

Confidential – N

RNIB

About us

RNIB is the largest organisation of blind and partially sighted people in the UK and welcomes this opportunity to respond to the consultation.

With blind and partially sighted people at the heart of everything we do, our community of over 33,000 people brings together anyone affected by sight loss. More than three quarters of our Board of Trustees are blind or partially sighted. We support, empower and involve thousands of people affected by sight loss to improve lives and challenge inequalities. We engage with a wide range of politicians, organisations and professionals to achieve full inclusion through improvements to services, incomes, rights and opportunities.

We campaign for the rights of blind and partially sighted people in each of the UK's countries. Our priorities are to:

1. Be there for people losing their sight.
2. Support independent living for blind and partially sighted people.
3. Create a society that is inclusive of blind and partially sighted people's interests and needs.
4. Stop people losing their sight unnecessarily.

RNIB welcomes the opportunity to respond to this consultation.

The Equality Act of 2010 aims to prevent organisations from directly or indirectly discriminating against people with a protected characteristic such as sight loss. The clear intention of the Act is to require companies to make adjustments except where doing so would make their business unworkable or financially unviable. Advertising, especially where a company is advertising offers or discounts, is part of a company's offering to consumers and as such companies need to make reasonable adjustments to make their adverts accessible to blind and partially sighted people. The BCAP code, which advises on complying with consumer protection law, makes clear that "Broadcasters are responsible for ensuring that the advertisements they transmit comply with both the spirit and the letter of the Code." [i] Knowingly creating an advert that is inaccessible to a significant section of society, when an accessible advert could have been produced does not comply to the spirit of the code. This would require companies to consider their duty under the Equality Act and commission accessible adverts.

Often a stated barrier to making adverts accessible is the lack of sufficient gaps within the main voiceover to add the audio description, which would contain the small print text as well as a description of the other on-screen details. In such cases, it must be the responsibility of the advertiser to consider the requirements of all their viewers and if it is not possible to include audio description then important information must be included in the main voiceover. As stated on the ASA website, important information refers to what is being advertised and other material information contained within the advert. Including important information in the main voiceover is referred to as integrated description. Adverts often contain a lot of information presented in a short duration which makes integrated description the best solution in many cases. It also has the benefit that people who cannot see the screen will still receive all the information from the advert and only one version of the advert needs to be produced. Advertisers already present all the information through audio when they advertise on radio broadcasts, so the advertising industry already possesses the skills to produce adverts with integrated descriptions.

In 1961 the Molony Committee agree that self-regulation was sufficient to preserve the standards of advertising expected by the general public. The Committee of Advertising Practice (CAP) produced the first British Code of Advertising Practice (BCAP) and the ASA was established the following year to oversee this self-regulation [ii]. The BCAP still serves a very useful function in guiding advertisers on what they should and shouldn't be doing to comply with consumer protection laws but does not help advertisers in complying with equality legislation. By building accessibility advice into the code or publishing a separate accessibility code the ASA could help companies comply with their obligations under the Equality Act. RNIB is one of the many UK organisations that could help in drafting such advice.

As the co-regulator Ofcom has a duty to ensure that the ASA is performing their delegated duties fully. Ofcom also has a duty under the Equality Act to "...advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it...". [iii] If Ofcom renews the co-regulatory arrangements with ASA without a requirement to advise on making adverts accessible then the equality of opportunity is not being advanced when Ofcom had a clear path to do so. This would be a failure to uphold their duty under the Act.

Ofcom has a duty under the Equality Act to require ASA to provide accessibility guidance and the ASA would be better serving its members by doing so. Provision of accessibility guidelines needs to be a requirement of the co-regulatory arrangements and RNIB look forward to offering our expertise in this area.