



The ROYAL COLLEGE of
OPHTHALMOLOGISTS

Consultation Document

Advertising and Marketing Standards for Refractive Surgery

April 2016

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1 Summary

- 1.1. Advertising and marketing must be conducted in a socially responsible manner.
- 1.2. Celebrity endorsements are discouraged and, in the event these are used, a written declaration clarifying any financial relationship, including reduced cost treatment, between the clinic and the celebrity should appear alongside the endorsement.
- 1.3. Data supporting all claims and statements must be available for independent verification.
- 1.4. All advertisements for surgical procedures where possible must state the following “All eye surgical procedures carry a level of risk including not obtaining the desired outcome through to varying levels of visual loss. Your eye surgeon will discuss the risks, benefits and alternatives of sight correction surgery, including those specific to your own circumstances, at the time of your preoperative consultation”.
- 1.5. The following are considered socially irresponsible and must not be used:
 - 1.5.1. Time-limited deals
 - 1.5.2. Financial inducements
 - 1.5.3. Package deals, such as ‘buy one get one free’ or reduced prices for previous patients’ friends and family.
 - 1.5.4. Offering eye surgical procedures as competition prizes.
- 1.6. Advertising price is highly discouraged. In the event that price of surgery is advertised, the majority of recipients (>50%) should in reality be receiving surgery at that price.
- 1.7. The content of marketing information must be consistent with other patient information documents and should not differ substantially from the content of consent forms provided to the patient.
- 1.8. Qualifications and experience must not be exaggerated or misleading.

2 Introduction

- 2.1 Providers of ophthalmic care, specifically refractive surgery use advertising and marketing to compete for patients. A variety of media is used to promote business including radio, television, newspaper, magazine, advertorials (paid articles), press coverage and, in the last decade, social media and the internet. Celebrity endorsements are also used and have considerable influence on the general public.
- 2.2 Advertising and marketing have an important role to play in increasing awareness and educating the public about available procedures and choices of providers. Those providers with more resources will obtain better coverage and in turn access to the public and this is the reality of a competitive world. There is a potential negative side of advertising and marketing in that there is a

danger of trivialising procedures available and overstating claims of what can be achieved as well as targeting individuals who are more vulnerable. Advertising must therefore be conducted in an ethical manner.

- 2.3 Some methods such as advertising price e.g. from £395.00 per eye, or competitions with procedures as prizes, distract from the desirable process of increasing consumer knowledge and awareness, and have the potential to divert the potentially vulnerable consumer from gaining information and understanding risks to looking for a “deal”. Price inducements are also often a “bait and switch” tactic where patients are enticed to contact the provider only to find out they are not within criteria or to be “upsold” with heavy sales tactics. Such marketing tactics are unacceptable and socially irresponsible in provision of medical care.

3 Current Advertising Regulators and Regulations

- 3.1 Advertising practice is controlled by a regulatory system that is independent of government and operates by self and co-regulation. It is administered by the Advertising Standards Authority (ASA)¹. Advertising codes are written and maintained by The Committee of Advertising Practice (CAP)² and the Broadcast Committee of Advertising Practice (BCAP)³.

- 3.2 The ASA governs all forms of advertising in whatever media they appear and ensures compliance with the obligations under prevailing advertising codes. The stated purpose of the ASA is to “make advertisements responsible” and their ambition is to “make every UK ad a responsible ad”⁴.

- 3.3 While there is no specific code for refractive surgery, CAP has guidance on good practice for the marketing and advertising of cosmetic surgery⁵. Many of the principles of this code, rules on use of the term “specialist” and “leading clinic” for example, could be applied to all medical advertising including ophthalmic and refractive surgery.

Enforcement

- 3.4 Enforcement mainly occurs in reaction to complaints, which are in turn investigated by the ASA utilising experts where required. Although an improper advertisement can be removed, this is only after it has already been seen in the public domain and damaging messages have been propagated. Furthermore, advertising is becoming increasingly direct, through email campaigns and social media, and serious breaches may be missed.

Advertising content does not inform of potential risks and consequences

- 3.5 There is no requirement for advertisements to provide information on risks for surgical interventions. Procedures are often presented as a desirable commodity, which may be interpreted by the reader as “fool-proof”.

- 3.6 Unlike advertisements for instance in the financial, tobacco, alcohol or food industry where there is an obligation to list potential harmful consequences, there is no such obligation in medical advertising.

Misleading and unethical advertising

- 3.7 Advertising used in the refractive industry can be misleading, for instance “100% 20/20 vision” and similar, which to the reader suggests the procedure performed by the provider is a 100% guarantee. Such statements are often not independently verified or framed with reference to what may be a highly selected patient group. These statements do not consider quality of vision attained or the so-called 20/20 unhappy patient. The average consumer does not have the knowledge to pick this apart and is thus vulnerable.
- 3.8 Celebrity endorsements are commonly used in numerous forms including social media. They are designed to glamorize the procedure and attract patients to the specific clinic endorsed. There is no requirement to declare a financial interest on the part of the celebrity. Interests may include surgery at no cost or endorsement fees.
- 3.9 Cost is always a serious consideration for patients and can be critical in terms of deciding which procedure or which clinic to opt for. Financial inducements, specifically time-limited offers, provide undue pressure on patients to make a decision without giving them the time to perform their due diligence, considering the risks and finding out more about the clinic and the surgeon. There is also a lack of clarity in price advertising such as “From £395.00 per eye...” as the criteria that must be met may well be impractical and in reality very few patients may be able to avail themselves of the “offer”.

4 Regulating and controlling marketing and advertising

- 4.1 Ideally the ASA will, following the Keogh report⁶, extend their remit and consider the adoption of a code of practice and guidance for refractive surgery. In the absence of such a code, the Royal College of Ophthalmologists, as the professional body for Ophthalmology in the UK and working in the best of interests of the public, through this standards document provides recommendations for advertising and marketing practice and expects all providers to comply.
- 4.2 Advertising and marketing should be conducted in a socially responsible manner. The overall principles and prevailing advertising codes provided by the CPA and BCAP must be adhered to and followed.
- 4.3 Celebrity endorsements are discouraged and in the event these are used a written declaration clarifying any financial relationship, including reduced cost for treatment, between the clinic and the celebrity should appear alongside the endorsement.
- 4.4 Data supporting all claims and statements must be available for independent verification.

- 4.5 All advertisements for surgical procedures where possible need to state the following “All eye surgical procedures carry a level of risk including not obtaining the desired outcome through to varying levels of visual loss. Your eye surgeon will discuss the risks and benefits of sight correction surgery, including those specific to your own circumstances, at the time of your preoperative consultation”.
- 4.6 The following are considered socially irresponsible and are prohibited:
- 4.6.1. Time-limited deals
 - 4.6.2. Financial inducements
 - 4.6.3. Package deals, such as ‘buy one get one free’ or reduced prices for friends and family.
 - 4.6.4. Offering eye surgical procedures as competition prizes.
- 4.7 Advertising price is highly discouraged. In the event that price of surgery is advertised, the majority of recipients (>50%) should in reality be receiving surgery at that price.
- 4.8 The content of marketing information must be consistent with other patient information documents and should not differ substantially from the content of consent forms provided to the patient.
- 4.9 Qualifications and experience must not be exaggerated or misleading.

Enforcement

- 4.10 While the Royal College has no role or remit in terms of enforcement, it does have an obligation to report poor practice that is not in keeping with its recommendations to relevant authorities including and not restricted to the following:
- 4.10.1. Advertising Standards Authority (ASA)
 - 4.10.2. Care Quality Commission (CQC)
 - 4.10.3. Care and Social Services Inspectorate Wales (CSSIW)
 - 4.10.4. Care Inspectorate (Scotland)
 - 4.10.5. Competition and Markets Authority (CMA)
 - 4.10.6. Department of Health
- 4.11 The Royal College of Ophthalmologists believes the Medical Director of the advertising provider must take responsibility for the final content of advertising and marketing media. Non-compliance with either the ASA code of practice or recommendations in this document may be considered an infringement of “Good Medical Practice”^{7,8} and thus reportable to the General Medical Council.

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5. CAP Guidance note on *cosmetic surgery marketing*. Available at <https://www.cap.org.uk/~media/Files/CAP/Help notes new/CosmeticSurgeryMarketingHelpNote.ashx> (accessed 20 September 2015).
6. Review of the Regulation of Cosmetic Interventions https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192028/Review_of_the_Regulation_of_Cosmetic_Interventions.pdf (accessed 20 September 2015)
7. "Good Medical Practice", General Medical Council. Clauses 25b, 56, 65, 70, 71, 77.78.79 and 80 http://www.gmc-uk.org/guidance/good_medical_practice.asp (accessed 20 September 2015)
8. Explanatory Guidance: Financial and commercial arrangements and conflicts of interest (2013) http://www.gmc-uk.org/guidance/ethical_guidance/21161.asp (accessed 20 September 2015)

OTHER RESOURCED MATERIAL

1. <http://www.aao.org/ethics-center-browse?topic=advertising> accessed 3rd January 2016
2. <http://www.aao.org/ethics-detail/policy-statement--guidelines-refractive-surgery-ad>