

ASA system submission to the Competition and Market Authority's Electric vehicle charging market study: Invitation to comment

1. Background and Introduction

- 1.1. This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the 'ASA system.'
- 1.2. The ASA is the UK's independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for 57 years and the broadcast Advertising Code (written and maintained by BCAP) for 15, with our remit further extended in 2011 to include companies' advertising claims on their own websites and in social media spaces under their control.
- 1.3. We are responsible for ensuring that advertising is legal, decent, honest and truthful and our work includes undertaking proactive projects and acting on complaints to tackle misleading, harmful or offensive advertisements. We are committed to evidence-based regulation and we continually review new evidence to ensure the rules remain fit-for-purpose.
- 1.4. In addition to investigating ads, we also provide a wealth of training and advice services (most of which are free) for advertisers, agencies and media to help them understand their responsibilities under the Codes and to ensure that fewer problem ads appear in the first place. CAP and BCAP provided over 550,000 pieces of advice and training in 2019.
- 1.5. We also work closely with various partners, including the Competition and Markets Authority (CMA), to bolster our regulation and consumer protection through the sharing of information, joined-up enforcement action and referral processes.
- 1.6. The ASA system is providing this written submission in response to the CMA's Electric vehicle charging market study Invitation to comment.
- 1.7. As the window for comments has fallen during an especially busy time for the ASA with a host of competing priorities, we have confined our response to matters that we think are directly applicable to the study. We are, however, happy to make ourselves available for any follow-up discussions including face-to-face dialogue, if the CMA would find that useful.

2. Our rules and guidance

- 2.1. We set out here the advertising rules and guidance most relevant to the themes explored in the consultation. Specifically, we comment on consumer interaction with the EV charging sector and the information they need in order to make informed choices.
- 2.2. [The UK Advertising Codes](#) prohibit ads from containing anything that is likely to mislead. In judging whether an ad is misleading, the ASA will have regard to the [Consumer Protection from Unfair Trading Regulations 2008](#) (the CPRs). The CPRs, which prohibit unfair marketing to consumers, including misleading or aggressive advertising, underpin and reflect [the rules on misleadingness](#) in the UK Advertising Codes.
- 2.3. Ads have the potential to mislead by exaggeration, ambiguity, omission or otherwise. In assessing complaints, the likely effect of an ad is generally considered from the point of view

of the average consumer whom it reaches or to whom it is addressed. The average consumer is assumed to be reasonably well-informed, observant and circumspect.

- 2.4. In order to make an informed decision, consumers must be provided with material information in a clear, upfront, unambiguous and timely manner. Material information includes: the main characteristics of a product; the identity of the marketer; price; and, likely relevant to the EV charging market, any geographical restrictions. Ads must also state significant limitations and qualifications to an offer. Qualifications may clarify but must not contradict the claims that they qualify. Whether the omission or presentation of material information is likely to mislead the consumer depends on the context, the medium and, if the medium of the ad is constrained by time or space, the measures that the marketer takes to make that information available to the consumer by other means.
- 2.5. In general terms, price statements in ads must not mislead by omission, undue emphasis or distortion. And quoted prices must include non-optional taxes, duties, fees and charges that apply to all or most buyers.
- 2.6. Our Codes also require that advertisers hold robust documentary evidence to prove claims that are capable of objective substantiation. Ads must not mislead consumers by exaggerating the capability or performance of a product. And advertisers must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists.
- 2.7. Any [environmental claims](#) must also be clear, backed by evidence and unlikely to mislead consumers. The meaning of environmental terms used in ads must be clear to consumers and claims must be supported by a high level of substantiation. Advertisers must not mislead consumers about the environmental benefit that a product offers and they must base environmental claims on the full life cycle of the advertised product.
- 2.8. While our rules allow comparative claims between competitors, advertisers must objectively compare one or more material, relevant, verifiable and representative feature of those products, which may include price. Ads that include a price comparison must make the basis of the comparison clear. Objective superiority claims must make clear the aspect of the product or the marketer's performance that is claimed to be superior.

3. Consultation questions Theme two: effective consumer interaction with the sector

- 3.1. Taking account of the above, it is crucial that ads for EV charging provide consumers with clear and accurate information, whether on pricing, availability, the environment or in relation to comparative claims with competitors.
- 3.2. Any claims about the technology behind EV charging, the environmental benefits, for instance [net zero emissions claims](#) or how the energy is taken from the national grid, i.e. [renewable sources](#), should be easily understood by consumers and be backed by evidence. As should claims about the number and location of chargepoints offered by network operators, interoperability between chargepoints and vehicles, charging times, availability and any reliability or efficacy claims. In all of this we recommend marketers are aware of [DEFRA's Green Claims Code](#).
- 3.3. If claims made in ads for EV charging are not supported by evidence there is a risk that consumers who see, hear and interact with them may be misled. This could result in consumers taking transactional decisions that they would not otherwise have taken.

- 3.4. [Price and payment models, tariffs](#) and the terms of contracts should be transparent and easy for consumers to understand. Comparisons with competitors should be truthful and verifiable and they must not discredit or denigrate another product, marketer, trade mark, trade name or other distinguishing mark.
- 3.5. Advertising is one of the first points in the consumer journey and not every bit of information about a product or service can or is expected to be included in an ad. An ad should, however, contain relevant information – based on its content and the context in which it appears – that enables a consumer to make an informed transactional decision. As the EV charging sector develops and grows, it is important that advertising claims do not mislead and consumers are treated fairly.

Contact

Matt Wilson
Media and Public Affairs Manager
Advertising Standards Authority

[redacted] / publicaffairs@asa.org.uk