



The UK's Committee of Advertising Practitioners publishes new guidance on in-app purchases

Curtailment if not capitulation on in-game content regulation.

Regulator: The Committee of Advertising Practitioners (CAP); The Advertising Standards Association (ASA)

RISK BAROMETER:



JURISDICTION RELEVANCE:

UK

TIMELINE:

Enforcement windows of
3 months & 6 months from
September 20th 2021

WHAT YOU SHOULD KNOW:

- In November 2020, advertising code setters, CAP, published [draft guidance](#) on the advertising of in-app purchases, encompassing in-game storefronts, product pages and external advertising. The mobile games industry was [concerned](#) about overlap with parallel rules, stray into in-game content regulation and the impracticability of hyper-prescriptive requirements - above all in the attempt to police virtual currency at a micro-level.
- Remarkably, for a consultation with such significant ramifications for business models, there were only nine responses and a thimble that defended the sector. CAP has published an [evaluation table](#) for consultation responses, in which MGIF's submission has an instrumental place.
- Crucially, the in-game aspect of the [new guidance](#), will now only kick in, 'where they [developers] use ... a virtual currency that can only be obtained by purchasing it with real money.' The awkward dichotomy of 'proprietary' and 'premium' currency is abandoned in favour of a less convoluted, 'virtual currency.' These seismic shifts are followed by series of adaptations in favour of industry:
 - » Demand for the real-world pricing equivalents to virtual currency or an 'exchange rate' is replaced by a clear indication of price and 'how much of the currency the player currently holds.'
 - » The sale of currency bundles no longer needs to be accompanied by the display of price per unit comparisons from median, average or prominent currency bundles.¹
 - » Odd pricing² guidance is re-focused on external ads. In-game, it is enough 'to display prominently the costs of different currency bundles on the currency purchase page.'
 - » Discount methods for currency bundles no longer need to be universalised and dissected piecemeal for the consumer.
 - » Requirements for 'random-item purchases' centre on avoiding misleading odds rather than disincentivising gambling and gambling-like behaviours.
- » PEGI labelling will suffice to signpost the presence of in-game purchases.
- However, capitulation this is not, and additional guidance is provided on for immersive marketing messages, such as 'as pop-up offers to purchase extra resources to complete or retry a failed level, or to skip waiting times.' Compliance is context-dependent, so developers must be prepared to justify features such as the use of short countdown timers or the implication that a purchase will lead to success. It is hard to conceive of this, as anything other than in-game content regulation.
- The Advertising Standards Authority (ASA – the enforcer of the CAP code) is offering a six-month window to deal with complaints about in-game content informally and three months for all other ads.

MOST TELLING:

'For the avoidance of doubt, this means that in-game storefronts using virtual currency that can be earned in-game as well as purchased are very unlikely to be considered advertising for the purpose of the CAP Code. On the other hand, storefronts using virtual currency that can only be purchased are very likely to be considered to be advertising.'

DELANY & CO HOT TAKE:

In introducing an application caveat, CAP has listened to industry concerns about mission creep into in-game content regulation. Yet, confusingly, when the bar for application is met, a stream of guidance applies that, at times, ranges back into the area of intended avoidance.

Moreover, not just a case of all or nothing, is the guidance as it stands, really about nothing? Since when have virtual items that can only be purchased externally to a game been a sector policy concern? If the framework is insufficiently robust to withstand ASA adjudication, then it may be a case of watch this space for a revised iteration.