

Online advertising

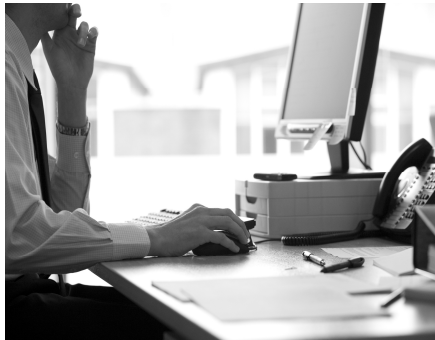
Is your website decent, honest & truthful?

February 2011

From 1 March 2011, the Advertising Standards Authority (ASA) will be able to regulate marketing communications on businesses' own websites. This briefing looks at the key practical implications.

What is the current position?

At present, the ASA can only regulate advertising in paid-for online space, such as an advertisement in the side-bar of a third party website which is being paid to display the material.



What is changing?

As of March this year, any website "under the advertiser's control" which contains material designed primarily to "sell something" will potentially fall within the ASA's expanded remit (whether the advertising is paid for or not).

This would include a Facebook page which is being used to promote a particular product or service, as well as the more obvious example of a company's own website which is being used as a "shop window" to market its own products or services.

What are the risks of non-compliance?

The ASA responds primarily to complaints – which could come from members of the public, customers or even competitors (it makes no charge for investigating). If it finds in favour of the complainant, it will normally expect the marketing material to be modified or withdrawn. If this does not happen, it has a range of sanctions which it can apply, including referral to the Office of Fair Trading (OFT).

Indeed, recent OFT intervention (under the Consumer Protection from Unfair Trading Regulations 2008) to prevent misleading celebrity endorsements of products on blogs and twitter accounts suggests that in some cases, it may decide to act without waiting for a referral from the ASA.

What should you do?

Material on corporate websites which is designed to promote your business should be reviewed to ensure that, as well as conforming to any sector-specific requirements (such as regulations applicable to the financial services sector), it complies with the principles of the CAP Code, which can be viewed here: [The CAP Code](#)

Similarly, campaigns involving social media are likely to need more careful vetting in future.

“Any website designed to promote your business should be reviewed to ensure compliance with the CAP Code on advertising.”

How we can help

We have considerable experience of advising clients on websites and other online activities. Recent examples include:

Metro Bank

on its customer-facing website, a key element in the launch of the first new UK retail bank for over a century.

Shepherd Neame

on a new website designed to promote its pubs and hotels and allow consumers to purchase beers online.

Betclick Limited

on arrangements to provide online betting services.

Times Educational

on a number of new online ventures in the educational sector.

“This team earns praise for its high quality advice and swift turnaround times”

Chambers Guide to the UK Legal Profession (2011)

“Partner involvement, strength in depth, deep industry knowledge and commercial savvy”

Legal Week Client Satisfaction Report (2009)

“Clear, concise and consistent advice’ is the hallmark of this firm as it deals with a variety of IT matters in a range of industries including media, telecoms, education, industrial, retail and finance.”

Chambers Guide to the UK Legal Profession (2009)

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