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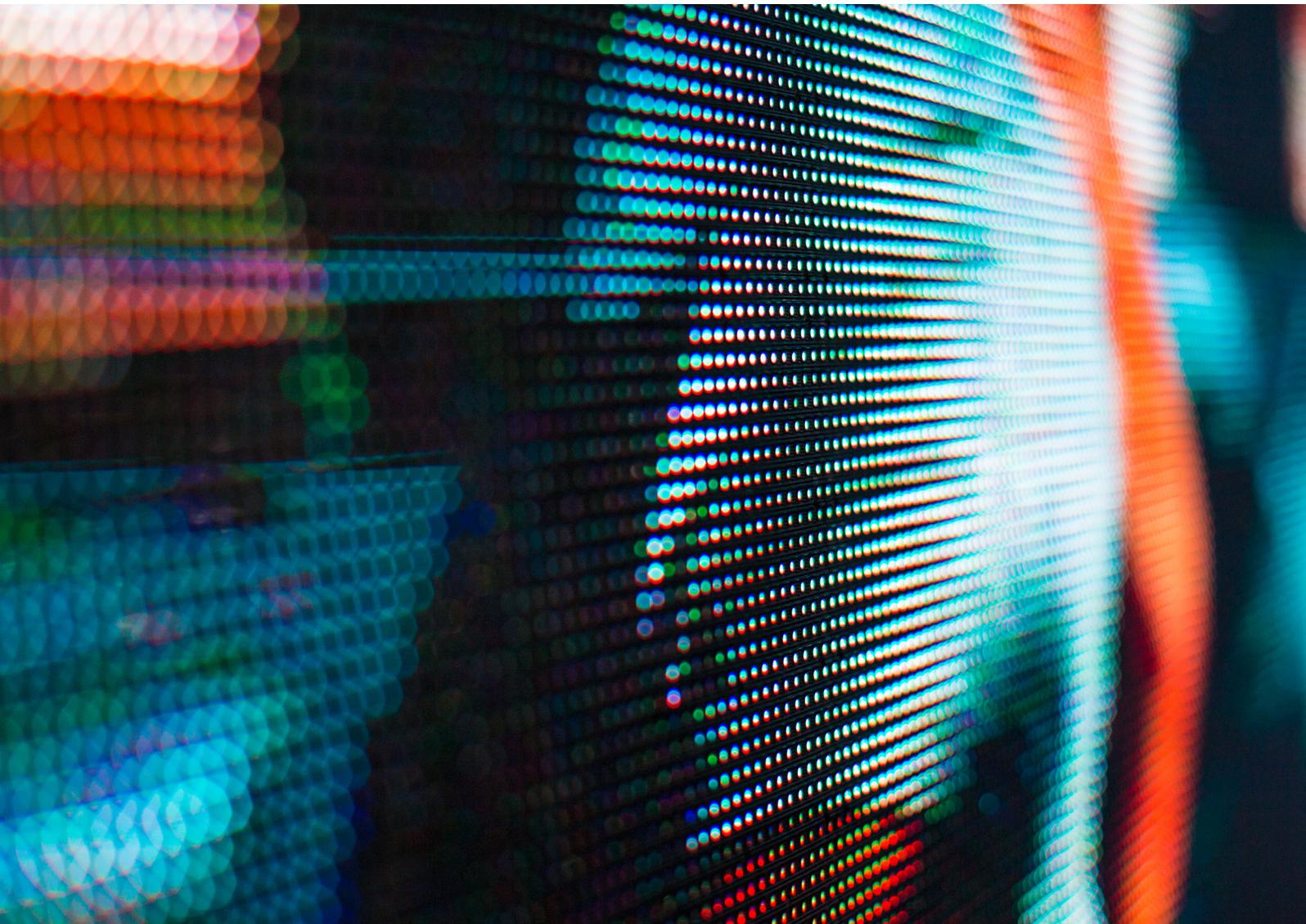
# The Advertising Brief

## Issue 9

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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 competitor advertising, medical devices, claim substantiation, and junk food claims. On the regulatory side, we share some important developments in relation to environmental claims in advertising, the European Commission's antitrust investigation into Google's AI use and more.



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# 01

La Roche-Posay's  
banner ad falls short



# La Roche-Posay's 'No.1 UK dermatologist-recommended' banner ad falls short on signposting despite strong evidence

## Key takeaway:

- 1 Brands must ensure claims are accompanied by visible, immediate routes to verification that are close in proximity to the claim, as even strong evidence can fall short if not clearly accessible or signposted.

The ASA has partially upheld a complaint against an ad by La Roche-Posay for its cleanser product, which promoted a newly patented ingredient targeting hyperpigmentation and described as offering 'a new mode of action like never before.' The ad also stated that La Roche-Posay is the 'No.1 dermatologist-recommended brand in the UK.' Both claims were challenged by Beiersdorf UK as potentially misleading and requiring adequate substantiation.

In response, L'Oréal, La Roche-Posay's parent company, explained that the 'new mode of action' claim was not intended to imply market superiority but to highlight the novelty of MelasyI, the product's new ingredient. L'Oreal explained that MelasyI binds to melanin molecules through a mechanism not seen in other products on the market and provided clinical trial data and patent documentation to substantiate the claim. The ASA accepted this evidence and concluded that the claim had been appropriately supported and the challenge to this claim was therefore not upheld.

With regards to the 'No.1 dermatologist-recommended brand in the UK' claim, L'Oréal supplied data from a survey of dermatologists in support. The ASA agreed that the evidence itself was robust, but found that the advertisement failed to signpost this substantiation clearly. While the claim appeared prominently in a banner at the top of the webpage, the supporting information was placed further down, meaning consumers were not sufficiently directed to the evidence required for verification.

Although L'Oréal had provided adequate substantiation for the dermatologist recommendation claim, the ASA determined that the lack of clear signposting meant the ad was in breach the CAP Code.

Written by  
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# 02

A clean loss  
for Ariel



# A clean loss for Ariel in ASA ruling on their 'The Big One' laundry pods

## Key takeaway:

- 1 An ad does not have to explicitly refer to a competitor to be considered comparative under the BCAP Code. Advertisers should consider the context of the ad and whether it could give the impression it is comparative. Where an ad is comparative, advertisers should ensure they hold evidence to substantiate the claim(s).

The ASA has ruled that Procter & Gamble's (P&G) TV ad for Ariel's 'The Big One' laundry pods claiming 'just one and you're done' was misleading and that the ad included a comparison with an identifiable competitor that was not verifiable, after the ad was challenged by Reckitt.

The ad showed a man looking confused by a number of products in a supermarket labelled 'laundry additives', with a voice-over stating 'All that scrubbing and lemons and those extra products, really? But there's another way', before introducing Ariel's 'The Big One' claiming 'it's just one and you're done'. The product packaging displayed the text '2X Stain and Odour Removal' and the ad claimed the product had the same stain and removal power as Ariel's '2 in 1 Pods'.

P&G argued that the purpose of the ad was to show consumers that using The Big One was more convenient than using a number of different cleaning products and that they made a comparison to their own '2 in 1 Pods', not competitor brands, and, as such, did not believe that they were required to verify the efficacy of the product against other brands.

Whilst the ASA accepted that some consumers would understand the ad to show that The Big One was a convenient alternative to other products, it upheld the complaint, finding that consumers would also believe that the product would have the same result as using any laundry detergent in combination with any additive product from competitive brands, despite P&G only making an explicit comparison to their own Ariel product.

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# 03

ASA clears  
the air



# ASA clears the air on NovaFlow ads

## Key takeaway:

- 1 Not being aware of advertising requirements is not an excuse for non-compliance. Careful consideration should be given to any statements that may be viewed as a 'medical claim' and should be avoided unless the product in question is a licensed medicinal product or registered medical device.

The ASA upheld a complaint against Cleriva (trading as NovaFlow) in respect of two paid-for Facebook advertisements for NovaFlow, a sinus clearing device, on the grounds that statements contained in the ads amounted to medical claims. As NovaFlow is not a registered medical device, the inclusion of medical claims in its ads constituted a breach of the CAP Code.

The two advertisements featured images of the NovaFlow device with a number of health focused statements. The first ad included the claims 'Congestion gone for GOOD', 'Restores natural breathing' and 'Reduce sinus inflammation'. The second ad included the statement 'Scientifically proven to reach the deepest part of your sinuses and tackle the root cause of clogged noses'.

A complaint was made on the basis that these statements amounted to medical claims for an unlicensed medicinal product, as NovaFlow is not a licensed medicinal product with the Medicines and Healthcare products Regulatory Agency (MRHA) in the UK.

Under the CAP Code, medical claims can only be made for (i) medicinal products registered with the MHRA or the Veterinary Medicines Regulations, or under the guidance of the European Medicines Agency, or (ii) a medical device (which must be registered with the MHRA before it can be marketed in the UK) with applicable conformity marking.

Cleriva t/a NovaFlow responded with a number of points, including:

- as a US-based company, they were not aware of the requirements in the UK regarding such claims; and
- the statements were made on the basis of scientific literature with the aim of reflecting such literature, rather than misleading clients.

Nevertheless, Cleriva t/a NovaFlow acknowledged the CAP Code rules, and since receiving the notification from the ASA, they had taken action to remove the ads in question.

Consequently, the ASA held that the statements within the two advertisements would lead customers to believe that using the NovaFlow could improve medical symptoms, and therefore, the statements within the ads constituted medical claims of an unlicensed medicinal product, which breached the CAP Code.

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# 04

Wheel of  
(Mis)fortune



# Wheel of (Mis)fortune: ASA cracks down on gaming promotions

## Key takeaways:

- 1 Disclosures on random-item purchasing must be immediate and prominent, not hidden behind expandable text.
- 2 Brands using gamification, prize draws, or promotional spins should review creative formats and ensure probability information is clear and accessible. Failure to do so risks ASA intervention and reputational harm.

The ASA has upheld two complaints against Hutch Games Ltd's in respect of the marketing of its mobile game F1 Clash, highlighting ongoing scrutiny of transparency in gaming promotions. The case centred on an App Store listing and an in-game 'Golden Spin' feature. According to the listing, the game 'Offers In-App Purchases', however, disclosure of the fact that the game also included loot boxes only appeared after clicking 'More' and scrolling through extended text. The ASA considered this insufficient, noting that loot boxes constitute material information that is likely to influence download decisions and should be clearly visible at the point of purchase/ download.

The second issue concerned the Golden Spin storefront, which displayed twelve prizes arranged around a spinner in such a way as to create the impression of equal odds. In reality, the probability of winning each prize varied significantly. While probability information was accessible via a question mark icon, the ASA found this was not an obvious signpost and that the overall design misled consumers.

A third claim – 'Up to x10 better prizes' – was cleared. The ASA accepted that the comparison with the free Daily Spin was accurate and substantiated, given the demonstrably higher value of Golden Spin rewards.

The ASA required that the ads be withdrawn and instructed Hutch Games Ltd to ensure future advertising provides upfront disclosure of loot boxes and avoids misleading impressions about prize odds. This ruling signals a broader regulatory trend towards greater transparency, with transparency obligations applying wherever mechanics involve chance or variable rewards.

Written by  
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# 05

Nike's claim  
falls foul



# Nike's 'sustainable materials' claim falls foul of ASA scrutiny

## Key takeaway:

- 1 The ASA is applying heightened scrutiny to environmental claims in advertising. Advertisers must ensure that terms such as 'sustainable' are clearly defined, appropriately qualified, and supported by robust evidence, as broad or ambiguous environmental assertions are likely to be challenged and found misleading.

As part of a review into environmental claims in the fashion sector, the ASA investigated a Google advert for Nike tennis polo shirts, which promoted the use of 'sustainable materials'. The ASA questioned whether this assertion was misleading.

Nike explained that the phrase was intended to highlight the presence of recycled content in some of its products, with further details available on its website. Nike claimed that all its Summer 2025 tennis polo shirts contained at least 75% recycled materials, and that only products meeting a minimum 50% recycled content threshold were labelled as 'sustainable materials'. Nike also cited the use of industry tools to assess environmental impact and pointed to website information supporting its claims. Nike argued that character limits in Google ads restricted the amount of detail that could be included, but maintained that consumers could access more comprehensive information online.

However, the ASA found that the ad's use of 'sustainable materials' was vague and unqualified, and likely to be interpreted as an absolute claim about the environmental impact of all Nike tennis polo shirts throughout their life cycle. The ASA concluded that Nike had not provided sufficient evidence to substantiate such a broad claim, nor had it made the basis of the claim clear to consumers. As a result, the ad was deemed misleading and in breach of the CAP Code's rules on environmental claims and substantiation.

Nike was instructed not to use the claim in this form again and to ensure future environmental messaging is clear, specific, and robustly supported.

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# 06

CAP and  
BCAP update  
advertising  
guidance



# CAP and BCAP update guidance on environmental claims in advertising

## Key takeaways:

- 1 Avoid vague or absolute claims. Terms like 'eco-friendly', 'sustainable', or 'green' should only be used if you have strong, verifiable evidence to support them.
- 2 If you claim a product is 'greener' or carbon-neutral, ensure the comparison is like-for-like and can be readily substantiated.

The Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) have issued updated guidance to help advertisers navigate the increasingly scrutinized area of environmental claims. This update follows growing consumer concern, regulatory focus, and recent ASA rulings on misleading 'green' messaging.

The revised guidance emphasises that environmental claims must be clear, accurate, and substantiated. Advertisers are reminded that vague or absolute terms such as 'eco-friendly', 'sustainable', or 'green' are likely to breach the Codes unless supported by robust evidence. CAP and BCAP also stress that claims should not omit significant information that could mislead consumers about the overall environmental impact of a product or service, and make sure they take into account the full life cycle of the product or service in question.

A key focus of the update is on comparative claims and lifecycle assessments. Where advertisers make comparisons, for example stating that a product is 'greener' or has a 'lower carbon footprint', they must ensure these are based on like-for-like assessments and verifiable data. The guidance also addresses the growing use of carbon offsetting in marketing, warning that such claims should not exaggerate the benefits or imply that offsetting alone makes a product environmentally neutral.

Digital advertising is another area under scrutiny. CAP and BCAP highlight the need for transparency in influencer and social media content, ensuring that environmental claims are not presented in a way that could mislead followers. Advertisers are encouraged to adopt best practices for substantiation and disclosure across all platforms.

These updates form part of the ASA's broader commitment to tackling misleading environmental claims and promoting responsible advertising, and helping advertisers maintain trust in an increasingly sustainability-conscious market.

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# 07

Further ban on  
junk food on ads



# Further ban on junk food on TV and online ads comes into force with published advertising guidance

## Key takeaway:

- 1 Brands that produce or market HFSS products should take note of the new advertising restrictions to ensure they do not breach limits.

New legislative measures designed to curb the promotion and advertisement of foods high in fat, salt and sugar (HFSS) came into force across the UK on 5 January 2026. Ads for 'identifiable' less healthy food and drink products will be banned from appearing: (a) on television between 5:30am and 9:00pm; (b) in on-demand programme services between 5:30am and 9:00pm; and (c) in paid online media at any time.

These measures were introduced in the Health and Care Act 2022 which amended the Communications Act 2003, and are given practical effect via the following secondary legislation: the Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024 and the Advertising (Less Healthy Food and Drink) (Brand Advertising Exemption) Regulations 2025. The Committees of Advertising Practice (CAP and BCAP) carried out multiple consultations on the implementation of these new restrictions and published advertising guidance in December 2025 which the ASA will use for enforcement.

Decisions over which products are classified as 'less healthy food and drink products' are based on a two-stage test:

1. the products must fall within one of the 13 categories set out in the 2024 Regulation.
2. the product must score 4 or more points for a food or 1 or more points for a drink under the UK Government Department of Health and Social Care's Nutrient Profiling Model (NPM), a scoring tool that takes into account the nutrient levels of the food and the saturated fat, sodium and sugar levels.

The above means that certain breakfast cereals, porridges and sweetened bread products may fall under the ban, but bacon and processed meats do not fall foul as they are not within the 13 categories. Whether a product is identifiable is assessed from the perspective of a notional 'average consumer'.

There are several important exemptions, which were the subject of much debate for several years. For example, the rules only apply to food and drinks businesses with 250 or more employees and are exempt to small and medium sized businesses (SMEs). However, it is worth noting that ads by non-SME delivery services working on behalf of a food or drink SME will not benefit from the exemption if the ad promotes the products of the non-SME party. Another key exemption is 'brand advertisements', i.e. ads which promote a brand only and do not depict any specific HFSS product, whether by name, text or imagery. This may mean that well-established fast food brands can still advertise in the UK, but care must be taken to ensure the combination of brand advertising techniques do not, taken together, depict a HFSS product in the eyes of an average consumer. Furthermore, online ads that are not addressed to those in the UK, or are not paid-for (e.g. posted on the advertisers' own social media channels without any paid promotions) are also exempt.



This is part of a wider strategy by the UK Government to tackle rising obesity levels, following a location-based restriction for junk food introduced from October 2022, banning junk food from being placed in high visibility areas, including checkouts and prominent aisle ends, and then in October 2025 a volume-based ban limiting multibuy promotions, including 'Buy One, Get One Free' offers.

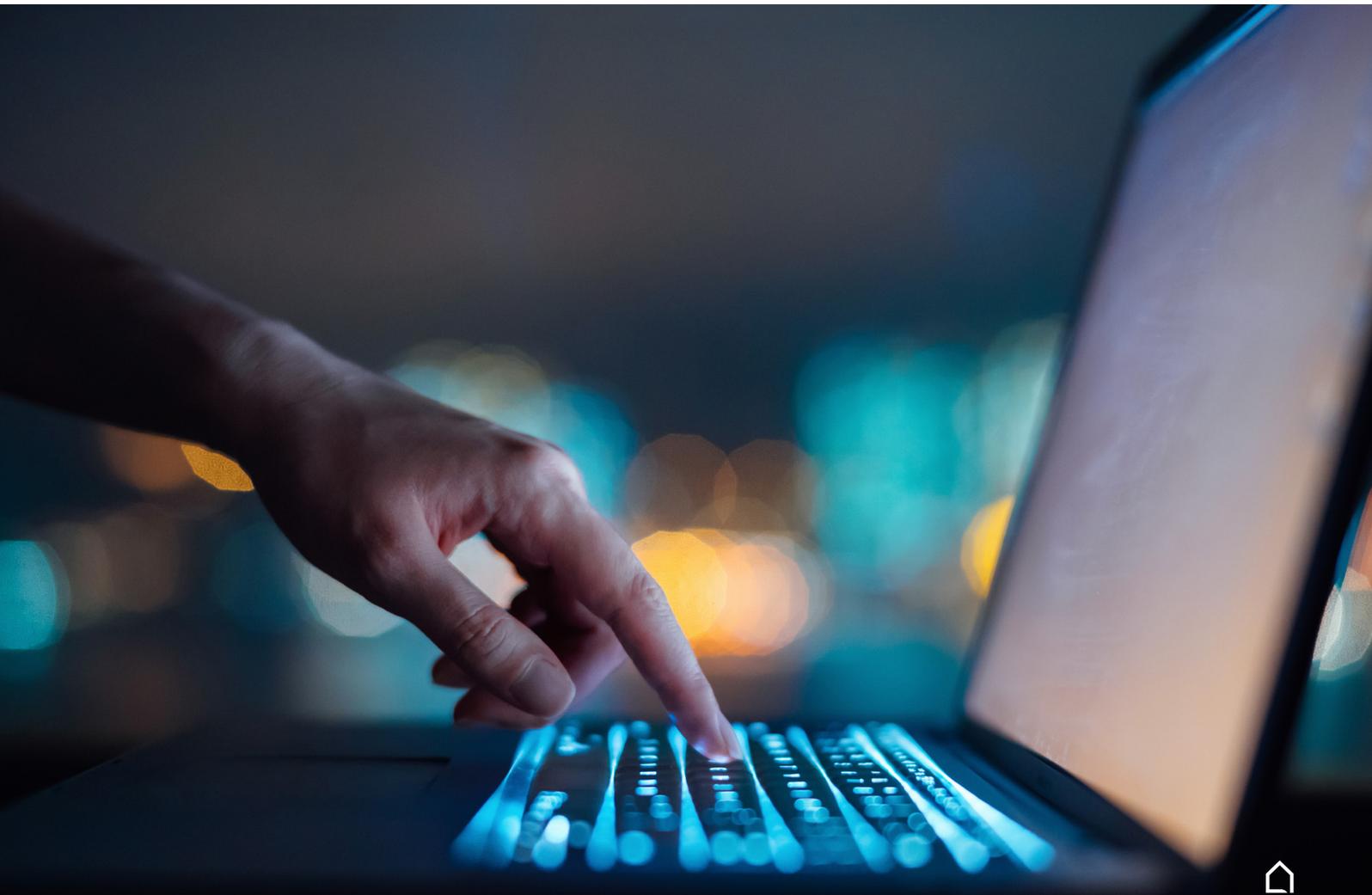
The ASA has not carried out any prosecutions as at the date of this article. We will report future cases that enforce these restrictions. For more information, please see the [advertising guidance](#) published on the ASA website.

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08

European  
Commission  
opens  
investigation  
into Google and  
YouTube



# European Commission opens investigation into Google's use of web publishers' and YouTube creators' content for AI

## Key takeaways:

- 1 As a result of the investigation Google's AI features may be prevented from continuing to rely on publisher and creator content, including any advertisement within published content and YouTube videos, without fair control or compensation.
- 2 Original material used by brands (not only in content creator campaigns, but also in their own YouTube channels) can be used to train AI Overviews and AI mode. The EC's investigation may lead to a requirement on Google to allow third party AI developers access to these materials too.

The European Commission (EC) has opened an antitrust investigation into whether Google has been using online content in ways that may harm competition in artificial intelligence (AI). The inquiry focuses on how Google may have relied on material from web publishers and YouTube creators to develop and operate its AI tools, particularly 'AI Overviews' and 'AI Mode', without offering fair compensation or meaningful opt out options.

AI Overviews and AI Mode are new search features that generate summaries or conversational answers at the top of search results. The EC is concerned that these outputs may be based on publishers' content, and publishers cannot refuse such use without risking visibility in Google Search, a traffic source many depend on.

The investigation also examines Google's policies on YouTube. Creators must allow their content to be used for various purposes, including training Google's AI models, yet they are not compensated for this use. At the same time, YouTube's terms prevent rival AI developers from training their own models on YouTube content, which could give Google an unfair advantage.

If confirmed, these practices could amount to an abuse of dominance under EU competition rules. The launch of the investigation does not determine the outcome, and there is no fixed deadline for its completion. The EC will now gather evidence and assess whether Google's behaviour has distorted competition or harmed publishers, creators, and AI developers.

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