

Who regulates hidden advertising?

1. Content creators, brands and platforms all have a role to play in tackling hidden advertising on social media platforms. For more guidance on how to comply with the rules in this area, see [Reviews and social media endorsements: what businesses and content creators must know - GOV.UK](#). This guide sets out the rules which apply to these different types of business and which regulators are responsible for monitoring compliance with the rules.
2. The following bodies have regulatory responsibilities for ensuring paid for endorsements are properly labelled on social media platforms:
 - [Advertising Standards Authority \('ASA'\)](#);
 - Trading Standards Services ('TSS'); and
 - [the Competition & Markets Authority \('CMA'\)](#).
3. The rules they enforce apply across the supply chain including content creators, intermediaries (for example, marketing agencies and talent agencies), brands and social media platforms.

Who's who: A brief introduction to the regulators

The ASA

4. The ASA is the UK's independent advertising regulator. The ASA applies the [Advertising Codes](#), which are written by the self-regulatory Committees of Advertising Practice ('CAP'). Its UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (the 'CAP Code') is the rule book for non-broadcast marketing communications and is relevant to influencer marketing. The ASA is considered an 'established means' for keeping advertising in line with certain pieces of consumer legislation. While it can refer brands and influencers to TSS where a breach of the CAP Code is also likely to be a breach of consumer protection law, this is rare as the self-regulatory system is typically successful in remedying serious or repeated breaches of the Code.

TSS

5. TSS are local authority departments in England, Wales and Scotland and part of the Department for Economy in Northern Ireland. They have the duty to enforce consumer protection legislation (such as the unfair commercial practices (UCP) provisions in Part 4 of the Digital Markets, Competition and Consumers Act 2024 (DMCC Act)¹). The UCP provisions of the DMCC Act apply to everyone in the advertising chain, including brands, content creators, intermediaries (for example marketing agencies) and social media platforms. TSS may investigate brands, content creators, or platforms which breach the UCP provisions. TSS also act as a statutory backstop to the ASA².

The CMA

6. The CMA is the competition and consumer protection regulator in the United Kingdom. The CMA's purpose is to help people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour. For more information, see the CMA's [homepage](#).
7. The CMA is empowered to enforce a range of consumer protection law, including in cases where the unfair treatment of consumers, or the challenges they face in making choices, suggests there may be a systemic market problem. For more information, see [Consumer protection: enforcement guidance \(CMA58\) - GOV.UK](#).
8. The CMA focus is on market-wide issues affecting consumers and it does not offer advice or guidance on specific individual complaints. This is the responsibility of other bodies, in particular the Citizens Advice service which also takes the national lead in providing published information for consumers.

Which rules apply to content creators?

The ASA and the CAP Code

9. The ASA enforces the CAP Code. Section 2 contains rules about how adverts should be obviously identifiable as adverts and Section 3 sets out rules that advertisers must follow to avoid misleading people. The ASA can act when content falls within the scope of its rules, for example, when the brand exercises control over the relevant content or it contains affiliate marketing links. The ASA adopts a broad interpretation of 'control': as a rule of thumb, if influencers are not completely free to do and say whatever they want, whenever they want about a product for which they have received payment or payment in kind, the ASA is likely to consider the brand exercises control. In practice, this means there are very few cases that the ASA rejects or refers to other bodies because the control test has not been met.
10. You can find the ASA's CAP Code [here](#) and its co-guidance with the CMA [here](#), which is primarily aimed at content creators. Its other key resources on

¹ From 6 April 2025, Part 4 of the DMCC Act replaces and updates the previous law on unfair commercial practices, the Consumer Protection from Unfair Trading Regulations 2008 (CPRs).

² The ASA currently has an arrangement with Buckinghamshire and Surrey TSS in this respect.

this topic can be found [here](#).

11. The ASA has published a number of rulings in respect of hidden advertising by content creators: see their recent rulings [here](#). The ASA also operates a [list](#) of non-compliant content creators, who have repeatedly engaged in hidden advertising. The ASA has an escalating sanctions regime, including naming on the non-compliant list, targeted on-platform advertising campaigns in respect of non-compliant influencers and referral to platforms for enforcement sanctions. The ASA can also refer content breaching the CAP Code to TSS, which may take enforcement action.

The CMA, TSS and Part 4 of the DMCC Act

12. The CMA and TSS both enforce the UCP provisions in Part 4 of the DMCC Act, which contain rules prohibiting content creators and others from engaging in hidden advertising, in particular:
 - (i) Using editorial content in the media to promote a product without making it clear you have been paid (Banned Practice 12), (ii) commissioning or writing a consumer review that is fake or hides the fact it was incentivised (Banned Practice 13) (ii) Creating the impression of being a consumer (Banned Practice 25), (iii) Professional diligence (sections 225 & 229), (iv) Misleading actions (sections 225 & 226) and (v) Misleading omissions (sections 225 & 227).
13. These rules apply regardless of whether the brand exercises control over the content. Aside from that, the rules under the CAP Code and Part 4 of the DMCC Act are broadly complementary and hidden advertising is likely to infringe both.
14. In January 2019, the CMA obtained undertakings from sixteen influencers who had not made it clear when they had been paid or otherwise incentivised to endorse a product or service.³ You can find out more on the CMA's social media endorsements [case page](#).
15. The CMA has also published [guidance for content creators](#) (in addition to the guidance it has co-published with the ASA) on how to comply with consumer protection law.

Which rules apply to brands?

The ASA and the CAP Code

³ Please be aware that these undertakings were provided under the unfair commercial practices provisions of the previous law, the CPRs.

16. Brands are also subject to Section 2 and Section 3 of the ASA's **CAP Code** when the content falls within the scope of its rules. The ASA has an escalating sanctions regime, including naming on its list of non-compliant brands/influencers, targeted on-platform advertising to social media users to highlight non-compliant influencers and referral to platforms for enforcement sanctions. The ASA can also refer influencers or brands breaching the CAP Code to TSS, who may take enforcement action. The **ASA** has previously made a number of rulings in respect of hidden advertising by brands: see their recent rulings [here](#).

The CMA, TSS and Part 4 of the DMCC Act

17. The UCP provisions in Part 4 of the DMCC Act, as enforced by **TSS** and the **CMA**, apply across the supply chain and so also apply to brands. In particular, brands engaged in hidden advertising may breach the following provisions:
- (i) Using editorial content in the media to promote a product without making it clear you have been paid (Banned Practice 12), (ii) commissioning or writing a consumer review that is fake or hides the fact it was incentivised (Banned Practice 13) (ii) Creating the impression of being a consumer (Banned Practice 25), (iii) Professional diligence (sections 225 & 229), (iv) Misleading actions (sections 225 & 226) and (v) Misleading omissions (sections 225 & 227).
18. Unlike the CAP Code, the DMCC Act does not have a requirement that the brand exercises control over the content.
19. The CMA has published [guidance for brands on how to comply with consumer protection law](#).

Which rules apply to social media platforms?

The CMA, TSS and Part 4 of the DMCC Act

20. The **CMA** and **TSS** can take enforcement action where social media platforms breach the UCP provisions in Part 4 of the DMCC Act. In particular, section 225 requires that platforms act with 'professional diligence'. The CMA considers this means platforms must take reasonable and proportionate steps to tackle hidden advertising on their sites.
21. Similarly, Banned Practice 13 prohibits platforms from publishing consumer reviews that are fake or conceal the fact they have been incentivised, where reasonable and proportionate steps have not been taken to prevent or remove such reviews.
22. The CMA has published '[Reviews and endorsements: principles for social media platforms](#)' which sets out its expectations of the steps platforms should take to ensure compliance with Part 4 of the DMCC Act.

Which rules apply to *intermediaries* (e.g. social media agencies, agents and marketing agencies)?

The CMA, TSS and Part 4 of the DMCC Act

23. The **CMA** and **TSS** can take enforcement action where intermediaries breach the UCP provisions in Part 4 of the DMCC Act. In particular, if intermediaries encourage or engage in practices connected to hidden advertising, they may breach the following provisions:
- (i) Using editorial content in the media to promote a product without making it clear you have been paid (Banned Practice 12), (ii) commissioning or writing a consumer review that is fake or hides the fact it was incentivised (Banned Practice 13) (ii) Creating the impression of being a consumer (Banned Practice 25), (iii) Professional diligence (sections 225 & 229), (iv) Misleading actions (sections 225 & 226) and (v) Misleading omissions (sections 225 & 227).
24. The CMA has previously taken enforcement action against marketing agencies in the context of hidden advertising, and has published an [open letter](#) to marketing professionals, see its [case page here](#).⁴ Intermediaries advising brands should also review the CMA's [guidance for brands on how to comply with consumer protection law](#).

The ASA

25. The **ASA** holds brands and content creators responsible for the actions of their intermediaries. This places the onus on brands and content creators to ensure that they are working with agencies, and other intermediaries, that uphold the same high standards that they are expected to meet.

⁴ Please be aware that this case was conducted under the unfair commercial practices provisions of the previous law, the CPRs.