



The Advertising Association

7th Floor North, Artillery House, 11-19 Artillery Row,
London SW1P 1RT

Telephone: +44 (0) 20 7340 1100 Fax: +44 (0) 20 7222 1504
e-mail: aa@adassoc.org.uk web: <http://www.adassoc.org.uk>

RESPONSE OF THE ADVERTISING ASSOCIATION TO THE DEPARTMENT FOR COMMUNITIES & LOCAL GOVERNMENT ON ITS CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

1. Preamble

1.1. The Advertising Association is a federation of trade bodies and organizations representing the advertising and promotional marketing industries, including advertisers, agencies, the media and support services in the UK. It is the only body that speaks for all sides of an industry that was worth over £19 billion in 2007. Further information about the Advertising Association, its membership and remit can be found at the following location: <http://www.adassoc.org.uk/>

2. Introduction & Summary

2.1. The Advertising Association welcomes the opportunity to respond to the consultation being conducted by the Department for Communities & Local Government (DCLG) about its *Code of Recommended Practice on Local Authority Publicity* ("the *Publicity Code*").

2.2. The *Publicity Code* exists as a result of powers conferred on the Secretary of State by section 4(1) of the Local Government Act 1986 to issue a guidance document. Local authorities are required by section 4(1) of the 1986 Act¹ to have regard to the *Publicity Code* in coming to any decision about the communications activity covered by its scope in which they engage. The principal objective behind the *Publicity Code* is to protect public money, whilst still allowing councils to generate effective publicity. The Advertising Association supports the view of the DCLG that: good publicity can be effective at improving public awareness of the activities of councils; such activity can also carry additional unquantifiable benefits; and, consequently, that it should therefore be welcomed and encouraged.

2.3. The response of the Advertising Association is premised on the assumption that the *Publicity Code* will survive in some form, given that the last consultation conducted by the DCLG on it as recently as January 2007, revealed it to be regarded as a useful source of advice for authorities on sensitive issues involving the use of their resources. (There is an argument, which carries some weight, and with which the Advertising Association has some sympathy, that the *Publicity Code* would be superfluous, if the degree of transparency to which the expenditure of public money by local authorities is currently subject was rendered even higher, as set out in Paragraph 3.5 of this response.)

2.4. In summary, in this submission, the Advertising Association:

- argues that the DCLG should share the conclusions it draws from this consultative exercise with its Departmental counterparts in the devolved administrations;

¹ Section 4 of the 1986 Act was subsequently amended by section 27 of the Local Government Act 1988. It was this amendment that changed the status of the *Publicity Code* from mere guidance to a document to which relevant authorities should actively have regard.

- proposes that the standards contained within the *Publicity Code* also be extended to local authorities' own websites;
- calls for the current media-neutral approach towards assessing cost-efficiency in the selection of channels for reaching audiences to be maintained; and,
- recommends that in the interests of being a useful source of advice to local authorities more broadly, the *Publicity Code* should contain references to the advertising codes that are overseen by the Advertising Standards Authority (ASA).

2.5. The response of the Advertising Association is limited to addressing Questions 1, 3 and 5 to 12, as the remaining questions that the DCLG poses fall outside its field of competence.

2.6. The Advertising Association notes that if, as a result of this consultative exercise, the Government concludes that the *Publicity Code* should be retained and that revisions to it are required, the DCLG would consult on any amendments it proposes later this year. The DCLG, following analysis of the submissions it receives, is also committed to publishing a summary of the responses submitted by the end of June 2009. The Advertising Association, as a respondent to this consultation, looks forward to being alerted by the DCLG to the publication of that summary of responses and any subsequent consultation that may be published by the Department.

2.7. The Advertising Association is grateful to the DCLG for the short extension to the original deadline set by the Department for receipt of responses granted to it. No part of this submission should be treated as if it were confidential in nature.

3. Response of the Advertising Association to specific DCLG questions

Question 1: Is there other guidance, (additional to the *Publicity Code*) that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?

3.1. The Advertising Association notes that the current consultation relates to the *Publicity Code* that was subject to amendment in 2001, which applies only to relevant local authorities (such as county councils) in England². Local authorities in Wales are also subject to an amended version of that Code issued in 2001, but that differs in content from the English version published the same year. Equivalent local authorities in Scotland remain subject to the original 1988 edition of the *Publicity Code*. (The various councils constituting local government in Northern Ireland do not appear to be subject to any version of the *Publicity Code* at all presently.)

3.2. The Advertising Association would recommend that, whilst the devolved administrations should remain free to choose how local government publicity is overseen, the DCLG should share the conclusions it arrives at with its Departmental counterparts in Scotland, Wales and Northern Ireland. Whilst the consultation paper contains no commitment for the DCLG to share its findings in this way, it would appear appropriate in the spirit of sharing good practice - particularly given the recommendation made by the Advertising Association to incorporate references to the advertising codes that are overseen by the ASA. These advertising codes are applicable throughout the territory of the United Kingdom. (See also Paragraph 3.9 of this submission below.)

² The original version of the *Publicity Code*, which applied to Scotland, Wales and England was issued in 1988, under the 1986 Act.

Question 3: Should the *Publicity Code* specifically address the presentation of publicity on an authority's website?

3.3. Given the direct control local authorities exercise over their websites, the Advertising Association can see no immediately obvious obstacle preventing those bodies having regard to the standards currently contained within the existing *Publicity Code* to these important portals for engaging with the public in any updated version of that document.

Question 5: Should the *Publicity Code* specify the different criteria local authorities should use to determine whether or not publicity can be judged as cost effective?

3.4. It is accepted that publicity, especially when paid for out of public money, can be a sensitive matter both because of the considerable impact it can have in respect of matters of local interest, but also because of the potentially significant financial costs associated with it. Clearly it would not be defensible for local authorities to spend disproportionate amounts of public money on publicity at the expense of any core services they should be providing to residents. It therefore appears reasonable that the *Publicity Code* should set out matters that local authorities should give consideration to in order to ensure the proper use of public funds, including importantly that such activities be cost-effective, as well as to safeguard the interests of those members of the public who are exposed to such promotional work.

3.5. It is worth noting in this context the other safeguards that are in place over and above the duty on local government in England to have regard to the *Publicity Code*. Local authorities are, for example, held accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through their own audit arrangements. Such expenditure is also subject to oversight and scrutiny by one or more of local authorities' own committees, as well as to the various external assessments conducted by the Audit Commission. Finally local authorities are, of course, ultimately accountable democratically for their expenditure, if their electorates consider that the money collected from them to provide core services has not been effectively spent. Nevertheless, local authorities should strive to achieve even greater transparency in this area, as it can be difficult for interested third parties readily to obtain meaningful and comprehensive data about expenditure on their publicity-related activities.

3.6. The Advertising Association considers that, if the *Publicity Code* is retained, the section on 'Costs' should remain and continue in its current form. The 'Costs' section strikes the right balance, in the view of the Advertising Association, in terms of providing local authorities with a steer on determining the cost-effectiveness of publicity, whilst also allowing them to continue to be trusted to arrive at their own judgements on a case-by-case basis. For example, the 'Costs' section recognises that whilst certain media may be more expensive than others, local authorities should be free to choose from a range of different media as one medium may be more effective than another for reaching a particular audience. Local authorities should be permitted to continue under the *Publicity Code* to make informed decisions on expenditure to realise value-for-money and thereby exact potential savings in the medium to longer term. To conclude, the equal treatment policy of the DCLG towards different media (i.e. not discriminating between them) based on the informed understanding of the Department as to the different purposes they often serve and advantages they carry, is certainly one that the Advertising Association would support.

Question 6: Is there any aspect of the cost section that is not required or anything that should be added?

3.7. As per its response to Question 5 above, the Advertising Association considers that the section of the *Publicity Code* relating to 'Costs' should remain as it is, if any updated version of the document as a whole is to be published.

Question 7: Should the *Publicity Code* contain advice about ethical standards in publicity, or should this be left for the local authorities to judge for themselves?

3.8. Please see the response of the Advertising Association to Question 8 below, where the organisation briefly addresses the issues of: ethics; the protection of generally accepted moral standards; and, objectivity, covered by Question 7 and the 'Content and Style' section of the *Publicity Code* about which the DCLG seeks views.

Question 8: Is there any aspect of the content section that is not required or anything that should be added?

3.9. The Advertising Association recommends that the DCLG should consider incorporating a reference in the 'Content and Style' section of the *Publicity Code* to the three codes governing non-broadcast, radio and television advertising more generally³. These three codes are: *The British Code of Advertising, Sales Promotion & Direct Marketing (BCASPDM)*; *The Radio Advertising Standards Code (RASC)*; and, *The Television Advertising Standards Code (TASC)*. The rules contained within these three codes, which are enforced by the ASA, aim to ensure advertisements are 'legal, decent, honest and truthful'. Those advertising standards are not dissimilar to those within the *Publicity Code*, which require local government activity in this area to be conducted in an ethically responsible and morally sound manner. The three advertising codes also contain standards relating to the objectivity of claims made in advertisements.

3.10. The main case for the DCLG highlighting the existence of these three advertising codes to local councils via the *Publicity Code* (if one of its purposes is to be a useful source of advice to them) is that corporate local government advertising, as distinct from that concerning party policy, is already subject to the standards they contain. In addition, these three Codes all contain provisions on privacy. (The *BCASPDM* also contains rules relating to the dissemination of unsolicited direct marketing material and the like.)

3.11. The *BCASPDM* is operated by the Committee of Advertising Practice (CAP), whilst the *RASC* and *TASC* are both administered by the Broadcast Committee of Advertising Practice (BCAP). Both these Committees are shortly to consult publicly on the content of the advertising codes for which they are responsible⁴.

3.12. The Advertising Association notes that the remit of the *Publicity Code*, as defined by section 6(4) of the 1986 Act⁵, is wider than the advertising-specific scope of the CAP and BCAP Codes, covering as the DCLG document does - public relations activity, the

³ The most appropriate location for such references may be the final entry within the 'Content and Style' section of the *Publicity Code*, given that this section applies to all publicity generated by local authorities (e.g. sponsorship of exhibitions) and not just the advertising conducted by them.

⁴ As part of that process, BCAP is also to consult on merging the *RASC* and *TASC* into a single code governing all broadcast advertising.

⁵ Section 6(4) of the 1986 Act defines publicity as "any communication, in whatever form, addressed to the public at large or to a section of the public". (Section 2 of the 1986 Act provides that local authorities shall not publish, or assist others to publish, material which in whole or in part appears designed to affect public support for a political party.)

sponsorship of exhibitions and conferences, in addition to advertising. Were this not the case, the Advertising Association might have recommended that the DCLG screen the requirements of the *Publicity Code* against those of the CAP and BCAP Codes in order to identify any paragraphs in the former which may have been superfluous thereby simplifying the Department's document.

Question 9: Should the *Publicity Code* be modified to specifically address the issue of privacy and the dissemination of unsolicited material?

3.13. Please see the response of the Advertising Association to Question 8 above where it briefly addresses the issues of: privacy; and, the dissemination of unsolicited material, about which the DCLG seeks views.

Question 10: Is there any aspect of the dissemination section that is not required or anything which should be added?

3.14. The Advertising Association notes that the 'Dissemination' section of the *Publicity Code* contains a redundant clause in the form of Paragraph 25. It is recommended that Paragraph 25 be deleted and the subsequent clauses of the *Publicity Code* renumbered accordingly. Given that the only cross-referencing contained anywhere in the *Publicity Code* relates to Paragraphs 11 to 19, it should not be necessary to amend them if Paragraph 25 is deleted. Clearly the situation would alter if the DCLG proposes substantive additions or deletions to the *Publicity Code* later in the year as a result of the current consultative exercise.

Question 11: Is there any aspect of the advertising section that is not required or anything which should be added?

3.15. The Advertising Association considers that the 'Advertising' section of the *Publicity Code* is acceptable in its current form. The Advertising Association notes, however, that the 'Advertising' section is somewhat repetitious of the principles laid out in the 'Costs' section of the *Publicity Code*. It is assumed that the rationale of the DCLG behind such an approach is that the 'Costs' section applies to a wider range of publicity-generating activity than advertising alone. (See also Paragraph 3.6 of this submission above.)

Question 12: Should adverts for local authority political assistants appear in political publications and websites?

3.16. The Advertising Association supports the desire of the DCLG to ensure that the tradition of political impartiality amongst officials in local government service continues and that the advertising media chosen to recruit individuals should reflect the important objective of maintaining the independent status of such personnel. This objective is currently achieved in the *Publicity Code* through the restriction it contains prohibiting council posts being advertised in political publications.

3.17. Political Assistants, which the three largest groups on a relevant authority are entitled to recruit, are, however, likely to be individuals considerably more politically active than their fellow employees in local government. It is therefore not unreasonable to suppose that potential Political Assistants will both read publications and visit websites that comment on politics, thereby creating the dilemma about which the DCLG appears to be seeking views via Question 12.

3.18. The dilemma is that to be cost-effective in line with the other requirements of the *Publicity Code*, it would be logical to target potential Political Assistants through both

publications and websites that comment on politics, but this is prohibited by the restriction on council posts being advertised through such media. The options for the DCLG are to maintain its policy of only allowing local councils to advertise for Political Assistants in non-political publications (thereby meeting the impartiality criteria) - as presumably they do at present - or incorporate an exemption for recruitment into such posts within the *Publicity Code* (thereby meeting the cost-efficiency criteria).

3.19. Ultimately, it must be for the local authorities responding to this consultation and for the DCLG to draw conclusions from those responses about how best to proceed in respect of recruitment advertising for Political Assistants. Beyond identifying the presumed dilemma faced in this area of classified advertising, which the consultation does not fully expound, it would not be appropriate for the Advertising Association to comment further on this matter.

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