

Title:

Mr

Forename:

Robert

Surname:

Griggs

Representing:

Organisation

Organisation (if applicable):

Advertising Standards Authority

Additional comments:

This response is provided on behalf of the Advertising Standards Authority (ASA).

The ASA is the UK's independent regulator for ensuring that advertising in all media is legal, decent, honest and truthful, for the benefit of consumers, business and society. The system is both self-regulatory and co-regulatory.

The ASA administers the UK Advertising Codes that are written and maintained by two industry bodies, the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP).

Question 12.7: Do you agree with our provisional view that the requirement for SPs to advertise their SCs could be implemented through a condition on SPs that is enforced through an industry Code of Practice and the ASA? Are there any other options (beyond the two outlined) which Ofcom should be considering? What do you consider is the best approach for securing industry commitment and developing a Code of Practice?:

The ASA receives some complaints about the cost of calling numbers charged at non-geographic rates and regularly gives advice to advertisers about the presentation of call charge information in advertising.

If Ofcom introduces a requirement that service providers must state service charges in advertisements, CAP will reflect that requirement in its advice to advertisers and media owners. The ASA will be able to adjudicate, under existing Code rules, on advertisements that omit service charge information. The ASA will consider on a case-by-case basis whether the omission of service charge information is likely to mislead consumers; it will take Ofcom

guidance into account.

At present, we advise that advertisements that include 0843, 0844 and 0871 numbers should state the cost for customers on BT's Unlimited Weekend plan (because that is the most popular call plan and it is not practical to give information about call costs for all OCPs). We welcome the proposal to create a single service charge relevant to all consumers, regardless of the originating call provider, because we believe this allows for more meaningful price information in advertisements. We consider that it is reasonable to assume that consumers will be aware of the standard prices for calls or text messages charged by their OCP and therefore that advertisements need state only the SP charge.

The ASA administers the CAP and BCAP Codes; it does not enforce Codes produced by other bodies. If a telecoms or service provider industry code of practice is drawn up, it would operate in parallel to the CAP and BCAP rules for advertising.

ASA adjudications may be enforced by our backstop regulators Ofcom (for broadcast advertisements) and the OFT (for non-broadcast advertisements). Ofcom uses its powers under the Communications Act 2003 when it enforces ASA adjudications; the OFT uses its powers under the Enterprise Act 2002 and the Consumer Protection from Unfair Trading Regulations 2008. If Ofcom wishes to have direct powers to enforce rules on pricing information in non-geographic revenue-sharing services, including in non-broadcast advertisements, a formal agreement would need to be negotiated. We believe, however, that the existing Code rules and the existing back-stop enforcement arrangements are sufficient to deliver the proposed changes to advertising practices.

Question 17.3: Do you have any other comments on our proposed implementation approach for making Freephone free to caller? For example, do you consider it necessary for Ofcom to impose a requirement on SPs to publicise that 080 calls are free and do you have any other suggestions for how SPs could be encourage to publish that at the point of call? Are there any other implementation issues which need to be taken into account? :

The ASA is unlikely, under its existing rules, to regard the omission of a statement that freephone calls are free to the caller as a misleading omission. The CAP and BCAP Codes require that advertisements must not omit material information, which is information that consumers need to make informed transactional decisions. CAP and BCAP are mindful of the maximum harmonisation requirements of the Consumer Protection from Unfair Trading Regulations 2008, which means they will not introduce a rule requiring disclosure that a service is "free" unless the omission of that information is likely to breach the CPRs. CAP and BCAP are therefore highly unlikely to impose a requirement that SPs publicise that 080 calls are free in their advertisements.