Consultation response

Field	Value
Responder	BRC - British Retail Consortium
Responder Type	organisation
Org Role	Asst Director
Org Type	Other
Other Type	Trade Association

Volume 1: Context

3. Online advertising ecosystem

Q1: Is there any information or evidence you hold that could enhance our understanding of the online advertising ecosystem?

Retailer experience

Retailers are seeing fraudulent and potentially misleading advertising across a range of channels including search engines, social media, online marketplaces and standalone websites. The activity takes a number of forms including websites impersonating retailers, unauthorised use of retailer brands and products, misleading or fraudulent adverts and inaccurate pricing information displayed through search engines and shopping platforms.

Services such as Netcraft and other brand-monitoring platforms are used to identify and take down websites impersonating retailer brands. Food retailers in particular undertake significant brand monitoring, with dedicated teams able to identify and remove fraudulent activity within a few hours. However, new sites can appear shortly afterwards, creating a 'whack-a-mole' problem. There is good information sharing between retailers where campaigns target multiple businesses. Many fraudulent sites also appear to originate overseas, including China.

However, the issue is not limited to websites impersonating retailers. Retailers have also identified websites advertising products they are not authorised to sell, including products from established retailer brands. Retailers have used trademark enforcement routes to address this, but this can take a long time.

Retailers are also seeing increasing volumes of potentially fraudulent or misleading advertising on social media, including adverts for apps and subscriptions that consumers can access for free elsewhere, as well as fake adverts. Experiences with social media platforms are mixed, with some fraudulent content removed quickly following a report and other cases taking considerably longer. There is a perception that platforms such as Google and Meta could do more to identify and remove this content proactively.

Fraudulent content is also being shared directly through channels such as WhatsApp and Facebook including links to fraudulent websites. This can make activity difficult for retailers to identify through their own monitoring, particularly where it is unclear how consumers have been directed to the site. Retailers may trace activity through domain-name searches or by identifying where products and images are being used elsewhere online, but it is not always possible to establish the source or route by which consumers have reached the fraudulent site. In some cases, activity may originate further up the supply chain including from

wholesalers.

Retailers are also seeing an increase in potentially misleading or fraudulent advertising on online marketplaces. In some cases, retailers can struggle to access meaningful support when fraudulent activity is identified. For example, on Vinted, there may be no direct point of contact and queries can be handled through automated systems or bots, making it difficult to resolve issues.

Retailers also encounter inaccurate or fraudulent pricing information in Google Shopping results. For example, a confectionery product was advertised at a discounted price at a food retailer, but the price was incorrect when consumers clicked through to the retailer's website. Retailers have reported these listings to Google, which has generally removed them relatively quickly.

Fraudulent advertising also creates issues beyond the advertising itself. Retailers have had to engage payment providers, such as Stripe, where fraudulent transactions have resulted in customer chargebacks.

4. Causes and impacts of fraudulent advertising

Q2: Do you have any comments on Ofcom's assessment of the causes and impacts of fraudulent advertising? Do you think we have missed anything important in our analysis? Please provide evidence to support your answer.

No response

Q3: Do you agree with the examples of risky characteristics we have provided? Please provide any arguments and supporting evidence.

No response

5. Our approach to developing Codes measures

Q4: Do you agree with our proposed approach? Please provide any arguments and supporting evidence.

Retailers broadly support the proposed measures, particularly the potential for greater sectoral reporting and information sharing. However, the measures should be viewed as a first step, with the approach continuing to develop as the nature of fraud evolves.

The pace of technological change, particularly the development of AI, is a key concern. There is a risk that rules and measures developed now could become outdated within months, so the framework will need to be capable of adapting as new methods emerge.

Retailers would also welcome greater clarity on how measures such as takedown times would be measured and enforced. There is concern about the resource burden if responsibility for identifying and reporting fraudulent advertising falls primarily on businesses. Retailers already invest significant time and resource in monitoring and reporting fraudulent activity, and there should be consideration of what more can reasonably be expected of them. There was interest in whether the ASA could undertake proactive web sweeps to identify fraudulent advertising, rather than relying primarily on retailers or consumers to report it.

Retailers strongly support an approach that focuses on getting ahead of fraudsters, rather than relying primarily on reactive takedowns. Consumer education should also form part of the response, particularly given the difficulty some consumers face in distinguishing legitimate advertising from fraudulent activity.

More broadly, fraudulent advertising involves a wider ecosystem, including websites, search engines, social media platforms, marketplaces, payment providers and other intermediaries. Retailers believe action needs to extend across this ecosystem, with responsibility shared between the different actors involved rather than placing the burden primarily on individual businesses.

6. Combined impact assessment

Q5: Do you consider the overall burden on the service providers in scope of our proposed measures to be proportionate? Please provide any arguments and supporting evidence.

No response

Volume 2: Risk, governance and control

2. Advertising intermediaries

Q6: Do you agree with our proposal? Please provide any arguments and supporting evidence.

No response

Q7: We have included two illustrative examples of when and how this measure may be applied, and what 'all reasonable endeavours' might look like. Do you have any comments on these examples, and do you have any additional examples of how providers could work with or require intermediaries to implement safety measures in circumstances where they have insufficient control? Please provide any arguments and supporting evidence.

No response

3. Fraud indicator assessment

Q8: Do you agree with our proposal? Please provide any arguments and supporting evidence.

No response

Q9: Do you think there are other information sources providers should consider in order to understand how fraudulent advertising manifests on their service? If so, what information and why would they need to consider it?

No response

4. Governance and accountability

Q10: Do you agree with our proposals? Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

No response

5. Testing advertisement generation tools

Q11: Do you agree with our proposal? Please provide any arguments and supporting evidence.

No response

Volume 3: Ensuring account integrity

2. Account checks and actions

Q12: Do you agree with our proposal? Please provide any arguments and supporting evidence. Where your feedback relates to a specific check we are proposing providers should carry out, please make this clear. These are :

No response

Q12.A: verification that advertising account holders work for, or on behalf of, the individual or organisation they are advertising

No response

Q12.B: checks and actions to prevent banned advertising account holders returning

No response

Q12.C: checks for accounts with indicators that there is a material risk they will post fraudulent advertising so that restrictions can be applied to them

No response

Q12.D: repeat checks where there are relevant changes identified on an account.

No response

Q13: Are you aware of any other account checks and actions providers could do to protect users from fraudulent advertising? Please provide any arguments and supporting evidence.

No response

3. Preventing fraudulent financial services advertising

Q14: Do you agree with our proposal? Please provide any arguments and supporting evidence.

No response

4. Countering account takeover

Q15: Do you agree with our proposals? Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

No response

Q16: Do you have any evidence about account takeover that could inform our assessment, including how frequently it occurs or its impact?

No response

5. Advertising bans

Q17: Do you agree with our proposal? Please provide any arguments and supporting evidence.

No response

Q18: Are you aware of any additional exceptional circumstances in which it may be proportionate for providers to reverse advertising bans?

No response

6. Account appeals

Q19: Do you agree with our proposals? Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

No response

Volume 4: Moderation

2. Advertising moderation

Q20: Do you agree with our proposals? Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

No response

3. Terms of service and publicly available statements

Q21: Do you agree with our proposals? Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

No response

4. Advertising complaints (including DRC for trusted flaggers)

Q22: Do you agree with our proposals? Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

No response

5. Ad libraries

Q23: Do you agree with our proposal? Please provide any arguments and supporting evidence.

No response

Q24: Do you agree with the principles, functionalities and information categories which we have included in the proposed measure? Please explain your reasoning and, if possible, provide supporting evidence.

No response

Q25: Do you have any evidence or insights on the process of building an ad library from scratch or adjusting an ad library to align with the proposed measure, and how long that process would take?

No response

Additional questions

Q26: Do you agree with our Equality Impact Assessment? Please provide any arguments and supporting evidence.

No response

Q27: Do you agree with our Welsh language assessment? Please provide any arguments and supporting evidence.

No response

Q28: Do you agree with our proposals? Please provide any arguments and supporting evidence.

No response