



THE LEGAL GUIDE

**TO BLOGGER, VLOGGER
AND MEDIA RELATIONS**



Press regulation has never been far from the headlines

When traditional media organisations cross the line (editorially or commercially) they can expect a slap from government, the judiciary, their media colleagues, regulatory organisations like The Independent Press Standards Organisation (IPSO) or The Advertising Standards Association, campaigning organisations like Hacked Off and, of course, the general public.

In extreme cases, journalists and editors have been hauled before the courts and jailed, publishers have been censured and threatened with huge fines and, in the case of The News of The World, misconduct played a significant role in the closure of the title.

But in an age where traditional media houses no longer have a monopoly over how news and opinion is distributed, how does press regulation and other standards by which we (in the UK) judge a title to be legal, decent and honest, filter down to the new breed of online publishers and broadcasters?



Taming the Wild West

The Blogosphere (and more latterly the Vlogosphere) has always presented itself as a bit of a Wild West frontier town when it comes to regulations. The global nature of online publishing and the anonymity afforded by the web, seemingly place many new media publishing houses outside of the jurisdiction of the law and regulatory bodies. Throw social media into the mix (where anyone and everyone has an opinion) and keeping a lid on regulations becomes a whole new hot mess.

IMPORTANT TO REMEMBER: Laws governing the traditional media such as contempt of court, libel or copyright are equally valid in the online world - ignore them at your peril. The anonymity of pseudonym or pen name won't protect a writer from the legal process when your real contact details can easily be acquired via your IP address or web host.



Case Study

The recent furore in the British press regarding Celebrity Super Injunctions was made all the more ridiculous when a political blogger named several individuals seeking privacy protection via the courts. While the blogger was based in Ireland and his site hosted in the US (and so outside of the jurisdiction of the English legal system), his audience was firmly based in the UK. Nothing could prevent his story from reaching the public – until he noticed a drop in traffic from Google.

The moral of the story is: **The law might be an ass, but it's smart enough to impact on your SEO efforts (and no blogger wants this).**



Big Clean Up – Keeping Church and State Seperate

There are a number of organisations attempting to clean up the new media landscape including the aforementioned ASA, The ASA's sister organisation the Committee of Advertising Practice (CAP) and the governmental agency The Competition and Markets Authority (CMA) – backed-up by Trading Standards.

The current primary focus of these organisations is ensuring that bloggers, vloggers and social media influencers don't mislead the public by presenting "paid for" or "sponsored" content without clearly labelling it as such. This essentially creates a level playing field with the traditional media where editorial and advertising promotions (church and state) are clearly identified.



In a recent [open letter](#) to online publishers and bloggers, The CMA stated:

“ Online publishers and bloggers should make sure that, if they are paid (whether financially or otherwise) to feature products in the content on their sites, then the **paid promotions are clearly labelled or identifiable as paid-for content.**

This is more than just a question of good practice: consumer protection law does not allow for the use of editorial content in the media to promote a product where a trader has paid for the promotion, **unless this has been made clear to the consumer.**

“Blogs, videos and other online publications influence people’s buying decisions. While paid-for editorial content is perfectly legal, it is important that you are **open and honest about it with your audience,** so that they do not think they are getting independent information when a business has in fact paid to influence the content.

Misleading readers or viewers may not only damage your reputation – it also falls foul of consumer protection law and **could result in enforcement by either the CMA or Trading Standards Services,** which could lead to civil and/or criminal action. ”



It's not just bloggers who are being targeted.

The CMA also wrote an [open letter](#) to marketing professionals, stating:

“ It is our view that **everyone involved in online endorsements is responsible** for ensuring that paid promotions are clearly labelled or identified. This includes people who instruct, facilitate, arrange or publish paid promotions. This content is read by consumers, irrespective of why it was created, who may rely on the information to inform their purchasing decisions. If it is not correctly labelled or identified, consumers may be misled into thinking it represents the author's genuine opinion when a business has in fact paid to influence the content. ”



Guidance

To help marketers, PR's, bloggers, vloggers, etc.

comply with these rules the ASA/CAP have released guidelines covering the following scenarios:

- Online marketing by a brand
- “Advertorial” vlogs
- Commercial breaks within vlogs
- Product placement
- Vlogger’s video about their own product
- Editorial video referring to a vlogger’s products
- Sponsorship
- Free items

The ASA and CAP are keen to stress that their advertising guidelines do not prohibit bloggers/ vloggers entering into commercial relationships and should in no way be seen as a move to regulate editorial opinion. They do however remind bloggers and brands that failure to disclose commercial activities may break advertising rules and potentially the law.

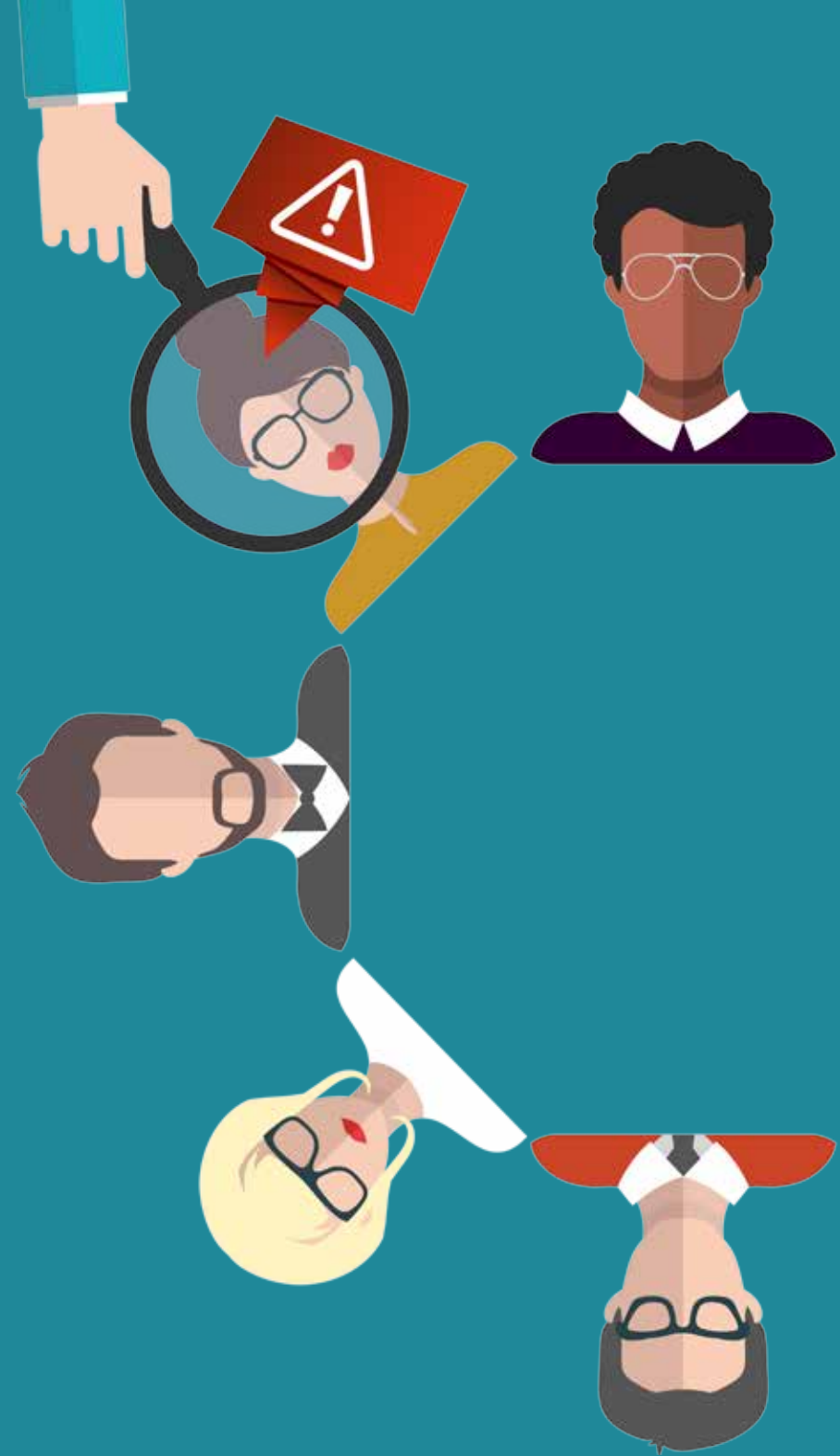


3 Reasons bloggers and vloggers should clean up their media act

- 1. Reputation #1:** Readers want to trust your opinion. They form opinion and base buying decisions on your output. Failure to comply with best practices regarding the separation of editorial and commercial activities may impact on the levels of trust between you and your audience.
- 2. Reputation #2:** You might not give two hoots about what the ASA say but you can bet your bottom dollar many major brands and associated advertising/marketing professionals do. Failure to comply may result in the loss of lucrative new commercial partnerships.
- 3. It's The Law, Stupid:** While many consider a slap on the wrists by the ASA as a badge of honour, The CMA and Trading Standards take this much more seriously.

FURTHER READING: For more information regarding best practices around blogging, vlogging, social media and commercial activities visit the following resources:

- ASA - <http://bit.ly/1TA1ycH>
- CAP - <http://bit.ly/24OcONS>
- CMA - <http://bit.ly/1sdyNwo>



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