

Clifford Chance

The Advertising Brief

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Welcome to the latest issue of [The Advertising Brief](#) in which we bring you the latest updates and rulings from the world of advertising.

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Each quarter we bring you concise summaries of the most interesting cases from the UK's Advertising Standards Authority (ASA) with our key takeaways and practical guidance. We also provide helpful updates on the key regulatory developments that brands, marketers and key stakeholders need to be aware of.

In this issue we look at a variety of different topics, including the ASA's latest decisions in relation to review and ratings claims, gambling, and junk food advertising. On the regulatory guidance side, we share some important developments in relation to the use of AI agents, cross-border advertising, the ASA's recent report into influencer marketing, and more.

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01

ASA guidance on cross-border advertising



CMA guidance on cross-border advertising

Key takeaways:

- 1 Cross-border ads targeting UK consumers are within the ASA's remit. Overseas advertisers must comply with UK advertising rules if their ads are directed at UK audiences, regardless of where the business is based.
- 2 UK-specific targeting triggers the ASA's jurisdiction. Use of UK pricing, language, or UK-specific cultural references in ads served from abroad are likely to bring the ads under the ASA's remit.
- 3 International cooperation underpins enforcement. The ASA works with global partners and networks to address non-compliance and escalate issues where direct enforcement by the ASA or other UK regulators is not possible.
- 4 Digital platforms face increased scrutiny. The ASA may liaise with platforms to restrict or remove non-compliant ads, particularly where advertisers are based outside the UK.

The Advertising Standards Authority (ASA) has issued updated [guidance](#) clarifying its approach to cross-border advertising, reflecting the realities of a digital marketplace where UK consumers are routinely exposed to ads from overseas. The update follows a rise in complaints concerning non-UK ads targeting UK audiences, particularly via online and social media platforms.

The ASA confirmed that its remit extends to any advertising clearly aimed at UK consumers, even if the advertiser is based abroad. Indicators such as UK-specific pricing, language, or references to UK culture or law are likely to bring an ad within the ASA's remit. This means that businesses operating outside the UK must ensure their ads comply with the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code) when targeting UK users.

Where the ASA identifies non-compliance from overseas advertisers, it may issue public rulings, work with digital platforms to restrict or remove offending ads, or refer matters to international partners, such as the European Advertising Standards Alliance (EASA). This collaborative approach is designed to uphold standards and protect UK consumers, even where direct enforcement is challenging.

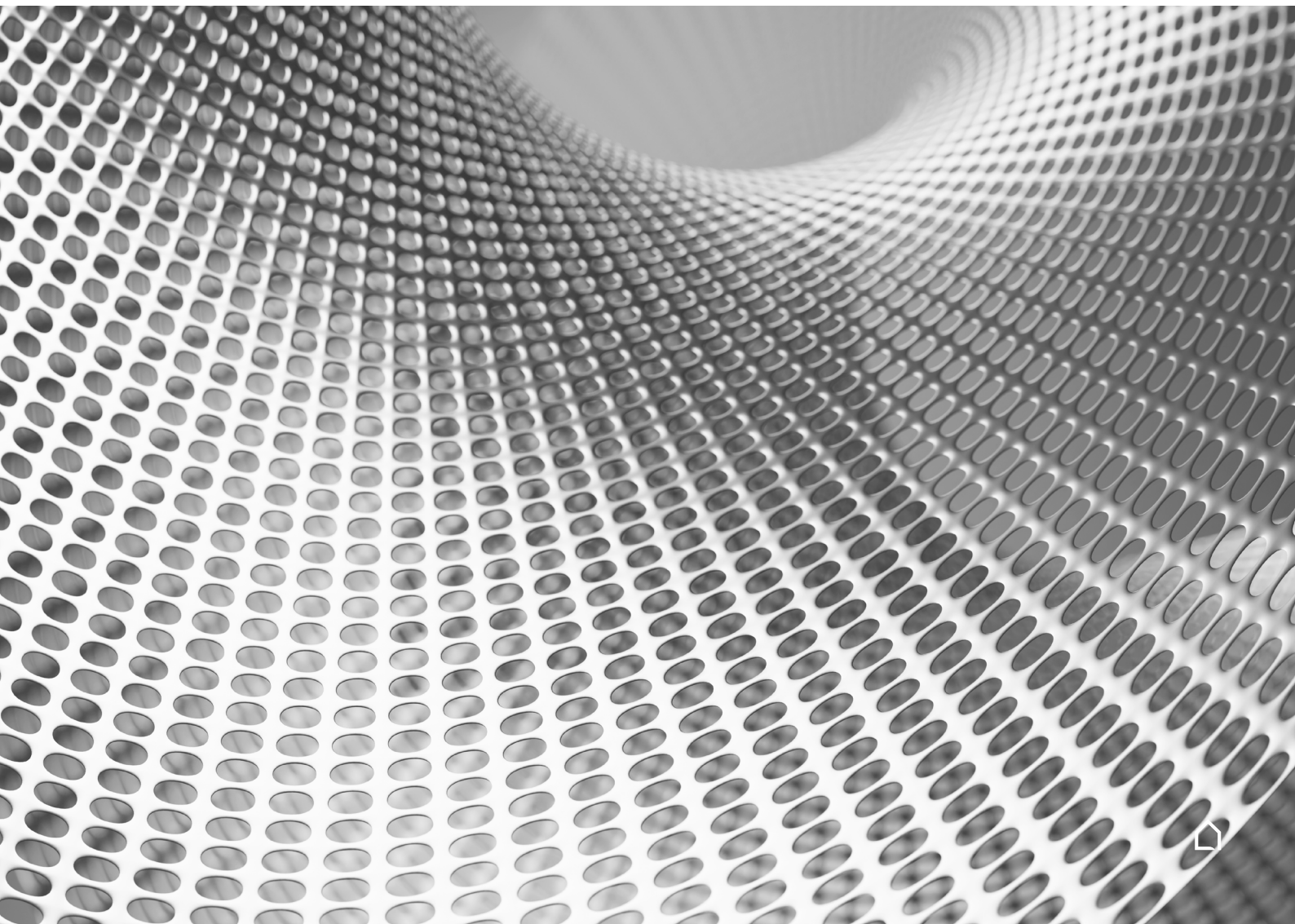
The guidance serves as a reminder that the ASA is committed to maintaining and enforcing high standards in advertising, regardless of an advertiser's location. Businesses targeting UK consumers should review their cross-border campaigns to ensure compliance, as the ASA continues to prioritise consumer protection in an increasingly global advertising landscape.

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02

No pearly
whites for ZING
Toothpaste as
misleading advert
ruling bites



No pearly whites for ZING Toothpaste as misleading advert ruling bites

Key takeaways:

- 1 Companies should ensure that any rating- or review- based claims are accurate, verifiable and regularly reviewed and updated. Companies should not rely on historic data when making such claims.
- 2 Companies should ensure they have sufficient evidence to support any claims, rankings or review-based claims used in their marketing.

The [ASA has upheld a complaint](#) that paid adverts by ZING Oral Care Ltd t/a ZING Toothpaste containing a 5-star rating were misleading to consumers.

In November 2025, ZING ran 3 'paid for' ads on Facebook, each depicting one of the company's tubes of toothpaste alongside a 5-star rating symbol of a five white stars in a green square, similar to those used for the Trustpilot rating system. Two of the ads included the statements "Excellent" and "Based on 13,183 reviews", while the third ad included the statements "Loved by 67,000+ UK customers".

The ASA investigated the ads off a single complaint, which challenged the ads on the basis that ZING did not have the number of reviews claimed nor a five-star Trustpilot rating.

ZING argued that the ads were created when their Trustpilot rating and reviews were accurate and explained that a change in their review software provider inadvertently caused their original five-star rating to disappear. ZING stated that since the change they had received over 1,000 reviews, 85% of which were 5-star reviews, and therefore believed that the claims in the ads accurately reflected customer feedback. However, ZING stated they would update the ads to show the star rating from their new review software provider.

ZING's actions did not satisfy the ASA who upheld the complaint on the basis that the ads breached the CAP Code. The ASA held that the presence of the 5-star rating and related claims would lead customers to believe that ZING's rating was based on the number of reviews set out in the relevant advert, and was therefore misleading.

On balance, ZING may have got off lightly since the complaint was raised with the ASA rather than the Competition and Markets Authority (CMA) who have new powers to directly fine companies up to 10% of their global turnover for violating customer protection laws, which include false or misleading reviews. To learn more about the CMA's new powers under the Digital Markets, Competition and Consumer Act please click [here](#).

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03

UK's "sugar-free
Easter" and the
ASA's first rulings
on HFSS food



UK’s “sugar-free Easter” and the ASA’s first rulings on HFSS food

Key takeaways:

- 1 The ASA is scrutinising social media and influencer ads closely. The use of agencies and ad networks will not shield advertisers from liability, and advertisers should ensure they review these ads as closely as they review traditional media advertising.
- 2 Advertisers should watch out for any HFSS product that is visually or descriptively identifiable, even in mixed or brand-led campaigns. Close-up imagery, favourable descriptions, or prominence of an HFSS product may potentially breach the rules, even if non-HFSS items are also shown. Advertisers may want to set out prescriptive rules on product selection, shooting angles, descriptions and editing to reduce risks of violating the rules.

The UK marked its first “[sugar free Easter](#)” on television in 2026, following the introduction of stricter advertising restrictions on foods high in fat, salt and sugar (HFSS). Under new rules, which came into force in January and were reported [in the previous Advertising Brief issue](#), HFSS products are prohibited from appearing in online and TV advertisements before 9:00pm. It also restricts anyone from paying for online ads promoting an identifiable less healthy food or drink product.

The regulations have led to a significant drop in TV advertising spend by confectionery and snacks brands and the disappearance of seasonal advertising for iconic products such as Cadbury Creme Eggs and hot cross buns during daytime and family viewing slots. Broadcasters have warned that the loss of major seasonal advertisers may affect programming funding. However, advertisers and broadcasters can still advertise their brands under the new rules, and have therefore adapted by increasingly promoting brand ambassadors rather than specific products.

However, the ASA have caught on and have recently released three rulings focusing on digital “brand-led” advertising, in which it upheld complaints against Lidl and Iceland. The ads, while intending to be ‘brand led’, incorporated clearly identifiable HFSS products alongside non HFSS items, as well as favourable descriptions in some instances. The ASA held the HFSS items were clearly visible, and the presence of non HFSS items did not negate responsibility.

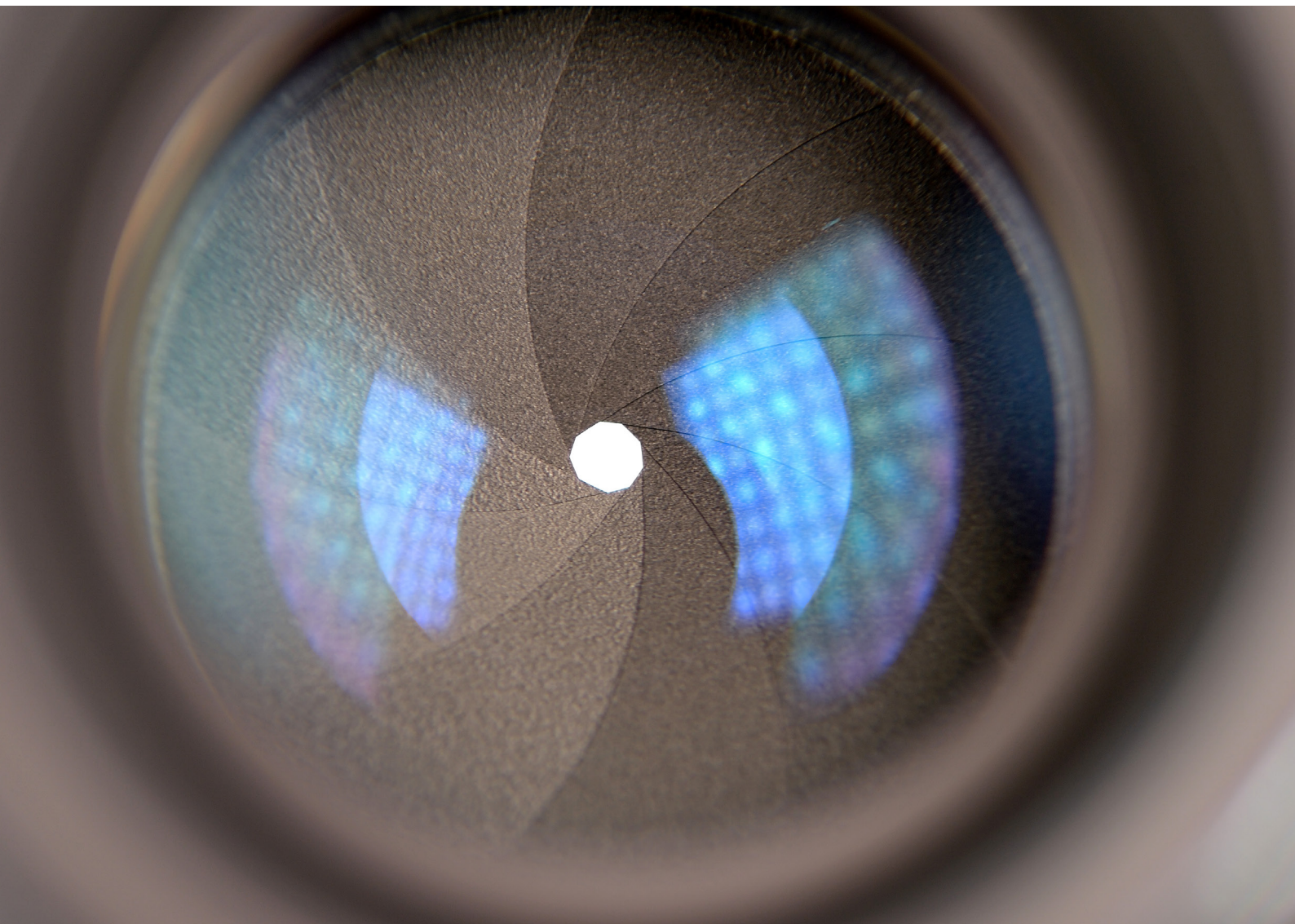
These rulings show that while “brand-only” advertising is permitted, the scope is narrowing in practice and it is important to follow the guidance carefully.

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04

CMA guidance
reinforces
consumer law
obligations for
AI agents



CMA guidance reinforces consumer law obligations for AI agents

Key takeaways:

- 1 Existing UK consumer protection law applies to AI agents. Companies remain legally accountable for outcomes and must ensure AI tools and agents are designed, trained, monitored and overseen in line with consumer law.
- 2 Transparency and monitoring are essential - businesses should clearly disclose the use of AI to avoid misleading consumers and must actively monitor AI-driven interactions.

New [guidance from the CMA](#) confirms that existing consumer protection law applies to the use of AI agents. The CMA makes it clear that businesses are responsible for the integration of AI into their products and services, and they cannot use automation to avoid legal accountability.

In practice, this means companies must ensure that AI agents are designed, trained and deployed in a way that complies with applicable law. The guidance highlights the need to train AI systems to act consistently with consumer protection requirements and to actively monitor performance once deployed. The CMA specifically flags the ongoing risk of AI hallucinations, reinforcing that human oversight remains essential.

The CMA also encourages transparency. Businesses are advised to disclose the use of AI agents both to build consumer trust and to avoid misleading consumers into believing they are interacting with a real person. Misleading omissions or practices remain prohibited under consumer law, regardless of whether AI is involved. The guidance includes hypothetical use cases across customer services, handling refunds and marketing, and emphasises the importance of monitoring outcomes, identifying problems and refining AI systems where issues arise.

This approach aligns with recent activity in the advertising space by the ASA, which recently upheld complaints relating to AI generated advertisements that were found to mislead consumers or cause harm, reiterating that under the CAP Code, advertisements must be prepared with a sense of responsibility.

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05

Transparency
gaps in influencer
marketing under
regulatory
scrutiny



Transparency gaps in influencer marketing under regulatory scrutiny

Key takeaway:

- 1 Consumers struggle to identify advertising: the ASA report found that consumers do not always recognise when they are being advertised to, often relying on indirect cues rather than clear disclosures, meaning advertising content may not be readily identifiable.

In February the [ASA published a report](#) focusing on the ongoing uncertainty, for both consumers and influencers, regarding when content constitutes advertising and the legal responsibilities that apply.

The report examines how consumers identify advertising disclosures and found that consumers are not always able to recognise when they are being advertised to. Instead, they often rely on indirect cues, such as tone, brand mentions or whether content feels promotional, rather than clear labels or disclosures. This uncertainty is undoubtedly compounded by the global and borderless nature of social media. Influencers may view themselves as operating primarily within the terms of service of the relevant social media platform, rather than within a broader legal framework.

As a result, advertising content may not always be readily identifiable.

These findings underline the importance of clear, prominent and consistent disclosures. For brands and influencers, ensuring transparency is essential to meeting legal obligations and reducing the risk of misleading consumers, particularly in increasingly informal and immersive online spaces.

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06

ASA reinforces
evidence based
standards for
complementary
therapy claims



ASA reinforces evidence-based standards for complementary therapy claims

Key takeaways:

- 1 Companies are required to substantiate any health-benefit claims in complementary therapy ads with strong, credible evidence.
- 2 Promoted testimonials should focus on general well-being improvements, and companies should avoid referencing serious conditions in ads unless they are suitably qualified and have appropriate medical oversight.

The [ASA has issued guidance](#) on advertising complementary and alternative medicines and therapies amid increasing regulatory scrutiny and growing sector attention.

Central to the ASA's guidance is the requirement for strong and robust evidence. Any claims concerning therapeutic efficacy, whether explicit or implied, must be supported by clinical evidence. Advertisers cannot claim a complementary therapy treats or cures specific ailments without scientific backing. The ASA has upheld complaints against acupuncture promotions that promised relief for fertility problems, anxiety or insomnia without adequate evidence. Even well-meaning testimonials, intended to reflect an individual's experience, risk being misleading. Testimonials should be limited to the subjective or sensory aspects of the experience, where they do not hold the necessary clinical evidence to support direct or implied treatment claims. For instance, advertisers can promote the general well-being benefits of a therapy (e.g. relaxation or improved mood) or describe a treatment's historical or cultural background, provided this doesn't amount to objective claims of efficacy.

Where a therapy, such as osteopathy, is regulated by statute and supported by established clinical evidence, the ASA recognises that carefully framed efficacy claims may be acceptable. By contrast, for therapies with a more limited evidence base, advertisers should take a more cautious approach. Crucially, the ASA reminds advertisers that the CAP Code (with equivalent BCAP Code provisions) prohibits non-medically qualified advertisers from referencing serious medical conditions like arthritis or depression.

In 2023 the ASA banned adverts for hyperbaric oxygen chambers that implied treatment of long COVID and other serious illnesses without proper medical oversight. The message is clear: advertisers must tread carefully, focusing on evidence-based, responsible messaging.

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07

It ain't easy being green: new CMA guidance on green claims



It ain't easy being green: new CMA guidance on green claims

Key takeaways:

- 1 Responsibility for green claims can sit with multiple businesses in the supply chain, including those who simply repeat or endorse claims originating elsewhere in the supply chain.
- 2 Practical measures which may help to mitigate the risk of greenwashing include active supplier engagement in the verification of all green claims, robust internal review and approval processes for marketing materials, and staff training on CMA guidance around environmental claims.

The CMA has published [new guidance](#) on supply chain liability in relation to environmental claims. This guidance, which expands upon the CMA's [Green Claims Code](#), intends to provide businesses with further clarity as to when they may be liable for false or misleading "green claims" and what steps they are expected to take to avoid greenwashing.

A core message of this new guidance is that any business involved in making or passing on an environmental claim to consumers may be legally responsible if that claim is false or misleading. The CMA adopts a broad view of what it means to "make" a claim, capturing not only express statements but also the visual presentation of environmental information and the failure to disclose key steps in realising the environmental benefit of a product. Businesses may also be liable where they repeat or endorse claims originating from suppliers or other third parties. This means that retailers and resellers can fall foul of regulatory guidelines simply by stocking a product that bears a false or misleading 'environmentally friendly' label applied by the manufacturer.

The guidance stresses that green claims must be supported by robust and credible evidence. Where supporting information sits elsewhere in the supply chain, businesses are expected to verify the accuracy of claims before communicating them to consumers. If verification is not possible, the CMA recommends reconsidering how the claim is made and whether it should be made at all. Reliance on good faith or reasonable efforts to diligence environmental information will not provide a defence for any businesses in breach of the CMA's regulatory guidelines.

The guidance also reflects the CMA's enhanced enforcement powers under the Digital Markets, Competition and Consumers Act. The CMA can now impose fines and remedies directly, without relying on court proceedings. The regulator has indicated that it will prioritise cases where false or misleading environmental claims have caused significant consumer harm, particularly where the responsible business should already be clear about its consumer law obligations or does not have internal systems in place to verify the accuracy of its environmental claims.

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08

One pistachio
too many: ASA
cracks down on
light hearted
gambling ad



One pistachio too many: ASA cracks down on light hearted gambling ad

Key takeaways:

- 1 Gambling ads must avoid trivialising the decision to gamble, particularly in the face of repeated losses.
- 2 Responsible gambling messages will not rescue an ad if its overall impression is likely to encourage irresponsible or harmful gambling behaviour.

The [ASA has upheld a complaint](#) concerning an Instagram ad featuring a comedian comparing gambling to eating pistachios. In the Gecko Play ad, the comedian quipped, *“if you get a good pistachio, you want another good one. If you get a bad one, you want a good one even more.”*, followed by audience laughter.

Under the CAP Code, gambling ads must not portray, condone or encourage socially irresponsible gambling behaviour, or behaviour that could lead to financial, social or emotional harm. Notwithstanding that the ad included a small 18+ label, the Gamble Aware logo and a warning about the addictive nature of gambling, the ASA found that these did not alter the overall impression of the ad, which trivialised continued gambling after both wins and losses.

Gecko Play accepted that the ad could be seen as breaching the CAP Code, but that the analogy was intended as light-hearted, observational humour regarding the variability and unpredictability of gambling outcomes. Gecko Play withdrew the ad and confirmed it had updated its internal marketing policies. The ASA directed that the ad must not be used again in its existing form and that Gecko Play must ensure that future ads do not portray, condone or encourage irresponsible or harmful gambling behaviour.

The successful complaint serves as a reminder that gambling ads must be socially responsible and are required to avoid presenting gambling as casual or risk free, even when the message in the ad is presented in a light-hearted or humorous way.

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This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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