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 over 60 years and the broadcast Advertising Code (written and maintained by BCAP) for 19, 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 the UK's independent frontline regulator of ads by legitimate businesses and other organisations in all media, including online. 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 and our application of them remain fit-for-purpose.

1.4. We work closely with a network of partner regulators including Ofcom, the Gambling Commission, the Information Commissioner's Office, the Medicines and Healthcare products Regulatory Agency, the Financial Conduct Authority and the Competition and Markets Authority. Our frontline ad regulation often complements their activities, or even frees them up entirely to concentrate on their other duties. Through the sharing of information, joined-up enforcement action and referral processes, our partners bolster our regulation and assist us, where necessary, to bring non-compliant advertisers into line.

1.5. We also bring together the ad industry and media owners to set, maintain and police high standards. The UK Advertising Codes are drafted and maintained by the industry committees of CAP and BCAP, supported by experts in our Regulatory Policy team. This means businesses have a direct stake and an enlightened self-interest in adhering to the standards they set and creating a level-playing field amongst them.

1.6. The UK Advertising Codes include rules reflecting specific legal provisions and rules developed through separate regulatory process, which in combination ensure ads don't mislead, harm, or seriously offend their audience. The inclusion of the rules in the UK Advertising Codes has enormous benefits for responsible businesses and for consumers, who benefit from the protection the rules afford.

1.7. There are multiple checks and balances in place to ensure the committees' development of rules and guidance is transparent, open to scrutiny and adheres to the principles of good regulation. These include calls for evidence and public consultations; mandatory regard to the advice of an expert independent consumer panel; Ofcom signing off on BCAP rule changes; the ASA System's processes being open to judicial review and more besides. All to ensure the system is wholly accountable to everyone with a stake in advertising.

1.8. We call our model of partnering with businesses and other regulators 'collective ad regulation.' Our independence and the buy-in and support we receive through collective ad regulation delivers faster, more flexible, more joined-up and proportionate regulation.

1.9. 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 a million pieces of advice and training in 2023.

2. The ASA's remit and role in online regulation

2.1. The ASA regulates the content and targeting of advertising. Primary responsibility for observing the Code falls on marketers. The CAP Code states that others involved in preparing or publishing marketing communications, such as agencies, publishers and other service suppliers, also accept an obligation to abide by the Code.

2.2. There is an effective online advertising regulatory framework in place in the UK to protect people, in particular children, young and vulnerable people from harm. With more than 60 years' experience regulating advertising, the ASA provides a one-stop shop for consumers and for the industry across all media and platforms. We regulate almost all advertising online, including paid ads on platforms and the open internet, influencer ads, and companies' own website and social media advertising claims. (The exceptions are political advertising and misleading-related issues in non-broadcast financial advertising, which falls to the FCA.)

2.3. The ASA regulates advertising by legitimate businesses and is not the appropriate body to tackle ads by criminal actors who are often based in non-UK jurisdictions, although we do contribute to the disruption of scam ads in paid-for space online via our Scam Ad Alert system. We're fully supportive of the aims of Online Safety Act and, where we have role and remit (protecting children from harmful or inappropriate content, and adults from legal but harmful content) we will use the tools at our disposal to protect consumers.

2.4. Moreover, under our new *AI-assisted collective ad regulation* strategy we will continue to undertake proactive, tech-assisted, collective regulation to tackle irresponsible ads at scale and speed.

2.5. Our role is to ensure that the content of ads seen by UK consumers, including those appearing online and in social media, follows the Advertising Code. The enduring principles of the advertising rules are that ads must not mislead, harm or offend and should be prepared in a socially responsible way. We also require that ads are targeted responsibly and are appropriate for the audience that sees, hears and engages with them.

2.6. The standards we apply through the Codes are, almost without exception, the same for broadcast advertising and for non-broadcast advertising, including online. That is in no small measure because many of the rules directly or indirectly reflect law that applies across media.

2.7. The ASA system sets specific standards for content and placement of advertising, including on a sectoral or thematic basis. For example, ads for alcohol, gambling and HFSS food and drink are all subject to placement rules, while advertising rules on misleadingness seek to reflect consumer protection regulation.

2.8. As mentioned in 1.4 and 1.5 the ASA operates a system of collective regulation. We also have a long established and strong co-regulatory partnership with Ofcom. Ofcom is our statutory backstop for broadcast advertising and co-regulator for Video On Demand / Video Sharing Platforms. We stand ready to build on that relationship in relation to any advertising issues that might emerge from its new role as the Online Safety Regulator. Through better intelligence sharing, referral processes, joint sector compliance work and joined-up enforcement action, our regulatory partners bolster our regulation.

3. Overview of ASA Scam Ad Alert system:

3.1. The ASA regulates ads published on behalf of legitimate businesses, and our system works because the advertising industry buys into it. This is obviously not the case with criminals, often based in non-UK jurisdictions, placing illegal scam ads. While we play an active role in seeking to disrupt scam ads, we do not investigate them because criminals, who have no regard for the law, clearly have no incentive to comply with the UK advertising rules. The ASA system staunchly supports, however, the tackling of criminal actors via appropriately funded, sufficiently resourced and suitably empowered domestic and international law enforcement bodies.

3.2. While it is not our role or remit to speak about fraud in a broad sense, we do have a view specifically on scam ads online. The scale of online fraud is challenging for regulators. More needs to be done to tackle online fraud across a broad array of fronts. Tackling online scam ads is a global problem, requiring a joined-up response involving law-enforcement bodies

and statutory regulators, platforms and all involved in the online ad industry, as well as national advertising regulatory bodies such as the ASA.

3.3. In June 2020, we launched our UK Scam Ad Alert system in partnership with major digital advertising and social media platforms to help play our role in disrupting ads which seek to scam consumers.

3.4. The ad platforms, networks and other companies who participate in the Scam Ad Alert system include Google; Meta (Facebook/Instagram); Taboola; Outbrain; Microsoft; TikTok; Yahoo; Snap; Twitter; Amazon Ads; Sizmek Ad Suite; RevContent; Index Exchange; Clean.io; Reach; and the Media Trust, LinkedIn and others. It was recently added as a requirement of the IAB Gold Standard that, where relevant, members must be signed up to the ASA Scam Ad Alert system.

3.5. For the last four years, consumers have been reporting scam ads appearing in paid-for space online to us via an online form.

3.6. If we judge that an ad is a scam, we promptly send an Alert to all participating platforms with key details of the scam ad, as well as to publishers when the ad appeared on a publisher owned site. If they locate them, partners remove the offending ad and may suspend the advertiser's account. In some instances they may also add them to blocklists, even when the ads weren't appearing on their platform, stopping them from appearing in future.

3.7. We also share all alerts with the government's National Cyber Security Centre (NCSC). They operate the government's takedown service, which seeks to remove malicious email addresses and websites. They scan the Alert for website addresses (URLs) to find the host website and remove it if it's found to be malicious. This means that alerts not only result in action against the ads but also the websites they link to, which increases their effectiveness in protecting consumers.

3.8. We assess reports within 24 hours, enabling us to quickly and effectively alert platforms to scam ads so that they can promptly remove them, suspend the advertisers' accounts and stop similar ads appearing in future. We expect the platform on which the ad originally appeared to give us an assurance within 48 hours that the ad is no longer appearing. Given the harms of scam ads and that we know scammers often cycle through individual ads quickly we consider it is important that platforms act at speed when provided with actionable intelligence. All participants signed up to the system on that understanding.

3.9. We continue to monitor the performance of our system and work collaboratively with stakeholders to play our part in tackling scam ads online.

3.10. Please also refer to our response to the 'Protecting people from illegal harms online' consultation for further detail.

Your response – Fraudulent advertising

Questions 36 – 42: Overarching considerations

For all respondents

Question 36: Please provide evidence of the following:
(a) The most prevalent kinds of fraudulent advertising activity on user-to-user and search services (e.g. illegal financial promotions, misleading statements, malvertising)

Response:

The ASA only sees the scam ads reported to us and so we cannot know whether those reflect prevalence rates overall.

However, many scam ads reported to us use a common approach of an ad featuring fake celebrity news or an endorsement, and then link through to a fake news article giving further detail, before finally linking through to a page where personal details are solicited. Common product/service types being advertised in such scam ads include cryptocurrency scams, weight loss pills and CBD gummies. The fraud types and methods used have remained similar since the launch of the ASA Scam Ad Alert system in 2020.

We have also seen a recent trend for ads which falsely claim to be from established retail brands.

(b) The harms associated with different kinds of fraudulent advertisements, the severity of such harms, and, if relevant, how this varies by user group

Response:

We observe a wide variety of scam types as set out above. From cryptocurrency scams, which are more likely to involve higher sums of money, to retail scams, where sums involved are likely to be smaller. We have not conducted research of our own into the harms from scams as this is not within our remit or expertise.

(c) The key challenges to successfully detecting different types of fraudulent paid-for advertising, and how these challenges can be minimised or resolved

Response:

As above, many scam ads reported to us use a common approach of an ad featuring fake celebrity news or an endorsement, and then link through to a fake news article giving further detail, before finally linking through to a page where personal details are solicited. These scams are often termed 'FizzCore' and frequently use 'cloaking' to disguise the landing page.

Cloaking is a sophisticated camouflage technique designed to evade automated detection, where malicious creatives and landing pages are hidden from certain users. Common product/service types being advertised in scam ads using fake celebrity news or endorsements include cryptocurrency scams, weight loss pills and CBD gummies. We frequently hear from platforms that cloaking is one reason why it is challenging for them to detect scam ads.

Please refer to our previous consultation response for further details about indicators the ASA considers when assessing whether ads are scams or not.

We frequently hear from stakeholders that effective sharing of actionable information is key to tacking scam ads online. That was a key driver in setting up the ASA Scam Ad Alert system.

(d) The prioritisation of suspected fraudulent advertising within all categories of harmful advertising queues, e.g. account verification, user reports, appeals

Response: N/A
(e) The proportion of fraudulent advertisements that are currently estimated to remain undetected by services' systems.
Response: N/A
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response: No

Question 37: What technological developments aiding the prevention/detection of fraudulent advertisements do you anticipate in the coming years, and how costly and effective do you expect them to be? What are the challenges/barriers to their development?
Response: N/A
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 38: If you have information/evidence/suggested mitigations to share which may be useful in the preparation of codes of practice, which is not covered by the questions above, please include these under 'Overarching considerations'.
Response: One of the difficulties that the ASA faces in assessing and acting on scam ad reports is the lack of transparency from some platforms as to the ads running on their sites. An easily searchable ad library easily enables us to determine if a scam ad is still running, and if similar ads are also active. Where that is not available we can't easily tell if a scam ad is still running, or whether similar scam ads are running on that platform, when we send an Alert.
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

For providers of online services

Question 39: What proportion of all paid-for advertising on your service is identified as fraudulent advertising?
Response: N/A
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 40: Does your service take any steps to warn users of the risk of encountering fraudulent advertising or to educate them about how to identify potentially fraudulent advertising?
Response: N/A

Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 41: Please provide information regarding the proportion of successfully identified fraudulent advertisements that are identified via:
(a) automated systems
Response: The ASA has experimented with detecting scam ads by using the expertise of our data science team to scan programmatic online ads scraped from websites. In practise we found very few scam ads by this method. The barriers to this may include the low overall percentage of scam ads compared to legitimate ads, as well as the use of cloaking.
(b) human processes
Response: N/A
(c) user reports
Response: The vast majority of ASA Scam Ad Alerts originate from reports to us by members of the public or from staff.
(d) other (please provide further detail).
Response: N/A
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 42: What is the average and/or median time taken between the identification of a fraudulent advertisement and its removal/other actions taken? (If other actions taken, please specify what they are).
Response: The ASA aims to assess all reports of potential scam ads to us within 24 hours. If it is a scam and we have sufficient information we will send a Scam Ad Alert immediately after assessment. We expect the platform on which the ad originally appeared to give us an assurance within 48 hours that the ad is no longer appearing. Given the harms of scam ads and that we know scammers often cycle through individual ads quickly we consider it is important that platforms act at speed when provided with actionable intelligence. All participants signed up to the system on that understanding. In October 2023 we published a yearly update on the Scam Ad Alert system. In that update we reported that in the last 12 months:

- Platforms responded to our alerts within 48 hours 50% of the time to confirm they had removed the reported scam ad. In total 60% responded to confirm the ad had been removed, although in some cases the ads were removed without us being notified.
- We have communicated to participants our expectations of a minimum response rate of 80% within 48 hours and will be working with them to improve it.

Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 43: Proactive technology

For all respondents

Question 43: Please provide any evidence you have regarding proactive technologies which could be used to identify fraudulent advertising activity.

In particular, we are interested in information related to the following points:

(a) The kinds of proactive technology which are/could be applied to identify or prevent fraudulent advertising

Response: N/A

(b) A brief description of how these technologies are/could be integrated into the service

Response: N/A

(c) The effectiveness, accuracy and lack of bias of such technology (including compared to alternative proactive and non-proactive methods) in relation to detecting fraudulent advertising and accounts which post fraudulent advertising material

Response: N/A

(d) How proactive technologies are maintained and kept up to date

Response: N/A

e) Information related to the associated time and/or costs for set-up, operation, and human review

Response: N/A

f) The cost of integrating such technologies: (a) for the first time; and (b) when updating these technologies over time

Response: N/A

g) Whether there are cost savings associated with these technologies

Response: N/A

Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 44: Advertising onboarding and verification

For all respondents

Question 44: Please provide any evidence you have regarding the processes for advertiser onboarding and verification related to protections against fraudulent advertising. In your response, please indicate whether these processes are currently implemented in respect of services which are in scope of the Act or whether they stem from another sector In particular, we are interested in information related to the following points:
(a) The criteria which advertisers are verified against, including documentation/evidence used to support verification, and what advertisers are required to declare
Response: N/A
(b) The role of (a) automated processing and (b) human processing in the verification process, and how they interact
Response: N/A
(c) The costs associated with advertiser verification and how those costs vary as scale increases
Response: N/A
(d) The percentage of advertiser accounts that are verified
Response: N/A
e) Whether advertisers are permitted to publish advertisements on the service while the verification process is ongoing
Response: N/A
f) Whether there are additional/specific verification checks for advertisers placing adverts of certain kinds or targeting certain audiences, such as about specific products or services, or targeting users under the age of 18
Response: N/A
g) Whether the verification of an advertiser account expires after a certain amount of time or certain activity, such as when advertisers make changes to their account or profile
Response: N/A
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 45: Service review of submitted advertisements/sponsored search results

For all respondents

Question 45: Please provide any evidence you have regarding the processes that services in scope of the Act have in place to review submitted paid-for advertisements and identify fraudulent advertising material. In particular, we are interested in information related to the following points:

(a) The percentage of submitted advertisements which are reviewed both (i) prior to and (ii) after publication
Response: N/A
(b) The role (i) automated processing and (ii) human processing play in the review process and how they interact
Response: N/A
(c) The red flags which trigger advertisement review processes both (i) prior to and (ii) after publication and the basis on which those red flags are selected
Response: N/A
(d) The timescales for review
Response: N/A
(e) What happens to the advertisement's visibility and reach, if it is flagged as suspected as being fraudulent (either by a user or automated system)
Response: N/A
(f) The costs associated with the review of submitted paid-for advertisements
Response: N/A
(g) Whether trusted flagger reporting is employed to inform services' review processes. If it is, how is it applied, what guidelines / criteria does it follow, and who are those trusted flaggers?
Response: N/A
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 46: Advertiser appeals of verification/review decisions

For all respondents

Question 46: Please provide any evidence you have regarding advertiser appeals of verification/review decisions relating to fraudulent advertising on services in scope of the Act. In particular, we are interested in information related to the following points:
(a) The role of (i) automated processing and (ii) human processing in the appeals process, and how they interact;
Response: N/A
(b) The level of proof required for an appeal to be accepted;
Response: N/A
(c) The most frequent bases for appeals against sanctions decisions on fraudulent advertising content
Response: N/A

(d) The ratio of decisions that are appealed against
Response: N/A
(e) The costs associated with appeals
Response: N/A
(f) The proportion of appealed decisions which are upheld and overturned
Response: N/A
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 47: User reporting mechanisms

For all respondents

Question 47: Please provide any evidence you have regarding user reporting mechanisms for fraudulent advertising on services in scope of the Act. In particular, we are interested in information related to the following points:
(a) What user reporting tools there are for paid-for advertisements, and how these tools differ from those for user-generated content and/or search results and other search functionalities that are not paid-for advertising
Response: The ASA's Scam Ad Alert system is set up to deal with reports about paid-for scam ads only.
(b) What percentage of user reports of advertisements relate to suspected fraudulent content, and the processes for taking action in relation to such reports
Response: N/A
(c) Any statistics you can share on (i) the number of user reports of suspected fraudulent advertising received and resolved over a specific period and (b) the number of initial decisions appealed by users who made the report
Response: N/A
(d) The criteria used to classify and prioritise user reports
Response: We aim to assess all reports about potential scam ads within 24 hours.
(e) The median and/or average time it takes to respond to a user report, and any measures that are in place to ensure timely and accurate responses to user reports
Response: N/A
(f) Any measures taken to make user reporting tools accessible, easy to use and easy to find for users
Response: N/A

(g) How transparency and communication is maintained with users who have submitted reports
Response: The ASA does not solicit personal data from those who report suspected scam ads to us.
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response: No

Question 48: Use/involvement of third parties

For all respondents

Question 48: Please provide any evidence relevant to fraudulent advertising that you have, regarding the involvement and role of third parties in the provision of paid-for advertisements on services in scope of the Act. In line with the proportionality criteria under sections 38(5) and 39(5) of the Act, we welcome information related to how the involvement of third parties impacts the degree of control that services have over fraudulent advertising content. We also welcome information regarding contractual arrangements and how those arrangements are enforced.
Response: N/A
Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 49: Generative AI and deepfakes

For all respondents

Question 49: Please provide any evidence you have regarding the impact of generative AI developments and deepfakes on the incidence and detection of fraudulent advertisements on services in scope of the Act. In particular, we are interested in information related to the following points:
(a) The frequency of deepfake fraudulent advertisements' occurrence, in absolute terms and/or as a proportion of all fraudulent advertisements, and how you expect this to evolve in the future
Response: We do not hold data on the frequency of deepfake fraudulent ads. However, we have in recent months seen examples of deepfake scam ads reported to us, including: • A paid-for scam ad featuring a deepfake video of King Charles III appeared on a video-sharing platform in Q1.

- In January 2024 we saw around 30+ scam ads on a social media network's ad library featuring deepfake videos of Rishi Sunak advertising cryptocurrencies , although most were at that point inactive.
- We have also seen examples of similar ads featuring Elon Musk.

(b) What methodologies/technologies are currently employed to detect fraudulent advertisements which include deepfake or otherwise AI-generated content, and the effectiveness of these tools

Response: N/A

(c) Whether detection technologies are developed in-house or acquired from a third-party, and how long it takes to develop and/or integrate those tools into wider systems

Response: N/A

(d) The accuracy of detection methods, including true positive and false positive rates

Response: N/A

(e) The costs associated with the development/acquisition and deployment of these detection mechanisms

Response: N/A

(f) The types of deepfake or AI-generated content (in terms of either media type or subject) in fraudulent advertisements that are most difficult to detect i) via automated processes, ii) by human moderators, iii) by service users

Response:

When assessing reports about potential scam ads which use deepfakes the ASA has not found it difficult to determine that they do not feature real footage. The examples we have seen have been obviously fake both because of the quality of the footage and because it was implausible that the individuals featured would be actively endorsing such products/services.

Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No