

Refractive Surgery Advertising and Marketing Standards



The ROYAL COLLEGE of
OPHTHALMOLOGISTS

The purpose of this document is to provide specific advertising and marketing standards for refractive surgery. The document outlines current regulations and regulators, current references and sources which provide the basis for these standards. Section 1 summarises key recommendations.

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 indicating the financial relationship of the clinic with the celebrity should be indicated
- 1.3. Data supporting all claims and statements must be available for independent verification
- 1.4. All advertisements for surgical procedures 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 including ones specific to your circumstances at the time of your preoperative consultation”
- 1.5. The following are considered socially irresponsible and are prohibited:
 - 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 friends and family
 - 1.5.4. Offering eye surgical procedures as competition prizes
 - 1.5.5. 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
- 1.6. The content of marketing information must be consistent and not differ considerably with the content of the consent form provided to the patient. The process of consent is covered in section YY of this document
- 1.7. Qualifications and experience should not be exaggerated nor 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 and 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. However, 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

- 2.3. Advertising price is highly discouraged. In the event that price of surgery is advertised, the eligibility criteria and specific details of the treatment being provided should be indicated. This can be a footnote in the same format as required for car advertisements. Additionally, the range of pricing from the lowest price to the highest should also be indicated so that the consumer is aware that pricing could be in several multiples of the advertised price. This provides transparency, ethically appropriate in medical advertising to vulnerable individuals

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 ad⁴”
- 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 the code could be applied to all medical advertising including ophthalmic and refractive surgery, e.g. rules on use of the term “specialist” and “leading clinic”

Enforcement

- 3.4. Enforcement is mainly reactive to complaints which are in turn investigated by the ASA utilising experts where required. Although the advertisement can be removed, it is only after it has already been seen in the public domain and damage done. Furthermore, advertising is becoming increasingly more direct through email campaigns and social media and serious breaches may well 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 of intervention often presenting procedures as a desirable commodity which may be interpreted by the reader as “fool-proof”. Although infrequent, there can be undesirable consequences for patients undergoing refractive surgery. The level of risk correlates with the model of care / patient care pathway, diagnostic and surgical expertise and experience as well as patient selection. These are discussed further in section XX of this document
- 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. The statement in itself is often not independently verified and might well be for a sub-selection of patients or simple refractive errors. The statement does not reflect the quality of vision attained and does not consider the so-called 20/20 unhappy patient. The average consumer does not have the knowledge to be able to critically differentiate and is thus vulnerable
- 3.8. Celebrity endorsements by a clinic potentially glamorizes the procedure and provides a rationale for use of that specific clinic. Also there is no requirement to declare a financial interest on the part of the celebrity who may have had surgery at no cost and may well be paid considerable endorsement fees
- 3.9. Cost is always a serious consideration for patients and can be critical in terms of making a decision. 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 level of dishonesty 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 of advertising and marketing practice for the guidance of all providers
- 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. These are overseen by the CAP
- 4.3. Celebrity endorsements are discouraged and in the event these are used, a written declaration indicating the financial relationship of the clinic with the celebrity should be indicated including whether or not care was provided at reduced or no cost
- 4.4. Data supporting all claims and statements must be available for independent verification
- 4.5. All advertisements for surgical procedures 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 including ones specific to your 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
 - 4.6.5. 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
- 4.7. The content of marketing information must be consistent and not differ considerably with the content of the consent form provided to the patient. The process of consent is covered in section YY of this document
- 4.8. Qualifications and experience should not be exaggerated nor misleading

Enforcement

- 4.9. 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:
 - 4.9.1. Advertising Standards Authority (ASA)
 - 4.9.2. Care Quality Commission (CQC)
 - 4.9.3. Care and Social Services Inspectorate Wales (CSSIW)
 - 4.9.4. Care Inspectorate (Scotland)
 - 4.9.5. Competition and Markets Authority (CMA)
 - 4.9.6. Department of Health
- 4.10. 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

References

1. <http://www.asa.org.uk/>(accessed 20 September 2015)
2. <http://www.cap.org.uk/> (accessed 20 September 2015)
3. <https://www.asa.org.uk/codes-and-rulings/advertising-codes.html>
4. <https://www.asa.org.uk/About-ASA/Strategy.aspx> (accessed 20 September 2015)
5. CAP Guidance note on cosmetic surgery marketing. Available at <https://www.asa.org.uk/advice-online/cosmetic-surgery.html> (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. <https://www.aao.org/about/policies/guidelines-refractive-surgery-advertising>