

WEBSITES – COUNTDOWN TO CAP CODE COMPLIANCE

Website owners have been given six months to comply with the rules in the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (the “CAP Code”).

As of 1 March 2011, the CAP Code will apply to advertisements and other marketing communications by or from companies, organisations or sole traders on their own websites, or in other space online which has not been paid for but which is under their control (including advertising on social networking websites), that are directly connected with the supply or transfer of goods, services, opportunities and gifts, or which consist of direct solicitations of donations as part of their own fund-raising activities.

Amongst other things, the CAP Code covers:

- misleading advertising, in particular by way of price comparisons and imitation;
- materials aimed at children;
- regulation of food and drink marketing and associated health claims;
- consumer and trade sales promotions and incentive schemes; and
- medicines, medical devices, health related and beauty products.

Breaches of the CAP Code are dealt with by the UK Advertising Standards Authority (“ASA”).

Sanctions for breach of the CAP Code now include:

- providing details of an advertiser and the non-compliant marketing communications on an ASA microsite;
- with the search engine’s co-operation, removing paid-for search advertisements that link directly to the page hosting the non-compliant marketing communication; and
- placing paid-for advertisements on internet search engines that highlight the continued non-compliance of an advertiser’s marketing communication.

How widely these new powers will be used remains to be seen.



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