

Help Note

Committee of Advertising Practice (CAP)

Broadcast Committee of Advertising Practice (BCAP)

Use of production techniques in cosmetics advertising

1. Background

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

For pre-publication advice on specific non-broadcast advertisements, consult the CAP Copy Advice team by telephone on 020 7492 2100, by fax on 020 7404 3404 or by e-mail on advice@cap.org.uk. For advice on specific radio advertisements, contact the Radio Advertising Clearance Centre (RACC), www.racc.co.uk or, for TV advertisements, Clearcast, www.clearcast.co.uk.

Because the same principles apply to the use of production techniques in cosmetics advertising whether used in a broadcast or non-broadcast advertisement, a single set of guidance is likely to be of most benefit to advertisers, agencies and media owners.

The guidance is not intended to stifle innovation in cosmetics advertising. If complaints are received about an advertisement in which a marketer has chosen to depart from the approach set out in this guidance, the ASA will simply expect the marketer to be able to justify why they did so and why the advertisement does not mislead as a result.

2. The Codes

The CAP and BCAP Codes provide that:

- Marketing communications must not materially mislead or be likely to do so.
- Documentary evidence must be held to prove claims in marketing communications that consumers are likely to regard as objective and that are capable of objective substantiation.
- Marketing communications must not mislead consumers by exaggerating the capability or performance of a product.
- Qualifications in marketing communications may clarify but must not contradict the claims they qualify.
- A “claim” can be implied or direct, written, spoken or visual. The name of a product can constitute a claim.

3. Guidance

This guidance covers three areas:

- Pre-production techniques such as styling, make-up, eyelash inserts and hair extensions.
- Post-production techniques such as re-touching of photographic images using digital or other technology.
- Qualifications or disclaimers such as superimposed text.

The examples given are predominantly relating to advertisements for mascaras but the principles involved apply equally elsewhere.

Advertised claims (including visual claims) should not misleadingly exaggerate the effect the product is capable of achieving. For example, lash inserts should not be used to create a lengthening or volumising effect beyond what can be achieved by the mascara on the model’s natural lashes. Lash inserts may however be used to fill in natural gaps in the lash-line and thereby help to achieve a uniform lash-line effect.

This guidance is not intended to restrict the use of obvious exaggeration that is not likely to be taken literally. Note, however, that obvious exaggeration which consumers interpret as being indicative of a product’s capabilities e.g. lengthening the appearance of eye lashes, has the potential to mislead.

This guidance is not intended to prevent the use of stylised images that are illustrating a concept or mode of efficacy rather than depicting the actual benefit to be expected e.g. diagrams and cartoons.

Pre-production

The use of pre-production techniques such as styling, make-up, lash inserts, hair extensions etc. is acceptable without explicit disclosure provided such techniques do not mislead. The following are examples likely to mislead:

- 'Before-and-after' images where only the 'after' image had used pre-production techniques, or the use of different techniques in a series of images showing graded effects.
- The use of lash inserts that are longer or thicker than the model's natural lashes or that do more than replace damaged or missing lashes, unless it can be shown that the effect illustrated is achievable on the natural unadorned eyelash.
- The excessive use of hair extensions or inserts that significantly adds to hair volume in hair care advertisements, unless it can be shown that the effect illustrated is achievable on natural hair.
- The use of false or artificial nails in advertisements for nail care products where the benefit claimed is other than purely decorative (e.g. claims for nail strength, length, shape).

The following are examples unlikely to mislead:

- The use of styling and make-up generally.
- The use of lash inserts for non-eye area cosmetics.
- The use of hair extensions and inserts for non-hair care cosmetics.
- The use of false or artificial nails for coloured nail cosmetics where the effect is achievable on natural nails.

Post-production

The use of post-production techniques through the re-touching of photographic images requires particular attention to avoid misleading consumers.

Advertisers should retain appropriate material to be able to demonstrate what re-touching had been carried out in the event of being questioned. This might include 'before' as well as 'after' images showing the effect of both pre- and post-production techniques as appropriate.

The following are examples likely to mislead and are unacceptable:

- Re-touching related to any characteristics directly relevant to the apparent performance of the product being advertised. For example, removing or reducing the appearance of lines and wrinkles around the eyes for an eye cream advertisement or increasing the length or thickness of eyelashes in an advertisement for mascara.
- Adding highlights and shine to hair for a product claiming to produce shiny hair.
- Removing hair 'fly-aways' for a product for flyaway hair.

The following are examples unlikely to mislead:

- Minor adjustments to correct for lighting problems and other photographic issues, provided the image produced reflects the model.
- Removal of a few hair 'fly-aways' is acceptable, even in advertisements for hair care products except, as mentioned above, products for fly-away hair.
- Removal of skin blemishes provided this does not affect the impression given of the effectiveness of the product.

Qualifications and disclaimers

The use of superimposed text must never be considered a 'carte blanche' to excuse otherwise disallowed activities or impressions. If the advertisement is inherently misleading, it remains so regardless of any superimposed disclaimer or qualifier: if the advertisement is inherently truthful, such superimposed text is unnecessary.

However, there may be times when a superimposed comment usefully clarifies some aspect of the advertisement so advertisers should be allowed to include them. Such comments should be clearly legible and appropriately placed.

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