

Annual Statement 2005 – 2006

The Annual Statement of the Advertising Standards Authority, Committee of Advertising Practice
and Broadcast Committee of Advertising Practice.



Our mission

To apply the advertising codes and uphold standards in all media on behalf of consumers, business, and society.

Our vision

To be a customer-focused, best practice regulator, where expertise is valued and shared.

Our values

To fulfil our Mission and achieve our Vision we intend to be:

A customer-focused organisation

- Helpful and accessible
- Independent of all pressures
- Accountable for our performance

A best practice regulator

- Fair and thorough
- Consistent and proportionate
- Reliable and ethical

An excellent team

- Alert and aware
- Responsible and co-operative
- Learning and growing professionally.

Chairman's introduction



In my introduction to the ASA's very first Annual Statement as the 'one-stop shop' for advertising standards in all media, published just a year ago, I said that an unsatisfactory feature of the former system of multiple regulators was the very large number of complaints to the non-broadcast ASA about TV and radio ads that we could do nothing about. Now, in its first year of operation, the one-stop shop is on track to receive approximately 30,000 complaints – a one-third increase on the combined total of registered complaints to both Ofcom and the ASA in 2004. While this large increase can be partly attributed to a large number of complaints for a handful of ads, clearly the one-stop shop structure is making the regulator more accessible to consumers.

Of course, the first months of operation have not been without their hurdles and challenges. The ASA has been learning from experience as we adapt our processes and procedures to a larger scale operation and face increased scrutiny of the new regulatory process from the advertising industry.

A priority has been to achieve greater consistency in ASA rulings that apply across all advertising media. While different advertising codes apply to broadcast and non-broadcast ads and media context can make a difference, we have been working to ensure that, as far as is possible within the codes, the same standards are applied. This is particularly important for multi-media campaigns, where the same message is conveyed through a variety of different advertising platforms. Consistency from the ASA provides greater clarity for advertisers and consumers alike. There is a need for continuing debate with the advertising industry and closer liaison with the broadcast clearance centres to minimise the inevitable disruption that shifts in interpretation or policy cause for advertisers and their campaigns.

While the ASA has important obligations for broadcast advertising, reporting to Ofcom, our non-broadcast responsibilities are carried out free of any Ofcom involvement or influence. My Council colleagues and our staff have juggled two streams of work behind the 'one-stop' shopfront. I am glad to say that we are able to do this in an increasingly integrated and efficient manner.

I was able to deliver an encouraging report to the Ofcom Content Board in June and we continue to provide quarterly reports of the ASA's broadcast activity. Nevertheless, as we look ahead to the second half of our probationary period with Ofcom, we need to deliver more than an effective complaints management service. There are pressing challenges of public policy and new technology to address, including the application of new rules for alcohol advertising and preparation for new rules for food advertising, currently being researched in broadcast media by Ofcom. As distinctions between what is broadcast and what is non-broadcast become increasingly blurred, the ASA needs to keep ahead of the impact that changing advertising media have on its remit and responsibilities.

The ASA's objectives for the coming year can be found on page 5. Our Annual Report, to be published next April, will report more fully on our achievements in 2005. More information about the ASA and the one-stop shop can be found on our website at www.asa.org.uk.

Lord Borrie QC

The first year of the one-stop shop

On 1 November 2004, the ASA 'one-stop shop' for all advertising complaints started work, marking the most significant change in advertising regulation in the UK for over 40 years. The one-stop shop aims to achieve a single point of reference for consumers, advertisers and broadcasters, while respecting the different obligations inherent in broadcast and non-broadcast media – separate codes, broadcast media licensed by Ofcom, but non-broadcast media not requiring a licence from anybody.

Halfway through its first calendar year as a one-stop shop, the ASA system is working effectively. As the Key Performance Indicators show (see opposite page), the number of complaints received about advertising has increased year on year, but the one-stop shop's targets for resolving complaints are being met.

There has been a significant increase in the number of complaints about broadcast advertising, where objections have risen by over 100% compared with the same period in 2004. This increase can be attributed to large numbers of multiple complaints about a number of TV commercials in the first six months of 2005.

But the increase also confirms the argument for the one-stop shop approach, which makes it easier and simpler for consumers to register a complaint. Complaints count that were previously dismissed as having come to the wrong place. Turnaround targets (relating to the speed with which complaints are resolved) are being met in both the broadcast and non-broadcast areas.

Customer satisfaction levels remain high, with the ASA's quarterly customer survey reporting 55% of non-broadcast complainants and 60% of broadcast complainants either satisfied or very satisfied with the ASA's performance. Our survey of non-broadcast advertisers reveals a comparative satisfaction figure of 70%. While these figures demonstrate that the majority of complainants are satisfied with the ASA's performance, customer focus remains a priority for the second half of the year.

Usage of the ASA website dropped at the end of 2004 as a new structure for the site was established. Usage of the new website has continued to build back up again throughout the first half of 2005, with record numbers of visitors to the site in June.

Consistency between non-broadcast and broadcast media remains a key concern for the ASA. We are working with advertisers, agencies and the broadcast clearance centres to achieve greater consistency in the application of the different advertising codes, particularly in the health and beauty sector. Where appropriate, a period of grace has been introduced to allow advertisers to change their marketing communications. But there can be no allowance for claims that just cannot be substantiated.

The new Council structure, where two parallel panels – one broadcast and one non-broadcast – operate within a single ASA, is now well established. Two-thirds of the members sit on both panels and the two groups meet jointly to assess cross-media cases. More information on the ASA Council and its members can be found on the ASA's website at www.asa.org.uk.

The ASA (Broadcast) reports formally to Ofcom every quarter on performance against agreed KPIs. The story so far has been positive and feedback has been encouraging. The ASA's Chairman, Lord Borrie QC, and the Chairman of the Broadcast Committee of Advertising Practice, Andrew Brown, attended a meeting of the Ofcom Content Board in June to discuss the ASA's 2004 Annual Report.

Key performance indicators

The following table sets out statistical data relating to the ASA and CAP's performance between January – June 2005 and targets for 2006.

Key Performance Indicator	2004 Performance (Full-year)	2005 Target	2005 Performance (January – June)	2006 Target
Number of complaints received				
Non-broadcast (ASA)	12,711	To report trend data on complaints received and handled – in the Annual Report (April) and the Annual Statement (Oct)	6,670 (+2.7%)	To report trend data on complaints received and handled – in the Annual Report (April) and the Annual Statement (Oct)
Excluding duplicates	10,062		4,690 (-8.0%)	
Broadcast	9,860		8,532 (+112.0%)	
Excluding duplicates	N/A		N/A	
Number of complaints resolved				
Non-broadcast	13,078		6,370 (-5.6%)	
Excluding duplicates	10,430		4,811 (-11.0%)	
Of which:				
Formally investigated	827		319	
Informally resolved	860		391	
Not investigated	4,439		3,541	
Investigation not justified	581		199	
Other	3,723		361	
Ads amended or withdrawn	1,835		848	
Formal breaches	634		230	
Informal breaches	860		391	
Withdrawn	341		227	
Broadcast	10,155	To report trend data on upheld complaints and complaints leading to sanctions – in the Annual Report (April) and the Annual Statement (Oct) ¹	7,952 (+99.2%)	To report trend data on upheld complaints and complaints leading to sanctions – in the Annual Report (April) and the Annual Statement (Oct)
Not investigated			3,966	
Investigated, of which:			3,986	
Upheld	Broadcast breakdown not available for 2004		522	
Not upheld			3,464	
Turnaround of non-broadcast complaints (ASA)				
Average time taken to deal with complaints	27 days	25 days	24 days	We plan to express the 25 day average in terms of % in target for different classes of work, in line with our broadcast KPIs. These will be published on our website in due course.
Turnaround of broadcast complaints				We plan to discuss with Ofcom expressing these KPIs in terms of individual ads complained about rather than total complaints including duplicates. Any revised KPIs will be published on our website in due course.
% of straightforward complaints requiring no investigation resolved within 5 working days	96%	78%	90%	
% of complaints where the advertisement must be viewed resolved within 10 working days	98%	78%	93%	
% of cases requiring standard investigations and contact with licensees resolved within 8 weeks	93%	61%	96%	
% of complex cases, requiring high level and extended investigations resolved within 3 months	96%	74%	92%	
CAP Copy Advice				
Number of Copy Advice cases (written)	3,892		1,953	
% Copy Advice cases handled within 24 hours	95%	90%	91%	90%
Websites				
ASA website	Visits 635,582 Visitors 299,482		Visits 473,133 Visitors 344,382	
CAP website	Visits 59,992 Visitors 20,969		Visits 93,811 Visitors 50,114	
Customer satisfaction²	Overall satisfaction with response to complaint: 58% of complainants and 68% of advertisers very satisfied or satisfied	Rolling Customer Satisfaction surveys will feed into the six-monthly public reporting	Q1-2 2005 Overall satisfaction with response to complaint: Non broadcast complainants = 55% Advertisers = 70% Broadcast complainants = 60% ³	

¹ Trend data unavailable for pre-November 2004.

² ASA Customer Satisfaction Survey – "overall satisfaction" score for complainants and advertisers.

³ Customer satisfaction research has not so far extended to broadcast advertisers. This is because we originally anticipated that the primary interface would be with the BACC.

The ASA conducts regular research in order to improve continually the service that we offer to both the public and advertisers and to track public awareness of our services. Two surveys – a Customer Satisfaction Survey and an annual Attitude and Awareness Survey – have been conducted in the last 12 months.

The bi-annual customer satisfaction survey, run by an independent market research agency, allows us to look at both our overall performance, and our performance on individual aspects of our services.

For the first half of 2005, overall satisfaction levels for non-broadcast complainants remained stable with 55% of respondents claiming to be very satisfied or satisfied with the ASA's response to their enquiry. This compares with 56% in Q3/4 2004.

Overall satisfaction levels among advertisers in Q1/2 2005 were even more positive with 71% claiming to be satisfied or very satisfied (up from 65% in Q3/4 2004).

Since November 2004 we have also been running quarterly customer satisfaction surveys among broadcast complainants. Initial feedback has been very positive with 60% of respondents claiming to be satisfied or very satisfied with the ASA's response.

Feedback from both broadcast and non-broadcast complainants has shown a high level of awareness of the ASA website among complainants with access to the Internet (58% among broadcast and 75% among non-broadcast

respondents). Of those who have visited the site, 84% of broadcast complainants and 80% of non-broadcast complainants claim the information provided was useful.

The ASA also conducts research about public awareness of our role in regulating advertising in different media. For this purpose we conduct an annual Attitude and Awareness survey. The last survey was carried out as the one-stop shop launched in November 2004.

The results show that spontaneous and prompted awareness of the ASA is relatively high compared to other regulatory bodies. Of those questioned, 17% spontaneously named the ASA as the organisation they could complain to for misleading or offensive advertising. The next highest mentions were for Trading Standards (11%) and the Citizens Advice Bureau (8%).

The survey also examined prompted awareness levels for specific media. In response to the question "If you wanted to complain about an advertisement on TV, which one or more groups or organisations would you consider complaining to?" – 24% of respondents claimed they would contact the ASA. In comparison, 21% claimed they would contact the BBC, 19% mentioned *Watchdog* or another consumer programme on TV, whilst Ofcom was mentioned by only 2% of respondents. (This despite the fact that the ASA had only just been handed responsibility for handling broadcast complaints when the survey was conducted.)

For radio, 18% of respondents named the ASA as the organisation they would contact to complain about advertising on radio. The same percentage of respondents also mentioned the BBC, 10% a phone-in or consumer programme on radio, and 2% of respondents mentioned Ofcom.

Focusing on non-broadcast media, 25% of respondents would contact the ASA to complain about an ad in a newspaper. However, a greater proportion (33%) would contact the newspaper carrying the ad, whilst 17% would contact the Press Complaints Commission. A similar picture emerged for complaints about ads in magazines with 18% claiming they would contact the ASA, but 37% claiming they would complain to the magazine carrying the ad. With regard to posters, 20% of respondents claimed they would complain to the ASA, with 15% claiming they would contact the company advertising. When asked who they would contact to complain about a cinema ad, the public were more likely to contact the cinema group showing the ad (23%) or the British Board of Film Classification (17%), than the ASA (16%).

Finally, recognition of the ASA logo was relatively high with 26% of respondents claiming to definitely recognise the ASA logo and a further 14% claiming they thought they recognised it.

We have identified 12 objectives for 2006 that build on the priorities set out at the launch of the one-stop shop in November 2004. We are continuing to emphasise best-practice regulation within a changing environment, taking account of the impact on advertising self-regulation of public policy concerns and technological change. We shall account for performance against our objectives in an Annual Report each April and set out our plans for the year ahead in an Annual Statement each October.

01 Secure the continuation of the 'one-stop shop' ASA in negotiations with Ofcom and the co-regulatory parties¹ at the conclusion of the two-year probationary period.

02 Demonstrate the effectiveness of self-regulation through rigorous monitoring and enforcement of the new alcohol rules.

03 Respond to Ofcom's consultation on broadcast code changes for food advertisements, develop non-broadcast code changes and ensure the industry understands the implications of both sets of changes before their implementation early in 2007.

04 Work with the Gambling Commission to establish self-regulation as the means for delivering the advertising provisions of the Gambling Act 2005.

05 Be open and helpful to all and communicate the 'keeping advertising standards high' message to consumers, industry and other stakeholders.

06 Promote the non-broadcast Copy Advice service, and work with the broadcast clearance centres² for a co-ordinated approach to the evaluation and clearance of TV and radio ads, so as to offer helpful and consistent guidance to advertisers, agencies and media.

07 Work with New Media advertisers, agencies and operators to ensure effective advertising self-regulation on Broadband, interactive and mobile services so as to maintain a level playing field between media and protect consumers and citizens.

08 Review and research the advertising codes and pave the way for full revision, involving public and stakeholder consultation, to achieve due consistency between the TV, radio and non-broadcast codes in 2007-08.

09 Exploit the opportunities for maximum operational efficiency and effectiveness presented by greater integration of broadcast and non-broadcast teams, systems and processes, while respecting all legislative and contractual requirements for appropriately separate procedures as necessary.

10 Improve internal communication through better arrangements for staff briefing, access to information, and feedback opportunities.

11 Introduce a performance management system that links rewards more closely to performance and encourages greater staff retention through professional development.

12 Recruit and manage for a more experienced and stable workforce with a better spread of skills, age and background.

¹ Broadcast Committee of Advertising Practice (BCAP) and Broadcast Advertising Standards Board of Finance (Basbof) as well as the Advertising Standards Authority (Broadcast) Ltd (ASA(B)).

² Broadcast Advertising Clearance Centre (BACC) and Radio Advertising Clearance Centre (RACC).

The non-broadcast Committee of Advertising Practice (CAP) writes and enforces the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code). The Committee is made up of representatives of advertisers, agencies, media owners and other industry groups, all of which are committed to upholding the highest standards in non-broadcast advertising. CAP enforces the code through compliance work and provides a pre-publication Copy Advice service for non-broadcast advertisers, their agencies and media.

January – June summary

The Copy Advice team gives non-broadcast advertisers, their agencies and media a quick and easy way to check that their marketing communications comply with the CAP Code. In the first six months of 2005, 91% of written enquiries to the CAP Copy Advice team were dealt with within 24 hours. The Copy Advice team can be contacted on 020 7492 2100 or at copyadvice@cap.org.uk.

The number of enquiries to the service fell in the first half of the year and planning began for a marketing initiative to redress this. The average turnaround time for an enquiry was just over 15 hours, an hour more than the average for 2004 but well within the 24 hour target.

Advice:am – a new seminar series designed to promote the CAP Code and the Copy Advice team – was launched. The breakfast seminars aim to give different industry sectors an introduction to the Code's requirements and provide an opportunity for delegates to meet members of the Copy Advice team. Two seminars were delivered during the first half of the year, both aimed at the Sales Promotion Industry and run in conjunction with the Institute of Sales Promotion. More seminars are planned for next year.

Usage of the CAP website (www.cap.org.uk) has grown to record levels with over 50,000 visitors in the first half of the year. The number of subscribers to CAP's quarterly e-newsletter Update@CAP also continues to grow.

In June, CAP published revised rules for non-broadcast alcohol advertising, in parallel with the changes to the rules for television advertising for alcohol published by Ofcom in November 2004. The new rules came into force on 1 October.

The Compliance team secured assurances from 227 advertisers that they would change their advertising. Of those advertisers, 76 had been subject to an 'upheld' complaint by the ASA, the remaining 151 were contacted as a result of monitoring work by the Compliance team. The team issued 30 Ad Alerts, warning publishers and media owners of problem advertisements.

The team completed these sector compliance projects:

- Betting tipsters
- Free v inclusive in telephone packages
- Travel agents
- Mobile phone subscription services
- Employment agent advertising in *The Stage*
- Ticket Pricing Help Note revised and reissued
- Travel Marketing Help Note revised and reissued.

CAP continues to liaise with the Broadcast Advertising Clearance Centre and the Radio Advertising Clearance Centre to help promote consistency in decision-making across all media.

The Broadcast Committee of Advertising Practice (BCAP) is contracted by the broadcast regulator, Ofcom, to write and enforce the codes of practice that govern TV and radio advertising. BCAP comprises representatives of broadcasters licensed by Ofcom, advertisers, agencies, direct marketers and interactive marketers.

January – June summary

Rules for alcohol advertising

New TV rules for alcohol ads, published by Ofcom in November 2004, came into force on 1 January 2005 (with a period of grace until 1 October 2005). The Code Policy and Monitoring team has worked to explain the implications of the changes to relevant advertisers, in particular the tougher 'youth appeal' rules. In June, after consultation and subsequent Ofcom approval, Guidance Notes were published to help interpret the new TV rules.

After taking advice from the Advertising Advisory Committee (AAC) a consultation was launched on draft rules for diet and health claims in TV and radio advertisements for alcohol. BCAP has also worked with Ofcom on co-funded qualitative and quantitative research into the levels of appeal to under-18s of recent alcohol advertising. The report will be used as a benchmark for a similar study in 12 to 18 months to help assess the impact of the tougher 'youth appeal' rules.

Teleshopping

Monitoring of teleshopping channels has led to nine ASA adjudications in the first half of the year. Where possible, BCAP tries to resolve monitored code breaches informally and, although compliance has improved, some channels still have some way to go before fully meeting their licence obligations.

The Code Policy and Monitoring team has issued a Help Note on Guide Prices for auction channels and other teleshopping channels and helped develop the industry's proposals to Ofcom for new TV rules on food advertising to children. After taking advice from the Advertising Advisory Committee, BCAP has now submitted the proposals to Ofcom.

The Code Policy and Monitoring team has provided background to aid AAC discussion on:

- Guidelines for TV alcohol advertising rules
- Diet and health claims in alcohol advertising on TV and radio
- Sex services on premium rate phone lines
- Interactive advertising
- Transparency of 084 and 087 call charges.

On-screen 'small print'

BCAP has agreed revised wording for the guidance on on-screen text height and subtitling in TV advertisements. The new guidance clarifies 'best practice' that has changed as a result of technological progress and is available to all licensees.

Independent Reviewer

Sir John Caines



The Independent Reviewer of ASA Adjudications is Sir John Caines, KCB, a former Whitehall Permanent Secretary.

In the first half of the year, Sir John received 22 Requests for Review, nine from complainants and 13 from advertisers. Of the total of 22 Requests, 14 concerned non-broadcast advertisements and eight concerned TV or radio ads. Five cases were withdrawn or ineligible for review. Of the 17 cases which Sir John reviewed, 12 failed to satisfy the criteria for reference back to the ASA Council. Sir John decided that five cases merited reference back for further consideration by the Council. In two of those cases the Council overturned its original verdict. In one other the Council retained its original verdict but altered the wording of the adjudication. The remaining two cases are still in progress.

The Independent Reviewer's terms of reference for non-broadcast adjudications are to be found at clause 60.38 of the CAP Code. His terms of reference for broadcast adjudications are set out in Guidance Note number 3, available on the CAP website at www.cap.org.uk.

Advertisers, complainants or broadcasters contemplating a Request for Review should study the relevant terms of reference carefully. Requests for a Review should contain a full statement of the grounds for the request, be in writing and be addressed to the Independent Reviewer of ASA Adjudications, Bloomsbury House, 74-77 Great Russell Street, London, WC1B 3DA. They should be sent within 21 days of the date on the ASA's letter of notification of an adjudication. The Independent Reviewer may waive this 21-day time limit if he judges it fair and reasonable to do so.

Requests should only come from the complainant(s) or marketer/licensee. Those from the marketer/licensee or from an industry complainant should be signed by the Chairman, Chief Executive or equivalent; requests made only by their solicitor or agency will not be accepted. All dealings with the Independent Reviewer must be in writing.

The Council's adjudication on reviewed cases is final.

Adjudications that are revised following a review will be published on www.asa.org.uk. The Independent Reviewer contributes a report of his activities to the ASA's Annual Report.

Standards of service

Responding quickly to your enquiries

01 We aim to respond to e-mails and telephone calls promptly. Contact us on enquiries@asa.org.uk or on 020 7492 2222. Our business hours are 9.00am to 5.30pm, Monday to Friday.

02 Our aim is to reply to all correspondence within 10 working days.

Dealing thoroughly with your complaint

03 We aim to resolve complaints without undue delay, but complaints that require investigation take longer than the average. The assessment of complaints by commercial competitors can be protracted.

04 If you decide to complain to the ASA about an advertisement, we are committed to acknowledging your complaint within five days of receiving it. If your complaint is not for us, but for another regulatory body, we shall tell you at this point; otherwise we shall tell you how our procedures will be applied.

05 If your complaint falls within the remit of the ASA, we shall consider whether there has been a possible breach of the codes. We shall keep you informed of progress with the handling of your complaint at intervals of no longer than 15 working days.

06 From the point at which we decide to investigate your complaint, a named executive will be in charge of the case and will act as a continuing point of contact with you.

07 If you are dissatisfied with the ASA's decision on your complaint you may be able to request a review by the Independent Reviewer of ASA Adjudications provided you write to him at Bloomsbury House, 74-77 Great Russell Street, London WC1B 3DA, within 21 days of receiving our formal adjudication. Details of the Review procedure are set out in the codes.

Being accessible to complainants

08 Our website www.asa.org.uk gives access to the codes, explains how we operate, gives details of all ASA adjudications, and enables complainants to register their concerns online.

09 Members of staff will at all times identify themselves by name and endeavour to be as polite and helpful as possible. If you feel that a member of staff is not living up to these standards, you should write to the Director General who will look into the matter.

10 The ASA is independent of government and the advertising industry. A majority of our Council are members of the public who are appointed by an open selection process of advertisement followed by a series of interviews.

11 We shall continue to investigate complaints free of charge. The ASA does not cost neither the consumer nor the taxpayer anything.

Being open and accountable

12 Starting from 1 January, we shall publish performance statistics on a quarterly basis on our website showing the number of complaints received and resolved and the average time taken to deal with different classes of complaints.

Advertising Standards Authority

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