

# Keeping ads honest:

A fair deal for  
consumers and  
competitors



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The Advertising Standards Authority (ASA) is the UK’s independent regulator of advertising across all media. We apply the Advertising Codes which are written by the Committees of Advertising Practice (CAP).

Whether at home, out and about or online, we're all consumers of advertising.

Our job is to make sure advertisements are honest, so that businesses give everyone who sees and hears ads a fair deal.

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# 70%

of our cases were about misleading advertising

# 101,442

occasions when we provided advice and training to industry

# 28%

of our workload represented by online advertising

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# Our mission & remit

We work to ensure that advertising in all media is legal, decent, honest and truthful, to the benefit of consumers, business and society.







# Our mission & remit

## We regulate ads in:

- Magazines and newspapers
- TV and radio
- Television shopping channels
- Posters
- Cinema commercials
- Internet, including on a company's own website and in paid-for space (including sponsored search ads)
- Direct mail (advertising sent through the post and addressed to you personally)
- Leaflets and brochures
- Commercial email and mobile messages
- DVDs, video and faxes
- Sales promotions (special offers, prize draws and competitions)



# A word from...



## Rt Hon Lord Smith of Finsbury ASA Chairman

**We were greatly encouraged by the positive way in which our 50th anniversary was celebrated last year, by commentators, stakeholders, legislators and consumers. As we now head into our 51st year we are determined to keep at the forefront of excellence in self- and co-regulation. As you'll see from this report, we cover the whole range of advertising media, including in our relatively new responsibilities for marketing in online and digital communications.**

Throughout our existence, we have had two fundamental purposes: protecting consumers; and ensuring fair competition between advertisers. These remain our core objectives. We want to make sure that consumers aren't being misled, misinformed, harmed or offended. They need to be able to make proper, informed choices about what products and services are available to them. And we want to make sure that there is a fair comparison between advertisers, so that responsible marketing isn't being under-cut by the irresponsible.

Over the past year, we have for example taken action to ensure that there is clear pricing in ads for telephone, television, and broadband packages. We've required hotels to display VAT-inclusive prices. We've ensured that supermarket promotions are real and transparent

in what they are offering to their customers. We've required pay-day loan companies to be clear about what it is they are providing and what it costs. And we are helping 'daily deals' companies to comply with the Advertising Codes, following up on Groupon's signed undertakings with the Office of Fair Trading.

We remain vigilant on behalf of consumers, and where there appears to be a case to answer, we follow up on every complaint, even if only from a single person. And we are rigorous in applying the Codes, seeking immediate agreement for change from the advertiser where possible, or investigating thoroughly where not. In all of this we rely on our remarkable team of staff, who have risen brilliantly to the challenge of new work, new responsibilities, and a greatly increased workload.

The ASA Council, too, has had to work increasingly hard and is constantly faced with difficult and sometimes critically-balanced decisions on individual cases. The experience and wisdom of my fellow Council members continue to be invaluable. Sadly, we said goodbye in 2012 to two members, Gareth Jones and Elizabeth Fagan, and in their place we have warmly welcomed Alan Bookbinder and Roisin Donnelly. We are all enthusiastic about the challenges ahead. ●



# A word from...



**James Best**  
CAP Chairman

**Q: What's the connection between Botox, stepladders, advergames, truthfulness and vacuum cleaners?**

**A: They, amongst hundreds of other topics that might concern practitioners, are all the subjects of CAP advice notes.**

Keeping the Advertising Codes and the 480 notes that clarify them up-to-date is a key part of our responsibilities. Both the Codes and the advice have to evolve as changes in the law, new ASA rulings and advertising innovations all impact their currency. Constant review by CAP's expert team, especially of developments in online marketing, has prompted significant updates in the past year.

Advertisers are in frequent touch with us to get the guidance, reassurance or training they need. In 2012, we delivered advice and training on a record 101,442 occasions. Meanwhile, our work with industry trade organisations in sectors such as Complementary and Alternative Medicine, cars and broadband has helped their members to produce code-compliant communications.

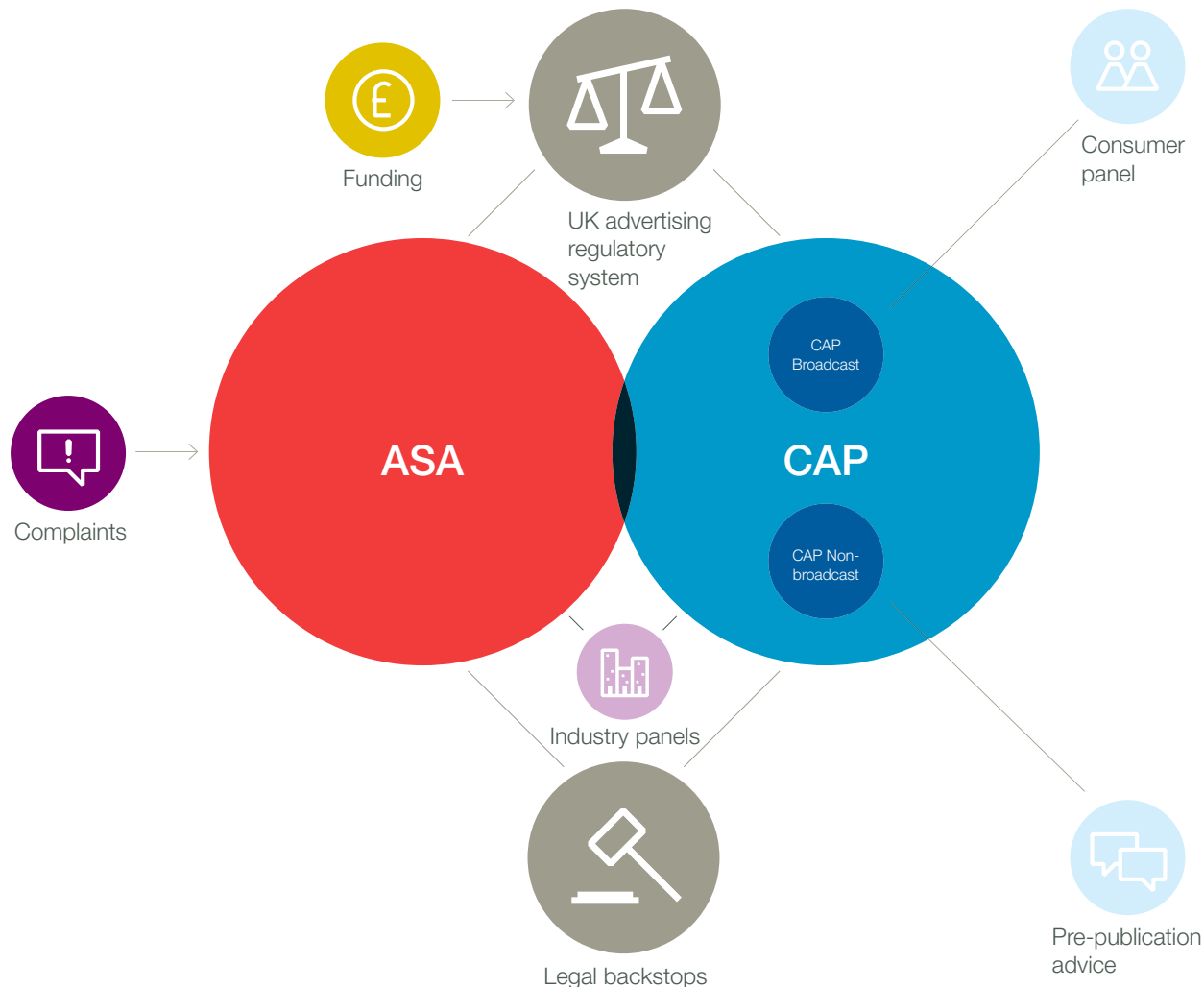
We also issued topical guidance in 23 *Insight* newsletter articles, covering subjects from the Queen's Diamond Jubilee to using Twitter for marketing, and in July, we launched our own Twitter feed.

These services are delivered without charge to advertisers who want to ensure that their advertising is fair both to consumers and competitors. But not all advertisers take advantage of them and they therefore run the risk of breaking the rules. This is where the Compliance team comes in, focusing on repeat offenders and working with them to resolve any issues. Their work, particularly with online advertisers who are new to the ASA/CAP system, has been impressive and their busiest ever, having resolved 925 cases over the year. Recalcitrant advertisers have been brought in line, helped by the ASA's online 'naming and shaming' sanction and vital industry co-operation.

But it is the Advertising Codes that are our first responsibility. It is from them that all the agency, media owner and client advice and training flows. In the past year, significant Code amendments were made in areas as diverse as energy labelling, post-conception advice services, food claims and distance selling. Initiatives worked on in 2012 have now come into force in 2013, such as the new Online Behavioural Advertising rules.

Advertisers face new options and challenges every day and CAP is here to help them get their ads right, avoid investigations, and ensure responsible behaviour towards consumers and competitors. The CAP Executive achieves this with skill and commitment and I thank them all for their high quality work. ●

# An overview of the ASA and CAP system



The UK advertising regulatory system is a mixture of self-regulation for non-broadcast advertising and co-regulation for broadcast advertising. There are a number of bodies involved in making the system work, which include the ASA, CAP, Asbof and Basbof who collect our funding, various advisory panels and our legal backstops.

## Glossary of terms

### Advertising Standards Authority

Independently administers and enforces the UK Advertising Codes across all media. Responds to and investigates complaints about ads made by the public and advertisers.

### Committees of Advertising Practice

Two industry bodies, the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP), which write and help enforce the Advertising Codes, and also provide training and advice to the industry.

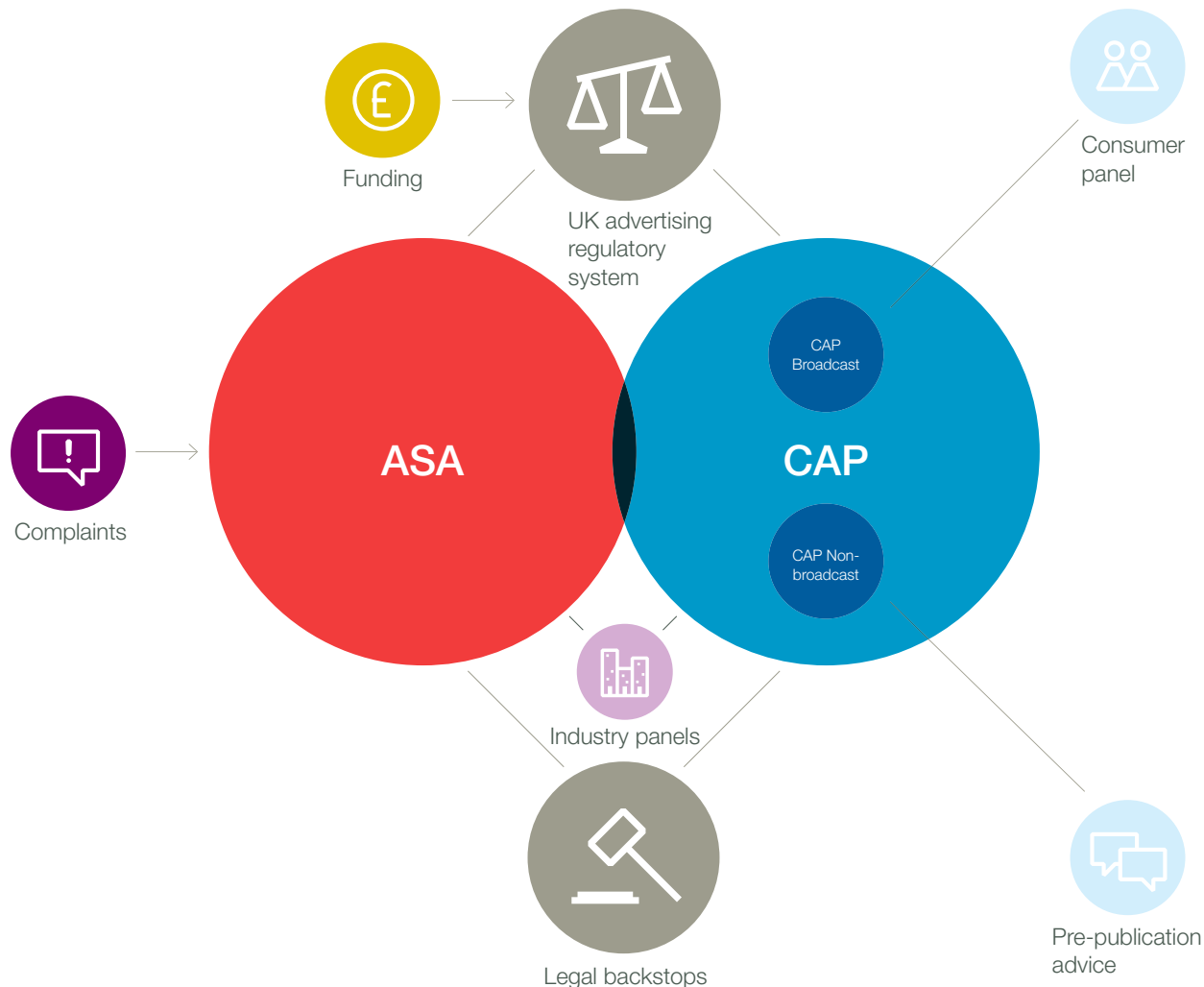
### Funding

The system is funded at arm's length by advertisers through a voluntary levy of 0.1% on display advertising expenditure, airtime and paid-for search charges collected by agencies, and 0.2% of the Royal Mail's Mailsort and Advertising Mail contracts. The levies are collected by the Advertising Standards Board of Finance (Asbof) and the Broadcast Advertising Standards Board of Finance (Basbof).

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# An overview of the ASA and CAP system



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## Pre-publication advice

CAP Copy Advice provides advice and guidance to non-broadcast advertisers. In addition, Clearcast operates the clearance system for television commercials before they are screened. The Radio Advertising Clearance Centre (RACC) clears radio advertisements and sponsorship credits for commercial radio.

## Industry panels

There are three industry panels that provide non-binding opinion on regulatory issues from an industry perspective. The Sales Promotion and Direct Response Panel, the Online Publications Media Panel and the General Media Panel (GMP) all advise the ASA and CAP Executive, and the GMP also advises the BCAP Executive.

## Consumer panel

The Advertising Advisory Committee (AAC) advises BCAP on potential changes to the UK Code of Broadcast Advertising and associated guidance.

## Legal backstops

The Office of Fair Trading (OFT) is the ASA's legal backstop for misleading or unfair advertising. The Office of Communications (Ofcom) is the ASA's co-regulatory partner and legal backstop for regulating TV and radio advertisements. ●

# Getting a fair deal

As the UK's independent regulator for advertising across all media we're responsible for ensuring that ads are not misleading, harmful or offensive. An important part of our work is listening to what consumers and businesses have to say about advertisements through the complaints they lodge with us.

The vast majority get in touch because they're worried they've seen an ad that's misleading. The potential consequences of such ads are that they hoodwink consumers, give an unfair advantage to businesses that don't play by the rules and they erode trust in advertising. At a time of recession when businesses are competing for a diminishing share of consumer spending and when customers are keener to seek out a bargain, this aspect of our work seems even more important.

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We're encouraged that the majority of the hundreds of millions of ads published every year in the UK do stick to the rules, treating customers and competitors with respect. But, not all do.

In this report, we're putting the spotlight on some of the work we've done over the past year to tackle misleading advertising. For the first time, we're naming our big five misleading advertising priorities and what we've been doing to tackle them; making a difference to consumers' pockets and helping to create a better environment in which business can compete. Read more about this work on page 20.

We also report on the four main themes we identified for 2012; misleading advertising comprised nearly three-quarters of our workload last year, so it naturally features in those themes:

### 01 Online advertising

E-commerce is one of the fastest growing markets in Europe, so it's perhaps unsurprising that our work in online media is growing exponentially. We've dealt with 6,273 complaints about 5,338 ads, representing around 28% of our workload.

Our work has spanned from making sure consumers can readily identify advertising on Twitter to ensuring hotels include VAT in their advertised room prices. Read more on page 12.

### 02 Creating a level playing field

In the past year we've tackled misleading and unfair advertising in the daily deals sector, working with the sector to improve their internal compliance processes. We've also introduced a new system for dealing with competitor complaints, requiring them to approach their competitor first to resolve any issues. The early results indicate that it's good to talk. We've also refreshed our websites to improve the user experience, helping visitors arrive at the information they need as quickly and easily as possible. See page 14.

### 03 Helping advertisers get it right

The creative judgments made by advertising practitioners go a long way to ensuring that ads aren't misleading, harmful or offensive. It's our job to support them in that process. By providing advice and training, and extensive online resources we help them get their ads right first time.

We gave advice and training on 101,442 occasions in 2012, a 4.5% increase on the previous year. We launched a new CAP website in September, bringing all our advice and training resources under one roof. Read more page 16.

### 04 Children and young people

We've worked hard to implement the advertising-related recommendations in the Government-commissioned review *Letting Children Be Children*.

Our key achievements include introducing tighter restrictions on outdoor advertisements in places where children may see them; a new teaching resource, *Ad:Check* to help secondary school-aged children critically evaluate the ads they encounter and conducting extensive research into the public's perceptions of harm and offence in advertising, including amongst children. See page 18. ●

# Getting a fair deal: Online advertising

1 March 2012 marked the first anniversary of the extension to our online remit. The new remit means that we now apply the same rules that apply to ads in traditional media to marketing that appears on advertisers' own websites, Twitter feeds, Facebook pages and apps.

The public rightly expects businesses to deal with them as truthfully and fairly online as in other media. Over the year we were able to demonstrate the real difference we can make delivering protection for consumers online. The majority of complaints about online ads relate to misleading claims like pricing.

We improved online pricing in the hotel sector when we ruled against a couple of London hotels, Grange Hotels and Crowne Plaza, for not including VAT in their advertised room prices. The rules are clear that, to

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## 12% of all UK retail sales are now made online

avoid misleading consumers, price claims directed at the public must include all non-optional taxes, charges and fees. We've been making sure the rulings are followed across the entire sector. We made significant progress by working with the British Hospitality Association, their members and other hotel chains, with the result that customers are now much less likely to receive an unpleasant surprise at the end of the booking process.

We also tackled claims made by multinational companies, such as TripAdvisor and Apple on their UK facing websites.

Apple ran into trouble when it marketed its new iPad as 4G compatible despite the fact that the 4G functionality wouldn't work in the UK. While this same issue was being dealt with through statutory authorities in other countries we secured quick co-operation from Apple, without the need for formal action, by getting them to remove all references to 4G from their UK website.

The travel review website TripAdvisor prompted complaints that its claims 'Reviews you can trust' and '... read reviews from real travellers' were misleading. Over the course of our investigation, it became clear that TripAdvisor could not prove that all reviews were genuine, which resulted in the claims having to be removed from the site.

Verifying testimonials is something we deal with across all media, but the online space throws up particular challenges, notably because the social nature of the web means that anyone can make a comment on almost anything. The use of celebrities to endorse products or services through their own Twitter accounts has raised questions about whether it is always clear when tweets are, in fact, ads. For example, when Nike used the footballers Wayne Rooney and Jack Wilshere to promote its marketing campaign we ruled that the tweets were misleading because they weren't obviously identifiable as ads. We've now issued advice to advertisers suggesting they use #ad or #spon if it's not otherwise clear what the communication is.

Online retail now makes up 12% of all UK retail sales and has achieved double digit year-on-year growth. So it's perhaps unsurprising that our work in online media is growing exponentially. In terms of complaints we dealt with 6,273 complaints about 5,338 ads, representing around 28% of our workload. But of course, our work is not just about acting on complaints, we've also been making sure that the rules remain relevant; that advertisers receive the help they need to comply with the rules; and that we proactively take action even when we haven't received a complaint. Given the growth in this market, maintaining trust in advertising online is not only good for the public, it's good for business. ●



TripAdvisor's claim of 'Reviews you can Trust' prompted complaints, and led to the claims having to be removed from the site.



# Getting a fair deal: Creating a level playing field

## Everyone loves a deal

With Britain sinking back into recession in the first three months of 2012, protecting the economic interests of consumers was as important as ever. As consumers increasingly shop around to get a good deal, it's important that advertisers are as clear as possible about their pricing and any promotions they run. This was a lesson learned by Sainsbury's when we looked into its claim that you could feed a family of four, for a week, for £50, but the items required for its suggested recipes would have led to an overspend.

Another sector that particularly drew our attention was 'daily deals' companies. It is a relatively new market that's experienced phenomenal growth despite, or perhaps because of, the economic climate.

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Sainsbury's claimed that you could feed a family of four, for a week, for £50. However, the items required for its suggested recipes would have led to an overspend.

Operators had less success, however, in getting to grips with the Advertising Codes, prompting us to intervene. The most common problems we encountered were:

- unproven discount/savings claims
- significant limitations and qualifications to offers that were not made clear
- inaccurate pricing claims

A company or sector's infancy does not absolve them from following the rules that protect the public from misleading ads. Our preference is to work with advertisers to help them get their ads right in the first place and to correct any mistakes quickly. But on occasion, we have had cause to resort to tougher sanctions. This was the case with Groupon who we referred to the Office of Fair Trading (OFT) in December 2011 following repeated breaches of the Advertising Code. As a result, Groupon signed legal undertakings to the OFT to implement some fundamental changes to its trading practices. Groupon has responded positively and we're working closely with them to continue driving up their compliance with the rules and maintaining a downward trend in complaints.

As is often the case when you are one of the first or biggest players in a new industry, Groupon has been the benchmark for all advertisers in that sector. We've since been working with others to put in place more rigorous internal compliance procedures to protect consumers, such as kgb deals and Wowcher. By doing this we're making a real difference to consumers and maintaining a level playing field for the daily deal industry.

### It's good to talk

We introduced a new competitor complaints procedure in 2012 that's more efficient and effective in dealing with complaints between businesses. Advertisers making a complaint about another advertiser are now required to provide evidence that they have tried to resolve the issue with their competitor directly, before we agree to take on the case. We thought that this process would help resolve some complaints more promptly and with the minimum of formality and cost for all parties – and it seems to be working. In the first 12 months of the new approach we received 439 competitor complaints, a decrease of 64% on the previous year. This has enabled us to focus more on complaints from members of the public, and deal much more quickly with any competitor complaints we do investigate, with the average time decreasing by 43%.

### An online makeover

Anyone familiar with the ASA and CAP websites will have noticed that they were refreshed in 2012, with the user experience at the heart of the changes. The ASA site now directs different visitors to the most relevant content more quickly. The ASA has also joined Twitter and regularly tweets its weekly rulings and other topical news. Follow us [@ASA\\_UK](https://twitter.com/ASA_UK). More information about the new CAP site can be read on page 14. ●

# Getting a fair deal: Helping advertisers get it right

CAP provides a range of advice, training events, online resources and newsletters to help practitioners get their ads right. As well as increasing awareness and understanding of the Advertising Codes, our advice and training helps advertisers avoid the commercial or reputational damage that results from breaking the rules.

We have continued to provide the one-on-one support that many advertisers find invaluable through our Copy Advice service and bespoke training sessions, plus we ran ten breakfast training seminars on misleading advertising; sales promotions; gambling advertising and alcohol advertising, plus getting to grips with the rules in online media.

But with over two million businesses registered in the UK, we have been looking at ways to improve access

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"We're here to help advertisers get their ads right, avoid investigations and ensure responsible behaviour towards consumers and competitors."  
**James Best**



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to our advice and training so that we can help as many practitioners as possible. As a starting point, we've focused on improving our websites and increasing our regular newsletters.

A new CAP website was launched in September 2012 creating a single resource of all our advice and training materials. The new site allows users to click through to relevant advice directly from the Advertising Codes and read over 400 advice entries in our searchable database, without the need to register with us. We've already received positive feedback from practitioners and nearly 45,000 unique visits to our online advice resources.

We also re-launched our advice newsletter *Insight*, as a more regular newsletter featuring topical advice on the latest rulings from the ASA, Advertising Code changes and tips on how to avoid making some of the most common mistakes.

We increased our subscriber base and provided advice on topics like advertising around the Diamond Jubilee and the London 2012 Olympic and Paralympic Games and how to ensure ad campaigns are targeted properly.

We're keen to continue to receive feedback from practitioners as we improve our training resources. If you have any ideas about what you'd like to see please get in touch.

### Guidance

CAP regularly updates its online advice database in response to the latest queries from industry and emerging advertising practices. For example, early in 2012, CAP produced online advice about how to make sure ads on Twitter are easily identifiable, in response to an ASA ruling. However, CAP also produces formal regulatory guidance, called Help Notes, to support the interpretation of particular aspects of the Advertising Codes.

CAP's Help Notes on ensuring clarity around broadband speed claims and 'unlimited' claims in telecoms advertising came into force in April 2012. In August, the Help Note on speed claims was updated to cover mobile data services. This was in response to concerns that significant numbers of consumers were not achieving anywhere near the 'up to' speed advertised. We also produced a new Help Note for video-on-demand service providers to help them understand and meet their responsibilities under the Code.

Visit [www.cap.org.uk](http://www.cap.org.uk) to access our advice and training and to sign up for our newsletters. Follow us [@CAP\\_UK](#) ●

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Advice and training on **101,442** occasions\*, our highest ever total

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**50** Industry training presentations

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**23** *Insight* articles

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**6,979** requests for Copy Advice

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**44,169** visits to online advice resources

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**92%** would use Copy Advice again

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**90%** would recommend Copy Advice to others

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\*The number of discrete occasions where, for example, Copy Advice was sought, AdviceOnline entries were read or individuals attended training events.

# Getting a fair deal: Children and young people

Protecting children from potentially misleading, harmful or offensive advertising is a key part of our work. Achieving this means more than just administering tough rules on what advertisers can and cannot do. It means engaging with children and young people to help them understand the commercial world around them and make critical assessments of the ads they see. It means listening to the views of parents, children and wider society to ensure that our work reflects their views and priorities. It also means adapting our regulation so that children remain protected by the Advertising Codes in the face of rapid changes to technology and the way we consume media.

To improve children's and young people's understanding of advertising regulation, we launched a new, free resource for schools called *Ad:Check – Understanding advertising regulation*.

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It's designed for secondary school-aged children to help them critically evaluate the ads they encounter. Using examples of real ads, *Ad:Check* takes a big question approach to prompt thoughtful classroom debates about the sometimes challenging issues surrounding advertising and the rules that govern it.

It's important that our work reflects the views and priorities of the public. To help us do this, we conducted a wide-ranging piece of research with Ipsos MORI looking into public perceptions of harm and offence in advertising. Protecting children from harm emerged as a key priority for parents and non-parents alike, and the results will now shape our work and decision making.

The research also allowed us to test the stricter line we've been taking on the use of sexual imagery in outdoor advertising, in response to concerns that the public space was becoming too sexualised. Reassuringly, the research indicated that we're now drawing the line in the right place. We'll continue to enforce these standards to meet the public's expectations.

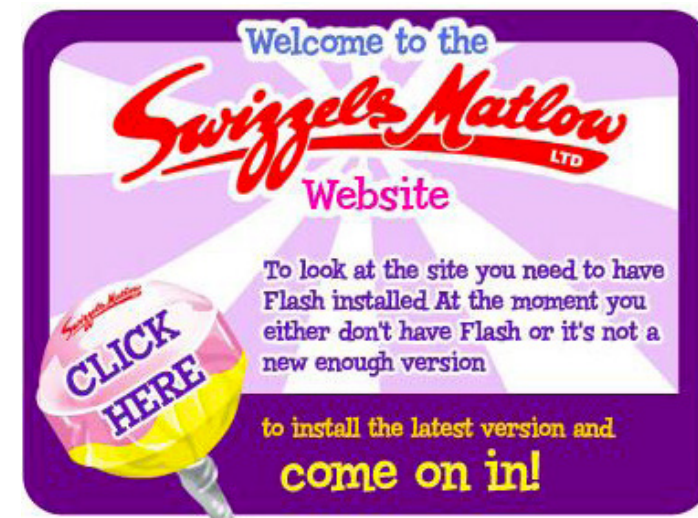
For example, we banned a poster ad for an adult entertainment venue which included a large image of a woman's torso with the lower part of her breasts exposed. We ruled that it was irresponsible for such an overtly sexual image to appear in an untargeted medium, especially as it was in close proximity to a

primary school, increasing the likelihood of continued and repeated exposure to young children.

To support our work reaching out to parents and young people, we've developed a new *Parent's Guide*, which clearly explains the ASA's role, the ad rules surrounding children and how parents can get in touch with us.

We've also been looking into advergames, which are games created by marketers for promotional purposes. We provided updated advice to businesses reminding them to make clear the commercial intent of the game. We also took action against content on an area of a Swizzels Matlow website called 'Swizzels Town' which contained games, photographs and videos. We ruled that the content was irresponsible because it encouraged poor nutritional habits in children.

It's clear that children are embracing new technology; research by Ofcom reveals that since 2011 there has been a 50% increase in 12 to 15 year-olds owning smartphone devices. Almost two-thirds (62%) of this age group now has one – up from 41% the previous year – and significantly higher than the UK average for adults of 50%. It's vital that we keep step with what they're seeing, so we are conducting research into the types of ads young people see when using social media. The results, due in 2013, will enable us to check that the rules are working effectively in this important space. ●



The content of the Swizzels Matlow Ltd website called 'Swizzels Town' was ruled irresponsible because it encouraged poor nutritional habits in children.



[www.parentport.org.uk](http://www.parentport.org.uk)

# Our big 5

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“Our work helps consumers make proper, informed choices about what products and services are available to them.”  
**Rt Hon Lord Smith of Finsbury**

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**While can consumers can trust the vast majority of ads, they are rightly quick to let us know when there is a problem.**

**Here we put the spotlight on five areas of misleading advertising which we have either tackled or are firmly on our radar...**

## **Free trials that cost**

We banned several ads last year where customers were unwittingly tied into an on-going paid relationship with an advertiser after signing up for a free offer.

For example, when customers signed up for a free trial supply of a teeth whitening product with CYC Marketing Ltd, they didn't realise they'd be charged £69.95 if they didn't return the one-month trial supply within 14 days of the order date. Plus they were unsuspectingly tied into an on-going supply, again charged at £69.95 per month.

While we remain alert to tackling this worrying practice, we're warning consumers to read the small print carefully before handing over any payment details.

## **Daily deals**

We took action against 'daily deals' companies resulting in a wholesale shift in the way these businesses now approach their advertising.

We found widespread problems such as failing to conduct promotions fairly; not making clear significant terms and conditions; failing to provide evidence that offers were available; and making exaggerated savings claims.

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We've worked closely with businesses to stop problem practices. For example, we've helped them put new internal processes in place to ensure deals are promoted properly and fairly. This has led to a welcome fall in complaints and a real improvement in the way daily deals are promoted. But this must continue, so we're keeping a close eye on the sector to make sure consumers get a fair deal.

### Misleading pricing

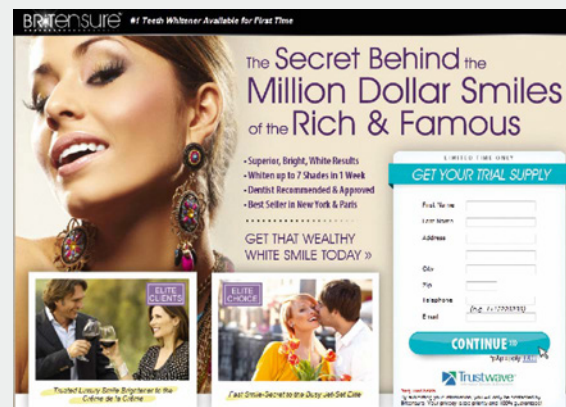
We've all experienced it – you respond to an advertised price only to find that by the time you make the final purchase there are extra costs involved. Whether it's booking fees, credit card charges or admin costs, they can all add up to an unpleasant surprise.

So-called 'bait-pricing', 'drip-pricing' or 'partition pricing' are unclear pricing structures that are of real concern to consumers, honest businesses and us. That's why it's one of our top priorities. Our action has already led to more transparent pricing in the hotels sector to get them to include VAT in their advertised room prices and in the telecoms sector to be clearer about the price of packages that include several elements, e.g. broadband, line rental, call costs and TV. More work is underway in 2013 to prevent particular operators from baiting the public unfairly.

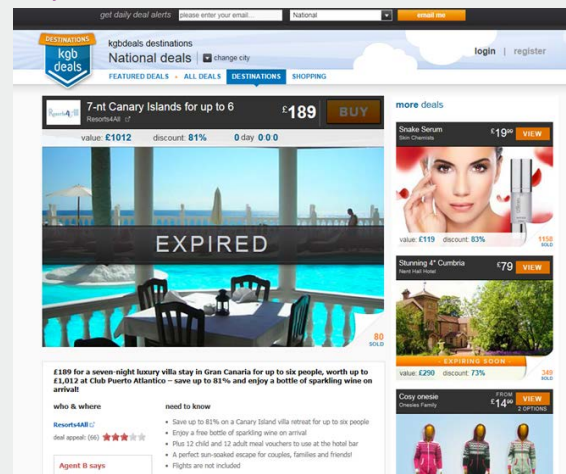
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### Some misleading ads from 2012:

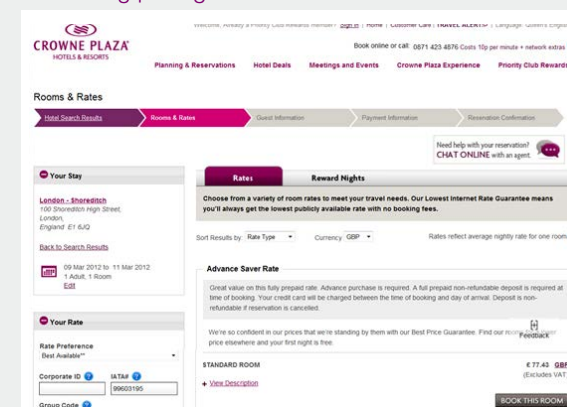
#### Free trials that cost



#### Daily deals



#### Misleading pricing



#### Misleading testimonials



#### Misleading health claims





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### Misleading testimonials

Using testimonials in ads is a legitimate way for advertisers to promote their brand, product or service. But problems like posting fake reviews online can undermine trust. Advertisers have to provide convincing evidence that testimonials are genuine and mustn't edit them in a way that misleads.

Our action has included making companies like lockdown-securityservices.co.uk remove testimonials from their website, because they did not hold documentary evidence to show they were genuine.

We've also been busy working to improve transparency around paid endorsements. For example, our rulings against celebrity tweets have set a clear benchmark that requires advertisers to make it obvious when the tweet is a paid-for commercial message.

### Misleading health claims

Advertisers must hold evidence to back up their claims. Nowhere is this more important than in ads for health products, where shoppers might be particularly vulnerable. False claims can have serious consequences by discouraging people from seeking proper medical advice.

Whether it's devices that claim to identify breast cancer or boost your circulation, we've tackled a whole host of misleading claims for a variety of ailments. For example, one company misleadingly claimed its 'Earthing sheets or mats' could aid sleep, affect the thyroid, metabolism and had anti-aging properties. But the only evidence we saw was that it would lighten your wallet.

Of course, many of these claims are made online. No organisation can cast a safety net across the entire online global marketplace, but that doesn't mean we shouldn't take action where we can. By doing this and raising awareness, we play an important part in protecting consumers from misleading and potentially harmful ads. ●

# ASA Council

 Broadcast Council  
 Non-broadcast Council

01



02



03



04



05



06



**The ASA Council is the jury that decides whether ads have breached the Advertising Codes.**

Independently chaired by Lord Smith of Finsbury, the Council is made up of two panels – broadcast and non-broadcast – with almost all members sitting on both.

Two-thirds of the Council members on each panel are independent of the advertising and media industries and the remaining members have a professional background in the advertising or media sectors. Collectively, they offer a wide range of skills and experiences, representing perspectives across society, including young people, families, charities and consumer groups.

In 2012 we welcomed two new Council members, Alan Bookbinder (06) and Roisin Donnelly (11), which meant that we said goodbye to Gareth Jones and Elizabeth Fagan. We are grateful to them for their thoughtful and insightful contributions over the last six years.

## 01 Rt Hon Lord Smith of Finsbury

ASA Chairman

Chairman, Environment Agency  
 Non-executive Board Member of Phonographic Performance Ltd  
 Honorary Fellow of Pembroke College Cambridge

## 02 Anthony Earle Wilkes

Independent member

Managing Director, Crystal Education and Training Consultants Ltd  
 Fellow & Professional Standards Regulatory Panel  
 Member of the Institute for Learning  
 Chairman, United Kingdom Investor Equality Diversity

## 03 Sir Andrew Motion

Independent member

Professor of Creative Writing, Royal Holloway College, University of London  
 President, The Campaign to Protect Rural England  
 Co-founder and Co-director, The Poetry Archive

## 04 Louisa Bolch

Independent member

Writer/Broadcaster  
 Head of Education and New Media, CTVC/Rank Foundation

## 05 David Harker CBE

Senior Independent member\*

Non-executive Director, Gas and Electricity Markets Authority  
 Member of the Financial Services Consumer Panel  
 Associate, Civil Exchange

## 06 Alan Bookbinder

Independent member

Director, Sainsbury Family Charitable Trusts

Continued over page →

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 Broadcast Council  
 Non-broadcast Council

07



### 07 Ruth Sawtell

Independent member

Non-executive Director, PhonepayPlus  
Lay-member, Nursing and Midwifery Council

08



### 08 Rachel Childs

Independent member

Former Junior School Headteacher for  
Hampshire County Council  
Child Protection Trainer for Hampshire County Council  
Approved Subject Expert for Ofqual  
in Primary English Assessment

09



### 09 Sir Martin Narey

Independent member

Director, Martin Narey Ltd  
Consultant and Writer  
Non-executive Director, Fabrick Housing Association  
Adviser on penal issues to G4S plc

10



### 10 John Mayhead CBE

Advertising industry background member

Non-executive member, Aviation Directorate at  
Department for Transport  
Former Marketing Director and Chairman  
of The Marketing Society

11



### 11 Roisin Donnelly

Advertising industry background member

Corporate Marketing Director, Procter & Gamble  
(UK & Ireland)  
Fellow and Past President of The Marketing Society  
Chairman, Cosmetic Executive Women

12



### 12 Hamish Pringle FIPA

Advertising industry background member

Strategic Advisor, 23red  
Partner, Pringle and Pringle LLP

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 Broadcast Council  
 Non-broadcast Council

13



14



### 13 Sally Cartwright OBE

Non-broadcast industry background member

Chairman, Audit Bureau of Circulation

### 14 Ray Gallagher

Broadcast industry background member

Communications & Public Affairs Consultant

Specialist Adviser, House of Commons Culture, Media and Sport Select Committee

Council members are appointed for a maximum of two three-year terms and receive an honorarium of up to £17,500 p.a. A Register of Members' Interests may be requested from the Company Secretary.

\*The Senior Independent member sits in place of the Chairman, where the Chairman is unable to attend the meeting or has a declared interest in the case being discussed.

Visit our website to find out more about the ASA Council  
and read their full biographies: [www.asa.org.uk](http://www.asa.org.uk)



# Committees of Advertising Practice

**CAP and BCAP are responsible for writing and updating the UK Advertising Codes. Chaired by James Best, the Committees are 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 and broadcast advertising.**

During 2012, the Committees consulted on and made amendments to the Advertising Codes on a diverse range of topics including energy labelling, food claims, the use of under 25 year-olds on betting websites and distance selling.

They also changed the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing to cover Online Behavioural Advertising, a move that extends the ASA's remit from February 2013.

## Committee of Advertising Practice

CAP writes the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing.

### CAP Members

Advertising Association  
Atvod Industry Forum  
Cinema Advertising Association  
Direct Marketing Association  
Direct Selling Association  
Incorporated Society of British Advertisers  
Institute of Practitioners in Advertising  
Institute of Promotional Marketing  
Internet Advertising Bureau  
Mobile Broadband Group  
Mobile Marketing Association  
Newspaper Publishers Association  
Newspaper Society  
Outdoor Media Centre  
Professional Publishers Association  
Proprietary Association of Great Britain  
Royal Mail  
Scottish Newspaper Society

Clearcast  
Radio Advertising Clearance Centre

## Broadcast Committee of Advertising Practice

BCAP writes the UK Code for Broadcast Advertising.

### BCAP Members

Advertising Association  
British Sky Broadcasting Ltd  
Channel 4 Television Corporation  
Channel 5 Broadcasting Ltd  
Commercial Broadcasters Association (CoBA)  
Direct Marketing Association  
Electronic Retailing Association UK  
Incorporated Society of British Advertisers  
Institute of Practitioners in Advertising  
ITV plc  
RadioCentre

Clearcast  
Radio Advertising Clearance Centre  
S4C

N.B. Clearcast, Radio Advertising Clearance Centre and S4C have observer status on the CAP and BCAP Committees.



# Industry panels

**The advertising industry is central to the success of the self-regulatory system and in addition to the bodies who make up CAP and BCAP, the system receives invaluable support through three industry panels – the General Media Panel (GMP), the Sales Promotion and Direct Response Panel, and the Online Publications Media Panel.**

The Panels bring together advertisers, creatives, media planners and publishers who volunteer their time to give advice on marketing communications and also provide a forum for information exchange between the industry and the ASA and CAP Executive.

## General Media Panel

Over 2012 the GMP acted as a sounding board for decisions about online advertising. Most notably, it was consulted on whether complaints about the Nike tweets by Wayne Rooney and Jack Wilshere, and Keith Chegwin's tweets for Publishers Clearing House were within the ASA's remit.

The Panel also provided a view on policy decisions such as the consultation on the rule relating to sports betting and under 25 year-olds; an examination of the Code rule on advertorials, and guidance on the use of subjective and objective claims in ads.

Chris MacDonald (Chair)  
Dominic Allon  
Tess Alps  
Sara Bennison  
Louisa Bolch (ASA Council)  
Shahriar Coupal (Secretary)  
Tim Evans  
Peter Gatward  
Steve Goodman  
Andrew Melsom  
Mike Moran  
Sue Oake  
Steve O'Meara  
Mike Parker  
Simon Rhodes  
Claire Serle (Assistant Secretary)  
Charlie Snow  
Karen Stacey  
Brendan Tansey  
Andrew Walmsley  
Gillian Wilmot

## Sales Promotion and Direct Response Panel

The Panel advised the ASA Executive on issues ranging from the interpretation of the rules governing an on-pack prize promotion, and sales promotions for dynamically priced products such as airline tickets, where the base price for tickets is progressively more expensive as more seats are sold on each flight, even when a discount is applied.

Philip Circus (Chair)  
Peter Batchelor  
Sally Cartwright (ASA Council)  
Mark Challinor  
Shahriar Coupal (Secretary)  
Daphne DeSouza  
Mark Dugdale  
Michael Halstead  
Caroline Roberts  
Bruno Sheldon (Assistant Secretary)  
Paul Whiteing

## Online Publications Media Panel

When needed, the Panel advises on the distinction between editorial and advertising in online publications.

Lord Black of Brentwood, Chairman, Pressbof  
Sir Chris Powell, Chairman, Asbof

# Senior Management team

01



02



04



The Chief Executive and Senior Management team run the day-to-day affairs of the ASA, reporting to the ASA Chairman and Council and, on certain matters, the CAP Chairman and Committees of Advertising Practice.

**01 Guy Parker**

Chief Executive

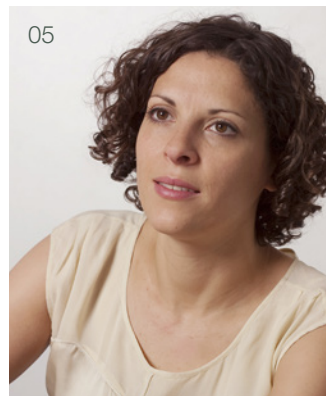
**02 Shahriar Coupal**

Director of Advertising Policy and Practice and CAP Secretary

03



05

**03 Trevor Ellis**

Director of Corporate Services

**04 Miles Lockwood**

Director of Complaints and Investigations

**05 Lynsay Taffe**

Director of Communications, Marketing and Public Affairs



# Complaints and cases

**31,298** complaints about  
**18,990** ads

Listening and responding to complaints and concerns about advertising is a vital part of our work. As is making sure that our action is targeted where it is needed. That’s why every single complaint we receive is carefully assessed.

- In 2012, we received **31,298** complaints about **18,990** ads, slightly fewer than in 2011.
- Our action led to **3,700** ad campaigns being changed or withdrawn\*
- Complaints from the public represented **96%** of the complaints received.

In 2012, we introduced a new process for handling big complaint groups, which allows us to place notices on our website informing potential complainants when we have received what we consider to be a sufficiently high number of complaints (typically around 100) about an ad that we’re investigating. This allows us to deal with such cases more efficiently.

\*Owing to an error, our 2011 figure for the total number of ads changed or withdrawn was incorrectly stated. The correct figure is 3,829 not 4,591.

## Complaints and cases received

Some ads receive multiple complaints, so we report on both the total number of complaints received and the number of ads (cases) to which these complaints relate.

	Complaints	Cases
2010	25,214	13,074
2011	31,458	22,397
2012	31,298	18,990

## Action we can take

Anyone can contact us if they think they have seen an ad that breaches the advertising rules. We can act on just one complaint. And with any complaint we receive, our focus is on providing a fair and thorough process for all involved.

## No additional investigation

We may decide there is no problem under the Advertising Codes and take no further action. We only do this after carefully assessing the ad and the complaint. In some cases this includes making further enquiries and asking the ASA Council if they would like us to investigate. In other instances we are unable to investigate because the complaint or the advertising material falls outside our remit.

## Informal resolution

We prefer to work by persuasion and consensus and, where appropriate, we will resolve issues informally. For example, where a minor or clear cut breach of the Advertising Codes has been made and the advertiser agrees to change or withdraw their ad straight away. Informally resolved cases are not put before the ASA Council and no ruling (adjudication) is published, so it means we can resolve problems far more quickly than by formal investigation.

Continued on the next page →

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Formal investigation

If the ad raises concerns under the Advertising Codes, we can conduct a thorough investigation in which all sides are given the opportunity to comment. Advertisers will be asked to provide their rationale or relevant evidence to support their advertising approach and the claims they have made. Final rulings are made by the ASA Council and are published on our website in full each week.

See the next page for details on our turnaround performance →

Complaints and cases resolved by outcome

	Non-broadcast Complaints	Non-broadcast Cases	Broadcast Complaints	Broadcast Cases	Overall total Complaints	Overall total Cases
Outside remit	1,077	1,033	433	352	1,498	1,371
No additional investigation	9,758	8,600	6,483	4,812	15,911	13,147
No additional investigation (after Council decision)	965	181	4,114	189	5,026	341
<b>Total no additional investigation</b>	<b>11,800</b>	<b>9,814</b>	<b>11,030</b>	<b>5,353</b>	<b>22,435</b>	<b>14,859</b>
Informal investigation	3,260	2,960	285	175	3,507	3,084
Formal investigation	2,306	925	1,466	199	3,682	1,089
Of which:						
Upheld	1,334	614	1,079	105	2,350	707
Not upheld	437	163	303	84	718	226
Withdrawn	535	148	84	10	614	156
<b>Total investigated</b>	<b>5,566</b>	<b>3,885</b>	<b>1,751</b>	<b>374</b>	<b>7,189</b>	<b>4,173</b>
<b>Totals</b>	<b>17,366</b>	<b>13,699</b>	<b>12,781</b>	<b>5,727</b>	<b>29,624</b>	<b>19,032</b>

N.B. Both non-broadcast and broadcast figures include multimedia figures which appear only once in the 'overall totals' column.

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Turnaround performance  
% on target for different case types (target = 80%)

	Non-broadcast 2011 (%)	Non-broadcast 2012 (%)	Broadcast 2011 (%)	Broadcast 2012 (%)
No investigation in 5 days (until 31 Mar) <sup>1</sup>	87	–	91	–
No investigation after preliminary work in 10 days (until 31 Mar) <sup>1</sup>	79	–	88	–
No additional investigation in 10 days (from 1 Apr) <sup>1</sup>	–	81	–	92
No additional investigation after Council decision in 25 days	86	90	94	95
Informal investigation in 35 days	93	93	96	93
Standard investigation in 85 days	93	88	93	88
Complex investigation in 140 days	84	72	77	66

<sup>1</sup> From 1 April 2012, the categories No investigation (5 days) and No investigation after preliminary work (10 days) were replaced by the single category No additional investigation (10 days).

See the next page for details on our complaints and cases resolved by issue →



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Complaints and cases resolved by issue  
(2011 in brackets)

	Non-broadcast Complaints	Non-broadcast Cases	Broadcast Complaints	Broadcast Cases
Misleading	12,742 (14,833)	10,996 (13,052)	4,783 (4,677)	3,111 (3,321)
Offensive	2,933 (2,249)	1,075 (1,215)	7,304 (5,587)	1,985 (1,901)
Harm	874 (984)	617 (723)	1,961 (2,154)	769 (785)

See the next page for details on our complaints and cases resolved by media →

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Television remains the most complained about medium, closely followed by the internet, though internet related complaints have dropped slightly. However, there are a higher number of marketing communications complained about on the internet (8,368 cases on the internet against 5,234 cases on television).

Complaints about in-game advertising have increased by 200% albeit from a low base. Most were about games for breakfast cereals and sweets where complainants challenged whether they encouraged excessive consumption and poor nutritional habits in children.

Although there was a 50% increase in the number of complaints about outdoor media, there was also a slight drop in the number of cases. This was due to some outdoor ads receiving multiple complaints.

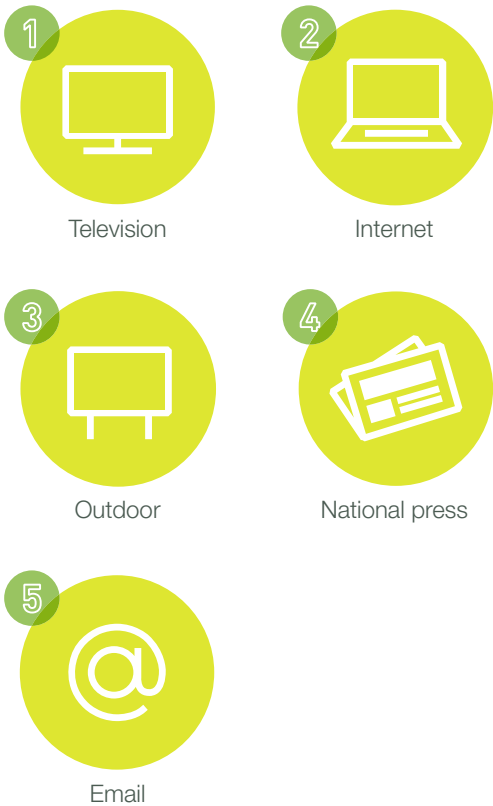
### Complaints and cases resolved by media

Media	Complaints 2011	Complaints 2012	% change	Cases 2011	Cases 2012	% change
Television	11,245	11,945	6	5,556	5,234	-6
Internet	10,123	9,754	-4	9,295	8,368	-10
Outdoor	1,088	1,627	50	614	585	-5
National press	1,223	1,318	8	1,019	801	-21
Email	1,096	1,139	4	1,034	1,048	1
Radio	709	969	37	522	546	5
Regional press	973	741	-24	765	578	-24
Magazine	897	673	-25	636	518	-19
Direct mail	740	665	-10	649	595	-8
Point of sale	602	526	-13	546	461	-16
Text message	455	412	-10	450	396	-12
Brochure	315	393	25	299	353	18
Leaflet	466	374	-20	427	307	-28
Transport	254	301	19	147	137	-7
Other	308	188	-39	277	168	-39
Circular	324	185	-43	257	163	-37

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Top 5 complained about media:



Complaints and cases resolved by media

Media	Complaints 2011	Complaints 2012	% change	Cases 2011	Cases 2012	% change
Press (general)	236	164	-31	199	135	-32
Insert	99	133	34	82	88	7
VOD	119	128	8	69	84	22
Catalogue	191	124	-35	168	115	-32
Packaging	113	112	-1	108	106	-2
Cinema	131	86	-34	72	72	0
Ambient	24	57	138	23	47	104
Directory	68	50	-27	67	50	-25
Mailing	49	49	0	46	44	-4
In-game advertising	8	24	200	7	21	200
Mobile	11	15	36	11	15	36
Voicemail	1	2	100	1	2	100
Fax	1	2	100	1	2	100

See the next page for details on our complaints and cases resolved by sector →



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Leisure, which comprises all entertainment services such as movies, DVDs, computer games and gambling, remains the most complained about sector in 2012. Complaints in this sector were up 11%. Complaints in the food and drink sector increased by 44%, driven by four advertising campaigns that attracted a high number of complaints (see the top ten most complained about ads). Complaints in the health and beauty sector dropped by 36%, following our work with advertisers to improve compliance. However significant challenges remain within this sector.

### Complaints and cases resolved by sector


Sector	Complaints 2011	Complaints 2012	% change	Cases 2011	Cases 2012	% change
Leisure	4,941	5,476	11	3,906	3,694	-5
Financial	2,279	4,239	86	1,787	1,693	-5
Retail	4,641	3,607	-22	2,902	2,807	-3
Food and drink	1,753	2,526	44	1,060	1,056	-0.4
Health and beauty	3,880	2,489	-36	2,665	1,755	-34
Non-commercial	1,281	2,058	61	868	887	2
Business	2,028	1,985	-2	1,875	1,765	-6
Holidays and travel	2,106	1,701	-19	1,555	1,276	-18
Computers and telecommunications	2,658	1,686	-37	1,573	1,313	-17
Household	960	819	-15	825	649	-21
Publishing	675	659	-2	587	544	-7
Motoring	837	561	-33	593	274	-54
Alcohol	336	448	33	179	240	34
Property	404	329	-19	392	316	-19
Utilities	278	251	-10	226	199	-12
Agricultural	61	236	287	57	29	-49

Table is continued on the next page →

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Top 5 complained about sectors:

1




Leisure

2




Financial

3




Retail

4



Food and drink

5



Health and beauty

Complaints and cases resolved by sector

Sector	Complaints 2011	Complaints 2012	% change	Cases 2011	Cases 2012	% change
Education	270	181	-33	257	175	-32
Clothing	166	121	-27	137	109	-20
Employment	257	120	-53	227	112	-51
Industrial and engineering	68	67	-1	64	54	-16
Unknown	78	48	-38	76	73	-4
Tobacco	4	16	300	3	11	267
Electrical appliances	4	1	-75	4	1	-75



# Top ten most complained about ads of 2012

The number of complaints we receive is not the deciding factor on whether or not we investigate or uphold complaints. Just one complaint about an ad can lead to it being withdrawn if it is found to be in breach of the Advertising Codes. However, some ads clearly provoke a strong reaction and can generate high numbers of objections, even if they do not necessarily break the rules.

Please note that these ads would have been subject to our new process for handling 'big complaint groups', which allows us to place notices on our website informing potential complainants when we have received what we consider to be a sufficiently high number of complaints (typically around 100). See page 31 for more details.

## 01 Gocompare.com Ltd 1008 complaints – Not upheld

This TV ad, one of a series for the price comparison website, featured the former footballer Stuart Pearce kicking a football into the stomach of an opera singer. We ruled that the ad was not offensive, irresponsible or harmful, because the ad was not explicit or gruesome, and would be seen as light-hearted and comical.

## 02 Gocompare.com Ltd 797 complaints – Not upheld

Another TV ad for the price comparison website, this time featuring Sue Barker taking aim and shooting the main character with a rocket launcher. We ruled the ads was not offensive or harmful because it showed over-the-top and fantastical behaviour and would be seen as light-hearted and comical. We also noted that the main character was shown unharmed at the end of the ad.

## 03 ASDA Stores Ltd 620 complaints – Not upheld

This TV ad, which featured a mother carrying out various tasks in preparation for Christmas, prompted complaints it was sexist. We did not uphold the complaints. We also rejected complaints that the ad was offensive to single fathers or men who played a primary domestic role. We thought the ad reflected ASDA's view of the Christmas experience for a significant number of their customers.

## 04 Channel Four Television Corporation 373 complaints – Upheld in part

A series of ads for the TV programme *My Big Fat Gypsy Wedding*, appearing on posters and in national and regional press and magazines, prompted complaints that they were offensive, racist and unfairly denigrated and degraded Gypsy and Traveller communities. After a request from the Independent Reviewer of ASA Adjudications to re-open our investigation, we agreed that some of the images together with the accompanying text were offensive and irresponsible.

[Continued on the next page →](#)





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### 05 Kerry Foods Ltd

#### 371 complaints – Upheld in part

We did not uphold complaints that the nudity in a TV ad for Richmond Ham was offensive. However, we agreed with complainants that referring to the product as “Britain’s only ham...” would be interpreted as meaning the product was British in origin, when that was not the case.

### 06 Paddy Power plc

#### 311 complaints – Out of remit

We received complaints that an online ad on Paddy Power’s YouTube channel was offensive to members of the transgender community. The channel was registered in Ireland, and so it fell outside of our remit. We did however uphold a small number of complaints about the same ad which appeared on TV.

### =08 Kellogg’s Marketing and Sales Company

#### 234 complaints – Not upheld

We did not uphold complaints that a TV ad for breakfast cereal showing a man being attacked by a snake was unduly distressing. We acknowledged that some viewers might find the theme of the ad distasteful, but that most would view it as comical rather than graphic.

### =08 Wm Morrison Supermarkets plc

#### 234 complaints – Not upheld

This TV ad prompted a number of complaints that it was irresponsible and harmful because it implied that it was acceptable to feed Christmas pudding to dogs. We didn’t think the ad implied it was acceptable to copy this behaviour, as the dog did not eat the pudding. Also dog owners would be aware of the toxicity of grapes, raisins and other foods to their pets.

### 09 Kayak Software Corporation

#### 189 complaints – Upheld in part

We ruled that this TV ad showing a man receiving brain surgery would be likely to cause distress without justifiable reason especially to viewers who had been affected by the type of operation depicted in the ad. We did not uphold complaints that the ad was offensive in general.

### 10 St John Ambulance

#### 144 complaints – Not upheld

We did not uphold the complaints about this TV ad, which showed a man and his family coping with his diagnosis, treatment and eventual recovery from cancer, only for him to die by choking to death on a piece of food. Although distressing in its portrayal, we felt the overall message of the ad (that the relatively simple techniques of first aid could avoid sudden tragedy), was justifiable. ●

# Independent Reviewer's report



## Sir Hayden Phillips GCB DL Independent Reviewer of ASA Adjudications

**The review process provides an opportunity for consumers and advertisers to question whether the decisions of the ASA Council are fair and reasonable. It therefore plays a part in the accountability of the Council for its responsibilities for consumer protection, ensuring compliant advertising and maintaining fair competition. For this report I have therefore selected three cases from my workload in 2012 which, I believe, illustrate this contribution in different ways. Each of them received fairly wide media coverage at the time.**

The first concerned website advertising for an organisation advocating the possibility of healing through prayer and the case turned on whether the advertising content was promoting a cause or idea, or was, in effect, selling a service. If it was the latter it was within the ASA's new online remit; if the former, it was not. I took the view it was the former and the Council agreed with me, in doing so they reversed their original decision. The review in this case helped clarify the way the online remit should be interpreted.

The second concerned the first case to come to the Council on advertising through Twitter. The issue here was whether tweets by two sporting celebrities were misleading because they did not make it clear that they were not personal tweets but were marketing communications on behalf of the sportsmen's commercial sponsor. I agreed with the Council's view

that the tweets did not make this sufficiently clear and turned down the advertiser's request that the decision should be reversed. The ruling in this case gave, for the first time in the UK, clear guidance on the way such ads should be presented.

The third was a request for review from complainants about a decision by the Council not to authorise a formal investigation of their concerns about posters advertising the TV programme *My Big Fat Gypsy Wedding*. The Irish Traveller Movement of Britain said that the very large posters, which said "Bigger, Fatter Gypsier", were likely to cause serious or widespread offence to the Gypsy and Traveller communities. I agreed and recommended to the Council that it should change its mind and order a formal investigation. It decided to do so and eventually upheld four of the five complaints, helping buttress the ASA's reputation for fair and reasonable judgements.

The comparative statistics of review cases in 2012 compared to 2011 largely speak for themselves. I received 66 requests, six more than in 2011 which was the previous record year. The average turn-round time for cases which were not referred back to the Council was 28 calendar days compared to 36 in 2011, and 28 in 2010. ●

**See the next page for the review cases from 2011 – 2012 →**

**Review cases 2011 - 2012**

Non-broadcast	2011	2012
<b>Total cases received of which:</b>	<b>47</b>	<b>57</b>
Ineligible/withdrawn	6	13
In progress	0	1
Not referred to Council	30	29
Referred to Council	11	14
<b>of which:</b>		
Unchanged	0	0
Decision reversed	6	2
Wording changed	4	10
Re-opened investigation	1	2
In progress	0	0

Broadcast	2011	2012
<b>Total cases recieved of which:</b>	<b>13</b>	<b>9</b>
Ineligible/withdrawn	3	2
In progress	0	0
Not referred to Council	9	4
Referred to Council	1	3
<b>of which:</b>		
Unchanged	0	0
Decision reversed	0	0
Wording changed	1	3
Re-opened investigation	0	0
In progress	0	0



# Advertising Advisory Committee report



**Stephen Locke**  
AAC Chairman

**The Advertising Advisory Committee (AAC) provides the Broadcast Committee of Advertising Practice (BCAP) with independent advice on the key consumer and public interest issues arising in relation to the advertising rules for TV and radio. Our members have a wide range of experience – health policy, commercial radio, charity management, TV production, social research, telecoms regulation and financial services. Our meetings are also attended by the CAP Chairman and an Ofcom observer.**

This was my first year as Chair of the AAC. We met four times and provided advice via email in the intervening periods. Our advice to BCAP can range from detailed drafting suggestions to recommending that an entire proposal is re-considered. After each AAC meeting, BCAP gives its response to the Committee on its consideration of our advice.

We are always concerned to understand clearly the consumer and public interest issues arising from our agenda, and to probe the evidence base for any proposed changes to current policy or practice. We therefore particularly welcomed the publication of the CAP/BCAP document on *Evidence Based Policy Making*, which sets out the principles and standards that need to be considered when potential amendments to the Codes are proposed. We were pleased to have an opportunity to input to this document during its preparation.

Following the creation in 2010 of a single UK Code for Broadcast Advertising, covering TV and radio, this continues to be a period of consolidation rather than radical change. But social concerns, technology and markets change all the time and major issues continue to arise.

One important theme in 2012 was the protection of children, both in general terms, for example, defining the age of a child and in relation to specifics such as the depiction of under 25 year-olds in betting advertisements. Child-related issues have also been an important element in the continuing debate over alcohol advertising and the calls for amendments to the Code, arising from the Government's Alcohol Strategy review published in March 2012.

Meanwhile more general questions of public protection have arisen on subjects such as cosmetic surgery advertising following the review of cosmetic surgery in general commissioned by the Department of Health. Getting the balance right requires careful scrutiny to ensure that rules are both proportionate and effective in protecting the public. Much the same approach has been applied to our consideration of the range of detailed technical issues that come before us, for example, in relation to pricing rules.

I am very grateful to my six colleagues – John Bradford, Colin Cameron, Alison Goodman, Michaela Jordan, Angela McNab and Claire Whyley, and would also like to extend thanks to Shahriar Coupal and all of the CAP Executive for their excellent support. ●



# Financial report

**We are funded by advertisers through an arm's length arrangement that guarantees the ASA's independence. Collected by the Advertising Standards Board of Finance (Asbof) and the Broadcast Advertising Standards Board of Finance (Basbof), the 0.1% levy on display advertising expenditure, airtime and paid-for search charges, and the 0.2% levy of the Royal Mail's Mailsort and Advertising Mail contracts ensures the ASA is adequately funded without revealing to us which companies are contributing. We also receive a small income from charging for some seminars and premium industry advice services.**

## Year to 31 December 2012

Audited income and expenditure figures for the combined non-broadcast and broadcast activity in 2012 (see table on next page) are the total of the amounts recorded in the Report and Financial Statements of the two companies. These were adopted by the Non-broadcast and Broadcast Councils at their respective Annual General Meetings held on 12 April 2013.

## Income

Compared with 2011, total income received from Asbof and Basbof increased by £104,000 (1.4%) to £7,768,500. Interest received decreased by £3,366 (-37%) due to reduced interest returns from invested funds. Additional income decreased by £19,539 or (-19%) as a result of a reduction in the number of revenue generating seminars delivered.

## Expenditure

The budget initially proposed was £7,870,136 net of interest receivable. At the year-end, audited expenditure on a profit and loss basis was £7,787,123, an under spend of £83,013 (1.1%) against the budget.

## Profit/Loss

The combined profit before tax of both non-broadcast and broadcast activity was £73,132 (£66,281 gain in 2011). After tax the combined profit was £63,040 (Profit £41,632 in 2011).

The Report and Financial Statements for ASA and ASA(B) reflect a split of costs, determined by Asbof and Basbof, to reflect the workload between non-broadcast and broadcast activities, of 61% and 39% respectively, and applying them to the non-specific costs – overheads, general office costs and the like. Specifically identifiable costs were allocated in full to the relevant function.

[See the next page for details of our year's finances →](#)

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## Non-broadcast and broadcast combined for the year ended 31 December 2012

	2011 £	2012 £
<b>Income</b>		
Cash received from the Advertising Standards Board of Finance Ltd	5,079,500	<b>4,893,500</b>
Cash received from the Broadcast Advertising Standards Board of Finance Ltd	2,585,000	<b>2,875,000</b>
Total	7,664,500	<b>7,768,500</b>
<b>Expenditure</b>		
Salaries and direct staff costs	4,877,518	<b>5,039,141</b>
Other staff costs	222,998	<b>208,696</b>
Rent and accommodation costs	1,093,642	<b>1,119,231</b>
Travel, subsistence and entertaining	30,666	<b>25,212</b>
Consultancy and professional feeds	444,253	<b>402,973</b>
CRM project costs	34,287	<b>34,125</b>
Depreciation	185,901	<b>183,993</b>
Telephone, postage, printing, stationery and other general expenses	403,633	<b>414,192</b>
Advertising and promotion	418,981	<b>359,560</b>
Total	7,711,879	<b>7,787,123</b>

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### Non-broadcast and broadcast combined for the year ended 31 December 2012 (continued)

	2011 £	2012 £
<b>Operating Profit/(Loss)</b>	<b>(47,379)</b>	<b>(18,623)</b>
Interest receivable	9,136	<b>5,770</b>
Pension finance	(1,000)	–
Other income (i.e. seminars)	105,524	<b>85,985</b>
Profit/(Loss) on ordinary activities before tax	<b>66,281</b>	<b>73,132</b>



# Standards of service

## Accessibility

Being accessible to members of the public and the ad industry.

Our commitment	Measurement	Performance Jan-Dec 2012 (Jan-Dec 2011)
Publishing our contact details on all our literature	Twice yearly Customer Satisfaction survey: 'Is accessible to the public'	82% (82%)
Ensuring our switchboard is open during normal office hours (9.00 am – 5.30 pm)	Customer Satisfaction survey	As above
Ensuring our website is available at all times	Customer Satisfaction survey	As above
Accepting complaints online, by email, SMS, letter, fax or telephone	Customer Satisfaction survey	As above
Ensuring members of the public know of us and our role, and recognise our name and logo	Spontaneous name awareness and logo recognition measured by a biennial Attitude and Awareness survey	Name: 16% in 2011 (19% in 2009) Logo: 17% in 2011 (19% in 2009)

## Responsiveness

Resolving complaints promptly. Complaints that require investigation can take longer than average.

Our commitment	Measurement	Performance Jan-Dec 2012 (Jan-Dec 2011)
Acknowledging complaints within five working days Replying to all other correspondence within ten working days Keeping complainants advised of progress	Twice yearly Customer Satisfaction survey: 'Time taken to acknowledge complaint' and 'Keeping you informed throughout the complaint process'	Time taken: 81% (79%) Keeping informed: 68% (62%)

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Turning around complaints, on average, within 12 working days, with at least 80% being within a target. Where a formal investigation is required, resolving them within 60 working days, recognising that complaints by commercial competitors can be protracted	Achieve 80% of target or better in quarterly turnaround statistics published on our website	Overall turnaround: 14 days (13 days) Within target: 73% (72%) Investigation average: 41 days (36 days) Within target: 79% (82%)
For complaints outside of our remit, we will advise our complainants within ten working days and suggest other organisations that may be able to help	Customer Satisfaction survey results for ‘outside remit’ complaints	45% (45%)
Responding to email enquiries within 48 hours during the working week	80% replied to within 48 hours	91% (70%)

Effectiveness

Meeting the needs of our customers, whether members of the public or industry.

Our commitment	Measurement	Performance Jan-Dec 2012 (Jan-Dec 2011)
Achieve the highest possible scores in our Customer Satisfaction surveys, whilst recognising that we operate in circumstances where around 80% of complaints result in a ‘not upheld’ decision	At least 50% overall satisfaction from complainants	57% (54%)
Achieve the highest possible satisfaction scores from the advertisers with whom we deal in resolving complaints	At least 60% overall satisfaction from advertisers	80% (78%)

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Quality

Delivering a high quality and professional service.

Our commitment	Measurement	Performance Jan-Dec 2012 (Jan-Dec 2011)
The Chief Executive will respond within ten working days to correspondence from complainants or advertisers who are concerned that we are not meeting our standards of service when dealing with complaints	80% of sample replied to within ten working days	100% (75%)
We will offer an Independent Review process for advertisers or complainants who can establish that a substantial flaw of process is apparent in an ASA Council ruling (adjudication)	Reports from the Independent Reviewer in the Annual Report and Annual Statement	See page 39 of this report and our Annual Statement 2012.

Transparency

Being open about our procedure and our decision making, and accountable for our performance.

Our commitment	Measurement	Performance Jan-Dec 2012 (Jan-Dec 2011)
We publish our rulings each week on our website	Publication every Wednesday	Met
Our website will provide full information on who we are, how we operate and our consumer research	Customer Satisfaction survey: 'Usefulness of information on website'	74% (73%)
Publishing our performance statistics on our website on a quarterly basis	Publication in April, July, September and January	Met
Publishing an Annual Report in April/May each year reviewing the activities of the previous year	Publication by the end of May	Met
Publishing an Annual Statement in October each year updating our performance reporting (January – June) and setting out our objectives for the coming year	Publication in October	Met



**Advertising Standards Authority**

Mid City Place, 71 High Holborn

London WC1V 6QT

Telephone 020 7492 2222

Textphone 020 7242 8159

Email [enquiries@asa.org.uk](mailto:enquiries@asa.org.uk)

[www.asa.org.uk](http://www.asa.org.uk)

 @ASA\_UK

**Committee of Advertising Practice**

Mid City Place, 71 High Holborn

London WC1V 6QT

Telephone 020 7492 2200

Textphone 020 7242 8159

Email [enquiries@cap.org.uk](mailto:enquiries@cap.org.uk)

[www.cap.org.uk](http://www.cap.org.uk)

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