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Committee of Advertising Practice (Non-broadcast)

Help Note on Advertising Virals

Advertising virals are e-mail, text or other non-broadcast marketing messages that are designed to stimulate significant circulation by recipients to generate commercial or reputational benefit to the advertiser from the consequential publicity. They are usually put into circulation (“seeded”) by the advertiser 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.

Many advertising viral campaigns are entirely acceptable. But some include messages that are offensive, misleading, unfair or irresponsible or might otherwise bring advertising into disrepute.

Such marketing activity ordinarily falls within the spirit and letter of the CAP Code. Clause 1.1 of the Code makes clear that the Code applies to “advertisements in ... e-mails, text transmissions ... follow-up literature and other electronic and printed material”.

CAP recognises the limitations on the application of the Code as set out in clauses 1.1 and 1.2, including those in respect of all editorial content and private correspondence and much commercial information on websites. But advertising virals are not excepted from the Code merely by having originated on a website or by being forwarded-on by consumers.

The ASA, will as usual, judge each complaint it receives on merit. If it is unsure whether a viral is a marketing communication that is subject to the Code, the ASA will refer the matter to the General Media Panel for its advice and recommendation. The ASA Council remains the final arbiter on interpretation of the Code.

CAP reminds advertisers of the general laws that can apply to viral marketing communications, including the Electronic Commerce (EC Directive) Regulations 2002, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Communications Act 2003 and the Video Recordings Act 1984.

You can ask CAP for advice about interpreting this Help Note on 020 7492 2100 or by e-mail at copyadvice@cap.org.uk. The CAP Copy Advice team responds to over 90% of enquiries in 24 hours and can offer free advice on the acceptability of all non-broadcast advertisements, from your first campaign ideas through to final copy.

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