

# Video blogs: Scenarios

Advice online | 19 Aug 2015

Note: This advice is given by the CAP Executive about non-broadcast advertising. It does not constitute legal advice. It does not bind CAP, CAP advisory panels or the Advertising Standards Authority.

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There is nothing wrong with vloggers (or others creating editorial content), marketers or agencies entering into commercial relationships: what's wrong is if consumers are misled.

When it comes to vloggers (or bloggers or anyone else creating editorial content) the assumption is that any mention of a brand is an independent decision of the vlogger as the "publisher". That's why, if there is a commercial relationship in place, it needs to be made clear. The wide variety of ways that brands, as the "marketers", and vloggers can work together means that whether a video is an ad, or needs to be labelled as one upfront, depends on the context in which the video appears and the content it contains. In some circumstances the label will need to encompass the whole video, in other circumstances it might be sufficient to have a label during the video.

A key rule under the CAP Code is that if the content is controlled by the marketer, not the vlogger, **and** is written in exchange for payment (which could be a monetary payment or **free items**) then it is an advertisement feature and must be labelled as such (rule 2.4).

It is also important to remember that consumer protection legislation may range wider than activities which fall within the remit of the CAP Code, and require vloggers and brands to disclose commercial relationships in a wider arena than the ASA (see Scenarios 7 and 8 below). The Competition and Markets Authority (CMA) has produced a 60 Second Summary regarding online endorsements [here](#).

This article gives a **non-exhaustive list** of scenarios where vloggers and brands might work together and potential approaches to making clear that a vlog is a marketing communication. It is not intended to cover every eventuality and it is not intended to create new principles. We have detailed guidance on the principles behind the rules which we are applying to the scenarios below so if you want to understand why we are giving specific advice please click on the hyperlinks for more information. For an explanation of the principles of “payment and control” please see **this guidance**.

## Some potential Vlogging scenarios and how to deal with them

This practical guide is a non-exhaustive list of scenarios with practical advice on how the rules apply.

1. **1. Online marketing by a brand**
2. **2. “Advertorial” vlogs**
3. **3. Commercial breaks within vlogs**
4. **4. Product placement**
5. **5. Vlogger’s video about their own product**
6. **6. Editorial video referring to vlogger’s products**
7. **7. Sponsorship**
8. **8. Free items**

### 1. Online marketing by a brand

This scenario is where a brand collaborates with a vlogger and makes a video blog (“vlog”) about the brand and/or its products and this video is uploaded to the brand’s own channels and then shared by the brand on their own social media channels.

This is very likely to be a marketing communication covered by the CAP Code and because it’s being shared by the brand, it’s likely to be clear from the context that it is a marketing communication. This means that it’s unlikely that a specific label such as “ad” will be necessary.

When shared in this way by a brand this vlog is a marketing communication (covered by the Code’s **general online remit**) but it isn’t an “advertorial”.

However, if the vlog is similar to the vlogger's usual content, but the content is controlled by the brand and the vlogger has been paid (not necessarily with money), and the vlogger publishes it within their own space, the vlog is an **advertorial** (see scenario 2).

## 2. "Advertorial" vlogs

In this instance, the whole video is in the usual style of the vlogger but the content is controlled by the brand and the vlogger has been paid (not necessarily with money). Because there is payment and control by the brand, this is an advertorial and needs to be labelled upfront so that viewers are aware and understand that it is an advertorial **before** engaging. Responsibility for making clear to viewers it's an advertorial comes from rule 2.4 and falls to the vlogger as "publisher" and the brand as "marketer". The brand is responsible for claims made about the product.

The CAP Code specifically refers to "advertisement feature" as an appropriate label. The ASA hasn't ruled on what would be an appropriate label for vlogs but "ad", "ad feature", "advertorial" or similar are very likely to be acceptable. You can always contact Copy Advice to discuss a label you're considering.

We would advise against using the label "sponsored" in this context because this could cause confusion for consumers who could understand it to refer to vlogs and videos where a brand has sponsored it but had no control of the content (see **scenario 7** below). For the same reason we would advise against labels such as "Supported by", "Funded by" and "Thanks to X for making this possible" in this context.

In terms of where you should place an 'advertorial' label, we would advise against relying on the description box below the vlog although including information in the description box is likely to be helpful. Currently, description boxes are not immediately visible when viewing the site through a tablet, mobile browser or app, nor are they available when selecting a video from playlists, lists of related videos, lists of videos on a vlogger's channel page, or emails alerting subscribers to new videos. The label needs to be visible regardless of the device used so including an appropriate label early in the title of the vlog or using an appropriate label in the thumbnail are likely to be ways of ensuring that viewers know that the vlog is an advertorial before engaging with it.

For more information see the guidance on **Video blogs: Advertisement features**.

## 3. Commercial breaks within vlogs

In this scenario most of the vlog is editorial material that contains independent, non-paid for opinion, with a specific section dedicated to the promotion of a product.

Including a label or statement in the title of the vlog is unnecessary; we would advise against labelling the whole vlog as an ad when the surrounding material is independent editorial. However, it needs to be clear when watching the vlog when the advertisement starts. This could potentially be done in a variety of ways, for example: onscreen text stating “ad”, “ad feature”, holding up a sign, incorporating the brand’s logo, or by the vlogger simply explaining that they’ve been paid to talk about the product.

Although we wouldn’t advise it’s necessary, vloggers could also consider putting something in the description box such as “this video includes advertising for specific products which is indicated by [...]”, especially where they haven’t been involved with brands before.

## 4. Product placement

In this scenario the independent editorial content also features a commercial message. A product might be used as a ‘prop’ along with messages that have been controlled by the advertiser within a vlog that is largely editorial. For example a vlogger might create:

- a computer game “play-through” video and is paid to feature a specific laptop by a brand. Everything that is said regarding the game is editorial but the comments regarding the laptop are not, or
- a make-up tutorial where the vlogger features a specific set of brushes.

It’s unlikely that a clarification note in the video title would be required, but the commercial message should be clear. As with scenario 3, this can be done in a number of ways depending on the vlogger’s style: onscreen text stating “ad”, “product placement”, holding up a sign, or the vlogger explaining that they’ve been paid to talk about the product. For example a beauty vlogger might say something like “In this tutorial I’m using brushes from Brand X, who paid for me to feature them and want you to know about...”.

Again, we wouldn’t advise it’s necessary, but vloggers could also consider putting something in the description box such as “this video includes product placement which is indicated by [...]”, especially where they haven’t been involved with brands before.



## 5. A vlogger's video about their own product

This is where the sole content of a vlog is a promotion of the vlogger's own merchandise. Although not an advertorial, this is still a marketing communication so the vlogger will need to ensure that their viewers are aware of this before selecting it. The vlogger is responsible for claims made about the product.

The video title should make clear that the video is promoting the vlogger's products. However, because it's a very different situation to third-party endorsement and is not advertorial, we would expect that it's likely that a title such as "I'm excited about my promotional/book/album tour", "new product news" or "Let me show you how to use my new make-up line" would be sufficient.

## 6. Editorial video referring to vlogger's products

This is unlikely to need any form of labelling if the fact it is a marketing communication will be clear within the context. For example, during an otherwise editorial video a gaming vlogger may say "I'm currently using the new headphones I've just released; you can purchase them through the link below".

We wouldn't advise it's necessary but vloggers could also consider putting something in the description box such as "this video includes advertising for my new [...]", especially where they haven't advertised to their followers before.

## 7. Sponsorship

A brand sponsors a vlogger to create a video but has no control of the content. Sponsorship is not covered by the CAP Code, and because there is no control by the brand, the CAP Code would not require the vlog to be labelled as an advertorial. From a practical perspective, these videos are likely to have a nod to the sponsorship so viewers know who the sponsor is! Vloggers and brands should be mindful that the CMA would expect a vlogger to disclose the nature of their commercial relationship with a brand in order to comply with consumer protection legislation, but we would expect it's likely that having a nod to the sponsorship would meet those expectations.

## 8. Free items

A brand sends a vlogger items for free without any control of the content (or any conditions attached) and the vlogger may or may not choose to include the item(s) in a vlog. This sort of PR activity is not covered by the CAP Code; because there is no control, the video would not need to be labelled as an advertorial.

If a vlogger accepts an item sent by a brand on the simple condition that it is reviewed (positively or negatively), without the brand exercising any control over the review, that vlog is unlikely to be covered by the CAP Code. However, in order to comply with consumer protection legislation, we understand that the CMA would expect brands and vloggers to tell consumers if an item was given on the condition that it is talked about. In general, the CMA considers that consumers need to know whether a vlogger has an incentive (financial or otherwise) to talk about a product, and if so what that incentive is.

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**Mondelez UK Ltd**, 26 November 2014

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## More on

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# Recognising ads: Blogs and vlogs

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The Scope of the Code states that it applies to advertorials and part III (subsection k.) defines this as “an advertisement feature, announcement or promotion, the content of which is controlled by the marketer, not the publisher, that is disseminated in exchange for a payment or other reciprocal arrangement”.

This definition applies to content on vlogs and blogs (and other online space, including **social media**) as much as it does to offline space like newspapers and magazines.

Further guidance on the two stage test that must be satisfied for content to be considered an advertorial can be found in our advice on **‘Recognising ads: Advertisement features’**.

Our advice on **‘Video blogs: Scenarios’** also gives further guidance on different types of scenarios where content creators and brands might work together, when this is likely to be considered advertising and potential approaches to making clear that the content is a marketing communication.

Please note that this guidance is not intended to apply to content on a marketer’s own website or social media (see **‘Remit: Own websites’** and **‘Remit: Social media’** for more information).

- **Make sure the content is obviously identifiable**
- **Be mindful that labelling needs to be timely.**

- **Ensure that labelling is clear**
- **Remember that the rest of the Code applies**

## Make sure the content is obviously identifiable

Most of the time, it's clear from where the ads appear and/or the overall nature of the material what they are. For example, viewers are likely to recognize that pre-roll ads on a Youtube video are separate to the video and that banners or pop-ups on a blog page are ads rather than editorial content.

When it comes to advertorial blogs and vlogs, because consumers have less experience with some forms of advertising hosted on social media, and advertorial content in particular is often difficult to distinguish from genuine user generated content, marketers (and vloggers/bloggers) should pay particular attention to ensuring that marketing communications are obviously identifiable as such.

Five advertorial YouTube videos from vloggers, all of which featured Oreo biscuits and the vloggers undertaking the "Oreo Lick Race Challenge" with references to other "Lick Race" videos available were ruled to breach the Code because they were not obviously identifiable as marketing communications and their commercial intent was not clear prior to consumer engagement. Although phrases like "Thanks to Oreo for making this video possible" were included verbally or in the description of the videos, the presentation of each ad was very much in keeping with the editorial content of the respective channels and the ASA considered that the fact that the videos were marketing communications was not immediately clear from the style alone (**Mondelez UK Ltd**, 26 November 2014).

Marketers (and vloggers/bloggers) therefore need to ensure the presentation of advertorial content makes it clear that it is an ad and if the style doesn't make the nature of the content clear, then it may need to be labelled with an identifier such as "Ad" or similar in order to make this clear.

## Be mindful that labelling needs to be timely

Viewers need to know they are selecting an ad to view before they watch it. This means making a distinction between ads and editorial content so viewers can make an informed choice. Finding out something is an ad after having selected it, at the end of a video or half way through will not be sufficient.



If it is not otherwise clear from the context, it's likely that the title of the vlog and/or the thumbnail will need to include an identifier such as 'Ad' so that it is clear to consumers before they click through to the content. Including an identifier or an explanation only in the video itself or in the 'description' is unlikely to be sufficient to make the content obviously identifiable prior to engagement.

## Ensure that labelling is clear

Although many ASA rulings make explicit reference to the use of "Ad" or "#ad", the ASA is not prescriptive and this is not the only identifier that could potentially be considered acceptable (though it is arguably the most obvious). Labels or disclosures don't necessarily have to be formal, they can match the vlogger's style, they just need to be clear.

Marketers should however be aware that "#sp", "spon" and similar, are unlikely to be considered sufficiently accurate for advertorial content because 'sponsored content' is different from advertorial content where an advertiser had editorial control (**Britvic Soft Drinks Ltd**, 18 November 2015).

Similarly, "In association with..." and "Thanks to [Brand] for making this video possible" might indicate that a brand was involved in the process but are unlikely to clearly indicate that an advertiser paid for and had editorial control over the content (**Michelin Tyre plc** and Telegraph Media Group Ltd, 30 December 2015; Mondelez UK Ltd, 26 November 2014).

## Remember that the rest of the Code applies

Because advertorial content falls within the scope of the CAP Code, all of the relevant rules will apply and it therefore should not, amongst other things, materially **mislead** consumers or cause serious or widespread **offence**.

See "**Recognising ads: Overview**", "**Recognising ads: General**", "**Video blogs: Scenarios**", "**Celebrities**", "**Affiliate Marketing**", "**Recognising ads: Advertisement features**", "**Recognising ads: Social media**" and "**Recognising ads: Contextually targeted branded content**".

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