, scientific validity or practical usefulness of the product.</p>	<p>3.8</p> <p>Claims for the content of non-fiction publications should not exaggerate the value, accuracy, scientific validity or practical usefulness of the product. Marketers must ensure that claims that have not been independently substantiated but are based merely on the content of a publication do not mislead consumers.</p>

<p>3.4</p> <p>Obvious untruths or exaggerations that are unlikely to mislead and incidental minor errors and unorthodox spellings are all allowed provided they do not affect the accuracy or perception of the marketing communication in any material way.</p>	<p>3.2</p> <p>Obvious exaggerations (“puffery”) and claims that the consumer is unlikely to take literally are allowed provided they do not affect the accuracy or perception of the marketing communication in a material way.</p>
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PRESENT CODE	PROPOSED CODE
Legality	
<p>4.1</p> <p>Marketers have primary responsibility for ensuring that their marketing communications are legal. Marketing communications should comply with the law and should not incite anyone to break it.</p>	<p>1.10</p> <p>Marketers have primary responsibility for ensuring that their marketing communications are legal. Marketing communications should comply with the law and should not incite anyone to break it.</p>
<p>4.2</p> <p>Marketers should not state or imply that a product can legally be sold if it cannot.</p>	<p>1.10.1</p> <p>Marketers must not state or imply that a product can legally be sold if it cannot.</p>
<p>4.3</p> <p>Marketers should not present rights given to consumers in law as a distinctive feature of their offer.</p>	<p>3.12</p> <p>Marketers should not present rights given to consumers in law as a distinctive feature of their offer.</p>

PRESENT CODE	PROPOSED CODE
Decency (ie avoiding serious or widespread offence)	
	<p>Principle</p> <p>Marketers should take account of the prevailing standards and the context in which a marketing communication is likely to appear to minimise the risk of causing harm or serious or widespread</p>

	offence.
<p>5.1</p> <p>Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation or disability. Compliance with the Code will be judged on the context, medium, audience, product and prevailing standards of decency.</p>	<p>4.1</p> <p>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.</p> <p>Marketing communications may be distasteful without necessarily breaching this rule. Marketers are urged to consider public sensitivities before using potentially offensive material.</p> <p>The fact that a product is offensive to some people is not grounds for finding a marketing communication in breach of the Code.</p>
<p>5.2</p> <p>Marketing communications may be distasteful without necessarily conflicting with 5.1 above. Marketers are urged to consider public sensitivities before using potentially offensive material.</p>	<p>4.1</p> <p>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.</p> <p>Marketing communications may be distasteful without necessarily breaching this rule. Marketers are urged to consider public sensitivities before using potentially offensive material.</p> <p>The fact that a product is offensive to some people is not grounds for finding a marketing communication in breach of the Code.</p>
<p>5.3</p> <p>The fact that a particular product is offensive to some people is not sufficient grounds for objecting to a marketing communication for it.</p>	<p>4.1</p> <p>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.</p> <p>Marketing communications may be distasteful without necessarily breaching this rule. Marketers are urged to consider public sensitivities before</p>

	<p>using potentially offensive material.</p> <p>The fact that a product is offensive to some people is not grounds for finding a marketing communication in breach of the Code.</p>
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PRESENT CODE	PROPOSED CODE
Honesty	
6.1	
<p>Marketers should not exploit the credulity, lack of knowledge or inexperience of consumers.</p>	

PRESENT CODE	PROPOSED CODE
Truthfulness	
7.1	3.1
<p>No marketing communication should mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.</p>	<p>Marketing communications must not materially mislead.</p>
	3.10
	<p>Qualifications must be clear to consumers who see or hear the marketing communication only once.</p>
	3.11
	<p>Marketing communications must not exaggerate the capability or performance of a product; claims must be based on normal use.</p>
7.2	3.3
<p>Marketing communications must not omit, hide or provide in an unclear, unintelligible, ambiguous or untimely manner material information if that omission or presentation is likely to affect consumers' decisions about whether and how to buy the advertised product, unless the information is obvious from the context. If the advertisement is limited by time or space, the ASA will take</p>	<p>Marketing communications must not mislead the consumer by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner.</p> <p>Material information is information that the</p>

<p>into account steps that the advertiser has taken to make that information available to consumers by other means.</p> <p>For marketing communications that quote prices for advertised products, material information includes:</p>	<p>consumer needs to make informed decisions about whether or how to buy a product. Whether the omission or presentation of material information is likely to mislead the consumer depends on the context, the medium and, if the medium of the marketing communication is constrained by time or space, the measures that the marketer takes to make that information available to the consumer by other means.</p> <p>3.4</p> <p>For marketing communications that quote prices for advertised products, material information [for the purposes of 3.3] includes:</p>
<p>a) the main characteristics of the product</p>	<p>3.4.1</p> <p>the main characteristics of the product</p>
<p>b) the identity (eg trading name) and geographical address of the marketer and any other trader on whose behalf the advertiser is acting</p>	<p>3.4.2</p> <p>the identity (for example, a trading name) and geographical address of the marketer and any other trader on whose behalf the marketer is acting</p>
<p>c) the price of the advertised product, including taxes; or where the nature of the product is such that the price cannot be calculated in advance, the manner in which the price is calculated</p>	<p>the price of the advertised product, including taxes, or, if the nature of the product is such that the price cannot be calculated in advance, the manner in which the price is calculated</p>
	<p>3.4.3</p> <p>the price of the advertised product, including taxes, or, if the nature of the product is such that the price cannot be calculated in advance, the manner in which the price is calculated</p>
<p>d) delivery charges</p>	<p>3.4.4</p> <p>delivery charges</p>
<p>e) the arrangement for payment, delivery, performance or complaint handling, if those differ from the arrangements that consumers are likely to reasonably expect</p>	<p>3.4.5</p> <p>the arrangements for payment, delivery, performance or complaint handling, if those differ from the arrangements that consumers are likely to reasonably expect</p>
<p>f. that consumers have the right to withdraw or cancel, if they have that right (see 42.2(f)).</p>	<p>3.4.6</p> <p>that consumers have the right to withdraw or cancel, if they have that right (see 3.55).</p>
	<p>If the marketing communication encourages a consumer to buy a product through a distance-</p>

	selling mechanism, please refer to Section 9, Direct marketing and distance-selling.
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PRESENT CODE	PROPOSED CODE
Matters of opinion	
8.1 Marketers may give a view about any matter, including the qualities or desirability of their products, provided it is clear that they are expressing their own opinion rather than stating a fact. Assertions that go beyond subjective opinions are subject to 3.1 above (also see 12.1 below).	3.6 Subjective claims must not mislead the consumer; marketing communications must not imply that expressions of opinion are objective claims.

PRESENT CODE	PROPOSED CODE
Fear and distress	
9.1 No marketing communication should cause fear or distress without good reason. Marketers should not use shocking claims or images merely to attract attention.	4.2 Marketing communications must not cause fear or distress without justifiable reason; if it can be justified, the fear or distress should not be excessive. Marketers must not use a shocking claim or image merely to attract attention.
9.2 Marketers may use an appeal to fear to encourage prudent behaviour or to discourage dangerous or ill-advised actions; the fear likely to be aroused should not be disproportionate to the risk.	4.2 Marketing communications must not cause fear or distress without justifiable reason; if it can be justified, the fear or distress should not be excessive. Marketers must not use a shocking claim or image merely to attract attention.
9.3 Marketers should not mislead about the nature or extent of the risk to the personal security of consumers or their families if consumers do not buy the advertised product.	4.2 Marketing communications must not cause fear or distress without justifiable reason; if it can be justified, the fear or distress should not be excessive. Marketers must not use a shocking claim or image merely to attract attention.
9.4 Marketers should not explicitly inform consumers that, if they do not buy the product or service, the marketer's job or livelihood will be jeopardised.	3.15 Marketing communications must not explicitly claim that the advertiser's job or livelihood is in jeopardy if consumers do not buy the advertised product.

PRESENT CODE	PROPOSED CODE
Safety	

10.1 Marketing communications should not condone or encourage unsafe practices. Particular care should be taken with marketing communications addressed to or depicting children (see section 47).	4.5 Marketing communications, especially those addressed to or depicting a child, must not condone or encourage an unsafe practice (see Section 12).
10.2 Consumers should not be encouraged to drink and drive. Marketing communications should, where appropriate, include a prominent warning on the dangers of drinking and driving and should not suggest that the effects of drinking alcohol can be masked.	4.6 Marketing communications must not encourage consumers to drink and drive. Marketing communications must, where relevant, include a prominent warning on the dangers of drinking and driving and must not suggest that the effects of drinking alcohol can be masked.
	4.7 Marketers must take particular care not to include in their marketing communications visual effects or techniques that are likely to adversely affect members of the public with photosensitive epilepsy.

PRESENT CODE	PROPOSED CODE
Violence and anti-social behaviour	
11.1 Marketing communications should contain nothing that condones or is likely to provoke violence or anti-social behaviour.	4.4 Marketing communications must contain nothing that is likely to condone or encourage violence or anti-social behaviour.

PRESENT CODE	PROPOSED CODE
Political advertising	Section 7 – Political Advertisements
12.1 Any advertisement or direct marketing communication, whenever published or distributed, whose principal function is to influence voters in local, regional, national or international elections or referendums is exempt from the Code.	7.1 Marketing communications, whenever published or distributed, whose principal function is to influence voters in a local, regional, national or international election or referendum are exempt from the Code.
12.2 There is a formal distinction between Government policy and that of political parties. Marketing communications (see	7.2 Marketing communications by central or local government, as distinct from those concerning

clauses 1.1 and 1.2) by central or local government, as distinct from those concerning party policy, are subject to the Code.	party policy, are subject to the Code.
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PRESENT CODE	PROPOSED CODE
Protection of privacy	
	Principle Individuals should be protected from unwarranted infringements of privacy.
13.1 Marketers should not unfairly portray or refer to people in an adverse or offensive way. Marketers are urged to obtain written permission before:	6.1 Marketers must not unfairly portray or refer to anyone in an adverse or offensive way unless that person has given the marketer written permission to allow it. Marketers are urged to obtain written permission before:
a referring to or portraying members of the public or their identifiable possessions; the use of crowd scenes or general public locations may be acceptable without permission	6.1.1 referring to or portraying a member of the public or his or her identifiable possession; the use of a crowd scene or a general public location may be acceptable without permission
b referring to people with a public profile; references that accurately reflect the contents of books, articles or films may be acceptable without permission	6.1.2 referring to a person with a public profile; references that accurately reflect the contents of a book, an article or a film might be acceptable without permission
c implying any personal approval of the advertised product; marketers should recognise that those who do not wish to be associated with the product may have a legal claim.	6.1.3 implying any personal approval of the advertised product; marketers should recognise that those who do not want to be associated with the product could have a legal claim.
13.2 Prior permission may not be needed when the marketing communication contains nothing that is inconsistent with the position or views of the person featured.	6.1 Marketers must not unfairly portray or refer to anyone in an adverse or offensive way unless that person has given the marketer written permission to allow it. Marketers are urged to obtain written permission before:

	<p>6.1.1</p> <p>referring to or portraying a member of the public or his or her identifiable possession; the use of a crowd scene or a general public location may be acceptable without permission</p> <p>6.1.2</p> <p>referring to a person with a public profile; references that accurately reflect the contents of a book, an article or a film might be acceptable without permission</p> <p>6.1.3</p> <p>implying any personal approval of the advertised product; marketers should recognise that those who do not want to be associated with the product could have a legal claim.</p> <p>Prior permission might not be needed if the marketing communication contains nothing that is inconsistent with the position or views of the featured person.</p>
<p>13.3</p> <p>References to anyone who is deceased should be handled with particular care to avoid causing offence or distress.</p>	<p>4.3</p> <p>References to anyone who is dead must be handled with particular care to avoid causing offence or distress.</p>
<p>13.4</p> <p>Members of the Royal Family should not normally be shown or mentioned in marketing communications without their prior permission. Incidental references unconnected with the advertised product, or references to material such as books, articles or films about members of the Royal Family, may be acceptable.</p>	<p>6.2</p> <p>Members of the Royal Family should not normally be shown or mentioned in a marketing communication without their prior permission but an incidental reference unconnected with the advertised product, or a reference to material such as a book, article or film about a member of the Royal Family, may be acceptable.</p>
<p>13.5</p> <p>The Royal Arms and Emblems should be used only with the prior permission of the Lord Chamberlain's office. References to</p>	<p>3.52</p> <p>Marketing communications must not use the Royal Arms or Emblems without prior permission from the Lord Chamberlain's office. References to a</p>

Royal Warrants should be checked with the Royal Warrant Holders' Association.	Royal Warrant should be checked with the Royal Warrant Holders' Association.
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PRESENT CODE	PROPOSED CODE
Testimonials and endorsements	
<p>14.1</p> <p>Marketers should hold signed and dated proof, including a contact address, for any testimonial they use. Unless they are genuine opinions taken from a published source, testimonials should be used only with the written permission of those giving them.</p>	<p>3.45</p> <p>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.</p> <p>3.48</p> <p>Marketing communications must not feature a testimonial without permission. If they are genuine statements taken from a published source, quotations from publications and references to a test, trial, professional endorsement, research facility or professional journal may be acceptable without express permission.</p>
<p>14.2</p> <p>Testimonials should relate to the product being advertised.</p>	<p>3.46</p> <p>Testimonials must relate to the advertised product.</p>
<p>14.3</p> <p>Testimonials alone do not constitute substantiation and the opinions expressed in them must be supported, where necessary, with independent evidence of their accuracy. Any claims based on a testimonial must conform with the Code.</p>	<p>3.47</p> <p>Claims that are likely to be interpreted as factual and appear in a testimonial must not mislead the consumer.</p>
<p>14.4</p> <p>Fictitious testimonials should not be presented as though they are genuine.</p>	<p>3.45</p> <p>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.</p> <p>3.2</p> <p>Obvious exaggerations (“puffery”) and claims that the consumer is unlikely to take literally are allowed provided they do not affect the accuracy or perception of the marketing communication in a</p>

	material way.
14.5 Unless they are genuine statements taken from a published source, references to tests, trials, professional endorsements, research facilities and professional journals should be used only with the permission of those concerned.	3.48 Marketing communications must not feature a testimonial without permission. If they are genuine statements taken from a published source, quotations from publications and references to a test, trial, professional endorsement, research facility or professional journal may be acceptable without express permission.
14.6 Marketers should not refer in marketing communications to advice received from CAP or imply any endorsement by the ASA or CAP.	3.49 Marketers must not refer in a marketing communication to advice received from CAP or imply endorsement by the ASA or CAP.
14.7 Marketers should not display a trust mark, quality mark or equivalent without having obtained the necessary authorisation. Marketers must not claim that they, or any other entity that features in their marketing communications, or their products have been approved, endorsed or authorised by a public or private body if it has not or without complying with the terms of the approval.	3.50 Marketing communications must not display a trust mark, quality mark or equivalent without the necessary authorisation. Marketing communications must not claim that the marketer (or any other entity referred to), the marketing communication or the advertised product has been approved, endorsed or authorised by any public or other body if it has not or without complying with the terms of the approval, endorsement or authorisation.
14.8 Marketers should not claim to be a signatory to a code of conduct if they are not. They should not falsely claim that a code of conduct has an endorsement from a public or other body.	3.51 Marketing communications must not falsely claim that the marketer, or other entity referred to in the marketing communication, is a signatory to a code of conduct. They must not falsely claim that a code of conduct has an endorsement from a public or other body.

PRESENT CODE	PROPOSED CODE
Prices	
(see CAP Help Notes on Lowest Price Claims and Price Promises and on Retailers' Price Comparisons)	<u>Price comparisons</u> Cross-reference: CAP has published a Help Note on Retailers' Price Comparisons and a Help Note on Lowest Price Claims and Price Promises.
	Principle

	Price statements in marketing communications should take account of the Department for Business, Enterprise and Regulatory Reform's (BERR's) Pricing Practices Guide.
	<p>Definition</p> <p>Price statements include statements about the manner in which the price will be calculated as well as definite prices.</p>
15.1	<p>3.17</p> <p>Price statements must not mislead by omission, undue emphasis or distortion. They must relate to the product featured in the marketing communication.</p>
15.2	<p>3.18</p> <p>Quoted prices must include non-optional taxes, duties, fees and charges that apply to all or most buyers. VAT-exclusive prices may be given only if all or most consumers pay no VAT or can recover VAT; marketing communications that quote VAT-exclusive prices must prominently state the amount or rate of VAT payable if some consumers are likely to pay VAT.</p> <p>3.19</p> <p>If a tax, duty, fee or charge cannot be calculated in advance, for example, because it depends on the consumer's circumstances, the marketing communication must make clear that it is excluded from the advertised price and state how it is calculated.</p>
15.3	<p>3.21</p> <p>If the price of one product depends on another, marketing communications must make clear the extent of the commitment the consumer must make to obtain the advertised price.</p>
15.4	<p>3.22</p> <p>Price claims such as "up to" and "from" must not exaggerate the availability or amount of benefits likely to be obtained by the consumer.</p>

	<p><u>Price comparisons</u></p> <p>3.39</p> <p>Marketing communications that include a price comparison must state the basis of the comparison. Comparisons with a competitor price must be with the price for an identical or substantially equivalent product and must explain significant differences between the products. If the competitor offers more than one similar product, marketers should compare their price with the price for the competitor's product that is most similar to the advertised product.</p>
15.5	<p>3.40</p> <p>Marketing communications may compare a price with a recommended retail price (RRP) if the RRP does not differ significantly from the price at which the product is generally sold.</p>
	<p>3.20</p> <p>Marketing communications that state prices must also state applicable delivery, freight or postal charges or, if those cannot reasonably be calculated in advance, state that such charges are payable.</p>

PRESENT CODE	PROPOSED CODE
Availability of products	
	<p>3.28.3</p> <p>marketing communications must state restrictions on the availability of products, for example, geographical restrictions or age limits.</p>
16.2	<p>3.27</p> <p>Marketers must make a reasonable estimate of demand for advertised products.</p> <p>3.28.2</p> <p>if the marketer does not intend to fulfil orders, for example, because the purpose of the marketing communication is to assess potential demand, the marketing communication must make that clear</p>

<p>16.4</p> <p>Products must not be advertised as ready for purchase (ie with an indication of product characteristics and specified price) unless marketers can demonstrate that they have reasonable grounds for believing they can satisfy demand, or have stated any reasonable grounds they might have to believing that they might not be able to supply that or an equivalent product at that price within a reasonable period. If a product becomes unavailable, marketers will be required to show evidence of stock monitoring, communications with outlets and swift withdrawal of marketing communications whenever possible.</p>	<p>3.28</p> <p>Marketing communications that quote a price for a featured product must state any reasonable grounds the marketer has for believing that it might not be able to supply the advertised (or an equivalent) product at the advertised price within a reasonable period and in reasonable quantities. In particular:</p> <p>3.28.1</p> <p>if estimated demand exceeds supply, marketing communications must make clear that stock is limited</p> <p>3.29</p> <p>Marketers must monitor stocks. If a product becomes unavailable, marketers must, whenever possible, withdraw or amend marketing communications that feature that product.</p>
<p>16.5</p> <p>Marketers should not use the technique of switch selling, where their sales staff refuse to show the advertised product, refuse to take orders for it or to deliver it within a reasonable time, or demonstrate a defective sample of it, in order to promote a different product.</p>	<p>3.30</p> <p>Marketers must not use the technique of switch selling, in which their sales staff decline to show the advertised product, refuse to take orders for it or to deliver it within a reasonable time or demonstrate a defective sample of it to promote a different product.</p>
<p>16.6</p> <p>Marketers should not falsely state that a product, or the terms on which it is offered, will be available only for a very limited time in order to deprive consumers of the time or opportunity to make an informed choice.</p>	<p>3.31</p> <p>Marketing communications must not falsely claim that the marketer is about to cease trading or move premises. They must not falsely state that a product, or the terms on which it is offered, will be available only for a very limited time to deprive consumers of the time or opportunity to make an informed choice.</p>
<p>16.7</p> <p>Marketers should not mislead consumers about market conditions or the possibility of finding the product elsewhere in order to induce consumers to buy the product at conditions less favourable than normal market conditions.</p>	<p>3.32</p> <p>Marketing communications must not mislead the consumer about market conditions or the possibility of finding the product elsewhere to induce consumers to buy the product at conditions less favourable than normal market conditions.</p>
<p>16.8</p> <p>Marketers should not falsely claim that they</p>	<p>3.31</p> <p>Marketing communications must not falsely claim</p>

are about to cease trading or move premises.	that the marketer is about to cease trading or move premises. They must not falsely state that a product, or the terms on which it is offered, will be available only for a very limited time to deprive consumers of the time or opportunity to make an informed choice.
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PRESENT CODE	PROPOSED CODE
Guarantees	
(see CAP Help Note on Lowest Price Claims and Price Promises)	
17.1 Guarantees may be legally binding on those offering them. The word 'guarantee' should not be used in a way that could cause confusion about consumers' legal rights. Substantial limitations on the guarantee should be spelled out in the marketing communication. Before commitment, consumers should be able to obtain the full terms of the guarantee from marketers.	3.53 Marketing communications must not use the word "guarantee" in a way that could cause confusion about a consumer's rights. 3.54 Marketing communications must make clear each significant limitation to an advertised guarantee (of the type that has implications for a consumer's rights). Marketers must supply the full terms before the consumer is subject to the guarantee.
17.2 Marketers should inform consumers about the nature and extent of any additional rights provided by the guarantee, over and above those given to them by law, and should make clear how to obtain redress.	3.12 Marketing communications must not present rights given to consumers in law as a distinctive feature of the marketer's offer.
17.3 Marketers should provide a cash refund, postal order or personal cheque promptly to those claiming redress under a money-back guarantee.	3.55 Marketers must promptly refund consumers who make valid claims under an advertised money-back guarantee.

PRESENT CODE	PROPOSED CODE
Comparisons with identified competitors and/or their products	
	<u>Comparisons</u> Principle

	The ASA will consider unqualified superlative claims as comparative claims against all competing products. Superiority claims must be supported by evidence unless they are obvious puffery (that is, claims that consumers are unlikely to take literally). Objective superiority claims must make clear the aspect of the product or the advertiser's performance that is claimed to be superior. Subjective superiority claims such as "the best" are unlikely to be justified.
18.1 Comparative claims are permitted in the interests of vigorous competition and public information. They should neither mislead nor be likely to mislead.	<u>Comparisons with Identifiable Competitors</u> 3.33 Marketing communications that include a comparison with an identifiable competitor must not mislead, or be likely to mislead, the consumer about either the advertised product or the competing product.
18.2 They should compare products meeting the same needs or intended for the same purpose.	3.34 They must compare products meeting the same need or intended for the same purpose.
18.3 They should objectively compare one or more material, relevant, verifiable and representative features of those products, which may include price.	3.35 They must objectively compare one or more material, relevant, verifiable and representative feature of those products.
18.5 Certain EU agricultural products and foods are, because of their unique geographical area and method of production, given special protection by being registered as having a 'designation of origin'. Products with a designation of origin should be compared only with other products with the same designation.	3.37 Certain EU agricultural products and foods are, because of their unique geographical area and method of production, given special protection by being registered as having a "designation of origin". Products with a designation of origin must be compared only with other products with the same designation.
18.6 Comparisons should not mislead consumers by creating confusion between marketers and competitors or between marketers' products, trademarks, trade names or other distinguishing marks and those of competitors.	3.36 They must not create confusion between the marketer and its competitors or between the marketer's product, trade mark, trade name or other distinguishing mark and that of a competitor.
	3.39 Marketing communications that include a price comparison must state the basis of the comparison. Comparisons with a competitor price must be with the price for an identical or substantially equivalent product and must explain

	significant differences between the products. If the competitor offers more than one similar product, marketers should compare their price with the price for the competitor's product that is most similar to the advertised product.
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PRESENT CODE	PROPOSED CODE
Other comparisons	
19.1 Other comparisons, for example those with marketers' own products, those with products of others who are not competitors or those that do not identify competitors or their products explicitly or by implication, should be clear and fair. They should neither mislead nor be likely to mislead. The elements of comparisons should not be selected in a way that gives the marketers an artificial advantage.	3.38 Marketing communications that include a comparison with an unidentifiable competitor must not mislead, or be likely to mislead, the consumer. The elements of the comparison must not be selected to give the marketer an unrepresentative advantage.
19.2 Comparisons should not mislead consumers by creating confusion with any products, trade marks, trade names or other distinguishing marks of the marketer's competitors.	3.36 They must not create confusion between the marketer and its competitors or between the marketer's product, trade mark, trade name or other distinguishing mark and that of a competitor.

PRESENT CODE	PROPOSED CODE
Denigration and unfair advantage	
20.1 Although comparative claims are permitted, marketing communications that include comparisons with identifiable competitors and/or their products should not discredit, or denigrate the products, trade marks, trade names, other distinguishing marks, activities or circumstances of competitors. Other marketing communications should not unfairly attack or discredit businesses or their products.	3.42 Marketing communications must not discredit or denigrate another product, marketer, trade mark, trade name or other distinguishing mark.
20.2 Marketers should not take unfair advantage of the reputation of trade marks, trade names or other distinguishing marks of organisations or of the designation of origin of competing products.	3.43 Marketing communications must not take unfair advantage of the reputation of a competitor's trade mark, trade name or other distinguishing mark or of the designation of origin of a competing product.

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PRESENT CODE	PROPOSED CODE
Imitation	
21.2 Marketers making comparisons with identifiable competitors and/or their products should not present products as imitations or replicas of products bearing a protected trade mark or trade name.	3.44 Marketing communications must not present a product as an imitation or replica of a product with a protected trade mark or trade name.
21.3 Marketing communications should not mislead consumers about who manufactures the product.	3.41 Marketing communications must not mislead the consumer about who manufactures the product.

PRESENT CODE	PROPOSED CODE
Recognising marketing communications and identifying marketers	
22.1 Marketers, publishers and owners of other media should ensure that marketing communications are designed and presented in such a way that it is clear that they are marketing communications. Unsolicited e-mail marketing communications should be clearly identifiable as marketing communications without the need to open them (see also clause 43.4c).	2.1 Marketing communications must be obviously identifiable as such. 2.2 Unsolicited e-mail marketing communications must be obviously identifiable as marketing communications without the need to open them (see also rule 10.13.3).
22.2 Distance-selling marketing communications should contain the full name of the marketers (and the suppliers if different).	9.1 Distance selling marketing communications must include: 9.1.1 [...] Communications that do not require payment before products are received must state the full name of the marketer (and the supplier if different)

<p>Distance-selling marketing communications that require payment before products are received and have written response mechanisms should also contain the geographical address of the marketers (and the suppliers if different). Those that contain a telephone response mechanism only may contain the marketers' telephone number instead (though see clause 42.2a).</p>	<p>9.1</p> <p>Distance selling marketing communications must include:</p> <p>9.1.1</p> <p>for those communications that require payment before products are received and have written response mechanisms (for example by post, fax or e-mail), the full name and geographical address of the marketer (and the supplier if different) outside the coupon or other response mechanism so that it can be retained by consumers. A separate address for orders may also be given; it need not be a full address but could, for example, be a Freepost address or a PO Box number. Communications containing a telephone response mechanism only need merely state the full name and telephone number but consumers calling the number must be told the geographical address (and see 9.2.4). [...]</p>
<p>E-mail and mobile marketing communications should contain the full name and a valid address (e.g. an e-mail address) of the marketers to which recipients can send opt-out requests.</p>	<p>Definition</p> <p>Electronic mail in this Section encompasses e-mail, Short Message Service (SMS), Multimedia Messaging Service (MMS) and other data transfer methods.</p> <p>10.6</p> <p>Marketing communications sent by electronic mail (but not those sent by Bluetooth technology) must contain the marketer's full name and a valid address, for example an e-mail address or a SMS short code to which recipients can send opt-out requests.</p>
<p>Fax and non-live-sound automated-call marketing communications should contain the full name and a valid address or freephone number of the marketers to which recipients can send opt-out requests.</p>	<p>10.7</p> <p>Fax and non-live-sound automated-call marketing communications must contain the marketer's full name and a valid address or freephone number to which recipients can send opt-out requests.</p>
<p>Sales promotions and marketing communications for one-day sales, homework schemes, business opportunities and the like should contain the full name and geographical address of the marketers (see clause 34.1h and section 52).</p>	<p><u>Employment agencies and employment businesses</u></p> <p>20.3</p> <p>Employment agencies and employment</p>

	<p>businesses must make clear in their marketing communications their full names and contact details. Marketing communications should state that the marketer is an employment agency or an employment business if its name does not disclose that it is.</p> <p><u>Homework schemes</u></p> <p>20.6</p> <p>Marketers of homework schemes must include this information in the initial marketing communication or in follow-up literature made available to all consumers before commitment:</p> <p>20.6.1</p> <p>the full name and geographical address of the marketer</p> <p><u>Business opportunities</u></p> <p>20.8</p> <p>Marketers of business opportunities must include in their initial marketing communications or in follow-up literature made available to all consumers before commitment:</p> <p>20.8.1</p> <p>the full name and geographical address of the marketer</p>
<p>Marketing communications for employment agencies should contain the full name and contact details of the marketers.</p>	<p>20.3</p> <p>Employment agencies and employment businesses must make clear in their marketing communications their full names and contact details. Marketing communications should state that the marketer is an employment agency or an employment business if its name does not disclose that it is.</p>

The law requires marketers to identify themselves in some other marketing communications. Marketers should take legal advice.	Marketers should note the law requires marketers to identify themselves in some marketing communications. Marketers should take legal advice.
	<p>3.5</p> <p>Marketing communications must make clear the identity of the marketer if the marketing communication would otherwise mislead.</p> <p>Cross-reference: Some marketing communications must include the marketer's identity and contact details. Marketing communications that fall under the Distance Selling, Database Practice or Employment Sections of the Code must comply with the more detailed rules in those Sections.</p> <p>Marketers should note the law requires marketers to identify themselves in some marketing communications. Marketers should take legal advice.</p>
22.3	2.3
Marketers should not falsely claim or imply that they are acting as consumers or for purposes outside their trade, business, craft or profession.	Marketing communications must not falsely claim or imply that the marketer is acting as a consumer or for purposes outside its trade, business, craft or profession; marketing communications must make clear their commercial intent, if that is not obvious from the context.

PRESENT CODE	PROPOSED CODE
Advertisement features	
(see CAP Help Note on Advertisement Features)	
23.1	These definitions apply to the Code:
Advertisement features, announcements or promotions, sometimes referred to as "advertorials", that are disseminated in exchange for a payment or other reciprocal arrangement should comply with the Code if their content is controlled by the marketers rather than the publishers.	k) An advertorial is 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

<p>23.2</p> <p>Marketers and publishers should make clear that advertisement features are advertisements, for example by heading them "advertisement feature".</p>	<p>2.4</p> <p>Marketers and publishers should make clear that advertorials are marketing communications, for example by heading them "advertisement feature".</p>
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PRESENT CODE	PROPOSED CODE
Free offers	
<p>24.1</p> <p>See clauses 32.1 to 32.3.</p>	

PRESENT CODE	PROPOSED CODE
After sales services	
<p>25.1</p> <p>If a marketing communication in a language other than English offers after-sales service, the marketer should tell consumers, before a contract is concluded, if the after-sales service is not available in the language of the marketing communication.</p>	<p>3.57</p> <p>If a marketing communication in a language other than English offers after-sales service but the after-sales service is not available in the language of the marketing communication, the marketer must explain that to the consumer before the contract is concluded.</p>
<p>25.2</p> <p>Marketing communications must not falsely claim or imply that after-sales service is available in a state that forms part of the European Economic Area other than the state where the advertised product is sold.</p>	<p>3.56</p> <p>Marketing communications must not falsely claim or imply that after-sales service is available in an EEA member state in which the advertised product is not sold.</p>

PRESENT CODE	PROPOSED CODE
SALES PROMOTION RULES	
<p>Introduction</p>	
<p>27.1</p> <p>The sales promotion rules must be read in conjunction with the general rules, direct marketing rules and other specific rules, if relevant.</p>	<p>Principle</p> <p>The sales promotion clauses must be read in conjunction with all other parts of the Code, including the relevant clauses relating to Alcoholic Drinks and Children.</p>
<p>27.2</p> <p>The sales promotion rules are designed primarily to protect the public but they also</p>	<p>Principle</p>

<p>apply to trade promotions and incentive schemes and to the promotional elements of sponsorships. They regulate the nature and administration of promotional marketing techniques. Those techniques generally involve providing a range of direct or indirect additional benefits, usually on a temporary basis, designed to make goods or services more attractive to purchasers. The rules do not apply to the routine, non-promotional, distribution of products or to product extensions, for example the suitability of one-off editorial supplements (be they in printed or electronic form) to newspapers and magazines.</p>	<p>The sales promotion clauses apply to consumer and trade promotions, incentive schemes and the promotional elements of sponsorships. These clauses regulate the nature and administration of promotions.</p> <p>Definition</p> <p>A sales promotion can provide an incentive for the consumer to buy through using a range of added direct or indirect benefits, usually on a temporary basis, to make the product more attractive. A non-exhaustive list of sales promotions includes: buy-one-get-one-free offers, money-off offers, premium offers, text-to-wins, instant-wins, competitions and prize draws. The clauses do not apply to routine, non-promotional, distribution of products or product extensions, for example one-off editorial supplements (in printed or electronic form) to newspapers or magazines.</p>
<p>27.3</p> <p>Promoters are responsible for all aspects and all stages of promotions.</p>	<p>8.1</p> <p>Promoters are responsible for all aspects and all stages of their promotions.</p>
<p>27.4</p> <p>Promotions should be conducted equitably, promptly and efficiently and should be seen to deal fairly and honourably with consumers. Promoters should avoid causing unnecessary disappointment.</p>	<p>8.2</p> <p>Promoters must conduct their promotions equitably, promptly and efficiently and be seen to deal fairly and honourably with participants and potential participants. Promoters must avoid causing unnecessary disappointment.</p>

PRESENT CODE	PROPOSED CODE
<p>Protection of consumers, safety and suitability</p>	
<p>28.1</p> <p>Promoters should make all reasonable efforts to ensure that their promotions, including product samples, are safe and cause no harm to consumers or their property. Literature accompanying promotional items should give any necessary warnings and any appropriate</p>	<p>8.3</p> <p>Promoters must do everything reasonable to ensure that their promotions, including product samples, are safe and cause no harm to consumers or their property. Literature accompanying promotional items must give any</p>

safety advice.	necessary warnings and safety advice.
<p>28.2</p> <p>Promoters should make every effort to ensure that unsuitable or inappropriate material does not reach consumers. Promotions should not be socially undesirable to the audience addressed by encouraging excessive consumption or inappropriate use and should be designed and conducted in a way that respects the right of consumers to a reasonable degree of privacy and freedom from annoyance.</p>	<p>8.5</p> <p>Promotions must not be socially undesirable to the audience addressed by encouraging excessive consumption or irresponsible use.</p> <p>8.6</p> <p>Promoters must do everything reasonable to ensure that unsuitable or irresponsible material does not reach consumers or other recipients.</p> <p>Principle</p> <p>Promoters should comply with all other relevant legislation, including data protection legislation for which guidance is available from the Information Commissioner's Office.</p>
<p>28.3</p> <p>No promotion or promotional item should cause serious or widespread offence to the audience addressed.</p>	<p>8.7</p> <p>No promotion or promotional item should cause serious or widespread offence to the audience addressed.</p>

PRESENT CODE	PROPOSED CODE
Children	
<p>29.1</p> <p>Special care should be taken when promotions are addressed to children (people under 16) or when products intended for adults may fall into the hands of children.</p>	<p>8.8</p> <p>Special care should be taken with promotions addressed to children or if products or items intended for adults might fall into the hands of children.</p>
<p>29.2</p> <p>Alcoholic drinks should not feature in promotions directed at people under 18.</p>	<p>8.4</p> <p>Alcoholic drinks must not feature in promotions directed at people under 18. Alcohol must not be available on promotion to anyone under 18.</p>

PRESENT CODE	PROPOSED CODE
Availability	
<p>30.1</p> <p>Promoters should be able to demonstrate that they have made a reasonable estimate of likely response and that they were capable of meeting that response.</p>	<p>8.9</p> <p>Promoters must be able to demonstrate that they have made a reasonable estimate of the likely response and that they were capable of meeting that response.</p>
<p>30.2</p> <p>Phrases such as “subject to availability” do not relieve promoters of the obligation to take all reasonable steps to avoid disappointing participants.</p>	<p>8.10</p> <p>Phrases such as "subject to availability" do not relieve promoters of their obligation to do everything reasonable to avoid disappointing participants.</p>
<p>30.3</p> <p>Promoters should not encourage consumers to make a purchase or series of purchases as a precondition to applying for promotional items if the number of those items is limited.</p>	<p>8.11</p> <p>Promoters must not encourage the consumer to make a purchase or series of purchases as a precondition to applying for promotional items if the number of those items is limited.</p>
<p>30.4</p> <p>If promoters are unable to supply demand for a promotional offer because of an unexpectedly high response or some other unanticipated factor outside their control, they should offer refunds or substitute products in accordance with clause 42.5a.</p>	<p>8.12</p> <p>If, having made a reasonable estimate as in 8.9, it is unable to supply demand for a promotional offer because of an unexpectedly high response or some other unanticipated factor outside its control, the promoter must ensure relevant communication with applicants and consumers and offer a refund or a substitute product in accordance with clause 9.4.</p>
<p>30.5</p> <p>When prize promotions are widely advertised, promoters should ensure that entry forms and any goods needed to establish proof of purchase are widely available.</p>	<p>8.13</p> <p>If a prize promotion is widely advertised, the promoter must ensure the widespread availability of the requisite forms and any goods needed to establish proof of purchase.</p>

PRESENT CODE	PROPOSED CODE
Administration	
31.1 Promotions should be conducted under proper supervision and adequate resources should be made available to administer them. Promoters and intermediaries should not give consumers justifiable grounds for complaint.	8.14 Promoters must ensure that their promotions are conducted under proper supervision and make adequate resources available to administer them. Promoters, agencies and intermediaries should not give consumers justifiable grounds for complaint.
31.2 Promoters should allow adequate time for each phase of the promotion: notifying the trade, distributing the goods, issuing rules if relevant, collecting wrappers and the like, judging and announcing results.	8.15 Promoters must allow adequate time for each phase of the promotion: notifying the trade, distributing the goods, issuing rules if relevant, collecting wrappers and the like and judging and announcing results.
31.3 Promoters should normally fulfil applications within 30 days in accordance with 42.4 and refund money in accordance with 42.5a.	8.16 Promoters must normally fulfil applications within 30 days in accordance with 9.3 and refund money in accordance with 9.4.

PRESENT CODE	PROPOSED CODE
Free offers and free trials	
	<u>Free</u> Principle Marketing communications must not describe a product as “free”, “gratis”, “without charge” or similar if the consumer has to pay anything other than the unavoidable cost of responding and collecting or paying for delivery of the item.
32.2 Promoters must not try to recover their costs	3.24 Marketing communications must not describe

<p>by reducing the quality or composition or by inflating the price of any product that must be bought as a pre-condition of obtaining the free item.</p>	<p>items as “free” if:</p> <p>3.24.2</p> <p>the price of a product that the consumer must buy to take advantage of the offer, or the cost of response, has been inflated to recover the cost of supplying the “free” item or</p> <p>3.25.3</p> <p>the quality of the product that the consumer must buy has been reduced.</p>
<p>32.3</p> <p>Promoters should not describe an individual element of a package as “free” if the cost of that element is included in the package price.</p>	<p>3.25</p> <p>Marketers must not describe an element of a package as “free” if that element is included in the package price.</p>
<p>32.4</p> <p>Promoters should not use the term “free trial” to describe “satisfaction or your money back” offers, “buy one get one free” offers or other offers where a non-refundable purchase is required. If appropriate, promoters should provide a cash refund, postal order or personal cheque promptly to free trial participants.</p>	<p>3.26</p> <p>Marketers must not use the term “free trial” to describe “satisfaction or your money back” offers or offers for which a non-refundable purchase is required.</p>
<p>32.5</p> <p>Consumers’ liability for costs should be made clear in all material featuring “free” offers. An offer should be described as free only if consumers pay no more than:</p>	<p>3.23</p> <p>Marketing communications must make clear the extent of the commitment the consumer must make to take advantage of a “free” offer.</p> <p>3.24</p> <p>Marketing communications must not describe items as “free” if:</p>
<p>a the minimum, unavoidable cost of responding to the promotion, eg the current public rates of postage, the cost of telephoning up to and including the national rate or the minimum, unavoidable cost of sending an e-mail</p>	<p>Principle</p> <p>Marketing communications must not describe a product as “free”, “gratis”, “without charge” or</p>

or SMS text message	similar if the consumer has to pay anything other than the unavoidable cost of responding and collecting or paying for delivery of the item.
b the true cost of freight or delivery	Principle Marketing communications must not describe a product as “free”, “gratis”, “without charge” or similar if the consumer has to pay anything other than the unavoidable cost of responding and collecting or paying for delivery of the item
c the cost, including incidental expenses, of any travel involved if consumers collect the offer.	Principle Marketing communications must not describe a product as “free”, “gratis”, “without charge” or similar if the consumer has to pay anything other than the unavoidable cost of responding and collecting or paying for delivery of the item.
Promoters should not charge for packing, handling or administration.	3.24.1 the consumer has to pay for packing, packaging, handling or administration

PRESENT CODE	PROPOSED CODE
Prize promotions and the law	
(see CAP Help Note on Promotions with Prizes)	
33.1 Promoters should take legal advice before embarking on promotions with prizes, including competitions, prize draws, instant win offers and premium-payment promotions, to ensure that the mechanisms involved do not make them unlawful lotteries (see the Gambling Act 2005 in Great Britain or the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 in Northern Ireland).	PRINCIPLE Promoters should take legal advice before embarking on promotions with prizes, including competitions, prize draws, instant-win offers and premium promotions, to ensure that the mechanisms involved do not make them unlawful lotteries (see the Gambling Act 2005 for Great Britain and the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (as amended) for Northern Ireland).

PRESENT CODE	PROPOSED CODE
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Significant conditions for promotions	
(see CAP Help Note on Promotions with Prizes)	(Please see the Children Section, the Prize Promotions sub-Section and the CAP Help Note on Promotions with Prizes)
34.1 Promotions should specify clearly before any purchase (or before or at the time of entry/application, if no purchase is required):	8.17 Before purchase or, if no purchase is required, before or at the time of entry or application, promoters must communicate all applicable significant conditions. Significant conditions include:
<p>a How to participate</p> <p>how to participate, including significant conditions and costs, and any other major factors reasonably likely to influence consumers' decisions or understanding about the promotion. If a promotion has a free entry route, for example if one is required by law, that route should be explained clearly.</p>	<p>8.17.1</p> <p>How to participate</p> <p>How to participate, including significant conditions and costs, and other major factors reasonably likely to influence consumers' decision or understanding about the promotion</p> <p>8.17.2</p> <p>Free-entry route explanation</p> <p>Any free-entry route should be explained clearly and prominently</p>
<p>b Start date</p> <p>the start date, in any comparison referring to a special offer if the special offer has not yet begun</p>	<p>8.17.3</p> <p>Start date</p> <p>The start date, if applicable</p>
<p>c Closing date</p> <p>a prominent closing date, if applicable, for purchases and submissions of entries/claims. Prize promotions and promotions addressed to or targeted at children always need a closing date. Some others do not, for example: comparisons that refer to a special offer (whether the promoter's previous offer or a competitor's offer), so long as they are and are stated to be "subject to availability"; promotions limited only by the availability of promotional packs (eg gifts with purchase, extra volume packs and reduced price packs); and loyalty schemes run on an open-ended basis. Promoters must be able to demonstrate that the absence of a closing date will not disadvantage consumers. Promoters should state if the deadline</p>	<p>8.17.4</p> <p>Closing date</p> <p>8.17.4.a</p> <p>A prominent closing date, if applicable, for purchases and submissions of entries or claims. Closing dates are not always necessary, for example: comparisons that refer to a special offer (whether the promoter's previous offer or a competitor's offer) if the offer is and is stated to be "subject to availability"; promotions limited only by the availability of promotional packs (gifts with a purchase, extra-volume packs and reduced-price packs) and loyalty schemes run on</p>

<p>for responding to undated promotional material will be calculated from the date the material was received by consumers. Closing dates should not be changed unless circumstances outside the reasonable control of the promoter make it unavoidable. If they are changed, promoters should take all reasonable steps to ensure that consumers who participated within the original terms are not disadvantaged.</p>	<p>an open-ended basis</p> <p>8.17.4.b</p> <p>Unless the promotional pack includes the promotional item or prize and the only limit is the availability of that pack, prize promotions and promotions addressed to or targeted at children always need a closing date</p> <p>8.17.4.c</p> <p>Promoters must be able to demonstrate that the absence of a closing date will not disadvantage consumers</p> <p>8.17.4.d</p> <p>Promoters must state if the deadline for responding to undated promotional material will be calculated from the date the material was received by consumers</p> <p>8.17.4.e</p> <p>Unless circumstances outside the reasonable control of the promoter make it unavoidable, closing dates must not be changed. If they are changed, promoters must do everything reasonable to ensure that consumers who participated within the original terms are not disadvantaged</p>
<p>d Proof of purchase any proof of purchase requirements.</p>	<p>8.17.5</p> <p>Proof of purchase</p> <p>Any proof of purchase requirements</p>
<p>e Prizes the minimum number and nature of any prizes, if applicable. Promoters should state if prizes are to be awarded in instalments or are to be shared among recipients</p>	<p>8.17.6</p> <p>Prizes and gifts</p> <p>Promoters must specify the number and nature of prizes or gifts, if applicable. If the exact number cannot be predetermined, a reasonable estimate of the number and a statement of their nature should be made. Promoters must:</p> <p>8.17.6.a</p> <p>distinguish those prizes that could be won, including estimated prize funds, from those</p>

	<p>prizes that will be won by someone by the end of the promotional period and</p> <p>8.17.6.b</p> <p>state whether prizes are to be awarded in instalments or are to be shared among recipients</p>
<p>f Restrictions geographical, personal or technological restrictions such as location, age or the need to have access to the Internet. Promoters should state any need to obtain permission to enter from an adult or employer</p>	<p>8.17.7</p> <p>Restrictions</p> <p>Geographical, personal or technological restrictions such as location, age or the need to access the Internet. Promoters must state any need to obtain permission to enter from an adult or employer</p>
<p>g Availability of promotional packs where it is not obvious, if there is likely to be a limitation on the availability of promotional packs in relation to a stated closing date of the offer</p>	<p>8.17.8</p> <p>Availability</p> <p>The availability of promotional packs if it is not obvious; for example, if promotional packs could become unavailable before the stated closing date of the offer</p>
<p>h Promoter's name and address</p> <p>the promoter's full name and business address, unless this is obvious from the context. Promotions by newspapers and magazines in their publications need not state the name and address if those can easily be found elsewhere in the publication</p>	<p>8.17.9</p> <p>Promoter's name and address</p> <p>Unless it is obvious from the context or entry into an advertised promotion is only through a dedicated website containing that information in an easily found format, the promoter's full name and correspondence address must be stated.</p>
<p>Participants should be able to retain the above conditions or have easy access to them throughout the promotion. Advertisements for promotions should specify all of the significant conditions above that are applicable.</p>	<p>8.18</p> <p>Marketing communications that include a promotion and are significantly limited by time or space must include as much information about significant conditions as practicable and must direct consumers clearly to an easily-accessible alternative source where all the significant conditions of the promotion are prominently stated. Participants should be able to retain those conditions or easily access them throughout the promotion.</p>

PRESENT CODE	PROPOSED CODE
Other rules for prize promotions	
(see CAP Help Note on Promotions with Prizes)	(see CAP Help Note on Promotions with Prizes)

<p>35.1</p> <p>Promoters should not claim that consumers have won a prize if they have not. The distinction between prizes and gifts should always be clear. Gifts offered to all or most consumers in a promotion should not be described as prizes. If promoters offer gifts to all or most consumers in addition to giving prizes to those who win, particular care is needed to avoid confusing the two. In such cases, it should be clear that consumers “qualify” for the gifts but have merely an opportunity to win the prizes. If promoters include a gift that consumers have qualified for in a list of other prizes, they should distinguish clearly between the two.</p>	<p>8.19</p> <p>Promoters must not claim that consumers have won a prize if they have not. The distinction between prizes and gifts must always be clear: items offered to a significant proportion of consumers in a promotion should be described as gifts, not prizes. If a promotion offers a gift to a significant proportion and a prize to those who win, special care is needed to avoid confusing the two: the promotion must, for example, state clearly that consumers “qualify” for the gift but have merely an opportunity to win the prize. If a promotion includes, in a list of prizes, a gift for which consumers have qualified, the promoter must distinguish clearly between the two.</p>
<p>35.2</p> <p>Promoters should not overstate consumers’ chances of winning prizes. If promoters include consumers who have not won prizes in lists of those who have won prizes, they should distinguish clearly between the two.</p>	<p>8.20</p> <p>Promoters must not exaggerate consumers’ chances of winning prizes. They must not include a consumer who has been awarded a gift in a list of prize winners.</p>
<p>35.3</p> <p>Promoters should not claim that consumers are luckier than they are. They should not use terms such as “finalist” or “final stage” in a way that implies that consumers have progressed, by chance or skill, to an advanced stage of promotions if they have not.</p>	<p>8.21</p> <p>Promoters must not claim or imply that consumers are luckier than they are. They must not use terms such as “finalist” or “final stage” in a way that implies that consumers have progressed, by chance or skill, to an advanced stage of a promotion if they have not.</p>
<p>35.4</p> <p>Promoters should not claim that consumers must respond by a specified date or within a specified time if they need not.</p>	<p>8.22</p> <p>Promoters must not claim that consumers must respond by a specified date or within a specified time if they need not.</p>
<p>35.5</p> <p>Complex rules should be avoided and only very exceptionally will it be considered acceptable to supplement conditions of entry with additional rules. If extra rules cannot be avoided, participants should be informed how to obtain them; the rules should contain nothing that could reasonably have influenced consumers against making a purchase or participating.</p>	<p>8.23</p> <p>Promoters must avoid complex rules and only exceptionally supplement conditions of entry with extra rules. If extra rules cannot be avoided, promoters must tell participants how to obtain them; the rules must contain nothing that could reasonably have influenced consumers against buying or participating.</p>
<p>35.7</p> <p>Promoters of prize draws should ensure that prizes are awarded in accordance with the laws of chance and under the supervision of an independent observer.</p>	<p>8.24</p> <p>Promoters of prize draws must ensure that prizes are awarded in accordance with the laws of chance and, unless winners are selected by a verifiably random computer process, under the supervision of an independent observer.</p>

<p>35.8</p> <p>Participants in instant win promotions should get their winnings at once or should know immediately what they have won and how to claim without delay, unreasonable costs or administrative barriers. Instant win tickets, tokens or numbers should be awarded on a fair and random basis and verification should take the form of an independently audited statement that all prizes have been distributed, or made available for distribution, in that manner.</p>	<p>8.25</p> <p>Participants in instant-win promotions must get their winnings at once or know immediately what they have won and how to claim without delay, cost or administrative barriers. Instant-win tickets, prizes, tokens or numbers must be allocated by a process that has been verified by a suitable independent party to be secure, fair and random, and that can be, and for national promotions must be, independently audited.</p>
	<p>8.27</p> <p>Withholding prizes is justified only if participants have not met criteria set out clearly in the rules of the promotion.</p>
<p>35.9</p> <p>Prize promotions should specify before or at the time of entry:</p>	<p>8.28</p> <p>Participants must be able to retain conditions or easily access them throughout the promotion. In addition to 8.17, prize promotions must specify before or at the time of entry:</p>
<p>a any restriction on the number of entries</p>	<p>8.28.1</p> <p>any restriction on the number of entries</p>
<p>b whether or not a cash alternative can be substituted for any prize</p>	<p>8.28.2</p> <p>whether a cash alternative may be substituted for any prize</p>
<p>c when prizewinners will receive their prizes if later than six weeks after the closing date</p>	<p>8.28.3</p> <p>if more than 30 days after the closing date, the date by which prizewinners will receive their prizes</p>
<p>d how and when winners will be notified of results</p>	<p>8.28.4</p> <p>how and when winners will be notified of results</p>
<p>e how and when winners and results will be announced. Promoters should either publish or make available on request the name and county of major prizewinners and, if applicable, their winning entries. Prizewinners should not be compromised by the publication of excessively detailed personal information</p>	<p>8.28.5</p> <p>how and when information about winners and results will be made available. Promoters must either publish or make available on request the name and county of major prizewinners and, if applicable, their winning entries. Prizewinners must not be compromised by the publication of excessive personal information</p>

<p>f in a competition, ie a game of skill or judgement, the criteria for judging entries (eg the most apt and original tiebreaker). If the selection of winning entries is open to subjective interpretation, an independent judge, or a panel including one member who is independent of the competition's promoters and intermediaries, should be appointed. Those appointed to act as judges should be competent to judge the subject matter of the competition. The full names of judges should be made available on request</p>	<p>8.28.6</p> <p>in a competition, the criteria and mechanism for judging entries (for example, the most apt and original tiebreaker)</p> <p>8.26</p> <p>In competitions, if the selection of a winning entry is open to subjective interpretation, an independent judge, or a panel that includes at least one member who is demonstrably independent, especially from the competition's promoters and intermediaries and from the pool of entrants from which the eventual winner is picked, must be appointed. Those appointed to act as judges should be competent to judge the competition and their full names must be made available on request.</p>
<p>g if relevant, who owns any copyright in the entries</p>	<p>8.28.7</p> <p>if relevant, who owns the copyright of the entries</p>
<p>h if applicable, how entries will be returned by promoters</p>	<p>8.28.8</p> <p>if applicable, how the promoter will return entries</p>
<p>I any intention to use winners in post-event publicity</p>	<p>8.28.9</p> <p>any intention to use winners in post-event publicity.</p>
<p>Participants should be able to retain the above conditions or have easy access to them throughout the promotion.</p>	<p>8.28</p> <p>Participants must be able to retain conditions or easily access them throughout the promotion. In addition to 8.17, prize promotions must specify before or at the time of entry:</p>
<p>35.10</p> <p>Marketers should award the prizes as described in their marketing communications or reasonable equivalents.</p>	<p>8.15.1</p> <p>Promoters must award the prizes as described in their marketing communications or reasonable equivalents.</p>
<p>35.11</p> <p>Marketers should not falsely claim or imply that the consumer has already won, will win, or will on doing a particular act win a prize (or other equivalent benefit) if the consumer must incur a cost to claim the prize (or other equivalent benefit) or if the prize (or other equivalent benefit) does not exist.</p>	<p>8.21.1</p> <p>Promoters must not falsely claim or imply that the consumer has already won, will win or will on doing a particular act win a prize (or other equivalent benefit) if the consumer must incur a cost to claim the prize (or other equivalent benefit) or if the prize (or other equivalent benefit) does not exist.</p>

PRESENT CODE	PROPOSED CODE
Front page flashes	
(see CAP Help Note on Front Page Flashes)	
36.1 Publishers announcing reader promotions on the front page or cover should ensure that consumers know whether they will be expected to buy subsequent editions of the publication. Major conditions that might reasonably influence consumers significantly in their decision to buy the publication should appear on the front page or cover.	8.29 Publishers announcing reader promotions on the front page or cover must ensure that consumers know whether they are expected to buy subsequent editions of the publication. Major conditions that might reasonably influence consumers significantly in their decision to buy must appear on the front page or cover.

Charity-linked promotions	
(see CAP Help Note for Voluntary Sector Advertisers)	CHARITY-LINKED PROMOTIONS
37.1 Promotions run by third parties (eg commercial companies) claiming that participation will benefit registered charities or causes should:	8.33 Promotions run by third parties (for example commercial companies) claiming that participation will benefit a registered charity or cause must:
a name each charity or cause that will benefit and be able to show the ASA or CAP the formal agreement with those benefiting from the promotion	8.33.1 name each charity or cause that will benefit and be able to show the ASA or CAP the formal agreement with those benefiting from the promotion
b if it is not a registered charity, define its nature and objectives	8.33.2 define its nature and objectives, if it is not a registered charity,
c specify exactly what will be gained by the named charity or cause and state the basis on which the contribution will be calculated	8.33.3 specify exactly what will be gained by the named charity or cause and state the basis on

	which the contribution will be calculated
d state if the promoter has imposed a limit on its contributions	8.33.4 state if the promoter has imposed a limit on its contributions
e not limit consumers' contributions. If an amount is stated for each purchase, there should be no cut-off point for contributions. If a target total is stated, extra money collected should be given to the named charity or cause on the same basis as contributions below that level	8.33.5 not impose a cut-off point for contributions by consumers if an amount is stated for each purchase. If a target total is stated, extra money collected should be given to the named charity or cause on the same basis as contributions below that level
f be able to show that targets set are realistic	8.33.6 be able to show that targets set are realistic
g not exaggerate the benefit to the charity or cause derived from individual purchases of the promoted product	8.33.7 not exaggerate the benefit to the charity or cause derived from individual purchases of the promoted product
h if asked, make available to consumers a current or final total of contributions made	8.33.8 if asked, make available to consumers a current or final total of contributions made
i take particular care when appealing to children (see clause 47.4e).	8.33.9 not directly encourage children to buy, or exhort children to persuade an adult to buy for them, a product that promotes charitable purposes.

PRESENT CODE	PROPOSED CODE
Trade incentives	
38.1 Incentive schemes should be designed and implemented to take account of the interests of everyone involved and should not compromise the obligations of employees to give honest advice to consumers.	8.30 Incentive schemes must be designed and implemented to take account of the interests of everyone involved and must not compromise the obligation of employees to give honest advice to consumers.
38.2 If promoters intend to ask for help from, or offer incentives to, another company's employees, they should require those employees to obtain their employer's permission before participating. Promoters should observe any procedures established by companies for their employees, including any rules for participating in promotions.	8.31 If they intend to ask for help from, or offer incentives to, another company's employees, promoters must require those employees to obtain their employer's permission before participating. Promoters must observe any procedures established by companies for their employees, including any rules for participating in promotions.
38.3 Incentive schemes should make clear to those benefiting that they may be responsible for paying tax.	8.32 Incentive schemes and relevant promotions must make clear if a tax liability might arise.

39.1 Marketers should not claim that products are able to facilitate winning games of chance.	3.14 Marketing communications must not claim that products are able to facilitate winning in games of chance.
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PRESENT CODE	PROPOSED CODE
Direct Marketing RULES	
41.1 The direct marketing rules must be read in conjunction with the general rules, sales promotion rules and other specific rules, if relevant. Moreover, the Direct Marketing Association also requires its members to observe the DMA Code of Practice. That code covers some practices (eg telemarketing) that are not covered in this Code.	Principle The clauses in this Section must be read in conjunction with the general clauses, sales promotion clauses and those in other Sections of this Code. The use of personal information to target advertisements is subject to legislation and marketers are advised to seek legal advice to ensure they comply with the relevant laws. The Direct Marketing Association (DMA)

	<p>requires its members to observe the DM Code of Practice, which covers some practices that are not addressed in the CAP Code.</p> <p>Definition</p> <p>The clauses in this Section apply to marketing communications that are sent directly to individual consumers. They do not cover telemarketing, because live oral communications are outside the remit of the CAP Code.</p>
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PRESENT CODE	PROPOSED CODE
DISTANCE SELLING	
<p>42.1</p> <p>For the purposes of the Code, distance selling marketing communications are the final written advertised stage in the process that allows consumers to buy products without the buyer and seller meeting face-to-face. Marketers should comply with the Consumer Protection (Distance Selling) Regulations 2000. Guidance on the legislation is available from www.dti.gov.uk. These clauses should be observed in conjunction with the legislation; they do not replace it.</p>	<p>Definition</p> <p>Distance selling marketing communications are marketing communications that promote specific goods or services and include direct response mechanisms that allow readers to place orders without face-to-face contact with the marketer.</p>
<p>42.2</p> <p>Distance selling marketing communications should include:</p>	<p>9.1</p> <p>Distance selling marketing communications must include:</p>
<p>a for those communications that require payment before products are received and have written response mechanisms (eg postal, fax or e-mail), the full name and geographical address of the marketers (and suppliers if different) outside the coupon or other response mechanism so that it can be retained by consumers. A separate address for orders may also be given; this need not be a full address but could, for example, be a Freepost address or a PO Box number. Communications containing a telephone response mechanism only need merely state the full name and</p>	<p>9.1.1</p> <p>for those communications that require payment before products are received and have written response mechanisms (for example by post, fax or e-mail), the full name and geographical address of the marketer (and the supplier if different) outside the coupon or other response mechanism so that it can be retained by consumers. A separate address for orders may also be given; it need not be a full address but could, for example, be a Freepost address or a PO Box number. Communications containing a telephone response mechanism only need merely state the full name and telephone number but consumers calling the number must be told the geographical address (and see 9.2.4). Communications that do not require</p>

	telephone number but consumers calling the number must be told the geographical address (and see 42.3d). Communications that do not require payment before products are received should state the full name of the marketers (and the suppliers if different)	payment before products are received must state the full name of the marketer (and the supplier if different)
b	the main characteristics of the products	9.1.2 the main characteristics of the product
c	the price, including any VAT or other taxes payable (see 15.2), and payment arrangements	9.1.3 the price, including any VAT or other taxes payable (see ["prices" Section of the general clauses]), and payment arrangements
d	the amount and number of any delivery charges	9.1.4 the amount and number of any delivery charge
e	the estimated delivery/performance time (see 42.4) and arrangements	9.1.5 the estimated delivery or performance time (see 9.3) and arrangements
f	a statement that, unless inapplicable (see 42.6), consumers have the right to cancel orders for products. Marketers of services must state that the right to cancel will be lost once services have begun with the consumer's agreement, if they wish to limit consumers' cancellation rights in this way. They should, however, make it clear when the services will begin	9.1.6 a statement that, unless inapplicable (see 42.6), consumers have the right to cancel orders for products. Marketers of services must state that the right to cancel will be lost once services have begun with the consumer's agreement, if they want to limit consumers' cancellation rights in that way. They must, however, make it clear when the services will begin
g	any telephone, postal or other communication charges calculated at higher than the basic rate (eg where a premium rate call is required)	9.1.7 any telephone, postal or other communication charge calculated at higher than the standard rate (for example, if a premium-rate call is required)
h	any other limitation on the offer (eg period of availability) and any other conditions that affect its validity	9.1.8 any other limitation on the offer (for example period of availability) and any other condition that affect its validity
i	a statement as to whether marketers intend to provide substitute products (of equivalent quality and price) if those ordered are unavailable, and that they will meet the cost of returning substitute products on cancellation	9.1.9 a statement on whether the marketer intends to provide substitute products (of equivalent quality and price) if those ordered are unavailable and one that it will meet the cost of returning substitute products on cancellation
j	the minimum duration of open-ended contracts; ie where goods are supplied or services performed permanently or	9.1.10 if goods are supplied or services performed

recurrently.	permanently or recurrently, the minimum duration of open-ended contracts.
42.3 At the latest by the time that goods are delivered or services begin, marketers should give consumers written information on:	9.2 At the latest by the time that goods are delivered or services begin, marketers must give consumers written information on:
a unless inapplicable (see 42.6 below), how to exercise their right to cancel. Marketers should allow at least 7 clear working days after delivery (or after the conclusion of service contracts) for consumers to cancel	9.2.1 how to exercise their right to cancel, unless inapplicable (see 9.5). Marketers must allow at least seven clear working days after delivery (or after the conclusion of service contracts) for consumers to cancel
b in the case of goods, whether the consumer has to return the goods to the suppliers on cancellation and, if so, who is to bear the cost of return or recovery of the goods (though see 42.2i for substitute goods)	9.2.2 for goods, whether the consumer has to return the goods to the suppliers on cancellation and, if so, who is to bear the cost of return or recovery of the goods (though see 9.1.9 for substitute goods)
c any other after-sales services and guarantees	9.2.3 any other guarantees and after-sales services
d the full geographical address of the suppliers for any consumer complaints	9.2.4 the full geographical address of the suppliers for any consumer complaints
e the conditions that apply to the cancellation of open-ended contracts.	9.2.5 the conditions that apply to the cancellation of any open-ended contract.
42.4 Marketers should fulfil orders within 30 clear days from the day consumers send their orders unless they meet one of the following criteria and state the longer delivery time in the marketing communication: a longer delivery time might be given for products such as plants and made-to-measure products; marketers might make clear that they do not intend to begin production unless a sufficient response is received; or a series of products might be sent at regular intervals after the first 30 days.	9.3 Marketers must fulfil orders within 30 clear days from the day consumers send their order unless they meet one of these criteria and state the longer delivery time in the marketing communication: a longer delivery time might be given for products such as plants and made-to-measure products; marketers might make clear that they do not intend to begin production unless they receive a sufficient or the consumer orders a series of products to be sent at regular intervals after the first 30 days.

42.5 Marketers must refund money promptly (and at the latest within 30 days of notice of cancellation being given) if:	9.4 Marketers must refund money promptly (and at the latest within 30 days of notice of cancellation being given) if:
a consumers have not received products. If consumers prefer to wait they should be given a firm dispatch date or fortnightly progress reports. Alternatively marketers may, if asked or if stated before purchase, provide a substitute of equivalent quality and price	9.4.1 consumers have not received products within the specified period. If they prefer to wait, consumers must be given a firm dispatch date or fortnightly progress reports. Alternatively marketers may, if asked or if stated before purchase, provide a substitute of equivalent quality and price
b products are returned because they are damaged when received, are faulty or are not as described, in which case the marketers must bear the cost of transit in both directions	9.4.2 products are returned because they are damaged when received, are faulty or are not as described; if so, the marketers must bear the cost of transit in both directions
c consumers cancel within seven clear working days after delivery (see 42.3a above). Consumers should assume they can try out products but should take reasonable care of them before they are returned (though see 42.6d). Consumers must return the products and pay the costs of doing so providing the marketers made this clear at the latest at the time the products were delivered (though see 42.2i for substitute goods)	9.4.3 consumers cancel within seven clear working days after delivery, unless the product is listed in 9.5. Consumers should assume they may try out products, except for audio or video recordings or computer software, but should take reasonable care of them before they are returned. Consumers must return the product and, unless the product is a substitute product sent instead of the ordered product, the marketer may require the consumer to pay the costs of doing so providing the marketer made that clear at the latest at the time the product was delivered
d an unconditional money-back guarantee is given and the products are returned within a reasonable period	9.4.4 an unconditional money-back guarantee is given and the products are returned within a reasonable period
e products that have been returned are not received back, provided consumers can produce proof of posting.	9.4.5 products that have been returned are not received back, provided consumers can produce proof of posting.
42.6 So long as all contractual obligations to consumers are met, marketers do not have to	9.5 If all contractual obligations to consumers are met, marketers do not have to provide a refund

provide a refund on:	on:
a services that have already begun, where 42.2f has been complied with	9.5.1 services that have already begun, if 9.1.6 has been complied with
b products the price of which is dependent on fluctuations in the financial market that are outside the control of the suppliers	9.5.2 products the price of which depends on financial market fluctuations that are outside the control of the supplier
c perishable, personalised or made-to-measure products	9.5.3 perishable, personalised or made-to-measure products
d audio or video recordings or computer software if unsealed by the consumer	9.5.4 audio or video recordings or computer software if unsealed by the consumer
e newspapers, periodicals or magazines	9.5.5 newspapers, periodicals or magazines
f betting, gaming or lottery services.	9.5.6 betting, gaming or lottery services.
42.7 If marketers intend to call on respondents personally, this should be made clear in the marketing communication or in a follow-up mailing. To allow consumers an adequate opportunity to refuse a personal visit, marketers should provide a reply-paid postcard or Freephone telephone contact instructions.	
42.8 Marketers should take particular care when packaging products that might fall into the hands of children.	
42.9 Marketers must not falsely imply that consumers have already ordered the marketed product by including in marketing material an invoice or similar document that seeks payment.	

<p>42.10</p> <p>Marketers should not ask consumers to pay for or return unsolicited products, except for substitute products supplied in conformity with clauses 30.4 and 42.5a.</p>	
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PRESENT CODE	PROPOSED CODE
DATABASE PRACTICE	
<p>43.1</p> <p>Marketers should comply with all relevant data protection legislation. Guidance on this legislation is available from the Office of the Information Commissioner. Although data protection legislation has a wide application, these clauses relate only to databases used for direct marketing purposes. The clauses should be observed in conjunction with the legislation; they do not replace it.</p>	<p>Principle</p> <p>Marketers must comply with all relevant data protection legislation. Guidance on that legislation is available from the Information Commissioner's Office. Although data protection legislation has a wide application, these clauses relate only to databases used for direct marketing purposes. The clauses should be observed in conjunction with the legislation; they do not replace it.</p>
<p>43.3</p> <p>Except if it is obvious from the context, or if they already know, consumers should be informed at the time when personal information is collected:</p>	<p>10.9</p> <p>Unless it is obvious from the context, or if they already know, consumers must be informed in a clear and understandable manner and at the time personal information is collected:</p>
<p>a who is collecting it (and the representative for data protection queries, if different)</p>	<p>10.9.1</p> <p>who is collecting it (and the representative for data protection queries, if different)</p>
<p>b why it is being collected</p>	<p>10.9.2</p> <p>why it is being collected</p>
<p>c if it is intended to disclose the information to third parties, including associated but legally separate companies, or put the information to a use significantly different from that for which it is being provided, in which case an opportunity to prevent this should be given.</p>	<p>10.9.3</p> <p>if the marketer intends to disclose the information to third parties, including associated but legally separate companies, or put the information to a use significantly different from that for which it is being provided; if so, an opportunity to prevent that from happening must be given.</p>

<p>43.4</p> <p>The explicit consent of consumers is required before:</p>	<p>10.13</p> <p>The explicit consent of consumers is required before:</p>
<p>a processing sensitive personal data, including information on racial or ethnic origin, political opinion or religious or other similar beliefs, trade union membership, physical or mental health, sex life or any criminal record or allegation of criminal activity</p>	<p>10.13.1</p> <p>processing sensitive personal data, including information on racial or ethnic origin, political opinion or religious or other similar beliefs, trade union membership, physical or mental health, sex life, criminal record or allegation of criminal activity</p>
<p>b sending marketing communications by fax. Explicit consent is not required when marketing by fax to corporate subscribers (see 1.3j), though marketers must comply with 43.2d in particular and, if necessary, run their databases against the fax data file</p>	<p>10.13.2</p> <p>sending marketing communications by fax</p> <p>10.14</p> <p>Explicit consent is not required when marketing business products by fax or by electronic mail to corporate subscribers (see definition j) in the Introduction), including to their named employees. Marketers must nevertheless comply with 10.4.5 and 10.5 and offer opt-outs in line with 10.13.3.</p>
<p>c send marketing communications by e-mail or to mobile devices, save that marketers may send unsolicited marketing about their similar products to those whose details they have obtained in the course of, or in negotiations for, a sale. They should, however, tell them they may opt-out of future marketing both when they collect the data and on each occasion they send out marketing communications and should give them a simple means to do so. Explicit consent is not required when marketing business products to corporate subscribers (see 1.3j), including to their named employees</p>	<p>10.13.3</p> <p>sending marketing communications by electronic mail (excluding by Bluetooth technology) but marketers may send unsolicited marketing about their similar products to those whose data they have obtained during, or in negotiations for, a sale. Data marketers must, however, tell those consumers they may opt-out of receiving future marketing communications both when they collect the data and at every subsequent occasion they send out marketing communications. Marketers must give consumers a simple means to do so</p> <p>10.14</p> <p>Explicit consent is not required when marketing business products by fax or by electronic mail to corporate subscribers (see definition j) in the Introduction), including to their named employees. Marketers must nevertheless comply with 10.4.5 and 10.5 and offer opt-outs in line with 10.13.3.</p>
<p>d sending non-live-sound marketing communications by automated calling systems.</p>	<p>10.13.4</p> <p>sending non-live-sound marketing communications by automated calling systems.</p>

<p>43.5</p> <p>If after collection it is decided to use personal information for a purpose significantly different from that originally communicated, marketers should first get the explicit consent of consumers. Significantly different purposes include:</p> <p>a the disclosure of personal information to third parties for direct marketing purposes</p> <p>b the use or disclosure of personal information for any purpose substantially different from that which consumers could reasonably have foreseen and to which they might have objected.</p>	<p>10.12</p> <p>If after collection they decide to use personal information for a purpose significantly different from that originally communicated, marketers should first get the explicit consent of consumers. Significantly different purposes include:</p> <p>10.12.1</p> <p>the disclosure of personal information to third parties for direct marketing purposes</p> <p>10.12.2</p> <p>the use or disclosure of personal information for any purpose substantially different from that which consumers could reasonably have foreseen and to which they might have objected.</p>
<p>43.6</p> <p>The extent and detail of personal information held for any purpose should be adequate and relevant and should not be excessive for that purpose.</p>	<p>10.10</p> <p>The extent and detail of personal information held for any purpose must be adequate and relevant and should not be excessive for that purpose.</p>
<p>43.7</p> <p>Personal information must always be held securely and should be safeguarded against unauthorised use, disclosure, alteration or destruction.</p>	<p>10.1</p> <p>Personal information must always be held securely and must be safeguarded against unauthorised use, disclosure, alteration or destruction.</p>
<p>43.8</p> <p>Personal information should not be kept for longer than is necessary for the purpose or purposes for which it was obtained.</p>	<p>10.11</p> <p>Personal information must not be kept for longer than is necessary for the purpose for which it was originally obtained.</p>
<p>43.9</p> <p>Consumers are entitled to have their personal information suppressed. Enough information should be held by companies, though not for direct marketing purposes, to ensure that no further marketing communications are sent as a result of information about those consumers being re-obtained through a third party. If they want to reduce all unsolicited contact, consumers should register their names and contact details on all relevant suppression files.</p>	<p>10.5</p> <p>Consumers are entitled to have their personal information suppressed. Marketers must ensure that, before use, databases have been run against relevant suppression files within a suitable period. Marketers must hold limited information, for suppression purposes only, to ensure that no other marketing communications are sent as a result of information about those consumers being re-obtained through a third party.</p>
<p>43.10</p> <p>Consumers who have asked for personal</p>	

information about them to be suppressed may be contacted again if they ask to be reinstated.	
43.11 Marketers are permitted to use published information that is generally available provided the consumer concerned is not listed on a relevant suppression file.	10.8 Marketers are permitted, subject to database rights, to use published information that is generally available if the consumer concerned is not listed on a relevant suppression file.
43.12 Any proposed transfer of a database to a country outside the European Economic Area should be made only if that country ensures an adequate level of protection for the rights and freedoms of consumers in relation to the processing of personal information or if contractual arrangements are in place to provide that protection.	10.2 Any proposed transfer of a database to a country outside the European Economic Area must be made only if that country ensures an adequate level of protection for the rights and freedoms of consumers in relation to the processing of personal information or if contractual arrangements provide that protection.
43.13 Marketers should not make persistent and unwanted marketing solicitations by telephone, fax, e-mail or other remote media. To avoid making persistent and unwanted marketing solicitations, marketers should take all necessary steps to ensure that:	10.4 Marketers must not make persistent and unwanted marketing communications by telephone, fax, e-mail or other remote media. To avoid making persistent and unwanted marketing communications, marketers must do everything reasonable to ensure that:
a marketing communications are suitable for those targeted	10.4.1 marketing communications are suitable for those they target
b marketing communications are not sent unsolicited to consumers if explicit consent is required (see 43.4)	10.4.2 marketing communications are not sent unsolicited to consumers if explicit consent is required (see 10.13)
c marketing communications are not sent to consumers who have asked not to receive them (see 43.9) or who have not had the opportunity to object to receiving them, if appropriate (see 43.3c). Those consumers should be identifiable	10.4.4 marketing communications are not sent to consumers who have asked not to receive them (see 10.5) or, if relevant, who have not had the opportunity to object to receiving them (see 10.9.3). Those consumers should be identifiable
d databases are accurate and up-to-date and, if rented, bought, etc, have been run against the most relevant suppression file operated by the relevant Preference Service. Reasonable requests for corrections to personal information should be acted upon within 60 days	10.4.5 databases are accurate and up-to-date and that reasonable requests for corrections to personal information are effected within 60 days.
e anyone who has been notified as dead is not mailed again and the notifier is referred to the relevant	10.4.3 anyone who has been notified to them as dead

Preference Service	is not mailed again and the notifier is referred to the relevant Preference Service
f if asked in writing, consumers or the ASA (with consumers' consent) are given any information available on the nature and source of their personal details	10.3 Marketers must do everything reasonable to ensure that, if asked in writing, consumers or the ASA (with consent of the consumer concerned) are given available information on the nature of a consumer's personal information and from where it has been obtained.
Responsibility for complying with the above sub-clauses may not rest directly with marketers but with other data controllers. Those responsible will be expected to comply.	Principle Responsibility for complying with the database practice clauses may rest directly not with marketers but with data controllers. Those responsible are expected to comply.
	Children (Please see the Children Section)
	10.15 Marketers must not knowingly collect personal information for marketing purposes from children under 12 about themselves without first obtaining the consent of their parent or guardian.
	10.16 Marketers must not knowingly collect personal information about other people from children under 16.

PRESENT CODE	PROPOSED CODE
OTHER SPECIFIC RULES	
CHILDREN	
	<p>Principle</p> <p>Care should be taken when featuring or addressing children in marketing communications.</p> <p>The way in which children perceive and react to marketing communications is influenced by their age, experience and the context in which the message is delivered. Marketing communications that are acceptable for young teenagers will not necessarily be acceptable for younger children. The ASA will take those</p>

	factors into account when assessing whether a marketing communication complies with the Code.
47.1 For the purposes of the Code, a child is someone under 16. The way in which children perceive and react to marketing communications is influenced by their age, experience and the context in which the message is delivered; marketing communications that are acceptable for young teenagers will not necessarily be acceptable for young children. The ASA will take these factors into account when assessing marketing communications.	Definition For the purposes of the Code, a child is someone under 16.
47.2 Marketing communications addressed to, targeted at or featuring children should contain nothing that is likely to result in their physical, mental or moral harm:	5.1 Marketing communications addressed to, targeted directly at or featuring children must contain nothing that is likely to result in their physical, mental or moral harm:
a they should not be encouraged to enter strange places or talk to strangers. Care is needed when they are asked to make collections, enter schemes or gather labels, wrappers, coupons and the like	5.1.1 children must not be encouraged to enter strange places or talk to strangers
b they should not be shown in hazardous situations or behaving dangerously in the home or outside except to promote safety. Children should not be shown unattended in street scenes unless they are old enough to take responsibility for their own safety. Pedestrians and cyclists should be seen to observe the Highway Code	5.1.2 children must not be shown in hazardous situations or behaving dangerously except to promote safety. Children must not be shown unattended in street scenes unless they are old enough to take responsibility for their own safety. Pedestrians and cyclists must be seen to observe the Highway Code
c they should not be shown using or in close proximity to dangerous substances or equipment without direct adult supervision. Examples include matches, petrol, certain medicines and household substances as well as certain electrical appliances and machinery, including agricultural equipment	5.1.3 children must not be shown using or in close proximity to dangerous substances or equipment without direct adult supervision
d	5.1.4

they should not be encouraged to copy any practice that might be unsafe for a child.	children must not be encouraged to copy practices that might be unsafe for a child
47.3 Marketing communications addressed to, targeted at or featuring children should not exploit their credulity, loyalty, vulnerability or lack of experience:	5.2 Marketing communications addressed to, targeted directly at or featuring children must not exploit their credulity, loyalty, vulnerability or lack of experience:
a they should not be made to feel inferior or unpopular for not buying the advertised product	5.2.1 children must not be made to feel inferior or unpopular for not buying the advertised product
b they should not be made to feel that they are lacking in courage, duty or loyalty if they do not buy or do not encourage others to buy a particular product	5.2.2 children must not be made to feel that they are lacking in courage, duty or loyalty if they do not buy or do not encourage others to buy a product
c it should be made easy for them to judge the size, characteristics and performance of any product advertised and to distinguish between real-life situations and fantasy	5.2.3 it must be made easy for children to judge the size, characteristics and performance of advertised products and to distinguish between real-life situations and fantasy
d adult permission should be obtained before they are committed to purchasing complex and costly products.	5.2.4 adult permission must be obtained before children are committed to buying complex or costly products

PRESENT CODE	PROPOSED CODE
Food and soft drink product advertisements and children	
On 1 July 2007, a new and important regulation governing nutrition and health claims for foods came into force. The regulation is complex and mandatory. CAP encourages advertising industry stakeholders	Regulation (EC) No 1924/2006 on Nutrition and Health Claims made on Foods is complex and mandatory and seeks to protect consumers from misleading or false claims. Transitional periods apply and CAP advises advertising

<p>to take advice on the effect of the regulation and to consult the Food Standards Agency's Guidance to Compliance with Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods, which is available at http://www.food.gov.uk</p>	<p>industry stakeholders to take advice on the effect of that Regulation. Advertising industry stakeholders might find the Guidance to Compliance with European Regulation (EC) No 1924 on Nutrition and Health Claims Made on Foods published by the Food Standards Agency useful: www.food.gov.uk.</p>
<p>47.6</p> <p>Marketing communications should not condone or encourage poor nutritional habits or an unhealthy lifestyle in children.</p>	<p>15.12</p> <p>Marketing communications must not condone or encourage poor nutritional habits or an unhealthy lifestyle in children.</p>
<p>47.7</p> <p>a</p> <p>Although children might be expected to exercise some preference over the food they eat or drink, marketing communications should be prepared with a due sense of responsibility and should not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases for them. (see 47.4a)</p>	<p>15.17</p> <p>Although children might be expected to exercise some preference over the food they eat or drink, marketing communications must be prepared with a due sense of responsibility and must not directly advise or ask children to buy or to ask their parents or other adults to make enquiries or purchases for them. (See 5.4)</p>
<p>b</p> <p>Marketing communications should neither try to sell to children by directly appealing to emotions such as pity, fear, or self-confidence nor suggest that having the advertised product somehow confers superiority, for example making a child more confident, clever, popular, or successful.</p>	<p>15.17.1</p> <p>Marketing communications must neither try to sell to children by directly appealing to emotions such as pity, fear or self-confidence nor suggest that having the advertised product somehow confers superiority, for example making a child more confident, clever, popular or successful.</p>
<p>c</p> <p>Marketing communications addressed to children should avoid "high pressure" and "hard sell" techniques; they should neither directly urge children to buy or persuade others to buy nor suggest that children could be bullied, cajoled or otherwise put under pressure to acquire the advertised item.</p>	<p>15.17.2</p> <p>Marketing communications addressed to children must not urge children to buy or persuade others to buy and must avoid high-pressure or hard-sell techniques. Nothing must suggest that children could be bullied, cajoled or otherwise put under pressure to acquire the advertised item.</p>
<p>d</p> <p>Products and prices should not be presented in marketing communications in a way that suggests children or their families can easily afford them.</p>	<p>15.17.3</p> <p>Products or prices must not be presented in marketing communications in a way that suggests children or their families can easily afford them.</p>
<p>e</p> <p>Marketing communications addressed to or targeted directly at children should not</p>	<p>15.12</p>

<p>actively encourage them to eat or drink at or near bedtime, to eat frequently throughout the day or to replace main meals with confectionery or snack foods.</p>	<p>Marketing communications must not condone or encourage poor nutritional habits or an unhealthy lifestyle in children.</p>
<p>47.8</p> <p>Marketing communications featuring a promotional offer should be prepared with a due sense of responsibility. Except those for fresh fruit or fresh vegetables, food or drink advertisements that are targeted directly at pre-school or primary school children through their content should not include promotional offers.</p>	<p>15.14</p> <p>Marketing communications featuring a promotional offer must be prepared with a due sense of responsibility.</p> <p>15.15</p> <p>Except those for fresh fruit and fresh vegetables, marketing communications for food advertisements that are targeted through their content directly at pre-school or primary school children must not include a promotional offer.</p>
<p>a</p> <p>Marketing communications featuring a promotional offer linked to food products of interest to children should avoid creating a sense of urgency or encouraging the purchase of excessive quantities for irresponsible consumption.</p>	<p>15.15.2</p> <p>Marketing communications featuring a promotional offer linked to a food product of interest to children must avoid creating a sense of urgency or encouraging the purchase of an excessive quantity for irresponsible consumption.</p>
<p>b</p> <p>Marketing communications should not seem to encourage children to eat or drink a product only to take advantage of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Marketing communications featuring a promotional offer should ensure a significant presence for the product. Marketing communications for fresh fruit or fresh vegetable products are exempt from this restriction.</p>	<p>15.15.1</p> <p>Except those for fresh fruit or fresh vegetables, marketing communications must not seem to encourage children to eat or drink a product only to take advantage of a promotional offer: the product should be offered on its merits, with the offer as an added incentive. Marketing communications featuring a promotional offer must ensure a significant presence for the product.</p>
<p>c</p> <p>Marketing communications for collection-based promotions should not seem to urge children or their parents to buy excessive quantities of food.</p>	<p>15.15.4</p> <p>Marketing communications for collection-based promotions must not seem to urge children or their parents to buy excessive quantities of food.</p>
<p>d</p>	<p>15.51.3</p>

<p>Marketing communications should not encourage children to eat more than they otherwise would.</p>	<p>Marketing communications must not encourage children to eat more than they otherwise would.</p>
<p>47.9</p> <p>Licensed characters and celebrities popular with children should be used with a due sense of responsibility. Except those for fresh fruit or fresh vegetables, food or drink advertisements that are targeted directly at pre-school or primary school children through their content should not include licensed characters or celebrities popular with children.</p>	<p>15.16</p> <p>Licensed characters and celebrities popular with children must be used with a due sense of responsibility. Except those for fresh fruit or fresh vegetables, food advertisements that are targeted directly at pre-school or primary school children through their content must not include licensed characters or celebrities popular with children.</p> <p>For the avoidance of doubt, that prohibition applies to food or drink advertisements only. The prohibition does not apply to advertiser-created equity brand characters (puppets, persons or characters), which may be used by advertisers to sell the products they were designed to sell.</p> <p>Licensed characters and celebrities popular with children may present factual and relevant generic statements about nutrition, safety, education or similar.</p>
<p>47.10</p> <p>Marketing communications should not give a misleading impression of the nutritional or health benefits of the product as a whole. Except those for fresh fruit or fresh vegetables, food or drink advertisements that are targeted directly at pre-school or primary school children through their content should not include nutrition or health claims.</p>	<p>15.18</p> <p>Marketing communications must not give a misleading impression of the nutritional or health benefit of the product as a whole. Claims referring to children's development and health are acceptable if authorised by the European Commission</p>
<p>47.11</p> <p>Marketing communications should not disparage good dietary practice or the selection of options, such as fresh fruit and vegetables that accepted dietary opinion recommends should form part of the average diet.</p>	<p>15.13</p> <p>Marketing communications must not disparage good dietary practice or the selection of options, such as fresh fruit and fresh vegetables, that accepted dietary opinion recommends should form part of the average diet.</p>
	<p>15.1.1</p> <p>Only Permitted Nutrition Claims listed in the Annex of EC Regulation 1924/2006 on Nutrition and Health Claims Made on Foods may be used in marketing communications.</p> <p>Authorised health claims in the Community Register may be used in marketing communications. [Web link</p>

	<p>to Community Register]</p> <p>Transitional periods apply, including those for certain health claims in use before 19 January 2007 for which an application for authorisation has been submitted and nutrition claims in use in the EU before 1 January 2006. CAP advises advertising industry stakeholders to take advice on the effect of the Regulation.</p> <p>Marketing communications that feature health claims filed with the relevant Home Authority and awaiting authorisation, may be used with particular care. They must comply with all relevant rules.</p>
	<p>15.1.2</p> <p>These nutrition claims, or claims that would have the same meaning for consumers, must comply with the criteria in the annex of EC Regulation 1924/2006 Nutrition and Health Claims made on Foods.</p> <p>Low energy, energy-reduced, energy-free, low fat, fat-free, low saturated fat, saturated fat-free, low sugars, sugars-free, with no added sugars, low sodium, low salt, very low sodium, very low salt, sodium-free, salt-free, source of fibre, high fibre, source of protein, high protein, source of [name of vitamin], high in [name of vitamin], contains [name of vitamin], source of [name of mineral], high in [name of mineral], contains [name of mineral], increased [name of nutrient], reduced [name of nutrient], light, lite, naturally and natural. More nutrition claims may be added to the list at a later date.</p> <p>The Annex provisions can be found at: [link to CAP help note]:</p>
	<p>15.2</p> <p>Claims for the presence, absence or reduced content of a nutrient in a product must be able to show a beneficial nutritional or physiological effect and should be considered in the context of a balanced diet or lifestyle or both. If a food product is a good source of certain nutrients that does not justify a generalised claim of a wider nutritional benefit.</p>

	<p>15.3</p> <p>Comparative nutrition claims must show any differences between a product bearing a Permitted Nutrition Claim and foods of the same category.</p> <p>15.3.1</p> <p>An advertisement may use one product as the sole reference for comparison only if that product is representative of the products in its category.</p> <p>15.3.2</p> <p>The difference in the quantity of a nutrient or energy value must be stated in the marketing communication and must relate to the same quantity of food.</p>
	<p>15.6</p> <p>These are not acceptable in marketing communications for products within the remit of this Section:</p> <p>15.6.1</p> <p>Claims that state or imply health could be affected by not consuming a food</p> <p>15.6.2</p> <p>Claims that state or imply a food prevents, treats or cures human disease. Reduction-of-disease-risk claims are acceptable if authorised by the European Commission</p> <p>15.6.3</p> <p>Health claims that refer to the recommendation of an individual health professional. Health claims that refer to the recommendation of an association are acceptable only if that association is a health-related charity or a national representative body of medicine, nutrition or dietetics</p>

	<p>15.6.4</p> <p>References to changes in bodily functions that could give rise to or exploit fear in the audience</p> <p>15.6.5</p> <p>Claims of a nutrition or health benefit that gives rise to doubt the safety or nutritional adequacy of another product</p> <p>15.6.6</p> <p>Health claims that refer to a rate or amount of weight loss.</p>
	<p>15.5</p> <p>Marketing communications must not condone or encourage damaging oral health care practices, especially in children.</p>
	<p>15.4</p> <p>Marketing communications must not condone or encourage excessive consumption of a food.</p>
47.12	<p>5.4</p> <p>Marketing communications addressed to or targeted directly at children:</p>
<p>a should not actively encourage them to make a nuisance of themselves to parents or others and should not undermine parental authority</p> <p>b should not make a direct appeal to children to buy advertised products or persuade their parents or other adults to buy advertised products for them. Distance selling marketers should take care when using youth media not to promote products that are unsuitable for children</p>	<p>5.4.1</p> <p>must not actively encourage children to make a nuisance of themselves to parents or others and must not undermine parental authority</p> <p>5.4.2</p> <p>must not include a direct exhortation to children to buy an advertised product or persuade their parents or other adults to buy an advertised product for them.</p>

	<p>5.5</p> <p>Marketing communications that contain a direct exhortation to buy a product via a direct-response mechanism must not be directly targeted at children. For a definition of “direct-response mechanism”, see the Direct Marketing and Distance Selling Section (Section 9).</p> <p>5.1</p> <p>Marketing communications addressed to, targeted directly at or featuring children must contain nothing that is likely to result in their physical, mental or moral harm:</p> <p>5.1.5</p> <p>distance selling marketers must take care when using youth media not to promote products that are unsuitable for children.</p>
<p>c should not exaggerate what is attainable by an ordinary child using the product being marketed</p>	<p>5.3</p> <p>Marketing communications addressed to or targeted directly at children:</p> <p>5.3.1</p> <p>must not exaggerate what is attainable by an ordinary child using the product being marketed</p>
<p>e should not exploit their susceptibility to charitable appeals and should explain the extent to which their participation will help in any charity-linked promotions.</p>	<p>5.3.2</p> <p>must not exploit children’s susceptibility to charitable appeals and must explain the extent to which their participation will help in any charity-linked promotions.</p>
<p>47.13</p> <p>Promotions addressed to or targeted at</p>	<p>5.6</p> <p>Promotions addressed to or targeted directly at</p>

children:	children:
a should make clear that adult permission is required if prizes and incentives might cause conflict. Examples include animals, bicycles, tickets for outings, concerts and holidays	5.6.1 must make clear that adult permission is required if a prize or an incentive might cause conflict between a child's desire and a parent's, or other adult's, authority
b should contain a prominent closing date	5.6.2 must contain a prominent closing date if applicable
c should not exaggerate the value of prizes or the chances of winning them.	5.6.3 must not exaggerate the value of a prize or the chances of winning it.
	5.7 Promotions that contain a direct exhortation to buy a product must not be addressed to or directly targeted at children.

PRESENT CODE	PROPOSED CODE
MOTORING	
	Principle Marketing communications should not harm consumers by condoning or encouraging unsafe or inconsiderate driving practices. If they make environmental claims, marketing communications for motor vehicles, fuel or accessories should comply with the rules on Environmental Claims.
48.1 Marketing communications for motor vehicles, fuel or accessories should avoid portraying or referring to practices that encourage or condone anti-social behaviour.	19.1 Marketing communications for motor vehicles, fuel or accessories must not depict or refer to practices that condone or encourage anti-social behaviour.
48.2	19.4

<p>Marketers should not make speed or acceleration claims the predominant message of their marketing communications. However it is legitimate to give general information about a vehicle's performance such as acceleration and mid-range statistics, braking power, road-holding and top speed.</p>	<p>Marketers must not make speed or acceleration the main message of their marketing communications. Marketing communications may give general information about a vehicle's performance, such as acceleration and mid-range statistics, braking power, road-holding and top speed.</p>
<p>48.3</p> <p>Marketers should not portray speed in a way that might encourage motorists to drive irresponsibly or to break the law and should not condone irresponsible driving.</p>	<p>19.3</p> <p>Marketing communications must not depict speed in a way that might encourage motorists to drive irresponsibly or to break the law.</p> <p>To avoid the implication of irresponsible driving through excessive speed, care must be taken in the style of presentation of marketing communications. Particular care must be taken in, for example, cinema commercials and in marketing communications that appear in electronic media to avoid moving images that imply excessive speed. If they are shown in normal driving circumstances on public roads, vehicles must be seen not to exceed UK speed limits.</p>
<p>48.4</p> <p>Vehicles should not be depicted in dangerous or unwise situations in a way that might encourage or condone irresponsible driving. Their capabilities may be demonstrated on a track or circuit provided it is clearly not in use as a public highway.</p>	<p>19.2</p> <p>Marketing communications must not condone or encourage unsafe or irresponsible driving. If it could be emulated, marketing communications must not depict a driving practice that is likely to condone or encourage a breach of those rules of the Highway Code that are legal requirements if that driving practice seems to take place on a public road or in a public space. Vehicles' capabilities may be demonstrated on a track or circuit if it is obviously not in use as a public highway.</p>
<p>48.5</p> <p>Care should be taken in cinema commercials and those in electronic media where the moving image may give the impression of excessive speed. In all cases where vehicles are shown in normal driving circumstances on public roads they should be seen not to exceed UK speed limits.</p>	<p>19.3</p> <p>Marketing communications must not depict speed in a way that might encourage motorists to drive irresponsibly or to break the law.</p> <p>To avoid the implication of irresponsible driving through excessive speed, care must be taken in the style of presentation of marketing communications. Particular care must be taken in, for example, cinema commercials and in marketing communications that appear in electronic media to avoid moving images that imply excessive speed. If they are shown in normal driving circumstances on public roads, vehicles must be seen not to exceed UK speed limits.</p>
<p>48.6</p> <p>When making environmental claims for their</p>	<p>Principle</p>

products, marketers should conform with the rules on Environmental Claims.	Marketing communications should not harm consumers by condoning or encouraging unsafe or inconsiderate driving practices. If they make environmental claims, marketing communications for motor vehicles, fuel or accessories should comply with the rules on Environmental Claims.
48.7 Prices quoted should correspond to the vehicles illustrated. For example, it is not acceptable to feature only a top-of-the-range model alongside the starting price for that range.	3.17 Price statements must not mislead by omission, undue emphasis or distortion. They must relate to the product featured in the marketing communication.
48.8 Safety claims should not exaggerate the benefit to consumers. Marketers should not make absolute claims about safety unless they hold evidence to support them.	19.5 Safety claims must not exaggerate the benefit to consumers. Marketers must not make absolute claims about safety unless they hold evidence to substantiate them.

PRESENT CODE	PROPOSED CODE
ENVIRONMENTAL CLAIMS	
(See CAP Help Note on Claims for Organic Food)	Principle Marketers should take account of Government guidance including the Green Claims Code published by DEFRA and BERR.
49.1 The basis of any claim should be explained clearly and should be qualified where necessary. Unqualified claims can mislead if they omit significant information.	Rules 11.1 The basis of environmental claims must be clear. Unqualified claims could mislead if they omit significant information. 11.2 The meaning of all terms used in advertisements must be clear to consumers.

<p>49.2</p> <p>Claims such as ‘environmentally friendly’ or ‘wholly biodegradable’ should not be used without qualification unless marketers can provide convincing evidence that their product will cause no environmental damage when taking into account the full life cycle of the product. Qualified claims and comparisons such as ‘greener’ or ‘friendlier’ may be acceptable if marketers can substantiate that their product provides an overall improvement in environmental terms either against their competitors’ or their own previous products.</p>	<p>11.3</p> <p>Absolute claims must be supported by a high level of substantiation. Comparative claims such as “greener” or “friendlier” can be justified, for example, if the advertised product provides a total environmental benefit over that of the marketer’s previous product or competitor products and the basis of the comparison is clear.</p> <p>11.4</p> <p>Marketers must base environmental claims on the full life cycle of the advertised product, unless the marketing communication states otherwise, and must make clear the limits of the life cycle. If a general claim cannot be justified, a more limited claim about specific aspects of a product might be justifiable. Marketers must ensure claims that are based on only part of the advertised product’s life cycle do not mislead consumers about the product’s total environmental impact.</p>
<p>49.3</p> <p>Where there is a significant division of scientific opinion or where evidence is inconclusive this should be reflected in any statements made in the marketing communication. Marketers should not suggest that their claims command universal acceptance if that is not the case.</p>	<p>11.5</p> <p>Marketers must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists.</p>
<p>49.4</p> <p>If a product has never had a demonstrably adverse effect on the environment, marketing communications should not imply that the formulation has changed to make it safe. It is legitimate, however, to make claims about a product whose composition has changed or has always been designed in a way that omits chemicals known to cause damage to the environment.</p>	<p>11.6</p> <p>If a product has never had a demonstrably adverse effect on the environment, marketing communications must not imply that the formulation has changed to improve the product in the way claimed. Marketers may, however, claim that a product has always been designed in a way that omits an ingredient or process known to harm the environment.</p>
<p>49.5</p> <p>The use of extravagant language should be avoided, as should bogus and confusing scientific terms. If it is necessary to use a scientific expression, its meaning should be clear.</p>	<p>11.2</p> <p>The meaning of all terms used in advertisements must be clear to consumers.</p>

	<p>11.7</p> <p>Marketing communications must not mislead consumers about the environmental benefit that a product offers; for example, by highlighting the absence of an environmentally damaging ingredient if that ingredient is not usually found in competing products or by highlighting an environmental benefit that results from a legal obligation if competing products are subject to that legal obligation.</p>
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PRESENT CODE	PROPOSED CODE
HEALTH & BEAUTY PRODUCTS AND THERAPIES	
(see CAP Help Notes, particularly those on: Substantiation for Health, Beauty and Slimming Claims; Health, Beauty and Slimming Advertisements that Refer to Ailments; and Use of Experts by the ASA and CAP)	<p>Background</p> <p>For more information, see CAP Help Notes, especially those on: Substantiation for Health, Beauty and Slimming Claims; Health, Beauty and Slimming Advertisements that Refer to Ailments and Use of Experts by the ASA and CAP.</p> <p>For the purposes of this Code, “licence” includes certificate, authorisation or registration.</p>
General	
On 1 July 2007, a new and important regulation governing nutrition and health claims for foods came into force. The regulation is complex and mandatory. CAP encourages advertising industry stakeholders to take advice on the effect of the regulation and to consult the Food Standards Agency’s Guidance to Compliance with Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods, which is available at http://www.food.gov.uk	
50.1	<p>12.1</p> <p>Objective claims made about health-related or beauty products 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.</p> <p>Medicinal claims may be made for a medicinal product that is licensed by the MHRA or EMEA, or a medical device that contains medicinal substances that act on the body in a manner ancillary to the device only. A medicinal claim is a claim that a substance or combination of substances can be used with a view to making a medical diagnosis or can treat or prevent</p>

	disease, including an injury, ailment or adverse condition, whether of body or mind, in humans beings by restoring, correcting or modifying physiological functions by exertion of a pharmacological, immunological or metabolic action.
50.2 Marketers inviting consumers to diagnose their own minor ailments should not make claims that might lead to a mistaken diagnosis.	12.5 Marketers inviting consumers to diagnose their minor ailments must not make claims that might lead to a mistaken diagnosis.
50.3 Marketers should not discourage essential treatment. They should not offer specific advice on, diagnosis of or treatment for serious or prolonged conditions unless it is conducted under the supervision of a doctor or other suitably qualified health professional (eg one subject to regulation by a statutory or recognised medical or health professional body). Accurate and responsible general information about such conditions may, however, be offered.	12.2 Marketers must not discourage essential treatment for conditions for which medical supervision should be sought. For example, they must not offer specific advice on, diagnosis of or treatment for such conditions unless that advice, diagnosis or treatment is conducted under the supervision of a suitably qualified health professional. Accurate and responsible general information about such conditions may, however, be offered. (See also 12.11) Health professionals will be deemed suitably qualified only if they can provide suitable credentials, for example, evidence of: relevant professional expertise or qualifications; systems for regular review of members' 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.
50.4 Consumers should not be encouraged to use products to excess and marketers should hold proof before suggesting their products or therapies are guaranteed to work, absolutely safe or without side-effects.	12.9 Marketers must not encourage consumers to use a product to excess and must hold proof before suggesting their product or therapy is guaranteed to work, absolutely safe or without side-effects.
50.5 Marketing communications should not suggest that any product is safe or effective merely because it is 'natural' or that it is generally safer because it omits an ingredient in common use.	12.10 Marketing communications must not suggest that any product is safe or effective merely because it is "natural" or that it is generally safer because it omits an ingredient in common use.
50.6 Marketers offering individual treatments, particularly those that are physically invasive, may be asked by the media and the ASA to provide full details together with information	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 will supervise and administer them. Where appropriate, practitioners should 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.	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.
50.7 References to the relief of symptoms or the superficial signs of ageing are acceptable if they can be substantiated. Unqualified claims such as 'cure' and 'rejuvenation' are not generally acceptable.	12.7 References to the relief of symptoms or the superficial signs of ageing are acceptable if they can be substantiated. Unqualified claims such as "cure" and "rejuvenation" are not generally acceptable, especially for cosmetic products.
50.8 Marketers should hold proof before claiming or implying that minor addictions and bad habits can be treated without effort from those suffering.	12.8 Marketers must hold proof before claiming or implying that a minor addiction or a bad habit can be treated without effort from those suffering.
50.9 Marketers should not use unfamiliar scientific words for common conditions.	12.4 Marketers must not confuse consumers by using unfamiliar scientific words for common conditions.

PRESENT CODE	PROPOSED CODE
Medicines	
50.10 The Medicines Act 1968 and its regulations, as well as regulations implementing European Community Directive 92/28/EEC, govern the advertising and promotion of medicines and the conditions of ill health that they can be offered to treat. Guidance on the legislation is available from the Medicines Control Agency (MCA).	<u>Medicines</u> The Medicines Act 1968 and secondary legislation issued under it, as well as Regulations implementing European Community Directive 2001/83/EC on the Community Code relating to medicinal products for human use, govern the advertising and promotion of medicines and the conditions of ill-health that medicines may be offered to treat. Guidance on the relevant legislation is available from the MHRA. For more information on medicinal products and medical devices, go to: www.mhra.gov.uk . For more information on medical treatments, go to: www.healthcarecommission.org.uk .
50.11 Medicines must have a marketing authorisation from the MCA before they are	12.11 Medicines must have a licence from the MHRA before they are marketed. Marketing

<p>marketed and any claims made for products must conform with the authorisation. Medicinal claims should not be made for unauthorised products. Marketing communications should refer to the MCA, the authorisation or the EC only if required to do so by the MCA.</p>	<p>communications for medicines must conform with the licence and the product's summary of product characteristics. For the avoidance of doubt, by conforming with the product's indicated use, a marketing communication would not breach 12.2.</p> <p>Marketing communications must not suggest that a product is "special" or "different" because it has been granted a licence by the MHRA.</p>
<p>50.12</p> <p>Prescription-only medicines may not be advertised to the public. Health-related claims in marketing communications addressed only to the medical, dental, veterinary and allied professions are exempt from the Code.</p>	<p>12.12</p> <p>Prescription-only medicines or medical treatments may not be advertised to the public.</p>
<p>50.13</p> <p>Marketing communications should include the name of the product, an indication of what it is for, text such as 'Always read the label' and the common name of the active ingredient if there is only one. There should be no suggestion that any medicine is either a food or a cosmetic.</p>	<p>12.12</p> <p>Marketing communications for a medicinal product must include the name of the product, an indication of what it is for, text such as "Always read the label" and the common name of the sole active ingredient, if it contains only one.</p> <p>Marketing communications for a traditional herbal medicinal product or a homeopathic medicinal product must include mandatory information, which can be found in the MHRA's The Blue Guide: Advertising and Promotion of Medicines in the UK at www.mhra.gov.uk.</p>
<p>50.14</p> <p>Marketers must not use fear or anxiety to promote medicines or recovery from illness and should not suggest that using or avoiding a product can affect normal good health.</p>	<p>12.13</p> <p>Marketers must not use fear or anxiety to promote a medicine or a recovery from illness and must not suggest that using or avoiding a product can affect normal health.</p>
<p>50.15</p> <p>Illustrations of the effect or action of any product should be accurate.</p>	<p>12.14</p> <p>Illustrations of the effect or action of a product should be accurate.</p>
<p>50.16</p> <p>Marketing communications for medicines should not be addressed to children.</p>	<p>12.15</p> <p>Marketing communications for a medicine must not be addressed to children.</p>
<p>50.17</p> <p>Marketers should not use health professionals or celebrities to endorse medicines.</p>	<p>12.17</p> <p>Marketers must not use health professionals or celebrities to endorse medicines.</p>

<p>50.18</p> <p>Marketing communications for any medicine should not claim that its effects are as good as or better than those of another identifiable product.</p>	<p>12.18</p> <p>Marketing communications for a medicine may not claim that its effects are as good as or better than those of another identifiable product.</p>
<p>50.19</p> <p>Homeopathic medicinal products must be registered in the UK. Any product information given in the marketing communication should be confined to what appears on the label. Marketing communications should include a warning to consult a doctor if symptoms persist. Marketing communications for unauthorised products should not make any medicinal or therapeutic claims or refer to any ailment.</p>	<p>12.19</p> <p>Homeopathic medicinal products must be registered in the UK. Any product information given in the marketing communication should be confined to what appears on the label. Marketing communications must include a warning to consult a doctor if symptoms persist. Marketing communications for an unlicensed product must not make a medicinal or therapeutic claim or refer to an ailment unless authorised by the MHRA to do so.</p>
	<p>12.20</p> <p>Marketers of traditional herbal medicines may advertise for the indications listed in the product's summary of product characteristics. Marketing communications for products that hold a Traditional Herbal Medicines Registration must not imply that registration is based upon clinical trials.</p>

PRESENT CODE	PROPOSED CODE
<p>Vitamins, minerals and other food supplements</p>	<p>Dietary supplements and other Vitamins and Minerals</p>
<p>50.20</p> <p>Marketers should hold scientific evidence for any claim that their vitamin or mineral product or other food supplement is beneficial to health. In assessing claims the ASA and CAP will bear in mind recommendations made by bodies such as the Department of Health and the Food Standards Agency.</p>	<p><u>Dietary Supplements and other Vitamins and Minerals</u></p> <p>CAP advises marketers to ensure that claims made for dietary supplements and other vitamins and minerals are in line with the requirements of Regulation (EC) No 1924/2006 on Nutrition and Health Claims made on Foods.</p> <p>15.7</p> <p>Marketers must hold documentary evidence for any claim that their vitamin or mineral product or other dietary supplement benefits health.</p>
<p>50.21</p>	<p>15.8</p>

<p>A well-balanced diet should provide the vitamins and minerals needed each day by a normal, healthy individual. Marketers may offer vitamin and mineral supplements to certain groups as a safeguard to help maintain good health but should not imply that they can be used to prevent or treat illness, elevate mood or enhance normal performance. Without well-established proof, no marketing communication should suggest that there is widespread vitamin or mineral deficiency or that it is necessary or therapeutic to augment a well-balanced diet. Individuals should not be encouraged to swap a healthy diet for supplementation.</p>	<p>A well-balanced diet should provide the vitamins and minerals needed each day by a normal, healthy individual. Marketers must not state or imply that a balanced or varied diet cannot provide enough nutrients in general and individuals should not be encouraged to swap a healthy diet for supplementation. Marketers may offer vitamin and mineral supplements to certain groups as a safeguard to help maintain good health but must not, unless the claims are authorised by the European Commission, imply they can be used to elevate mood or enhance normal performance. Claims about a higher vitamin or mineral intake for a specific function are permitted if authorised by the European Commission. Without well-established proof, no marketing communication must suggest that a widespread vitamin or mineral deficiency exists.</p>
<p>50.22</p> <p>People who are potentially at risk of deficiency may be safeguarded by vitamin and mineral supplementation. Products must be appropriate and marketing communications should specify the group they are addressing when claiming or implying that health may be maintained. Indicative groups include:</p>	<p>15.9</p> <p>People who are potentially at risk of deficiency may be safeguarded by vitamin, mineral or dietary supplements. If the claim made for a vitamin or mineral supplement is relevant only to a group who is at risk of inadequate intake, marketing communications must state clearly the group likely to benefit from the supplement. That group might include:</p>
<p>a people who eat nutritionally inadequate meals</p>	<ul style="list-style-type: none"> • people who eat nutritionally inadequate meals
<p>b the elderly</p>	<ul style="list-style-type: none"> • the elderly
<p>c children and adolescents</p>	<ul style="list-style-type: none"> • children and adolescents
<p>d convalescents</p>	<ul style="list-style-type: none"> • convalescents
<p>e athletes in training or others who are physically very active</p>	<p>athletes in training or others who are physically very active</p>
<p>f women of child-bearing age</p>	<ul style="list-style-type: none"> • women of child-bearing age
<p>g lactating and pregnant women</p>	<ul style="list-style-type: none"> • lactating or pregnant women
<p>h people on restricted food or energy diets</p>	<ul style="list-style-type: none"> • people on restricted food or energy diets
<p>i people with Asian ancestry from the Indian sub-continent</p>	<ul style="list-style-type: none"> • people with Asian ancestry from the Indian sub-continent
<p>j people who smoke.</p>	<ul style="list-style-type: none"> • people who smoke

	<ul style="list-style-type: none"> housebound people.
50.23 Serious vitamin and mineral depletion caused by illness should be diagnosed and treated by a doctor. Self-medication should not be promoted on the basis that it will influence the speed or extent of recovery.	15.10 Marketing communications for foods must not claim to treat clinical vitamin or mineral deficiency.
	<u>Infant and Follow-on Formula</u> These rules must be read in conjunction with the relevant legislation including the Infant Formula and Follow-on Formula Regulations 2007 and the European Regulation (EC) No 1924/2006 on Nutrition and Health Claims made on Foods.
	15.11 Except for those in a scientific publication or, for the purposes of trade before the retail stage, a publication of which the intended readers are not the general public, marketing communications for infant formula are prohibited.
	15.11.1 Marketing communications must not confuse between infant formula and follow-on formula.

PRESENT CODE	PROPOSED CODE
Cosmetics	
50.24 Claims made about the action that a cosmetic has on or in the skin should distinguish between the composition of the product and any effects brought about by the way in which it is applied, such as massage. Scientific evidence should also make this distinction.	<u>Cosmetics</u> 12.21 Claims made about the action that a cosmetic has on or in the skin should distinguish between the composition of the product and any effects brought about by the way in which it is applied, such as massage. Scientific evidence must also make that distinction.
50.25 Some cosmetics have an effect on the kind of skin changes that are caused by environmental factors. Marketing communications for them can therefore refer to temporarily preventing, delaying or masking premature ageing.	12.21.1 Some cosmetics have an effect on the type of skin changes that are caused by environmental factors. Marketing communications for them may therefore refer to temporarily preventing, delaying or masking premature ageing.

PRESENT CODE	PROPOSED CODE
Hair and scalp	
50.26 Marketers should be able to provide scientific evidence, where appropriate in the form of trials conducted on people, for any claim that their product or therapy can prevent baldness or slow it down, arrest or reverse hair loss, stimulate or improve hair growth, nourish hair roots, strengthen the hair or improve its health as distinct from its appearance.	<u>Hair and scalp</u> 12.22 Marketers must be able to provide scientific evidence, if relevant consisting of trials conducted on people, for any claim that their product or therapy can prevent baldness or slow it down, arrest or reverse hair loss, stimulate or improve hair growth, nourish hair roots, strengthen the hair or improve its health as distinct from its appearance.
PRESENT CODE	PROPOSED CODE
General	
50.27 Marketers should not falsely claim that a product is able to cure illness, dysfunction or malformations	12.6 Marketers should not falsely claim that a product is able to cure illness, dysfunction or malformations

PRESENT CODE	PROPOSED CODE
WEIGHT CONTROL	
(see CAP Slimming Guidelines for Press Advertisements)	
On 1 July 2007, a new and important regulation governing nutrition and health claims for foods came into force. The regulation is complex and mandatory. CAP encourages advertising industry stakeholders to take advice on the effect of the regulation and to consult the Food Standards Agency's Guidance to Compliance with Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods, which is available at http://www.food.gov.uk	
	Principle The clauses in this Section are designed to ensure that marketing communications for slimming and weight control products receive

	the necessary high level of scrutiny.
	<p>Definition</p> <p>This Section applies to marketing communications for weight control and slimming foodstuffs, aids (including exercise products that make weight-loss or slimming claims), clinics and other establishments, diets, medicines, treatments and the like. If applicable, they must comply with Section 12, Medicines, Medical Devices, Health-related Products and Beauty Products, and Section 15, Food, Dietary Supplements and Associated Health and Nutrition Claims.</p>
51.1	13.1
A weight reduction regime in which the intake of energy is lower than its output is the most common self-treatment for achieving weight reduction. Any claims made for the effectiveness or action of a weight reduction method or product should be backed if appropriate by rigorous trials on people; testimonials that are not supported by trials do not constitute substantiation.	A weight-reduction regime in which the intake of energy is lower than its output is the most common self-treatment for achieving weight reduction. Any claim made for the effectiveness or action of a weight-reduction method or product must be backed, if applicable, by rigorous trials on people; testimonials that are not supported by trials do not constitute substantiation.
51.2	13.2
Obesity in adults is defined by a Body Mass Index (BMI) of more than 30 kg/m ² . Obesity is frequently associated with medical conditions and treatments for it should not be advertised to the public unless they are to be used under suitably qualified supervision.	Obesity in adults is defined by a Body Mass Index (BMI) of more than 30 kg/m ² . Obesity is frequently associated with a medical condition and a treatment for it must not be advertised to the public unless it is to be used under suitably qualified supervision. Marketing communications for non-prescription medicines that are indicated for the treatment of obesity and that require the involvement of a pharmacist in the sale or supply of the medicine may nevertheless be advertised to the public.
51.3	13.3
Marketing communications for any weight reduction regime or establishment should neither be directed at, nor contain anything that will appeal particularly to, people who are under 18 or those in whom weight reduction would produce a potentially harmful body weight (BMI of less than 18.5 kg/m ²). Marketing communications should not suggest that it is desirable to be underweight.	Marketing communications for any weight-reduction regime or establishment must neither be directed at nor contain anything that is likely to appeal particularly to people who are under 18 or those for whom weight reduction would produce a potentially harmful body weight (BMI of less than 18.5 kg/m ²). Those marketing communications must not suggest that being underweight is desirable or acceptable.
51.4	13.4
Marketers must show that weight reduction is achieved by loss of body fat before claims are made for a weight reduction aid or regimen. Combining a diet with an unproven weight reduction method does not justify making	Before they make claims for a weight-reduction aid or regimen, marketers must show that weight-reduction is achieved by loss of body fat. Combining a diet with an unproven weight-reduction method does not justify making

weight reduction claims for that method.	weight-reduction claims for that method.
51.5 Marketers should be able to show that their diet plans are nutritionally well-balanced (except for producing a deficit of energy) and this should be assessed in relation to the kind of person who would be using them.	13.5 Marketers must be able to show that their diet plans are nutritionally well-balanced (except for producing a deficit of energy) and that must be assessed in relation to the category of person who would use them.
51.6 Vitamins and minerals do not contribute to weight reduction but may be offered to slimmers as a safeguard against any shortfall when dieting.	13.6 Vitamins and minerals do not contribute to weight reduction but may be offered to slimmers as a safeguard against any shortfall in recommended intake when dieting.
51.7 Marketers promoting Very Low Calorie Diets and other diets that fall below 800 calories a day should do so only for short term use and should encourage users to take medical advice before embarking on them. Marketers should also have regard to the voluntary code of practice in the COMA report "The Use of Very Low Energy Diets" (1987).	13.7 Marketers promoting Very Low Calorie Diets or other diets that fall below 800 kilo-calories a day must do so only for short-term use and must encourage users to take medical advice before embarking on them. Marketers should refer to the Guidance on "Obesity: the prevention, identification, assessment and management of overweight and obesity in adults and children" (2006) published by the National Institute for Health and Clinical Excellence.
51.8 Marketing communications for diet aids should make clear how they work. Prominence must be given to the role of the diet and marketing communications should not give the impression that dieters cannot fail or can eat as much as they like and still lose weight.	13.8 Marketing communications for diet aids must make clear how they work. Prominence must be given to the role of the diet and marketing communications must not give the impression that dieters cannot fail or can eat as much as they like and still lose weight.
51.9 Marketing communications should not contain claims that people can lose precise amounts of weight within a stated period or that weight or fat can be lost from specific parts of the body.	13.9 Marketing communications must not contain claims that people can lose precise amounts of weight within a stated period or, except for marketing communications for surgical clinics, establishments and the like that comply with rule 12.3, that weight or fat can be lost from specific parts of the body.
	13.9.1 Marketing communications for surgical clinics, establishments and the like that comply with rule 12.3 must not refer to the amount of weight that can be lost.
51.10 Claims that individuals have lost exact amounts of weight should be compatible with good medical and nutritional practice, should state the period involved and should not be	13.10 Claims that an individual has lost an exact amount of weight must be compatible with good medical and nutritional practice. Those claims must state the period involved and must not be

based on unrepresentative experiences. For those who are normally overweight, a rate of weight loss greater than 2 lbs (just under 1 kg) per week is unlikely to be compatible with good medical and nutritional practice. For those who are obese, a rate of weight loss greater than 2 lbs per week in the early stages of dieting may be compatible with good medical and nutritional practice.	based on unrepresentative experiences. For those who are normally overweight, a rate of weight loss greater than 2 lbs (just under 1 kg) a week is unlikely to be compatible with good medical and nutritional practice. For those who are obese, a rate of weight loss greater than 2 lbs a week in the early stages of dieting could be compatible with good medical and nutritional practice.
	13.10.1 Health claims in marketing communications for food products that refer to a rate or amount of weight loss are not permitted.
51.11 Resistance and aerobic exercise can improve muscular condition and tone; this can improve body shape and posture. Marketers should be able to substantiate any claims that such methods used alone or in conjunction with a diet plan can lead to weight or inch reduction. Marketing communications for intensive exercise programmes should encourage users to check with a doctor before starting.	13.11 Resistance and aerobic exercise can improve muscular condition and tone and that can improve body shape and posture. Marketers must be able to substantiate any claim that such methods used alone or in conjunction with a diet plan can lead to weight or inch reduction. Marketing communications for intensive exercise programmes should encourage users to check with a doctor before starting.
51.12 Short-term loss of girth may be achieved by wearing a tight-fitting garment. This should not be portrayed as permanent, nor should it be confused with weight or fat reduction.	13.12 Short-term loss of girth may be achieved by wearing a tight-fitting garment. That loss must not be portrayed as permanent or confused with weight or fat reduction.

PRESENT CODE	PROPOSED CODE
EMPLOYMENT AND BUSINESS OPPORTUNITIES	
52.1 Marketers should distinguish clearly between offers of employment and business opportunities. Before publication, media normally require full details of the marketers and any terms and conditions imposed on respondents.	<u>Employment</u> 20.1 Marketing communications must distinguish clearly between offers of employment and business opportunities. Before publication, media owners normally require marketers' full details and any terms and conditions imposed on respondents.
52.2 Employment marketing communications must correspond to genuine vacancies and potential employees must not be asked to	20.2 Employment marketing communications must relate to genuine vacancies and potential employees must not be asked to pay for

<p>send money for further details. Living and working conditions should not be misrepresented. Quoted earnings should be precise; if a forecast has to be made this should not be unrepresentative. If income is earned from a basic salary and commission, commission only, or in some other way, this should be made clear.</p>	<p>information.</p> <p>Living and working conditions must not be misrepresented. Quoted earnings must be precise; if one has to be made, a forecast must not be unrepresentative. If income is earned from a basic salary and commission, commission only or in some other way, that must be made clear.</p>
<p>52.3</p> <p>An employment agency must make clear in marketing communications its full name and contact details and, if the name does not disclose that fact, that it is an employment agency.</p>	<p><u>Employment agencies and employment businesses</u></p> <p>20.3</p> <p>Employment agencies and employment businesses must make clear in their marketing communications their full names and contact details. Marketing communications should state that the marketer is an employment agency or an employment business if its name does not disclose that it is.</p>
<p>52.4</p> <p>Marketing communications for homework schemes requiring participants to make articles, perform services or offer facilities at or from home should contain:</p>	<p>20.6</p> <p>Marketers of homework schemes must include this information in the initial marketing communication or in follow-up literature made available to all consumers before commitment:</p>
<p>a</p> <p>the full name and geographical address of the marketers</p>	<p>20.6.1</p> <p>the full name and geographical address of the marketer</p>
<p>b</p> <p>a clear description of the work; the support available to homeworkers should not be exaggerated</p>	<p>20.6.2</p> <p>a clear description of the work</p>
<p>c</p> <p>an indication of whether participants are self-employed or employed by a business</p>	<p>20.6.3</p> <p>whether participants are self-employed or employed by a business</p>
<p>d</p> <p>the likely level of earnings, but only if this can be supported with evidence of the experience of current homeworkers</p>	<p>20.4</p> <p>Marketing communications for homework schemes must contain no forecast of earnings if the scheme is new. Marketers may state the likely level of earnings only if it can be supported with evidence of the experience of existing homeworkers. Marketers must not exaggerate the support available to homeworkers.</p>

<p>e</p> <p>no forecast of earnings if the scheme is new</p>	<p>20.4</p> <p>Marketing communications for homework schemes must contain no forecast of earnings if the scheme is new. Marketers may state the likely level of earnings only if it can be supported with evidence of the experience of existing homeworkers. Marketers must not exaggerate the support available to homeworkers.</p>
<p>f</p> <p>a statement of any required investment or binding obligation</p>	<p>20.5</p> <p>Marketing communications for homework schemes must state:</p> <p>20.5.1</p> <p>limitations or conditions that might influence consumers before their decision to participate</p> <p>20.5.3</p> <p>if a financial outlay is, or might be, required.</p>
<p>g</p> <p>a statement of any charges for raw materials, machines, components, administration and the like</p>	<p>20.6</p> <p>Marketers of homework schemes must include this information in the initial marketing communication or in follow-up literature made available to all consumers before commitment:</p> <p>20.6.4</p> <p>charges for raw materials, machines, components, administration and the like.</p>
<p>h</p> <p>information on whether the marketers will buy back any products made</p>	<p>20.5</p> <p>Marketing communications for homework schemes must state:</p> <p>20.5.2</p> <p>whether the marketers will buy any products made</p>

<p>i</p> <p>any limitations or conditions that might influence consumers prior to their decision to participate.</p>	<p>20.5</p> <p>Marketing communications for homework schemes must state:</p> <p>20.5.1</p> <p>limitations or conditions that might influence consumers before their decision to participate</p>
<p>Marketers may include that information in follow-up literature made available to all consumers before commitment but the initial marketing communication should state if a financial outlay is required.</p>	<p>20.6</p> <p>Marketers of homework schemes must include this information in the initial marketing communication or in follow-up literature made available to all consumers before commitment:</p>
<p>52.5</p> <p>Marketing communications for business opportunities should contain:</p>	<p>20.8</p> <p>Marketers of business opportunities must include in their initial marketing communications or in follow-up literature made available to all consumers before commitment:</p>
<p>a</p> <p>the full name and geographical address of the marketers</p>	<p>20.8.1</p> <p>the full name and geographical address of the marketer</p>
<p>b</p> <p>a clear description of the work involved and the extent of investors' commitments, including any financial investment; the support available should not be exaggerated</p>	<p>20.8.2</p> <p>a clear description of the work involved</p> <p>20.8.3</p> <p>a statement of the extent of investors' commitments, including any financial investment or outlay.</p> <p>20.7</p> <p>Marketing communications for business opportunities must neither contain unrepresentative or overstated earnings figures nor exaggerate the support available to</p>

	investors.
c no unrepresentative or exaggerated earnings figures.	20.7 Marketing communications for business opportunities must neither contain unrepresentative or overstated earnings figures nor exaggerate the support available to investors.
Marketers may include that information in follow-up literature made available to all consumers before commitment but the initial marketing communication should normally state if an investment is required.	20.8 Marketers of business opportunities must include in their initial marketing communications or in follow-up literature made available to all consumers before commitment: 20.8.3 a statement of the extent of investors' commitments, including any financial investment or outlay.
52.6 Marketing communications for vocational training and other instruction courses should make no promises of employment unless it is guaranteed. The duration of the course and the level of attainment needed to embark on it should be made clear.	<u>Vocational training and instruction courses</u> 20.9 Marketing communications for vocational training or other instruction courses must not give a misleading impression about the potential for employment that might follow. Marketing communications must make clear significant conditions for acceptance onto vocational training or instruction courses, such as the level of attainment, and significant conditions likely to affect a consumer's decision to embark on a course, such as the cost or the duration of a course.
52.7 Marketing communications for the sale of directories giving details of employment or business opportunities should indicate plainly the nature of what is being offered.	<u>Employment, homeworking schemes and business opportunities directories</u> 20.10 Marketing communications for the sale of

	directories giving information about employment, homeworking schemes or business opportunities must state plainly the nature of what is being offered.
52.8	3.16 No marketing communication may promote a pyramid promotional scheme. Pyramid promotional schemes are those in which consumers pay for the opportunity to receive payments derived primarily from the introduction of other consumers into the scheme, not from the sale or consumption of products (“pyramid schemes”).

PRESENT CODE	PROPOSED CODE
FINANCIAL PRODUCTS	
53.1	Background
<p>Marketers must have regard to the Financial Services and Markets Act 2000 and the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, both enforced by the Financial Services Authority (FSA), and also to other rules and relevant guidance issued by the FSA. The scope of that legislation and guidance extends to marketing communications for: investments and investment advice; deposit taking (e.g. banking); general insurance and pure protection policies (e.g. term assurance). The FSA is responsible for the regulation of first charge mortgage lending and selling, as well as certain secured loans and the activities of insurance intermediaries. The FSA does not provide pre-publication advice on proposed financial marketing communications. Technical guidance is available on specific matters or rule interpretation only. For more information contact the FSA Financial Promotions Review and Remediation Team (see www.fsa.gov.uk).</p>	<p>Marketers must have regard to the financial promotion restriction in Section 21 of the Financial Services and Markets Act 2000 and in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended), as reflected in the rules and guidance issued and enforced by the Financial Services Authority (FSA). The scope of that legislation, rules and guidance extends to marketing communications for: investments and investment advice; deposit taking (for example banking); home finance transactions (regulated mortgages, home purchase plans and home finance plans); general insurance and pure protection policies (for example term assurance). The FSA is responsible for the regulation of first-charge mortgage lending and selling, as well as certain secured loans and the activities of insurance intermediaries. The FSA does not provide pre-publication advice on proposed financial marketing communications; technical guidance is available on specific matters or rule interpretation only. For more information, contact the FSA (see www.fsa.gov.uk).</p>

<p>The OFT will continue to regulate other consumer loans under the Consumer Credit Act 1974 (as amended).</p>	<p>The Office of Fair Trading (OFT) regulates other consumer loans under the Consumer Credit Act 1974 (as amended) and the Consumer Credit (Advertisements) Regulations 2004 (as amended). Debt management companies must ensure they comply with the Guidance for Debt Management Companies published by the OFT.</p>
<p>The rules that follow apply to financial marketing communications that are not regulated by the FSA or OFT. All financial marketing communications are, however, subject to Code clauses that cover 'non-technical' elements of communications, e.g. serious or widespread offence, social responsibility and the truthfulness of claims that do not relate to specific characteristics of financial products.</p>	<p>The rules that follow apply to financial marketing communications that are not regulated by the FSA or the OFT and to marketing communications for debt advice. All financial marketing communications are, however, subject to Code rules that cover non-technical elements of communications, for example serious or widespread offence, social responsibility and the truthfulness of claims that do not relate to specific characteristics of financial products.</p>
<p>53.2</p> <p>Offers of financial products should be set out in a way that allows them to be understood easily by the audience being addressed. Marketers should ensure that they do not take advantage of people's inexperience or credulity.</p>	<p>14.1</p> <p>Offers of financial products must be set out in a way that allows them to be understood easily by the audience being addressed. Marketers must ensure that they do not take advantage of consumers' inexperience or credulity.</p>
<p>53.3</p> <p>Marketing communications should state the nature of the contract being offered, any limitations, expenses, penalties and charges and the terms of withdrawal. Alternatively, if a marketing communication is short or general in its content, free explanatory material giving full details of the offer should be readily available before a binding contract is entered into.</p>	<p>14.2</p> <p>Marketing communications should state the nature of the contract being offered, any limitation, expense, penalty or charge and the terms of withdrawal. Alternatively, if a marketing communication is short or general in its content, free material explaining the offer must be made readily available to consumers before a binding contract is entered into.</p>
<p>53.4</p> <p>The basis used to calculate any rates of interest, forecasts or projections should be apparent immediately.</p>	<p>14.3</p> <p>The basis used to calculate any rate of interest, forecast or projection must be apparent immediately.</p>
<p>53.5</p> <p>Marketing communications should make clear that the value of investments is variable and, unless guaranteed, can go down as well as up. If the value of the investment is guaranteed, details should be included in the marketing communication.</p>	<p>14.4</p> <p>Marketing communications must make clear that the value of investments is variable and, unless guaranteed, can go down as well as up. If the value of the investment is guaranteed, the marketing communication must explain the guarantee.</p>
<p>53.6</p> <p>Marketing communications should make clear that past performance or experience does not necessarily give a guide for the future. Any</p>	<p>14.5</p> <p>Marketing communications should make clear that past performance or experience does not necessarily give a guide for the future; if they</p>

examples used should not be unrepresentative.	are used in marketing communications, examples of past performance or experience should not be unrepresentative.
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PRESENT CODE	PROPOSED CODE
TOBACCO, ROLLING PAPERS AND FILTERS	
55.1 The previous edition of this Code contained strict rules (The Cigarette Code) that applied to marketing communications for tobacco products (cigarettes and hand-rolling tobacco), rolling papers and filters. The Cigarette Code was exceptional in that it was the outcome of discussions between the Department of Health, the manufacturers and importers of cigarettes (represented by the Tobacco Manufacturers' Association and the Imported Tobacco Products Advisory Council respectively) and the ASA. It ran in parallel with, and its rules were applied in addition to, those imposed elsewhere in the Codes.	
The Tobacco Advertising and Promotion Act 2002 now prohibits the advertising of tobacco products. It does not, however, cover advertisements for rolling papers or filters and does permit certain tobacco advertising at point of sale. Self-regulatory rules and procedures for these categories are under review and will be published on www.cap.org.uk when finalised.	
Self-regulatory rules covering the marketing of rolling papers and filters were published on 30 October 2003 and appear below.	

PRESENT CODE	PROPOSED CODE
Rules Covering the Marketing of Rolling Papers and Filters	
Introduction	
1.1 Past editions of the British Codes of Advertising and Sales Promotion contained strict rules (the Cigarette Code) that applied	

<p>to marketing communications for tobacco products (cigarettes and hand-rolling tobacco), rolling papers and filters. The Cigarette Code was exceptional in that it was the outcome of discussions between the Department of Health, the manufacturers and importers of cigarettes (represented by the Tobacco Manufacturers' Association and the Imported Tobacco Products Advisory Council ITPAC respectively) and the ASA. It ran in parallel with, and its rules were applied in addition to, those imposed elsewhere in the Codes.</p>	
<p>1.2</p> <p>The Tobacco Advertising and Promotion Act 2002 prohibits the advertising of tobacco products. It does not, however, cover marketing communications for rolling papers or filters and permitted certain tobacco advertising at point of sale.</p>	
<p>1.3</p> <p>Edition 11 of the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code) states that self-regulatory rules and procedures for the categories in 1.2 above are under review and will be published on www.cap.org.uk when finalised.</p>	
<p>2. Scope</p>	
<p>2.1</p> <p>This document contains the rules covering the non-broadcast marketing of rolling papers and filters. They have been drawn up by CAP, the ASA and the manufacturers and importers of rolling papers and filters. They run in parallel with, and are applied in addition to, the rules imposed elsewhere in the CAP Code</p>	
<p>2.2</p> <p>The rules govern the content of marketing communications (see clauses 1.1 and 1.2 of the CAP Code), including point of sale material, for:</p>	<p>Scope</p> <p>The Rolling Papers and Filters rules govern the content of marketing communications, including point-of-sale material, for:</p>
<p>a</p> <p>rolling papers and filters</p>	<p>a) rolling papers and filters</p>
<p>b</p> <p>any product, if the marketing communication</p>	<p>b) any product if the marketing communication concerned features rolling papers, filters or a pack design of</p>

concerned features rolling papers, filters or pack designs of a recognisable brand available in the UK	a recognisable brand available in the UK
c products displaying the colours, livery, insignia or name of a rolling paper or brand of filter in a way that promotes smoking rather than these branded products.	c) a product displaying the colours, livery, logo or name of a rolling paper or a brand of filter in a way that promotes smoking and not that branded product.
2.3 The rules do not apply to marketing communications:	The Rolling Papers and Filters rules do not apply to marketing communications:
a addressed to the trade in its professional capacity in media not targeted at the public	d) addressed to the trade in its professional capacity in media not targeted at the public
b for schemes, events or activities sponsored or financially supported by manufacturers or importers, including sports sponsorship, so long as undue emphasis is not placed on the rolling papers or filters as opposed to the scheme, event or activity	e) for schemes, events or activities sponsored or financially supported by manufacturers or importers, including sports sponsorship, so long as undue emphasis is not placed on the rolling papers or filters as opposed to the scheme, event or activity
c on manufacturers' or importers' own websites (subject to 1.2q of the CAP Code).	f) on manufacturers' or importers' websites (see Introduction, 'The Code does not apply to' (q)).
Other rules in the CAP Code, e.g. the sales promotion rules, may apply to 2.3 a and b above.	Other rules in the CAP Code, such as the sales promotion rules, apply to (d) and (e).
2.4 The rules are not intended to hamper fair competition. Marketers of rolling papers and filters are free to attract attention to their products, provided both the spirit and the letter of the rules are observed.	

<p>2.5</p> <p>Claims encompass statements and visual presentations and can be direct or indirect. Claims which the ASA or CAP regard as eroding or diminishing the effectiveness of the rules will be judged contrary to the spirit of the rules. Humour is acceptable provided it is used with care and is not likely to have a particular appeal to the young.</p>	
<p>2.6</p> <p>The ASA is the final arbiter of the meaning of the rules. The CAP Copy Advice team provides advice on whether marketing is likely to break the rules. Marketers are urged to check their marketing communications with the CAP Copy Advice team before publishing them. Point of sale material featuring executions, themes or elements already checked for other marketing communications should normally need no additional checking by CAP.</p>	
<p>2.7</p> <p>When interpreting the rules, the Copy Advice team and the ASA will make due allowance for the medium in which the marketing communication is to appear, the audience and its likely response.</p>	
<p>3. Rules</p>	<p>Rules</p>
	<p><u>Tobacco Products</u></p> <p>21.1</p> <p>Tobacco products may not be advertised to the public.</p>
<p>3.1</p> <p>No marketing communications should depict anyone smoking.</p>	<p><u>Rolling Papers and Filters</u></p> <p>21.4</p> <p>Marketing communications must not depict anyone smoking.</p>
<p>3.2</p> <p>Marketing communications should not encourage people to start smoking.</p>	<p>21.2</p> <p>Marketing communications must neither encourage people to start smoking nor encourage smokers to increase their consumption or smoke to excess.</p>
<p>3.3</p>	<p>21.2</p>

Marketing communications should not encourage smokers to increase their consumption or smoke to excess.	Marketing communications must neither encourage people to start smoking nor encourage smokers to increase their consumption or smoke to excess.
<p>3.4</p> <p>Marketing communications should not be targeted at, or be likely to appeal to, people under 18. Anyone depicted in marketing communications should always be, and clearly be seen to be, over 25. No medium should be used to market rolling papers or filters if more than 25% of its audience is under 18 or women under 24.</p>	<p>21.5</p> <p>Marketing communications must not be targeted at, or be likely to appeal to, people under 18. Anyone depicted in a marketing communication for rolling papers or filters must be, and be seen to be, over 25. No medium may be used to advertise rolling papers or filters if more than 25% of its audience is or is likely to be males under 18 years of age or females under 24 years of age. No direct marketing communication for rolling papers or filters may be distributed to males under 18 years of age or females under 24 years of age.</p>
<p>3.5</p> <p>Marketing communications should not play on the susceptibilities of those who are physically or emotionally vulnerable, particularly the young or immature.</p>	<p>21.3</p> <p>Marketing communications must not:</p> <p style="padding-left: 40px;">21.3.1</p> <p style="padding-left: 40px;">play on the susceptibilities of those who are physically or emotionally vulnerable, especially the young or immature</p>
<p>3.6</p> <p>Marketing communications should not encourage or condone the use of illegal drugs. Save in exceptional circumstances, for example in the context of an anti-drug message, any reference to illegal drugs will be regarded as condoning their use.</p>	<p>21.6</p> <p>Marketing communications must not condone or encourage the use of illegal drugs. Except in exceptional circumstances, for example in the context of an anti-drug message, any reference to illegal drugs will be regarded as condoning their use.</p>
<p>3.7</p> <p>Marketing communications should not be sexually titillating.</p>	<p>21.7</p> <p>Marketing communications must not be sexually titillating.</p>
<p>3.8</p> <p>Marketing communications should not imply that smoking is glamorous or aspirational or that it enhances people's femininity, masculinity or appearance. Nor should they imply that smoking leads to social, sexual, romantic or business success. In particular, marketing communications should not link smoking with people who are evidently well-known, wealthy, fashionable, sophisticated or successful or who possess other attributes or qualities that may reasonably be expected to command admiration or encourage emulation.</p>	<p>21.3</p> <p>Marketing communications must not:</p> <p style="padding-left: 40px;">21.3.2</p> <p style="padding-left: 40px;">suggest that smoking is natural, safe, popular, glamorous or aspirational or that it can lead to social, sexual, romantic or business success</p> <p style="padding-left: 40px;">21.3.3</p> <p style="padding-left: 40px;">suggest that smoking can enhance people's femininity, masculinity or appearance</p>

	<p>21.3.5</p> <p>link smoking with people who are well known, wealthy, fashionable, sophisticated or successful or who possess other attributes or qualities that may reasonably be expected to command admiration or encourage emulation</p>
<p>3.9</p> <p>Marketing communications should not appeal to the adventurous or rebellious, imply that it is daring to smoke or imply that smoking enhances people's independence.</p>	<p>21.3</p> <p>Marketing communications must not:</p> <p>21.3.4</p> <p>appeal to the adventurous or rebellious or suggest that it is daring to smoke or that smoking can enhance people's independence</p>
<p>3.10</p> <p>Marketing communications should not imply that smoking is safe, healthy, natural, popular or appropriate in all circumstances. Marketing communications should not suggest that smoking promotes relaxation or concentration, through references to people smoking when they are relaxing or concentrating may be acceptable. Marketing communications should avoid any suggestion of a healthy or wholesome lifestyle and should not associate smoking with healthy eating and drinking, sport or active/outdoor games.</p>	<p>21.3</p> <p>Marketing communications must not:</p> <p>21.3.2</p> <p>suggest that smoking is natural, safe, popular, glamorous or aspirational or that it can lead to social, sexual, romantic or business success</p> <p>21.3.6</p> <p>must not suggest that smoking is healthy, can be enjoyed as part of a healthy lifestyle or that it can aid relaxation or concentration.</p>
PRESENT CODE	PROPOSED CODE
ALCOHOLIC DRINKS	
(See the CAP Help Note on Health, Diet and Nutritional Claims in Marketing Communications for Alcoholic Drinks)	
On 1 July 2007, a new and important regulation governing nutrition and health claims for foods (including alcoholic drinks) came into force. The regulation is complex and mandatory. CAP encourages advertising industry stakeholders to take advice on the effect of the regulation and to consult the	

<p>Food Standards Agency's Guidance to Compliance with Regulation (EC) 1924/2006 on Nutrition and Health Claims on Foods, which is available at http://www.food.gov.uk</p>	
<p>56.1</p> <p>For the purposes of the Code, alcoholic drinks are those that exceed 1.2% alcohol by volume.</p>	<p>Definition</p> <p>Alcoholic drinks are defined as drinks containing at least 1.2% alcohol; low-alcohol drinks are defined as drinks containing between 0.5% and 1.2% alcohol.</p>
<p>56.2</p> <p>Marketing communications must contain nothing that is likely to lead people to adopt styles of drinking that are unwise. Alcohol must not be handled or served irresponsibly. The consumption of alcohol may be portrayed as sociable and thirst-quenching. Marketing communications may be humorous but must nevertheless conform with the intention of the rules.</p>	<p>18.1</p> <p>Marketing communications must be socially responsible and must contain nothing that is likely to lead people to adopt styles of drinking that are unwise. For example, they should not encourage excessive drinking. Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.</p> <p>18.11</p> <p>Marketing communications must not feature alcohol being handled or served irresponsibly.</p>
<p>56.3</p> <p>a</p> <p>As is implied by clause 2.8, the spirit as well as the letter of the rules in this section apply whether or not a product is shown or referred to or seen being consumed.</p> <p>b</p> <p>The rules are not intended to inhibit advertising on alcohol-related health or safety themes that is responsible and is not likely to promote a brand of alcohol.</p>	<p>Principle</p> <p>The spirit as well as the letter of the clauses in this Section applies.</p> <p>Definition</p> <p>The clauses in this Section apply to marketing communications for alcoholic drinks and to marketing communications for promotions of alcoholic drinks.</p> <p>Where stated, exceptions are made for low-alcohol drinks. But, if a marketing communication for a low-alcohol drink could be considered to promote a stronger alcoholic drink or if the drink's low-alcohol content is not stated clearly in the advertisement, all the clauses in this Section apply.</p> <p>If a soft drink is promoted as a mixer, the clauses in this Section apply in full.</p>

	<p>These clauses are not intended to inhibit responsible marketing communications that are intended to counter problem drinking or tell consumers about alcohol-related health or safety themes. Those marketing communications should not be likely to promote an alcohol product or brand.</p>
<p>56.4</p> <p>Marketing communications should be socially responsible and should neither encourage excessive drinking nor suggest that drinking can overcome boredom, loneliness or other problems. They should not suggest that alcohol might be indispensable. Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.</p>	<p>18.1</p> <p>Marketing communications must be socially responsible and must contain nothing that is likely to lead people to adopt styles of drinking that are unwise. For example, they should not encourage excessive drinking. Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.</p> <p>18.6</p> <p>Marketing communications must not imply that alcohol might be indispensable, take priority in life or that drinking alcohol can overcome boredom, loneliness or other problems.</p>
<p>56.5</p> <p>Marketing communications should not be directed at people under 18 through the selection of media, style of presentation, content or context in which they appear. No medium should be used to advertise alcoholic drinks if more than 25% of its audience is under 18 years of age.</p>	<p>18.14</p> <p>Marketing communications must not be likely to appeal particularly to children or young persons, especially by reflecting or being associated with youth culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18 in a way that might encourage the young to drink. People shown drinking or playing a significant role (see 18.16) should not be shown behaving in an adolescent or juvenile manner.</p> <p>18.15</p> <p>Marketing communications must not be directed at people under 18 through the selection of media or the context in which they appear. No medium should be used to advertise alcoholic drinks if more than 25% of its audience is under 18 years of age.</p>
<p>56.6</p> <p>People shown drinking or playing a significant role should neither be nor look under 25 and should not be shown behaving in an adolescent or juvenile way. Younger people may be shown in marketing communications, for example in the context of family celebrations, but should be obviously not</p>	<p>18.16</p> <p>People shown drinking or playing a significant role must neither be nor seem to be under 25. People under 25 may be shown in marketing communications, for example in the context of family celebrations, but must be obviously not drinking.</p>

drinking.	
<p>56.7</p> <p>Marketing communications should not be associated with people under 18 or reflect their culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18 in a way that might encourage them to drink.</p>	<p>18.14</p> <p>Marketing communications must not be likely to appeal particularly to children or young persons, especially by reflecting or being associated with youth culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18 in a way that might encourage the young to drink. People shown drinking or playing a significant role (see 18.16) should not be shown behaving in an adolescent or juvenile manner.</p>
<p>56.8</p> <p>Marketing communications should not suggest that any alcoholic drink has therapeutic qualities (for example, stimulant or sedative qualities) or can change moods or enhance confidence, mental or physical capabilities or performance, popularity or sporting achievements. They should not link alcoholic drinks to illicit drugs.</p>	<p>18.7</p> <p>Marketing communications must not imply that alcohol has therapeutic qualities. Alcohol should not be portrayed as capable of changing mood, physical condition or behaviour or as a source of nourishment. Marketing communications must not imply that alcohol can enhance mental or physical capabilities, for example by contributing to professional or sporting achievements.</p> <p>18.2</p> <p>Marketing communications must not claim or imply that alcohol can enhance confidence or popularity.</p> <p>18.8</p> <p>Marketing communications must not link alcohol to illicit drugs.</p>
<p>56.9</p> <p>Marketing communications must neither link alcohol with seduction, sexual activity or sexual success nor imply that alcohol can enhance attractiveness, masculinity or femininity.</p>	<p>18.5</p> <p>Marketing communications must neither link alcohol with seduction, sexual activity or sexual success nor imply that alcohol can enhance attractiveness.</p>
<p>56.10</p> <p>Marketing communications may give factual</p>	

information about:	
a) product contents, including comparisons, but must not make any other type of health, fitness or weight control claim	<p>18.17</p> <p>Marketing communications may give factual information about product contents, including comparisons, but must not make any health claims, which include fitness or weight control claims.</p> <p>The only permitted nutrition claims are “low-alcohol”, “reduced alcohol” and “reduced energy”.</p>
b) the alcoholic strength of a drink or make factual strength comparisons with other products but must not otherwise suggest that a drink may be preferred because of its high alcohol content or intoxicating effect. Drinks may be presented as preferable because of low or lower strength.	<p>18.9</p> <p>Marketing communications may give factual information about the alcoholic strength of a drink or make a factual strength comparison with another product but, except for low-alcohol drinks, which may be presented as preferable because of their low alcoholic strength, must not otherwise imply that a drink may be preferred because of its alcohol content or intoxicating effect.</p>
56.11 Marketing communications should not suggest that drinking alcohol is a reason for the success of any personal relationship or social event. A brand preference may be promoted as a mark of, for example, the drinker’s good taste and discernment.	<p>18.3</p> <p>Marketing communications must not imply that drinking alcohol is a key component of the success of a personal relationship or social event. The consumption of alcohol may be portrayed as sociable or thirst-quenching.</p>
56.12 Drinking alcohol should not be portrayed as a challenge, especially to the young. Marketing communications should neither show, imply or refer to aggression or unruly, irresponsible or anti-social behaviour nor link alcohol with brave, tough or daring people or behaviour.	<p>18.4</p> <p>Drinking alcohol must not be portrayed as a challenge. Marketing communications must neither show, imply, encourage or refer to aggression or unruly, irresponsible or anti-social behaviour nor link alcohol with brave, tough or daring people or behaviour.</p>
56.13 Particular care should be taken to ensure that marketing communications for sales promotions requiring multiple purchases do	<p>18.10</p> <p>Marketing communications that include a sales promotion must not imply, condone or encourage excessive consumption of</p>

not encourage excessive consumption.	alcohol.
<p>56.14</p> <p>Marketing communications should not depict activities or locations in which drinking alcohol would be unsafe or unwise. In particular, marketing communications should not associate the consumption of alcohol with an occupation that requires concentration to be done safely, for example, operating machinery, driving or activity relating to water or heights. Alcohol should not normally be shown in a work environment.</p>	<p>18.12</p> <p>Marketing communications must not link alcohol with activities or locations in which drinking would be unsafe or unwise.</p> <p>Marketing communications must not link alcohol with the use of potentially dangerous machinery or driving. Marketing communications may feature sporting and other physical activities (subject to other clauses in this Section, for example appeal to under 18s or link with daring or aggression) but must not imply that those activities have been undertaken after the consumption of alcohol.</p> <p>18.13</p> <p>Only in exceptional circumstances may marketing communications feature alcohol being drunk by anyone in their working environment.</p>
Low alcohol drinks	
<p>56.15</p> <p>Low alcohol drinks are those that contain between 0.5% - 1.2% alcohol by volume. Marketers should ensure that low alcohol drinks are not promoted in a way that encourages their inappropriate consumption and should not depict activities that require complete sobriety.</p>	<p>Definition</p> <p>The clauses in this Section apply to marketing communications for alcoholic drinks and to marketing communications for promotions of alcoholic drinks. Alcoholic drinks are defined as drinks containing at least 1.2% alcohol; low-alcohol drinks are defined as drinks containing between 0.5% and 1.2% alcohol.</p> <p>Where stated, exceptions are made for low-alcohol drinks. But, if a marketing communication for a low-alcohol drink could be considered to promote a stronger alcoholic drink or if the drink's low-alcohol content is not stated clearly in the advertisement, all the clauses in this Section apply.</p>

PRESENT CODE	PROPOSED CODE
GAMBLING	
<p>57.1</p> <p>The term “gambling” means gaming, betting, and participating in a lottery, as defined in the Gambling Act 2005, and spread betting. This section does not apply to the UK National Lottery. The UK National Lottery is, however, subject to the rest of the Code.</p>	<p>SECTION 16: GAMBLING</p> <p>Background</p> <p>The term “gambling” means gaming and betting, as defined in the Gambling Act 2005, and spread betting. For rules on lottery advertisements, see Section 17.</p> <p>SECTION 17: LOTTERIES</p> <p>Principles</p> <p>This section applies to marketing communications for lottery products that are licensed and regulated by the Gambling Commission, the National Lottery Commission, or in the case of small society lotteries, registered with local authorities in England and Wales or licensing boards in Scotland.</p>
<p>The Gambling Act does not apply outside Great Britain. Specialist legal advice should be sought when considering advertising any gambling products in Northern Ireland or the Channel Islands.</p>	<p>SECTION 16: GAMBLING</p> <p>Background</p> <p>The Gambling Act 2005 does not apply outside Great Britain. Specialist legal advice should be sought when considering advertising any gambling product in Northern Ireland or the Channel Islands.</p>
<p>Spread Betting may be advertised as an investment under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and other FSA rules and guidance (see clause 53.1 above). A “Spread Bet” is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.</p>	<p>SECTION 16: GAMBLING</p> <p>Background</p> <p>Spread betting may be advertised as an investment under the Financial Services and Markets Act 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) and other FSA rules and guidance (see Background, Section 18, Financial products). A “spread bet” is a contract for difference that is a gaming contract, as defined in the glossary to the FSA Handbook.</p>

<p>The clauses in this section apply to marketing communications for “play for money” gambling products and marketing communications for “play for free” gambling products that offer the chance to win a prize or that explicitly or implicitly direct the consumer to a “play for money” gambling product, whether on-shore or off-shore.</p>	<p>SECTION 16: GAMBLING</p> <p>Background</p> <p>The rules in this Section apply to marketing communications for “play for money” gambling products and marketing communications for “play for free” gambling products that offer the chance to win a prize or explicitly or implicitly direct the consumer to a “play for money” gambling product, whether on-shore or off-shore.</p>
<p>For the purposes of this Section, “children” are people of 15 and under and “young persons” are people of 16 or 17.</p>	<p>For the purposes of this Section, “children” are people of 15 and under and “young persons” are people of 16 or 17.</p>
<p>57.2</p> <p>Marketing communications for gambling should be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited by advertising that features or promotes gambling.</p>	<p>16.1</p> <p>Marketing communications for gambling must be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited.</p> <p>SECTION 17: LOTTERIES</p> <p>Principles</p> <p>The rules in this section are designed to ensure that marketing communications for lotteries are socially responsible, with particular regard to the need to protect children, young persons under 18s and other vulnerable persons from being harmed or exploited by advertising that features or promotes lotteries.</p>
<p>57.3 (a)</p> <p>In line with clause 2.8, the spirit as well as the letter of the clauses in this section apply whether or not a gambling product is shown or referred to.</p>	<p>16.2</p> <p>In line with rule 1.2, the spirit as well as the letter of the rules in this Section apply whether or not a gambling product is shown or referred to.</p>
<p>57.3 (b)</p> <p>These clauses are not intended to inhibit marketing communications to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.</p>	<p>Background</p> <p>These rules are not intended to inhibit marketing communications to counter problem gambling that are responsible and unlikely to promote a brand or type of gambling.</p>

57.3 (c) Unless they portray or refer to gambling, these clauses do not apply to marketing communications for non-gambling leisure events or facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities.	Background Unless they portray or refer to gambling, this Section does not apply to marketing communications for non-gambling leisure events or facilities, for example hotels, cinemas, bowling alleys or ice rinks, that are in the same complex as, but separate from, gambling events or facilities.

57.4 Marketing communications:	16.3 Marketing communications:
(a) should not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm	16.3.1 must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm 17.1 Marketing communications must not portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.
(b) should not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons	16.3.2 must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons 17.12 Marketing communications for lotteries must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons under 18s or other vulnerable persons.
(c) should not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression	16.3.3 must not suggest that gambling can provide an escape from personal, professional or educational problems such as loneliness or depression 17.2

	Marketing communications must not suggest that participating in a lottery can provide an escape from personal, professional or educational problems such as loneliness or depression.
(d) should not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security	16.3.4 must not suggest that gambling can be a solution to financial concerns, an alternative to employment or a way to achieve financial security 17.3 Marketing communications must not suggest that participating in a lottery can be a solution to financial concerns, an alternative to employment or a way to achieve financial security. Advertisers may however refer to other benefits of winning a prize.
(e) should not portray gambling as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments	16.3.5 must not portray gambling as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments 17.4 Marketing communications must not portray participating in a lottery as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments.
(f) should not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration	16.3.6 must not suggest that gambling can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration 17.6 Marketing communications must not suggest that participating in a lottery can enhance personal qualities, for example that it can improve self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration.
(g) should neither suggest peer pressure to	16.3.7 must neither suggest peer pressure to gamble

gamble nor disparage abstention	<p>nor disparage abstention</p> <p>17.5</p> <p>Marketing communications must neither suggest peer pressure to participate nor disparage abstention.</p>
(h) should not link gambling to seduction, sexual success or enhanced attractiveness	<p>16.3.8</p> <p>must not link gambling to seduction, sexual success or enhanced attractiveness</p> <p>17.7</p> <p>Marketing communications must not link participating in a lottery to seduction, sexual success or enhanced attractiveness.</p>
(i) should not portray gambling in a context of toughness or link it to resilience or recklessness	<p>16.3.9</p> <p>must not portray gambling in a context of toughness or link it to resilience or recklessness</p> <p>17.8</p> <p>Marketing communications must not portray participation in a context of toughness or link it to resilience or recklessness.</p>
(j) should not suggest gambling is a rite of passage	<p>16.3.10</p> <p>must not suggest gambling is a rite of passage</p> <p>17.9</p> <p>Marketing communications must not suggest participation is a rite of passage.</p>
(k) should not suggest that solitary gambling is preferable to social gambling	<p>16.3.11</p> <p>must not suggest that solitary gambling is preferable to social gambling</p> <p>17.10</p> <p>Marketing communications must not suggest that solitary gambling is preferable to social gambling.</p>
(l)	16.3.12

<p>should not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture</p>	<p>must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture</p> <p>17.13</p> <p>Marketing communications for lotteries must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture.</p>
<p>(m)</p> <p>should not be directed at those aged below 18 years (or 16 years for lotteries, football pools, equal chance gaming (under a prize gaming permit or at a licensed family entertainment centre), prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines) through the selection of media or context in which they appear</p>	<p>16.3.13</p> <p>must not be directed at those aged below 18 years (or 16 years for football pools, equal-chance gaming [under a prize gaming permit or at a licensed family entertainment centre], prize gaming (at a non-licensed family entertainment centre or at a travelling fair) or Category D gaming machines) through the selection of media or context in which they appear</p> <p>17.14</p> <p>Marketing communications for lotteries should not be directed at those aged below under 16 years through the selection of media or context in which they appear.</p>
<p>(n)</p> <p>should not include a child or young person. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way</p>	<p>16.3.14</p> <p>must not include a child or a young person. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role. No-one may behave in an adolescent, juvenile or loutish way</p> <p>17.15</p> <p>Marketing communications for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.</p>
<p>(o)</p> <p>for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities e.g. as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age. Marketing communications for</p>	<p>16.3.15</p> <p>for family entertainment centres, travelling fairs, horse racecourses and dog race tracks, and for non-gambling leisure facilities that incidentally refer to separate gambling facilities, for example as part of a list of facilities on a cruise ship, may include children or young persons provided they are accompanied by an adult and are socialising responsibly in areas that the Gambling Act 2005 does not restrict by age.</p>

<p>a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role</p>	<p>17.15</p> <p>Marketing communications for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.</p>
<p>(p) that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons and they may be featured playing a significant role</p>	<p>17.16</p> <p>Marketing communications that exclusively feature the good causes that benefit from a lottery and include no explicit encouragement to buy a lottery product may include children or young persons under 18s in a significant role.</p>
<p>(q)</p> <p>should not exploit cultural beliefs or traditions about gambling or luck</p>	<p>16.3.16</p> <p>must not exploit cultural beliefs or traditions about gambling or luck</p> <p>17.17</p> <p>Marketing communications for lotteries must not exploit cultural beliefs or traditions about gambling or luck.</p>
<p>(r)</p> <p>for events or facilities that can be accessed only by entering gambling premises should make that condition clear</p>	<p>16.3.17</p> <p>for events or facilities that can be accessed only by entering gambling premises must make that condition clear</p> <p>17.11</p> <p>Marketing communications for lotteries that can be participated in only by entering gambling premises must make that condition clear.</p>
<p>(s)</p> <p>should not condone or encourage criminal or anti-social behaviour</p>	<p>16.3.18</p> <p>must not condone or encourage criminal or anti-social behaviour</p> <p>17.18</p> <p>Marketing communications for lotteries must not condone or encourage criminal or anti-social behaviour.</p>
<p>(t)</p> <p>should not condone or feature gambling in a</p>	<p>16.3.19</p> <p>must not condone or feature gambling in a</p>

working environment. An exception exists for licensed gambling premises.

working environment. An exception exists for licensed gambling premises.