

Our procedures for investigating complaints

The **Advertising Standards Authority** works to make sure that all advertising, wherever it appears, conforms to the high standards set down in the advertising standards codes. The ASA resolves thousands of complaints each year.

This leaflet for advertisers, agencies and media explains what happens when we receive a complaint and the procedures we use to decide if ads or other marketing material break the rules.

The ASA judges ads, sales promotions and direct marketing against these codes:

The British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code),

The CAP (Broadcast) Radio Advertising Standards Code, TV Advertising Standards Code,

Rules on the Scheduling of Television Advertisements and Code for Text Services.

Our rulings are made independently of both government and the advertising industry.

This leaflet explains

- When we will contact you about a complaint
- What happens after you respond to us about the complaint
- What you may be asked to do if the complaint against the ad is upheld
- Your right to request a review of our decision

How to contact us

All complaints are dealt with by a named individual who will ensure that you have their contact details including e-mail address and direct dial telephone number.

If you don't know who is dealing with your case, call us on 020 7492 2222 and we'll tell you.

More information about our procedures

This leaflet tells you how we'll deal with the complaint about the ad and what we expect you to do. A detailed description of our complaints procedures can be found on our website.

Visit www.asa.org.uk

Complaints procedure

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- 01 Receiving a complaint**
When we receive a complaint, it is assessed against the codes. If we think there is a problem we'll decide how to pursue it. For example, if an ad contains a minor mistake which you agree to amend, we'll resolve the matter informally. If it's not that simple, or a possible serious breach of the codes is involved, then we'll conduct a formal investigation.
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- 02 The investigation**
If we decide to investigate, we'll write to the advertising parties, which might include the advertiser, its agency, the medium that broadcast or published the ad and the clearance centre if one cleared the ad for broadcast. We'll explain what the complaint is about, which code clauses are relevant and ask for a response to the complaint. If the problem is serious, we might ask the media to stop airing, publishing or distributing the ad, or insist that it isn't broadcast at certain times, until the investigation is complete.
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- 03 Responding to us**
Advertising parties must reply to us in writing promptly. If there's a claim that needs to be substantiated, we'll explain what type of evidence we need to see. If you are unsure what you need to provide, contact the person dealing with your case and they'll be happy to talk it through with you. Advertising parties who do not reply promptly are either automatically found in breach of the codes or could be in breach of their licence, so it is important to check the deadlines we give in our letters.
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- 04 Evaluation**
We'll assess the ad against the codes in light of the advertising parties' response to the complaint. In some circumstances we may need further clarification, evidence or independent expert advice so that we've got enough information with which to make a judgement.
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- 05 Decision**
We'll draw up a draft recommendation outlining the complaint, the advertising parties' response, an assessment as to whether the ad breaches the codes and a recommended course of action. We'll give interested parties the opportunity to comment on the factual accuracy of the draft.

Once the facts of the case have been established, the recommendation is sent to the ASA Council, which is solely responsible for deciding if the codes have been breached. The Council considers the recommendation but is free to come to its own conclusion. When the Council has ruled, the recommendation becomes the adjudication; we send the adjudication to all interested parties so they know the Council's decision.

With the exception of complaints from organisations with an obvious interest, we do not disclose the name of complainants. We'll only name members of the public if we have first got their permission.
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- 06 Publication**
Adjudications are published weekly on our website www.asa.org.uk. Key stakeholders including the press, government, consumer groups and the ad industry read our adjudications to find out what is acceptable or unacceptable under the codes. Upheld complaints often result in adverse media coverage for the advertising parties concerned.
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- 07 How long will it take?**
Some complaints are straightforward to resolve and if advertising parties agree to make changes to an ad to bring it in line with the codes a full investigation can be avoided. Other complaints, however, are more complex and may take weeks, or sometimes months, to resolve. We take great care to balance speed with the need to be fair and to allow all sides to put their views across.
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- 08 Can decisions be appealed?**
In certain circumstances, advertising parties or complainants can request a review of a ruling. Both sides have 21 days from when they were told the decision to ask the Independent Reviewer of ASA Adjudications to review the case. But they must be able to establish that a substantial flaw of process or adjudication is apparent, or show that additional relevant evidence is available. If the Reviewer accepts a request for a review he can ask the ASA Council to reconsider its ruling. More information about the Independent Review procedure can be found in the codes.
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- 09 Ensuring compliance**
We check to see that rulings are adhered to, for example by seeing if any necessary changes have been made to ads. To help maintain a level playing field, we monitor the media to make sure that the codes are being observed whether or not a complaint has been made. This means we can alert different sectors to general problems that can arise in ads as new products and services enter the market.
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- 10 Can the ASA have an ad stopped?**
Most advertising parties act quickly to amend or withdraw their ad if we find it breaks the codes. The ASA acts against the few who do not. Broadcasters' licences require them to stop transmitting ads that break the codes and we can ask publishers not to print ads that don't meet the rules. Other sanctions exist to prevent direct mail that breaches the code from being distributed and to reduce the likelihood of posters appearing that breach the codes on taste and decency and social responsibility grounds. Ultimately, we can refer non-broadcast advertisers who persistently break the CAP Code to the Office of Fair Trading for legal action under the Consumer Protection from Unfair Trading Regulations 2008. Broadcasters who continually air ads that break the codes can be referred to Ofcom, which has the power to fine them or even revoke their licence.