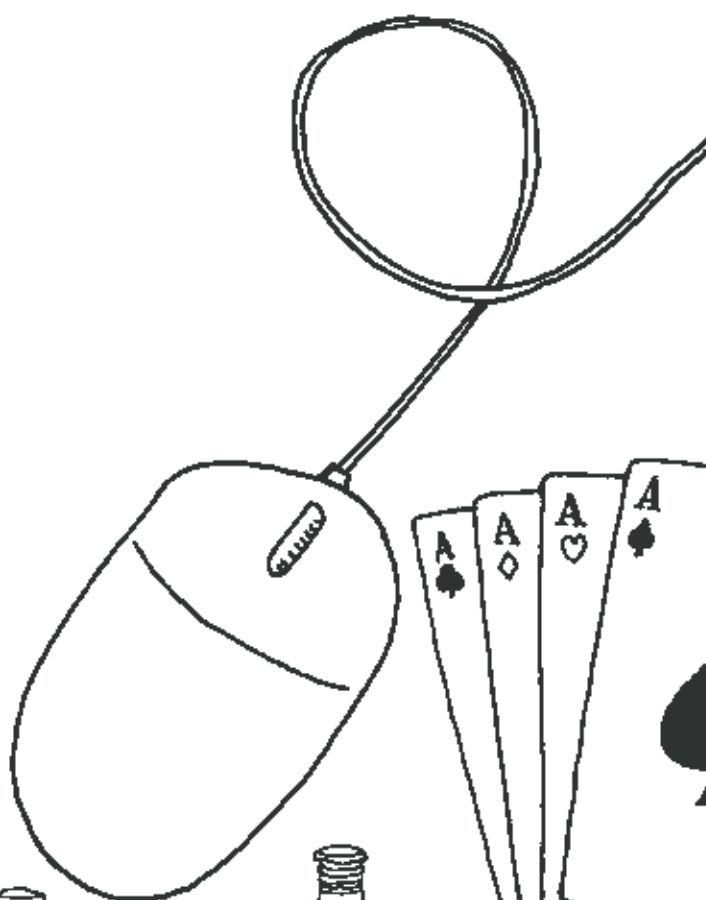
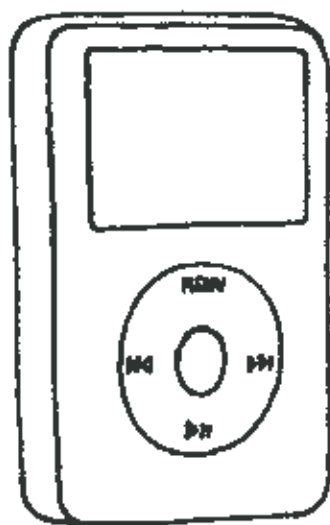
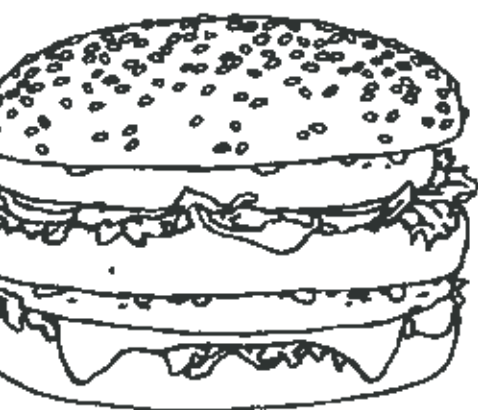


FREE  
FLIGHTS



YOU  
ARE A  
WINNER

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The changing face of advertising	<b>16</b>

2,421

ads changed or withdrawn following  
ASA action

22,429

Total number of complaints

12,842

ads complained about

9 days

Average working days to resolve all  
complaints. 87% were resolved within the  
12 day target. We aim to achieve 80%

56 days

Average time taken on investigations.  
73% were completed within the 60 day  
target. We aim to achieve 80%

1,080,496

visitors to ASA website

62%

overall customer satisfaction for non-  
broadcast complaints

60%

overall customer satisfaction for  
broadcast complaints

95%

satisfaction rating for Copy  
Advice enquirers

The ASA works to keep advertising standards high. Here, we report on our activity in 2006 – tackling the challenges posed by food, alcohol and gambling advertising, whilst resolving complaints about more ads than ever before.

You can read about the most complained about ads of the year and our work behind the scenes, upholding and enforcing the advertising codes. A special feature narrates how the ASA has developed alongside the industry it regulates, and explores the changing face of advertising past and present.

# Chairman's introduction



When I arrived at the Advertising Standards Authority (ASA) over six years ago, the most common area of complaint was the media we didn't regulate – television advertising. Now, as I look ahead to the final months of my tenure as Chairman of the ASA, I am pleased to report that the organisation so many people thought existed then certainly does now!

The future of the ASA's one-stop shop for all advertising complaints has been publicly confirmed by Ofcom's Chief Executive Ed Richards. As we marked the end of the probationary period, a brief tally of our first two years of business revealed a total of 48,665 complaints about 24,807 advertisements. Independent research amongst complainants, detailed on page 32 of this Report, shows high levels of satisfaction with the ASA's levels of service, speed of action and communication.

I am confident that my successor Lord Smith of Finsbury, will be taking over an organisation that is in good heart. It is an organisation that provides effective recourse for consumer complainants; has increasing public recognition and works alongside an industry that accepts and abides by the legitimate restraints of the advertising codes.

## Changing concerns

Yet our effectiveness should not be measured merely by the number of complaints that we receive, or our speed of response. We need to be ready to address the differing concerns of consumers and the changing face of the industry we regulate. As the inner section of this Report shows, from regulating just seven different types of advertising at our inception 45 years ago, we are now responsible for over 30 different advertising media. As you will read elsewhere in this Report, public policy concerns have led to new restrictions on advertising for alcohol, food and gambling.

In March 2006, I was honoured to be invited to address the annual conference of the Incorporated Society of British Advertisers, ISBA. It is not an invitation the ASA Chairman accepts lightly, for as a self-regulatory body we must not forget that the co-operation from the industry we regulate is not required by statute, but voluntarily given. Of course, advertisers recognise the benefits self-regulation brings to their customers and themselves. Self-regulation offers a free, fast and practical approach to redressing consumer complaints. It secures advertisers' freedom to advertise responsibly and maintains the integrity of their marketing.

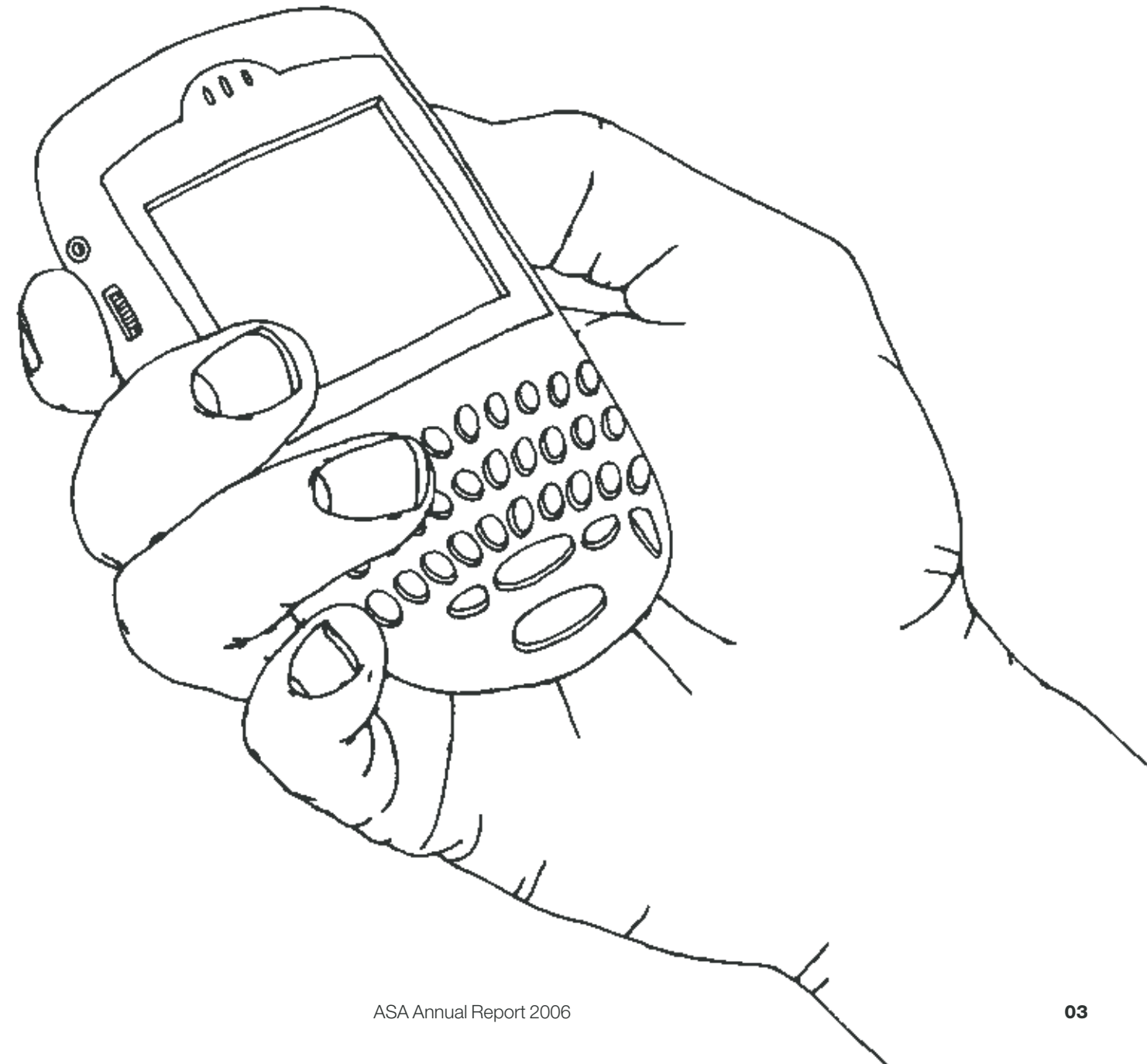
## Need for clarity

At ISBA's conference, I reminded the industry of the need to protect this freedom as the face of advertising changes year by year. As is reported on page 12, the Internet is now the second most complained about advertising format – a rise unmatched in any other media. Yet the boundaries of regulatory responsibility online are still unclear. Consumers expect the same levels of honesty and truthfulness online as they do in more traditional advertising media. The ASA does not seek to control the Internet, but nevertheless, I welcome the initiative begun by Baroness Buscombe at the Advertising Association to provide certainty in this area, where the need for social responsibility in advertising is paramount.

In 2006, we marked the departure of two long standing and distinguished members of Council – Professor Martyn Percy and David McNair. Both had served on Council for the maximum two three-year terms. In their place, we were pleased to welcome Professor Gareth Jones, Chair of Christian Theology at Christ Church University College Canterbury, and Elizabeth Fagan, Managing Director of Boots Opticians. Together with their colleagues, they have the challenging task of delivering cogent decisions against a demanding caseload. Their role would not be possible without the hard work of the executive, who receive, respond to and, where necessary, investigate complaints. My thanks go to all the staff, past and present for their support and expertise. I wish them well for the future.

**Lord Borrie QC**  
ASA Chairman

**“We need to be ready to address the differing concerns of consumers and the changing face of the industry we regulate.”**



# Review of the year



01



02



03

## 01

### End of Probation

The future of the ASA's one-stop shop for all advertising complaints was publicly confirmed by Ofcom CEO Ed Richards, speaking after the completion of the two-year probationary period. Addressing an audience of advertisers and agency heads he said: "Now that the two-year probation period for the co-regulatory arrangements between Ofcom, ASA and BCAP is over, we look forward to continuing this effective relationship. Co-regulation in advertising has led the way and has been successful. This is because private interests are aligned to public goals. There is a common interest between advertisers, broadcasters and regulators in achieving a trusted and successful system."

Pictured above, left to right, CAP Chairman Andrew Brown, ASA Chairman Lord Borrie and Ofcom's Kip Meek, marking the second anniversary of the one-stop shop.

## 02

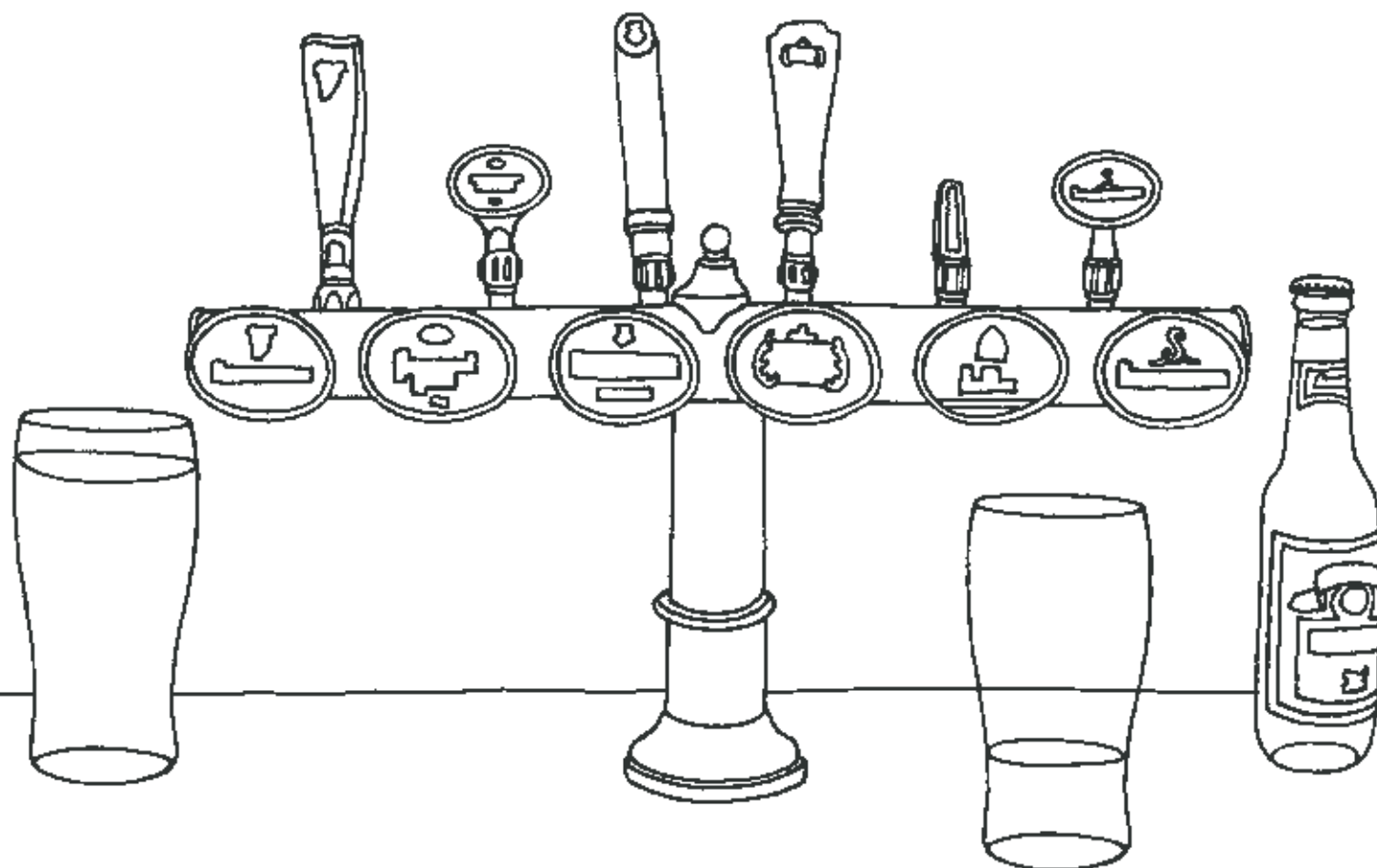
### Calling time

In January 2006, the first upheld adjudication on an alcohol ad under the new alcohol rules was published. The ASA upheld complaints about two Young's Bitter posters, on the grounds that they linked alcohol with seduction and social success. The ads were part of a campaign launched under the old alcohol rules which continued under the new ones. The new rules also prohibit ads from linking alcohol with popularity or confidence, anti-social behaviour, solitary drinking, improved physical performance, strength, irresponsible or under-age drinking and therapeutic qualities.

## 03

### Views from all sides

In November, representatives of consumer groups, faith communities and local charities had the opportunity to question ASA Chairman Lord Borrie and members of staff at the ASA's Annual Consumer Conference in Bristol. Delegates of all ages were able to give their own feedback on advertising content and discuss issues raised by complaints at first hand. The debate ranged from alcohol advertising to advertising aimed at children and how advertisements can cause offence. During lively workshop sessions, delegates were asked to make their own judgements on advertisements and complaints that had come before the ASA Council during the year. A full report of the conference can be found at [www.asa.org.uk](http://www.asa.org.uk).







04



05



06



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08



09



10



11

04

#### Student Awards

School, college and university students were tested on their understanding of the advertising Codes with the launch of a new ASA awards scheme for young people. The task of devising a multi-media ad campaign for a soft drink that complied with the Codes was taken up by students from schools and colleges across the UK. Winners Emma Ann James from Amman Valley School and Ross Cockton from the University of Sunderland both received cash awards.

05

#### Another bad ad

Possibly the worst radio ads ever came under scrutiny during the year, but this time they were part of the ASA's own advertising campaign. The three radio commercials echoed the theme of the ASA's recent press and poster campaign which carried the strapline: "Ok, so we're better at removing bad ads than making good ones." Featuring actor Michael Fenton Stephens, the comical ads were deliberately unprofessional – featuring poor editing, fluffs and mispronunciations. The radio campaign was run in airtime donated by commercial broadcasters, and played over 8,500 times during the year.

06/07

#### Jones and Fagan join Council

Two new members were appointed to the ASA Council, the adjudicating body for advertising complaints. Theology Professor Gareth Jones and Elizabeth Fagan, Managing Director of Boots Opticians, joined as lay and industry members respectively. Appointed by ASA Chairman Lord Borrie, they replaced Martyn Percy and David McNair who had both completed the maximum two three-year terms on Council. Biographies of all ASA Council members can be read at [www.asa.org.uk](http://www.asa.org.uk).

08

#### Spotlight on Big Brother

The Big Brother house came under scrutiny in October, but not because of the antics of the housemates. Rather, the ASA adjudicated on complaints about the TV programme's "Golden Ticket" promotion, run in conjunction with Nestlé. Posters, national press ads and point of sale material announced that anyone finding a Golden Ticket in a Kit Kat chocolate bar could have the chance to take part in a Prize Draw and become a Big Brother housemate. Amidst extensive tabloid speculation that the Prize Draw had been fixed, the ASA ruled that the Draw had been conducted according to the laws of chance, but that an independent observer should have been present throughout the process. A subsequent ASA investigation into the terms and conditions of the promotion concluded that some key details had not been made available on all marketing material.

09

#### Next ASA Chairman

Former Secretary of State for Culture, Media and Sport, the Rt Hon Lord Smith of Finsbury (pictured), will be the next ASA Chairman, succeeding Lord Borrie QC who retires from the ASA at the end of June. Lord Smith, who was appointed by Asbof and Basbof, the two bodies that finance the self-regulatory system, has held a wide variety of senior appointments in public service and the arts and creative industries. The appointment was made following public advertisement and by a Nolan-style process. Contrary to some press reports, the ASA Chairmanship is not a government appointment.

Welcoming the appointment, Lord Borrie spoke of Chris Smith's distinguished career in public service and the arts and said that his successor would be a fair minded and effective Chairman.

10

#### Unwelcome splash for Pool.com

Ads for the online betting site Pool.com, which stated: "Why wait 'til 18? Bet at 16" were withdrawn pending investigation following concern that they could encourage young people to gamble. The advertising code prohibits gambling ads being directed at people under 18 years of age. The ASA's prompt action was welcomed by the Secretary of State, Tessa Jowell, who called the ads "utterly reprehensible". The subsequent investigation upheld complaints that the ads were socially irresponsible.

11

#### Future-proofing ad freedom

The advertising industry should future-proof self-regulation for the digital age – in its own interests. This was the challenge presented to UK advertisers by ASA Chairman Lord Borrie at ISBA's Annual Conference in March 2006. Warning the audience that consumers have the same expectations of honesty and truthfulness of ads and brands in new media as they do in conventional media, Lord Borrie suggested that advertisers should extend social responsibility across all advertising formats. Self-regulation, he emphasised, must be as effective in new media as in old, in order to secure future advertising freedom. Lord Borrie's speech can be read in full at [www.asa.org.uk](http://www.asa.org.uk).

**“Self-regulation must be as effective in new media as in old, in order to secure future advertising freedom.”**



# Top 10 most complained about ads

## the name of the father



### 01. Gay Police Association

553 complaints  
Appearing in the national press, this ad pictured a Bible – in order to highlight a religious motivation behind homophobic incidents. Attracting complaints from such bodies as Christian Watch and the Evangelical Alliance, the ad was perceived as offensive to Christians and discriminatory in tone.

Three out of the five issues raised were upheld, with the ad judged to be offensive, misleading in its suggestion that all incidents involved physical injury, and in its statistical claims, which were never proved to the ASA. Complaints upheld



### 02. HM Revenue & Customs

271 complaints  
A national press ad depicted what appeared to be a self-employed plumber evading tax by hiding under the kitchen sink. The ad attracted complaints from a number of organisations and members of the public who considered that the ad implied self-employed people – plumbers in particular – were tax-evaders and was thus both misleading and offensive.

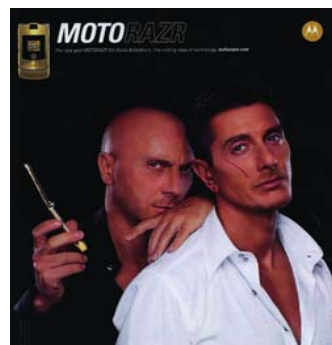
HM Revenue & Customs apologised for any offence caused and said they had amended the ad in light of the complaints. The ASA's investigation concluded most people would not infer from the ad that all self-employed people were tax-evaders. Complaints not upheld



### 03. Dolce & Gabbana

166 complaints  
D&G's national press ad attracted complaints from those concerned about its glamorisation of knives and violence. One of the ads had appeared opposite a news article about a knife crime.

Despite D&G's protestation that the ads' highly-stylised approach was inspired by well-known paintings of the Napoleonic period, the ASA judged the advertisements to be socially irresponsible and offensive. Complaints upheld



### 04. Motorola Ltd/ Dolce & Gabbana

160 complaints  
Complainants protested that this national press ad for a mobile phone was offensive and irresponsible, condoning knife-related violence and glamorising sexual violence.

Newspapers publishing the ad agreed with the defence that it was highly stylised, clearly a pun to coincide with the tagline 'The Cutting Edge of Technology' and that it did not glamorise violence. The ASA decided that most readers of the newspapers would appreciate the intention of the ad. Complaints not upheld



### 05. Carphone Warehouse

145 complaints  
Complaints were received from competitors and members of the public about the lack of clarity and the potentially misleading statements in this television and national press campaign.

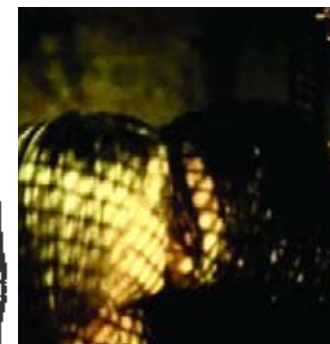
Complaints were upheld on three out of the four issues, most notably on its claim to be 'free forever'. The ASA decided the ad was misleading and the availability of the service was insufficiently explained. Complaints upheld



### 08. Kellogg Company

96 complaints  
Objections to a Kellogg's television ad featuring a man riding a dog, claimed that it portrayed cruelty to animals and would encourage viewers to try the same stunt at home.

In their response, backed by the Broadcasting Advertising Clearance Centre (BACC), Kelloggs said that the ad was clearly surreal in nature, no dog was actually ridden during filming and that the already-imposed scheduling restriction would prevent children from copying the ad. The ad also featured a 'Don't try this with your dog at home' warning. Complaints not upheld



### 06. French Connection

127 complaints  
French Connection's television ad featured a martial-arts contest between two women, symbolising the competition between fashion and style, which concluded with a kiss.

An investigation was deemed unjustified, with the ASA deciding that the fight was highly-stylised and, in context, did not reflect criminal assault. The kiss was also found not to be in breach of the code. Concerns that it should not be seen by children were also unjustified because of the post-watershed scheduling restriction. Investigation not justified



### 09. National Federation of Cypriots

93 complaints  
This regional press advertising feature drew complaints from a human rights organisation, concerned it was offensive to the Turkish community and likely to incite racial hatred.

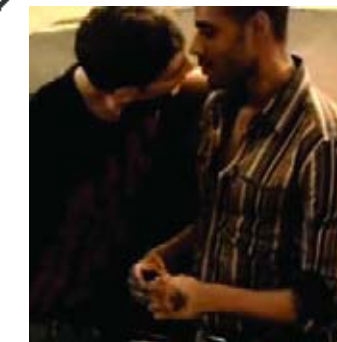
The NFC rejected the accusation that the image showing Cyprus was dripping with blood and protested that it denoted the line of division in the country. They said that 'Do not forget' referred to all who had suffered including Turkish people. Complaints were not upheld except for the challenge that it was insufficiently clear that the ad was advertising material. Complaints upheld



### 07. Channel 5 Broadcasting

99 complaints  
Channel 5's strikingly simple poster campaign was deemed by a number of people to be racist towards Americans and socially irresponsible in that it could incite violence.

The advertisers protested that such accusations were clearly only in relation to the first stage of their campaign and that the purpose of the Five US channel was to celebrate American films and television. The ASA judged that the poster was unlikely to cause serious or widespread offence or to incite violence. Complaints not upheld



### 10. Dolce & Gabbana

89 complaints  
Complaints into D&G's television ad, which showed a brief kiss between two males, ranged from protestations that it was unsuitable for children to objections that ads showing two men kissing were unacceptable at any time.

The BACC had approved the ad on the condition it was not shown around programmes aimed specifically at children and believed the ad did not require further restriction. The ASA agreed with the BACC. Complaints not upheld

# Complaint statistics

Non-broadcast	Complaints	Ads	Broadcast	Complaints	Ads
Work brought forward	668	512	Work brought forward	343	161
New work received in 2006	13,448	10,473	New work received in 2006	8,981	2,369
Work resolved in year	13,139	10,334	Work resolved in year	8,820	2,251
Work outstanding at year end	977	651	Work outstanding at year end	504	279
No investigation	3,023	3,008	No investigation	6,071	1,728
No investigation after preliminary work	5,831	5,625	No investigation after preliminary work	800	207
No investigation after Council decision	649	234	No investigation after Council decision	458	44
<b>Total not investigated</b>	<b>9,503</b>	<b>8,867</b>	<b>Total not investigated</b>	<b>7,329</b>	<b>1,979</b>
Informal investigation	1,021	945	Informal investigation	91	63
Formal investigation of which	2,615	522	Formal investigation of which	1,400	209
Upheld	1,446	364	Upheld	471	93
Not upheld	1,144	135	Not upheld	907	107
Other (e.g. withdrawn)	25	23	Other (e.g. withdrawn)	22	9
<b>Total investigated</b>	<b>3,636</b>	<b>1,467</b>	<b>Total investigated</b>	<b>1,491</b>	<b>272</b>

### Complaints

In 2006, a total of 2,421 advertisements were changed or withdrawn following action by the Advertising Standards Authority. Where possible, the ASA aims to resolve complaints through discussion and dialogue, rather than formal investigation. Last year, most problem ads were amended or withdrawn in this way.

### Complaints and investigations

Fewer complaints were received than in 2005. In total, 22,429 complaints were received, a 14.5% fall in the overall number of objections to ads. But the drop in complaints did not mean a lighter caseload for the ASA as the total of advertisements complained about increased by 8.2% to a record 12,842.

This apparent anomaly arises because fewer advertisements attracted large numbers of complaints. In comparison with the 1,710 complaints received about KFC's 2005 'Call Centre' TV ad, the most complained about ad of 2006 attracted 553 objections, i.e. only one third as many (see page 08). Overall, the average number of complaints per ad fell from 2.21 to 1.75.

A total of 21,959 complaints about ads were resolved by the ASA during 2006. Of these, 16,832 complaints were not investigated, while 1,112 were subject to an informal investigation, and 4,015 were the subject of a formal investigation.

For the first time since the launch of the one-stop shop in 2004, there were more complaints about non-broadcast ads than broadcast commercials, with non-broadcast complaints making up 60% of the total. Most of the 8,981 broadcast complaints received related to TV advertising, with just 226 complaints resolved about radio ads.

### Resolution

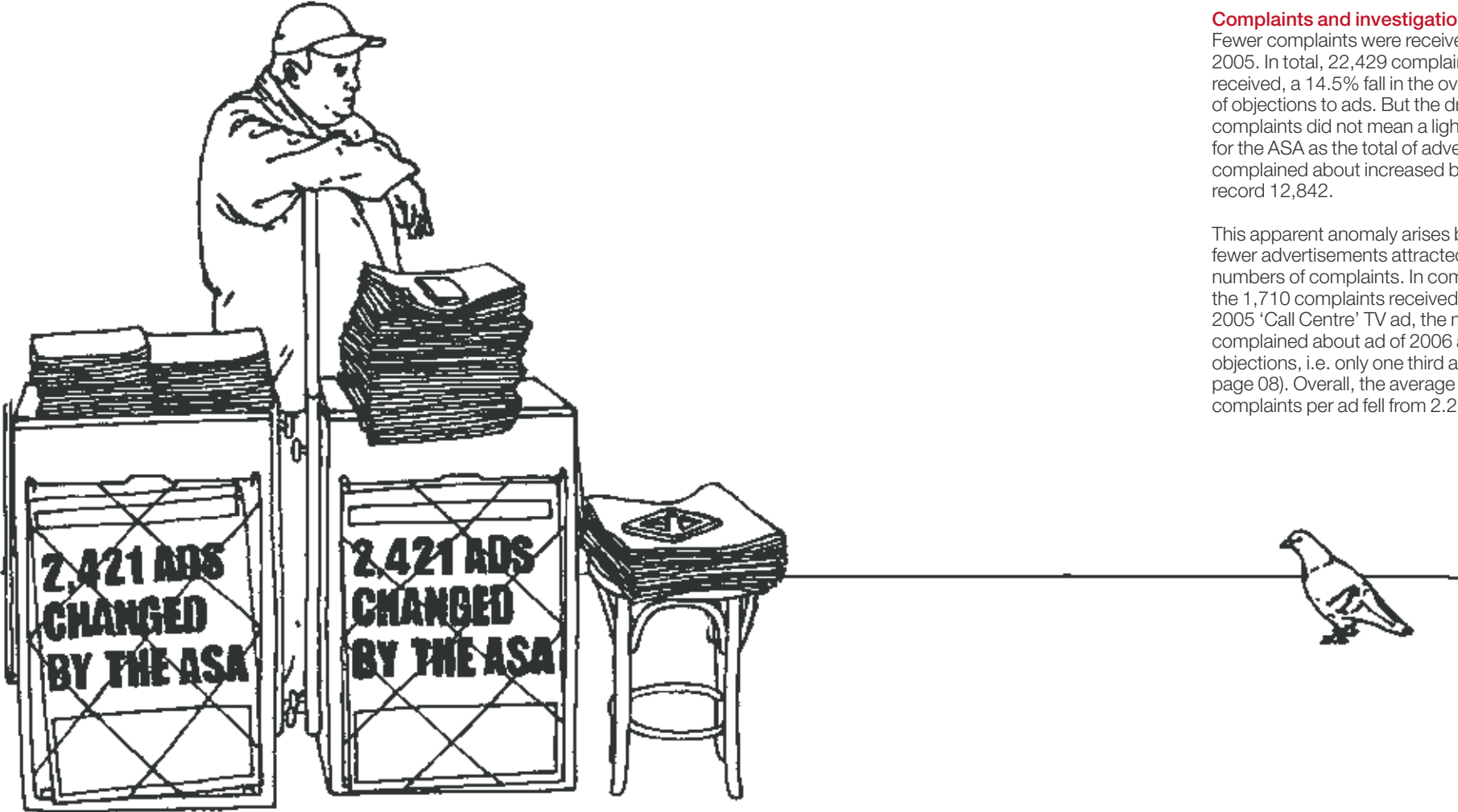
Of the 2,246 non-broadcast advertisements changed or withdrawn during the year, 364 were subject to a formal 'upheld' adjudication by the ASA Council. Complaints about 945 ads were resolved informally following dialogue with the advertiser and a further 549 problem ads were amended following ASA intervention. Compliance activity led to changes to 388 advertisements, either as a result of routine monitoring or action against advertisers who had failed to abide by an ASA ruling.

The work of two pre-clearance centres – the Broadcast Advertising Clearance Centre and the Radio Advertising Clearance Centre – means that fewer TV and radio ads have to be changed or withdrawn.

In 2006, just 93 broadcast commercials were subject to a formal 'upheld' ruling; complaints about 63 commercials were resolved following an informal investigation, and questions raised over a further 19 ads were resolved directly following dialogue with the advertiser.

### Reason for complaint

As always, the biggest cause of complaint about ads in 2006 was that they were untruthful or dishonest. A total of 7,215 ads generated complaints that consumers had been misled. There were 4,261 objections to ads on the grounds of offensiveness and 1,129 ads were accused of being harmful. Nearly 90% of objections to ads came from members of the public; the remaining complaints came from industry. Industry complainants were more likely to object to broadcast ads than non-broadcast: 12% of complaints were for TV and radio ads compared with 9% for non-broadcast ads.





# Complaint statistics

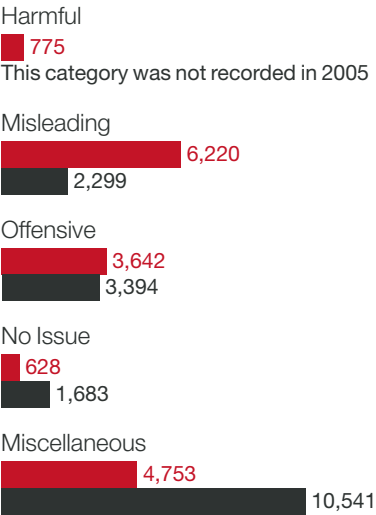
## Non-broadcast

### Non-broadcast advertising

The number of non-broadcast complaints received during the year increased slightly to 13,448, a rise of 5.7% compared with 2005. There was a larger increase in the number of ads attracting those complaints, with 10,473 non-broadcast ads complained about, a 9.3% increase year-on-year. Of the non-broadcast complaints resolved during the calendar year, nearly three-quarters were dealt with directly by the ASA's Complaints team, without the need for an investigation. Complaints outside of the ASA's remit may be referred on to other organisations to deal with and many objections can be resolved directly by the Complaints teams through dialogue with the advertiser or agency.

Where more in-depth action is required, complaints are referred on to the ASA's Investigations teams. In total, 3,636 complaints about 1,467 non-broadcast ads were investigated in 2006, a fall of 7.2% compared with 2005.

### Non-broadcast – reason for complaint



2006  
2005

### Complaints by media

The most complained about non-broadcast media was the national press with 3,370 complaints. Second most complained about was the Internet, with 2,066 complaints, representing a 32.7% year-on-year rise. Five years ago, in 2001, the Internet ranked as the eighth most complained about of all non-broadcast media.

In 2006, direct mail and posters were the third and fourth most complained about advertising media, although year-on-year, complaints about them have fallen by 30.6% and 35.5% respectively. In total, the top four media generated nearly 65% of all non-broadcast complaints.

### Complaints resolved by media

Non-broadcast	2005	2006
National press	2,302	3,370
Internet	1,557	2,066
Direct mail	2,293	1,592
Poster	2,236	1,443
Regional press	778	950
Magazine	946	873
Leaflet	620	555
Transport	82	518
Brochure	272	385
E-mail	313	276
Unknown	232	262
Point of sale	182	225
Electronic	19	188
Catalogue	152	150
Insert	140	149
Packaging	152	147
Other	108	147
Directory	124	128
Press General	158	122
Circular	91	122
Mailing	96	117
Cinema	120	114
Fascimile	31	53
Text message	97	41
Ambient	33	10
Video	1	9
Voicemail	5	3
Computer games	0	1
Viewdata	0	1

### Complaints by sector

More complaints were received about advertising by the leisure industry than any other sector. Although the number of complaints about leisure advertising fell by a third in comparison with 2005, it still accounted for nearly one in five of all non-broadcast complaints to the ASA. As in 2005, computers and telecoms was the second most complained about sector and an unexpected rise in the number of complaints about ads by non-commercial organisations brought this category into third place. However, of the 1,723 complaints about non-commercial organisations, 917 related to just three ads – The Gay Police Association, HM Revenue & Customs and National Federation of Cypriots (see pages 08-09). Together with objections about holidays and travel advertising, these top categories accounted for over half of all non-broadcast complaints.

### Complaints resolved by sector

Non-broadcast	2005	2006
Leisure	3,822	2,548
Computers and telecommunications	1,280	1,752
Non-commercial	599	1,723
Holidays and travel	1,191	1,239
Health and beauty	1,044	871
Publishing	822	702
Financial	585	663
Business	378	427
Retail	625	534
Household	411	523
Motoring	511	521
Food and drink	282	406
Property	210	210
Clothing	178	221
Employment	164	186
Utilities	221	181
Alcohol	241	138
Education	63	86
Electrical appliances	88	56
Industrial and engineering	35	56
Agricultural	57	45
Tobacco	7	7
Unknown	33	50
Not Specified	4	5

# Complaint statistics

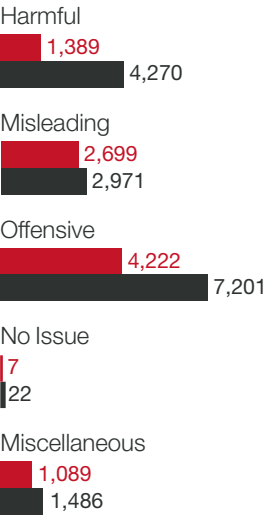
## Broadcast

### Broadcast advertising

Complaints about television and radio ads fell by a third in comparison with 2005 with 8,981 objections received relating to 2,369 ads. Of the complaints resolved during the calendar year, 83.1% were dealt with by the ASA's Complaints teams without the need for an investigation. Just 272 ads needed formal investigation by the ASA with 93 being changed or withdrawn following an 'upheld' conclusion.

TV continued to be the dominant media compared to radio, accounting for 97.4% of all broadcast complaints resolved during the year. In total, radio advertisements attracted just 226 complaints, a fall of 68.4% in comparison with the complaints received about radio commercials in 2005. Overall, offensiveness was the prime reason for complaining about broadcast commercials with 4,222 complaints while 2,699 objections were about misleadingness. The most complained about broadcast advertisement was French Connection's 'Fight Kiss' with 127 complaints.

### Broadcast – reason for complaint



### Broadcast complaints – resolved by media



### Complaints resolved by sector June – Dec 2006\*

Broadcast	2006
Leisure	684
Food and drink	611
Health and beauty	515
Computers and telecommunications	369
Financial	364
Retail	286
Motoring	249
Non-commercial	245
Household	200
Holidays and travel	155
Publishing	114
Alcohol	43
Business	37
Clothing	36
Utilities	27
Education	16
Employment	6
Electrical appliances	5
Property	4
Industrial and engineering	3
Agricultural	1
Tobacco	1
Unknown	77
No Category	82

\*The introduction of a new database in June 2006 made it possible to record this information for the first time.



# Our people

The ASA's Council is the 'jury' that decides if advertisements breach the advertising codes. The Council is appointed by the Chairman of the ASA and two-thirds of the members are independent of the advertising industry. The minority Industry members are pictured opposite in the top row. Two panels operate in parallel within the one Council, judging broadcast and non-broadcast ads separately.

Council members are appointed for a maximum of two three-year terms and receive an honorarium of £15,000 p.a. A Register of Members' Interests may be inspected on application to the Company Secretary.

### ASA Council Members

- 01

**Lord Borrie QC**  
Chairman
- 02

**Mike Ironside**  
Partner, Media Liaisons
- 03

**Elizabeth Fagan**  
Managing Director, Boots Opticians
- 04

**Dan O'Donoghue**  
Worldwide Strategic Planning Director, Publicis Ltd
- 05

**Susan Murray**  
Non-executive Director of Enterprise Inns plc, SSL International plc, Imperial Tobacco Group plc, Morrisons Supermarkets plc
- 06

**Nigel Walmsley**  
Chairman, Broadcasters' Audience Research Board
- 07

**Donald Telford**  
Visiting Professor, University of Sheffield
- 08

**Colin Philpott**  
Director, National Media Museum
- 09

**Gareth Jones**  
Professor of Christian Theology, Canterbury Christ Church University
- 10

**Baroness Coussins**  
Independent consultant on corporate responsibility  
Former CEO, Portman Group
- 11

**Chitra Bharucha**  
Former Haematologist

- 12

**Sunil Gadhia**  
Chief Executive Officer, Stephenson Harwood
- 13

**Neil Watts**  
Headteacher, Northgate High School
- 14

**Diana Whitworth**  
Co-director, Grandparents Plus
- 15

**Christine Farnish**  
Public Policy Director, Barclays
- 16

**Alison Goodman**  
Fundraising Manager, Terrence Higgins Trust

### Senior Management

- 17

**Christopher Graham**  
Director General
- 18

**Alan Chant**  
Director of Development
- 19

**Claire Forbes**  
Director of Communications
- 20

**Phil Griffiths**  
Director of Finance and Support Services
- 21

**Guy Parker**  
Director of Complaints and Investigations
- 22

**Roger Wisbey**  
Director of Advertising Policy and Practice and CAP Secretary



01



02



07



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03



08



13



04



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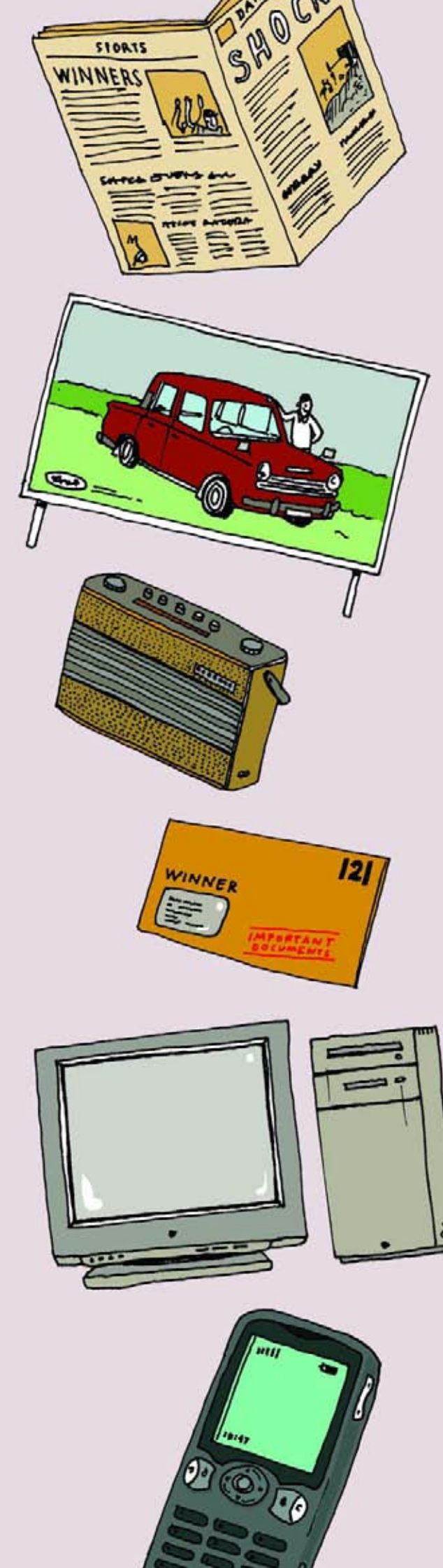


22

— Non-broadcast council  
— Broadcast council

# Keep on changing

In this special feature, we take a look at the changing face of advertising and how regulation has evolved with it.



**It isn't just the change in advertising that has been remarkable over recent decades, but where and how that advertising appears.**

**Technology, ingenuity and the power of creativity mean that almost any surface, service, device or screen is now an advertising medium.**

**In this short supplement, we show how the ASA has evolved with the advertising landscape – from press, radio and TV to spam, texts and talking bus stops.**







**"Lose 1 1/2 stone in 5 weeks!  
Proved by a Harley Street Doctor!"<sup>01</sup>**

If the ASA hadn't been formed in the early 1960s, it would only have been a matter of time before action was taken – by government if not by the advertising industry itself.

It was still an era in which women "could find love again" provided they bought a particular pimple cream.<sup>02</sup> And when "two packs a day!"<sup>03</sup> celebrities smoked the brand approved by "a medical specialist".

It was also just six years after the first grainy, jerky ad for Gibbs SR toothpaste appeared on ITV. Advertising literacy was low, dubious claims in print media went largely unchallenged and the ASA set about introducing standards to make sure advertising was legal, decent, honest and truthful.

The first advertising Code was drawn up in 1961 and in 1962 the ASA was born. Its first report focused on the advertising of 'X' certificate (18) films, and lapses of decency and concerns over frightening children. This led to discussions with the Kinematograph Renters' Society. Other early problem areas included slimming diets,<sup>04</sup>

baldness treatments,<sup>05</sup> vitamins, cigarettes, beauty treatments, gin, health food drinks and even sewing machines.

In 1965, cigarette advertising on television was stubbed out and, a year later, the advertising of pregnancy testing kits was allowed for the first time. The ASA objected to inertia selling (where customers would be sent goods unless they said "No"), and told publications not to carry ads for companies that used this technique. It also warned about advertisers switch-selling to consumers, having first advertised products that they had little intention of supplying or even demonstrating.

Admittedly, by the end of the decade, large-chested barmaids in ads still looked on admiringly as pubgoers downed their keg bitter. Cigarettes were still the choice of steel-jawed airline pilots, cowboys and movie stars. But there was a growing acknowledgement that a respected advertising industry that complied with common standards was good for clients, agencies and the public alike.





### Taste, honesty, sensibilities.

"Sex, depravity, pornography and general sleaziness" exercised the ASA in a report in the early 1970s. The salacious advertising for certain adult films was still a particular concern.

As new marketing models and techniques mushroomed in the UK, so did complaints. Some mail order services drew criticism for non-delivered goods and elusive refunds. The selling of 'instant antiques' flourished, with the ASA warning advertisers not to suggest that their limited-edition plates, coins and figurines would rise in value. It also acted, with the arrival of VAT, to stop retailers making prices look lower than they were by quoting them without the tax.

In 1973, the ASA made its rulings public for the first time, although only persistent offenders were actually named and shamed. Two years later, the launch of the Advertising Standards Board of Finance (Asbof) and a new levy on advertising space costs was key to securing the ASA's independence and effectiveness for the decades to come. New Codes followed for alcohol<sup>16</sup>, pre-vetting was now required for tobacco and advertisers were expressly required to show good judgement in marketing to children.

By the early 1980s, sensibilities in advertising were proving as important as honesty and truth. Research among women showed a dislike for sexual suggestiveness, as well as stereotypes. A new rule was created governing violence and anti-social behaviour,<sup>17</sup> after the tragic shootings at Hungerford in 1987 prompted a review of some 250,000 ads.

Sales promotion brought new challenges, as 'treasure hunts'<sup>18</sup> led to entrants digging up the countryside and damaging priceless archaeological sites. Political advertising came to the fore, with creative, high impact posters becoming central to election campaigning<sup>19</sup>. The turn of the decade also saw an increase in green awareness<sup>10</sup> and with it an entirely new task for the ASA.

### Independent and effective

A new levy on advertising space costs was key to securing the ASA's independence and effectiveness for the decades to come.





#### Rights and responsibilities

Shock-tactic charity ads meant the ASA had to balance the need of charities to compete for funds with its rules prohibiting “serious or widespread offence”.

#### Up close and personal

By the 1990s, the ASA was also responsible for another burgeoning medium: direct marketing (DM), including list and database management.

In the wrong hands, DM could provoke intense annoyance as it was uninvited and difficult to stop, and sometimes seemed to arrive by the lorry load. This included mail masquerading as coming from someone else, as attempted by telecoms provider Mercury<sup>11</sup> when it ‘borrowed’ BT’s typeface and look.

In 1991, complaints to the ASA had topped 10,000 in a year for the first time. These included, in 1995, the most complained about piece of print ever: a campaign leaflet<sup>12</sup> with an image of the Pope in a hard hat to promote the use of condoms. (The complaint was upheld on the grounds of causing widespread religious offence.)

Its ‘in-your-face’ tone was mirrored by many shock-tactic charity ads of the time<sup>13</sup>. The ASA had to balance the need of charities to compete for funds with its rules prohibiting “serious or widespread offence”

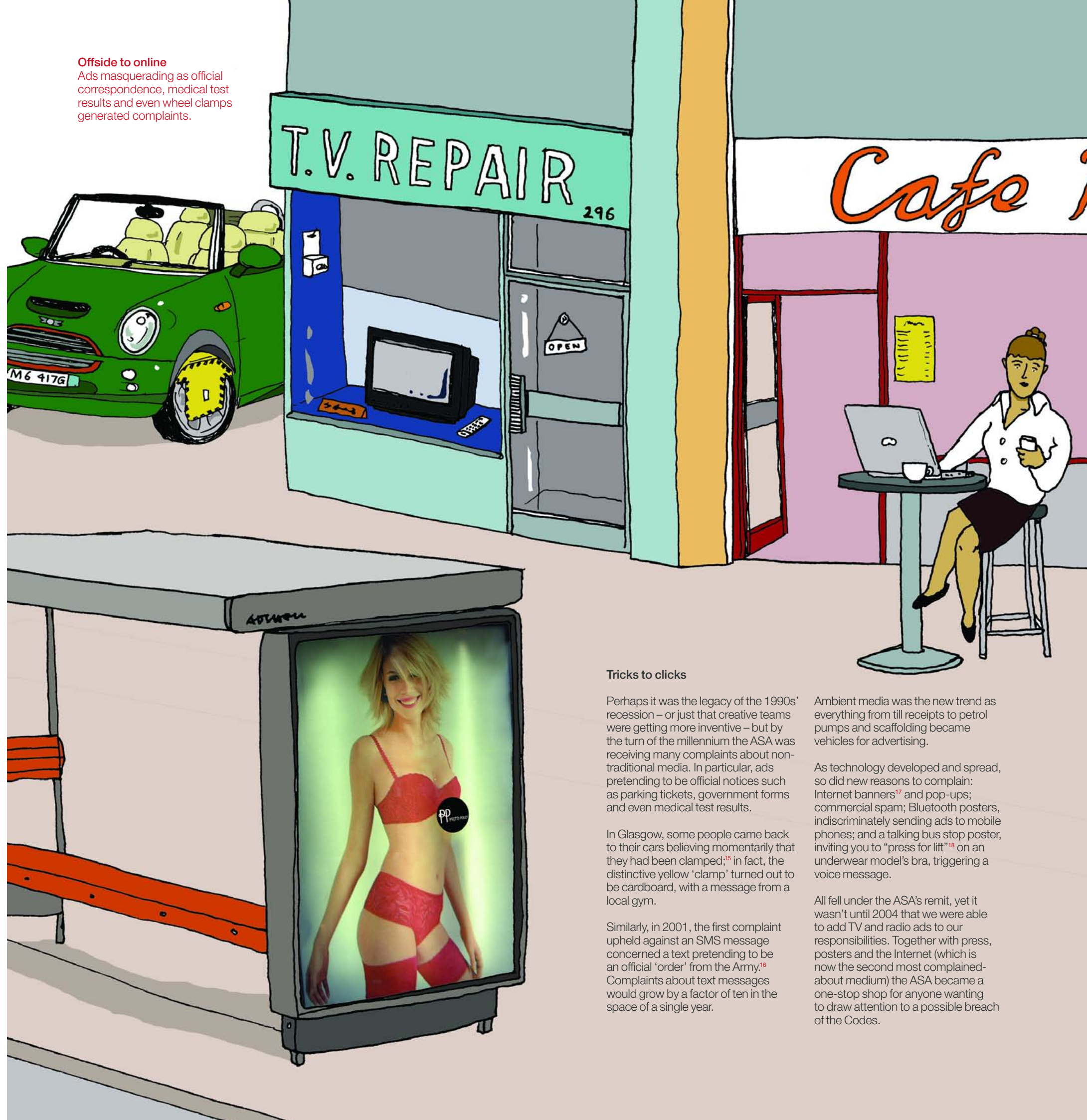
The newspaper market was also intensely competitive, and the 1990s saw numerous free gift promotions splashed across their front pages<sup>14</sup>. However, they risked confusing readers about start dates, offer conditions, or the need for tokens and premium rate calls.

It wasn’t long before the Internet started being used as an advertising medium and in 1995, the ASA assumed responsibility for banner and pop-up ads. It has since received over 6,500 complaints about advertising online.



### Offside to online

Ads masquerading as official correspondence, medical test results and even wheel clamps generated complaints.



### Tricks to clicks

Perhaps it was the legacy of the 1990s' recession – or just that creative teams were getting more inventive – but by the turn of the millennium the ASA was receiving many complaints about non-traditional media. In particular, ads pretending to be official notices such as parking tickets, government forms and even medical test results.

In Glasgow, some people came back to their cars believing momentarily that they had been clamped;<sup>15</sup> in fact, the distinctive yellow 'clamp' turned out to be cardboard, with a message from a local gym.

Similarly, in 2001, the first complaint upheld against an SMS message concerned a text pretending to be an official 'order' from the Army.<sup>16</sup> Complaints about text messages would grow by a factor of ten in the space of a single year.

Ambient media was the new trend as everything from till receipts to petrol pumps and scaffolding became vehicles for advertising.

As technology developed and spread, so did new reasons to complain: Internet banners<sup>17</sup> and pop-ups; commercial spam; Bluetooth posters, indiscriminately sending ads to mobile phones; and a talking bus stop poster, inviting you to "press for lift"<sup>18</sup> on an underwear model's bra, triggering a voice message.

All fell under the ASA's remit, yet it wasn't until 2004 that we were able to add TV and radio ads to our responsibilities. Together with press, posters and the Internet (which is now the second most complained-about medium) the ASA became a one-stop shop for anyone wanting to draw attention to a possible breach of the Codes.



### Whatever next?

So where is advertising heading next? Wherever that is, the ASA will have to be prepared "to boldly go" to ensure that advertisements remain legal, decent, honest and truthful – and socially responsible too.

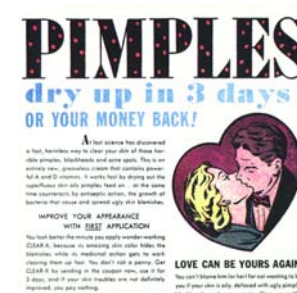
So far, the ASA has not sought to apply the Code to claims on advertisers' own websites.

Now an industry 'future-proofing' project is devising ways of ensuring that ad self-regulation remains effective for the digital age.

In this, the industry is doing what it has done consistently since 1961, adapting to changes in advertising in order to protect the consumer from harm or offence, promote fair competition and preserve freedom to advertise responsibly.



01 Harley Laboratories c.1960



02 Clear-X Products c.1950



03 Liggett & Myers Tobacco Co 1953



04 Formula 21 c.1960



05 Arthur J. Pye Treatments 1968



06 Haig Whisky c.1970



07 Early Learning Centre 1990



08 Cadbury Ltd 1983



09 Conservative Party 1979



10 Unilever 1991



11 Mercury Communications Ltd 1996



12 British Safety Council 1995



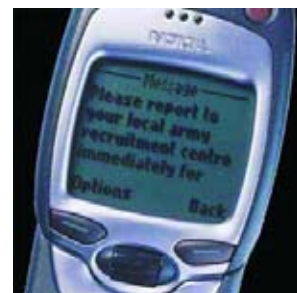
13 Respect for Animals 1997



14 Sport Newspapers Ltd 1995



15 Esporta Group Ltd 2002



16 Eidos Interactive 2001



17 Nissan Motors Co Ltd 2005



18 Pretty Polly Ltd 2002



# ASA compliance

**“During the year, the Compliance team ensured that 388 problem advertisements were not repeated.”**

## Ensuring compliance

During 2006, advertisements for phones, Internet services, betting tipsters, herbal potency products and smoking treatments came under scrutiny from the Compliance team. Our hard-fought work in those and other sectors continued to promote and maintain a level playing field for UK advertisers.

Early in 2006, a new Monitoring team was established. This freed the Compliance team to concentrate on stopping known problem advertisements from reappearing. More details of the work on the Monitoring team are reported on page 27.

During the year, the Compliance team ensured that 388 problem advertisements were not repeated. Of these, 118 were by advertisers who had failed to provide an assurance of compliance at the end of an ASA investigation. Sanctions were applied on 42 occasions, 41 of those were Ad Alerts and one was a referral to the Medicines & Healthcare Products Regulatory Agency (MHRA).

## Sector compliance

If an ASA adjudication against a single advertiser has ramifications for the rest of the sector, the Compliance team contacts all relevant advertisers to advise them to change their advertising. In the case of the mobile telephony sector, the team wrote to networks and agents about the changes they needed to make when advertising mobile phone ‘cash back’ or redemption offers. In the broadband/ADSL sector the team wrote to the industry about qualifying download and upload speed claims, for instance “up to 8MB download speeds”, because upload speeds can differ significantly from download speeds.

## Health and beauty

The advertising of health and beauty products is one of the biggest consumer sectors. In 2005, a number of ads had caused us concern, so we did a survey of the sector. We looked at 422 individual ads and discovered 40 Code breaches (9.5%), most of which were in the national press or magazines. Misleading claims for alternative therapies were the most common breaches, examples of which include ‘detox’ products that claim to extract toxins from the body, and Prescription Only Medicines (POMs). By law POMs should not be advertised to the general public. Consumers and companies alike are unaware that Botox is a POM. The compliance rate of only 90.5% was disappointing and we will work with the industry to improve this.

## Sanctions

The most common sanction available to the team is an Ad Alert, which is a swift way of letting the industry know about a problem advertiser. The Ad Alert asks the media to consult the CAP Copy Advice team before accepting advertisements for that advertiser. Last year the team issued 39 Ad Alerts against specific advertisers and three further General Ad Alerts about more wide-ranging problems, such as Herbal Potency Products. Of the 42 Ad Alerts issued, eight were for betting tipsters, about which the team now liaises with the Office of Fair Trading. If Ad Alerts are not immediately effective we liaise with CAP member organisations, such as the Newspaper Publishers Association (NPA) and Periodical Publishers Association (PPA), and their trade members, to find a solution.



# Effective in Europe



**The European Advertising Standards Alliance, EASA, brings together national advertising self-regulatory organisations (SROs) and organisations representing the advertising industry in Europe. EASA is, on behalf of the advertising industry, the single authoritative voice on advertising self-regulation issues.**

15 years ago, the ASA was a founder member of EASA. Today, there are self-regulatory organisations like the ASA across the 27 Member States of the EU.

The ASA was proud to host the annual meetings of EASA in London in April 2006 and to offer a training programme for newly-established self-regulatory organisations from Romania, the Slovak Republic, Portugal, Cyprus, Hungary, Poland and Lithuania.

In July, the European Commission's Directorate for Health and Consumer Protection (DG SANCO) released the report of a Round Table on self-regulation in the EU advertising sector. The ASA were active members of the Round Table, alongside a range of other stakeholders.

“The goal of this series of discussions was the clearer definition of a Best Practice model for self-regulation” says the report.

“This is not so much a debate about self-regulation against hard law, but rather a debate about how law and self-regulation can and should interact in modern Europe.”

The positive attitude to the potential contribution of effective self-regulation of advertising was reflected in DG SANCO's subsequent communication on tackling alcohol related harm.

“Self-regulation has an important role to play in a modern and efficient regulatory framework – provided it meets well-defined criteria. The European Commission recognises its potential as part of its Better Regulation policy,” said the new EU Commissioner for consumer protection, Bulgarian Commissioner Maglena Kuneva. In a speech marking EASA's fifteenth anniversary this year, Mrs Kuneva praised the work of the Alliance and its coordinated drive to establish effective self-regulation systems across an extended EU. “I recognise and welcome the efforts that EASA has made in recent years to strengthen self-regulatory mechanisms in various Member States, especially the new ones. These efforts need to be continued in the years ahead.”

For more information about EASA, visit their website at [www.easa-alliance.org](http://www.easa-alliance.org).



Pictured above, EASA Chairman Jean-Pierre Teyssier (left) and ASA Director General Christopher Graham toast the success of effective ad self-regulation across the Single Market.



# Independent Reviewer



The review process reinforces the self-regulatory system. Quite rightly the Reviewer is not able to override the decisions of the ASA Council Members. But he is able to get them to think again if he judges their decisions to have been unreasonable or to have been based on inadequate information about the issues or the result of a flaw in the investigation.

I was appointed as the first ever Independent Reviewer in 1999. Since then I have received over 300 requests for the review of non-broadcast adjudications. About 20% of these have been either ineligible or subsequently withdrawn. In about 40% of the cases which I actually reviewed I concluded that the person making the request had raised issues which justified my asking the Council to think again. Those issues have been almost equally divided between flaws of substance and wording on the one hand and flaws of process and information on the other. In over 75% of the cases which I have sent back to the Council the original adjudication has been either reversed or reworded.

**Requests fall**

In 2006 I received only six requests for a review of adjudications about complaints against broadcast advertising, even fewer than in 2005. The demand for a review of adjudications on complaints against non-broadcast advertising has also continued to decline. It would be nice to think that this reflects increasing recognition by advertisers and complainants of the reasonableness of the Council's adjudications.

All the requests which I have received in the past two years for a review of adjudications about broadcast advertising have been eligible but only one in five merited reference back to the Council.

All broadcast cases referred back to the Council have resulted in some change to the original adjudication.

In 2006 I received only 24 requests for a review of adjudications about complaints against non-broadcast advertising – an average of only one every fortnight against an average of nearly one every week in previous years. One-third of them merited reference back to the Council. And, as in 2005, every one of those eight cases resulted in some change to the original adjudication.

**Ineligible**

Regrettably too many of the requests relating to non-broadcast adjudications do not meet the basic tests of eligibility set out in the Code. Some are out of time. Others are about decisions made by the ASA Executive whereas my role relates only to decisions made by the Council. In addition there have been many cases where an advertiser overlooks the requirement in the Code for all requests to be signed by the Chairman or Chief Executive.

Finally a word about the time it takes me to deal with requests. I am glad to be able to report that I have been able further to improve the speed of turnaround achieved in 2004 and 2005. In 2006 I achieved an average of under five weeks for a review not involving reference back to the Council and under 12 weeks when the Council was involved.

**Sir John Caines KCB**  
Independent Reviewer

“Regrettably too many of the requests relating to non-broadcast adjudications do not meet the basic tests of eligibility set out in the Code.”

**Non-Broadcast review cases (1999 – 2006)**

	1999	2000	2001	2002	2003	2004	2005	2006	Total
Total cases received	46	53	37	38	52	43	28	24	321
Of which									
Ineligible/Withdrawn	4	16	9	9	9	10	6	5	68
Not to Council	22	21	17	12	24	28	14	11	149
Council	20	16	11	17	19	5	8	8	104
Of which									
Reopened	0	0	0	0	0	0	0	1	1
Unchanged	6	10	1	4	3	0	0	0	24
Reversed	4	2	4	4	4	1	6	1	26
Wording	10	4	6	9	12	4	2	6	53

**Broadcast review cases (2005 – 2006)**

	2005	2006	Total
Total cases received	9	6	15
Of which			
Ineligible/Withdrawn	0	0	0
Not to Council	8	4	12
Council	1	2	3
Of which			
Unchanged	0	0	0
Reversed	0	1	1
Wording	1	1	2

# CAP Chairman's introduction



**“Our challenge is to set regulatory standards that are proportionate and effective; comply with Government expectations and reflect and protect media plurality.”**

From salt levels to sound levels and skin creams to casinos, the challenges that came our way in 2006 were as varied as ever. But two public policy concerns in particular dominated the agenda for the Committees of Advertising Practice – both broadcast and non-broadcast. While the advertising industry, and the wider public, awaited the outcome of Ofcom's consultation on TV advertising of food to children, we began our own public consultation on proposed new rules for gambling advertising. In drawing up new rules for the content of food and gambling ads, our challenge has been to set down regulatory standards that are both proportionate and effective; and that comply with government expectations and reflect and protect media plurality.

## Social responsibility

It was clear from the results of Ofcom's consultation that the arguments surrounding the advertising of food to children had been debated fully, providing useful background for CAP as we began work on transposing the TV rules into the non-broadcast codes. The TV content rules, drafted by BCAP, went largely unchanged by the consultation process and focus particularly on protecting younger children from socially irresponsible advertising messages.

Gambling ads, when they begin to appear from September 2007, will not be aimed at children, but the need for them to be socially responsible is still paramount. CAP has been working alongside the Gambling Commission to ensure all licensed operators are aware of the rules and their implications, just one of many sectors where we have provided training and assistance to advertisers during the year.

## Reviewing the Codes

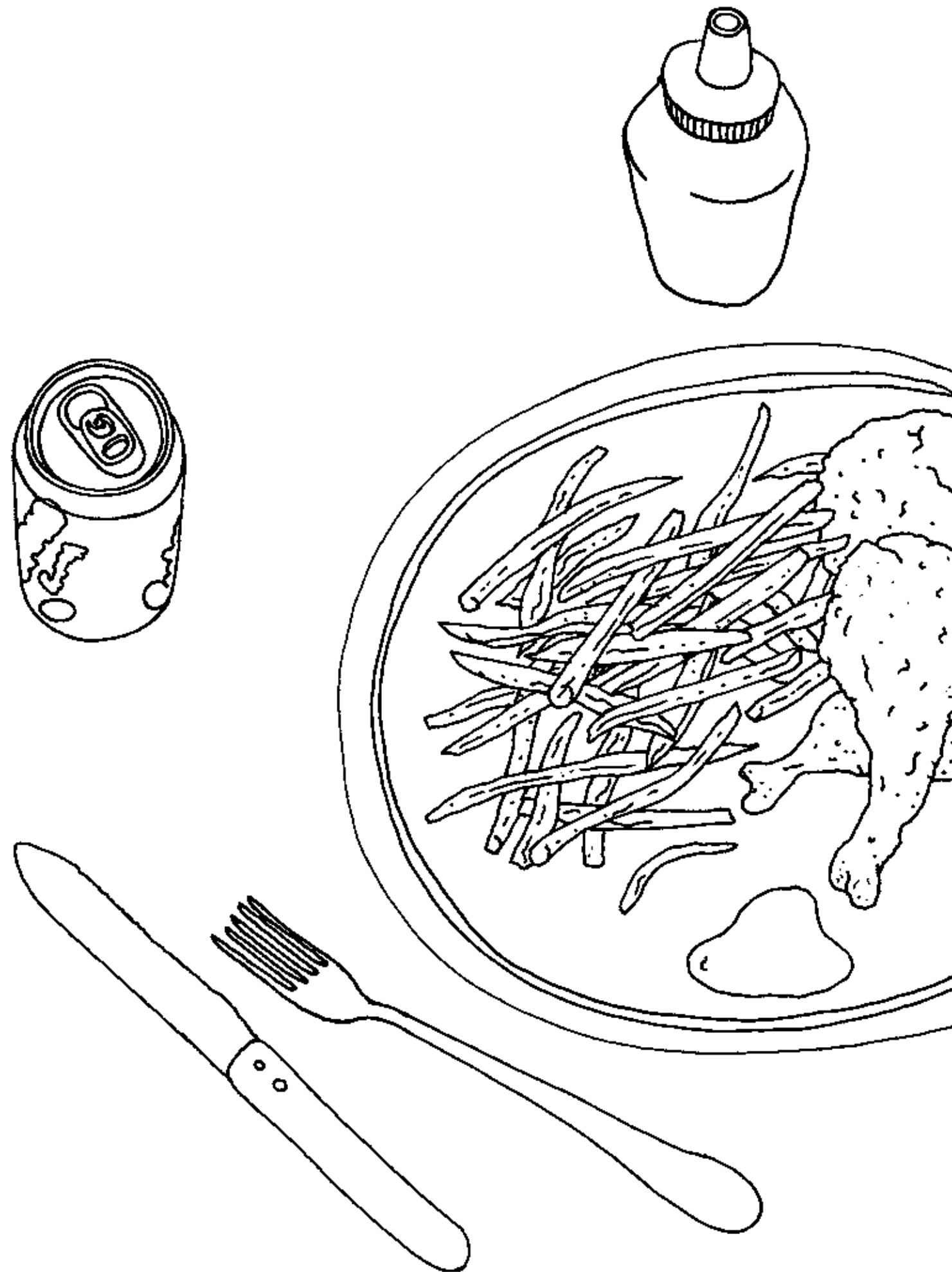
Alongside the introduction of these new rules, we have been reviewing the existing advertising Codes, to ensure compliance with the requirements of the Unfair Commercial Practices Directive. This exercise paves the way for a more wide-ranging review of all the advertising Codes, beginning this year. It is expected that the new, revised Codes will be published in 2009.

I would like to thank the CAP and BCAP Executive whose painstaking work and expertise has resulted in the introduction of fair and balanced rules that will apply to advertisers throughout the UK. Their advice to CAP and BCAP has been invaluable. My thanks also go to the members of those committees and our two panels – the Sales Promotion and Direct Response Panel and the General Media Panel – whose work is unseen by the public but helps to provide the ASA with an industry perspective on individual advertising complaints and new or complex issues.

A final tribute should be paid to the advertising industry, whose financial support and commitment to co-regulation has been instrumental in securing its future following the end of the probationary period. The first two years have created a solid foundation for the one-stop shop and I look forward to the future with confidence.

## Andrew Brown

Chairman  
Committee of Advertising Practice  
Broadcast Committee of Advertising Practice



# CAP Review of the year

**“The role of self-regulation and co-regulation has been safeguarded within the government’s plans for implementing the Unfair Commercial Practices Directive.”**

The Committees of Advertising Practice (CAP) – broadcast and non-broadcast – are responsible for the Codes that set the standards for advertising across all media. The following pages outline specific activity in non-broadcast and broadcast media; here we review the Committees’ work that crosses all media.

## General Media Panel

Grant Duncan (Chairman)  
Carol Fisher  
Gillian Wilmot  
John Laidlaw  
Simon Rhodes  
Andrew Melsom  
Teresa Brookes  
Caroline McDevitt  
Mike Moran  
Steve O’Meara  
Neil Watts  
Stephen Allan  
Tess Alps  
Peter Gatward  
Daniel Owen

## Sales Promotion and Direct Marketing Panel

Philip Circus (Chairman)  
Paul Whiteing  
Oliver Hickson  
Jean Coussins  
Caroline Roberts  
Mark Dugdale  
Mark Challinor  
Peter Batchelor  
Michael Halstead

## 01 Taking the risk out of gambling ads

In July 2006, CAP and BCAP launched a public consultation on proposed new rules for regulating gambling ads. The consultation was in response to the Gambling Act 2005, which provided an opportunity to look afresh at the rules for gambling ads such as those for licensed casinos and betting. The new rules proposed by CAP and BCAP are designed to ensure all gambling advertising is responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited by ads that feature or promote gambling. Preventing links being drawn between gambling and crime or anti-social behaviour is another feature of the rules. The rules will come into force in September 2007.

## 02 Moderation for alcohol ads

CAP and BCAP introduced new rules on health, diet and nutritional claims in alcohol ads during the year. The rules, which have been added to the TV, radio and non-broadcast advertising Codes, tackle concerns that health, fitness and weight control claims are likely to mislead consumers when used in ads for alcoholic drinks.

Alcohol ads may contain factual statements about product contents, including comparisons, to enable consumers to make informed choices. But alcohol advertisements must not make health claims, including fitness or weight control claims. The rules came into force across all media in the summer 2006.

## 03 New role for GMP

The General Media Panel (GMP), the panel of industry experts that guides ASA and CAP staff on the interpretation of the CAP Code, has been expanded to give advice on broadcast advertising matters as well as non-broadcast. That will help to ensure consistency in advertising standards across media. The Chairman of the GMP, Grant Duncan from advertising agency Publicis, said the newly enlarged GMP would be a beneficial enhancement to the advertising self-regulatory system. “It makes sense for the GMP to advise on Code interpretation for both non-broadcast and broadcast advertisements for the same reasons it makes sense for one ASA to adjudicate on complaints about ads across broadcast and non-broadcast media.”

## 04 Updates to the Codes

The CAP and BCAP Codes can be an important initial source of information on the laws that affect certain types of advertisements and on the legal framework in which the advertising co-regulatory and self-regulatory systems work. To reflect changes in the law, CAP and BCAP made technical changes to their Codes during 2006. These included changes to the financial and political rules showing the new remit of, and the regulations that affect, the Financial Services Authority and Office of Fair Trading, and setting out the respective responsibilities of Ofcom, BCAP and the ASA in respect of political advertising. The Codes can be accessed in full via the CAP website at [www.cap.org.uk](http://www.cap.org.uk).

## 05 Unfair Commercial Practices Directive

A CAP and BCAP working group has been established to oversee the transposition of the Unfair Commercial Practices Directive (UCPD) into the advertising Codes. The Directive harmonises consumer protection against unfair commercial practices across the EU and will come into force in the UK in 2008. After discussions with the DTI, the role of self-regulation and co-regulation has been rightly safeguarded within the Government’s plans for implementing UCPD, and the working group is reviewing the Codes to assess consistency with the requirements of the Directive.

## 06 Training for industry

CAP’s programme of training for industry continued during the year with a series of Advice:am seminars and breakfast briefings. ‘The Insider’s Guide to working with the ASA’ was the most popular seminar among advertisers and agencies and was repeated because of high demand for places. CAP ran two seminars on the Direct Marketing rules in the CAP Code and visited Bristol to provide an introduction to the self-regulatory system for advertisers and agencies working in the West of England.



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# CAP

## Non-broadcast

### Review of the year

The Committee of Advertising Practice (CAP) is the industry body responsible for the non-broadcast Advertising Code. CAP writes and enforces the British Code of Advertising, Sales Promotion and Direct Marketing.

#### Committee of Advertising Practice

Advertising Association  
Cinema Advertising Association  
Direct Marketing Association  
Direct Selling Association  
Directory and Database Publishers Association  
Incorporated Society of British Advertisers  
Institute of Practitioners in Advertising  
Institute of Sales Promotion  
Internet Advertising Bureau  
Mail Order Traders Association  
Newspaper Publishers Association  
Newspaper Society  
Outdoor Advertising Association  
Periodical Publishers Association  
Proprietary Association of Great Britain  
Royal Mail  
Scottish Daily Newspaper Society  
Scottish Newspaper Publishers Association

Broadcast Advertising Clearance Centre  
Radio Advertising Clearance Centre

#### Copy Advice

The provision of free advice on whether proposed advertisements comply with the Code is a key point of CAP's service and a new marketing initiative for the Copy Advice team began with the launch of a Customer Relationship Management programme. The programme, which aims to improve the targeting of CAP's direct marketing and communications, is reviewing the way CAP communicates with its wide range of industry customers – from SMEs to FTSE 100 companies. At the end of 2006 the number of enquiries to the service had increased. Over 90% of written enquiries were responded to within 24 hours with an average response time of seven hours per written enquiry.

#### AdviceOnline

Copy Advice is available online via the CAP website AdviceOnline which offers a regularly updated searchable database of advice for non-broadcast marketing communications. A keyword search of over 350 different subjects provides detailed advice for marketers and links to relevant code clauses and past ASA adjudications. The number of users of the AdviceOnline service increased by over 40% during 2006 and the number of subscribers to Update@CAP – CAP's quarterly online newsletter – also reached record levels.

#### Keeping in touch

A fiercely competitive market combined with technological developments and greater consumer knowledge led to an update to the Help Note on Price Claims in Telecommunications Marketing. Although the basic principles of the Help Note remain the same – comparisons should be clear and fair; ads targeted at consumers should quote VAT-inclusive prices; footnotes should be legible; and claims should not exaggerate the availability or extent of benefits likely to be obtained – clarification has been added about what is unacceptable in telecoms ads.

In particular, unqualified claims such as “unlimited calls to UK landlines” should not be made because they are likely to mislead consumers, as does describing individual elements of a package as “free” if the cost of that element is included in the package price. The changes to the Help Note were explained to industry at an Advice:am seminar held at CAP's offices early in 2007.

#### Utilising help for utilities

As utilities companies race to offer the cheapest prices to customers, CAP has updated its Help Note on Price Claims in Utilities Marketing, to ensure ads are not misleading. Although the basic principles of the Help Note remain the same, the Help Note now reflects key innovations within the utilities market: Price Freeze products and Switching Sites. Although popular with consumers, Price Freeze products have fallen foul of the Code by not mentioning significant conditions, such as availability and extra costs. The Help Note explains that all significant conditions should be made clear, including the rates consumers are fixing at.

All CAP's Help Notes are available to download online at [www.cap.org.uk](http://www.cap.org.uk).

# CAP

## Broadcast

### Review of the year

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

#### Broadcast Committee of Advertising Practice

Advertising Association  
Broadcast Advertising Clearance Centre  
British Sky Broadcasting Ltd  
Channel 4  
Direct Marketing Association  
ERA UK (teleshopping)  
Five  
GMTV  
Incorporated Society of British Advertisers  
Institute of Practitioners in Advertising  
ITV  
Radio Advertising Clearance Centre  
Radio Centre  
Satellite & Cable Broadcasters' Group  
S4C  
Teletext  
Virgin Media TV

#### Television advertising of food and drink products to children

Ofcom's ten week consultation on television advertising of food and soft drink products to children began in March 2006. Ofcom proposed three policy options containing combinations of volume, scheduling restrictions and content restrictions. The content restrictions were drafted by BCAP and reflected a proportionate response to the government's requirement that the advertising and promotion of foods high in fat, salt or sugar (HFSS foods) to children should be restricted.

The main elements of the proposed content restrictions are aimed to ensure young children would not be exposed to TV ads that:

- promote poor nutritional habits or an unhealthy lifestyle
- promote excess consumption
- promote the pestering of parents
- encourage the purchase of food or soft drinks by using licensed characters, celebrities or promotional offers
- promote consumption purely to get a promotional offer
- make unsubstantiated nutritional, health or other claims.

In November 2006, Ofcom published the results of the consultation. Ofcom applied nutrient profiling to some of the restrictions that BCAP had proposed and extended the age range of children in relation to other restrictions. The new content rules will apply to all campaigns from 1 July 2007. More information on the outcome of Ofcom's consultation, including scheduling restrictions, can be found at [www.ofcom.org.uk/consult/condocs/foodads\\_new](http://www.ofcom.org.uk/consult/condocs/foodads_new).

#### Teleshopping challenge

Teleshopping remained the focus of BCAP's monitoring work and the Monitoring team continued to identify unsubstantiated product performance claims. The ASA Council upheld 12 teleshopping challenges.

Health and beauty was the biggest problem sector and accounted for over 90% of the team's workload. Ads challenged included those for detox foot pads, slimming pills, anti-ageing pills and creams, magnetic devices, hair removal devices and food supplements purporting to aid erectile dysfunction.

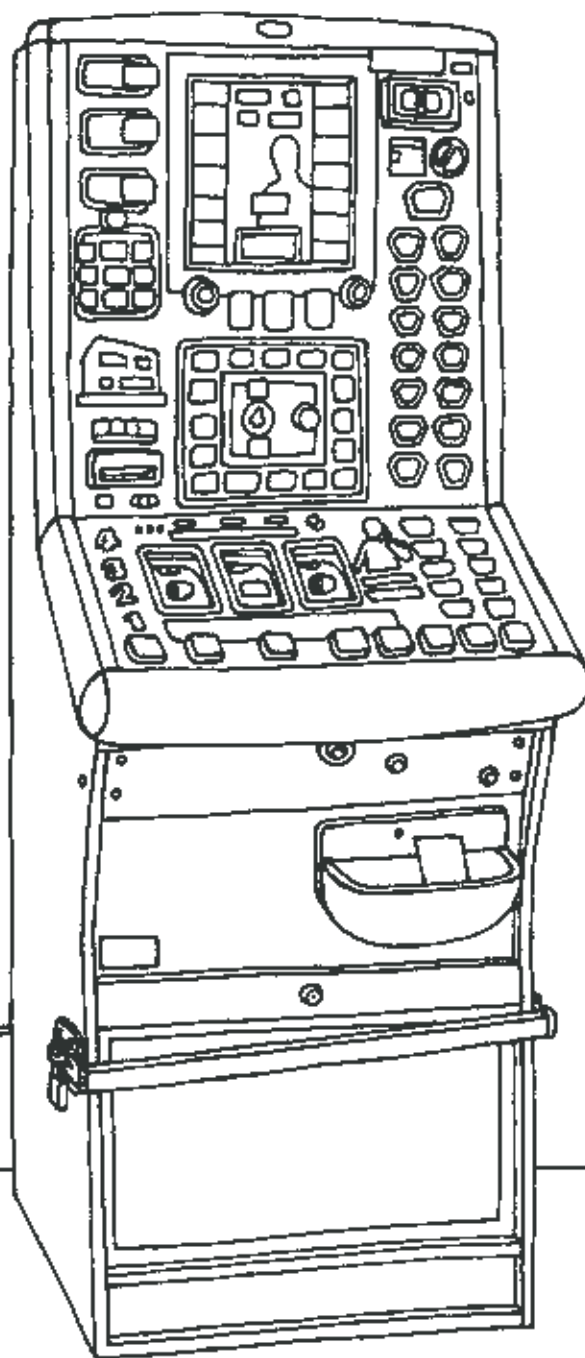
In February 2006, we referred We Deliver TV to Ofcom for sanction for breaches of the TV Code. We Deliver TV was placed in liquidation in September 2006 and the licence was revoked shortly thereafter, in accordance with Ofcom's normal procedures. After revoking the licence, Ofcom discontinued its sanctions procedure.

The ASA Council upheld a fast-tracked challenge about an explicit advertisement for a premium-rate sex line on Look4Love TV. When Look4Love refused to comply with the ruling, we referred the channel to Ofcom for sanctions. In November 2006, Ofcom fined Look4Love £175,000 and, two months later, revoked its licence for non-payment of the fine and for not remedying its failures as directed.

#### Turning down the volume

In the second half of 2006, BCAP worked with Ofcom, ITV, Channel 4 and Five to review the rule in the BCAP TV Code on the sound of TV ads. The present rule, which states that advertisements must not be excessively noisy or strident, relies too heavily on a perception of loudness instead of providing a more objective method for measuring the loudness of the broadcast output. A consultation on sound levels in TV advertisements is planned for 2007.

# Advertising Advisory Committee



**“We believe the changes to the TV and Radio Codes are a sensible way to regulate broadcast gambling ads.”**



I am pleased to report that, in its second full year, the Advertising Advisory Committee (AAC) has advised BCAP on six topics as well as minor, technical changes to the broadcast codes.

Although most of our work on the alcohol sections of the codes took place in 2005, we advised on the diet and health rules for alcohol ads and BCAP accepted our advice. The AAC also advised on the TV rules on premium-rate services of a sexual nature and sound levels in TV ads, which are important for the protection of consumers. We look forward to future developments that complement the work to restrict premium-rate services of a sexual nature to appropriate audiences and avoid unacceptably intrusive sound levels in TV commercials.

## Protection

The main focus of our work in 2006 has been on food and gambling. The Gambling Act loosened restrictions on gambling and the Gambling Commission has asked CAP, BCAP and the ASA to regulate the sector's advertisement content. The AAC has participated by advising on the broadcast side of that work to ensure that the greater freedom which the gaming industry will have from September 2007 is exercised responsibly, to provide special protection for vulnerable groups, especially the under-18s. We believe the changes to the TV and Radio Codes are a sensible way to regulate broadcast ads and we are pleased to note the similar CAP restrictions in non-broadcast media.

We remain concerned that, despite CAP and BCAP deciding that gambling ads should not have to carry compulsory educational messages or warnings, the Gambling Commission has decided to consult separately on that subject. In their joint consultation, CAP and BCAP had asked whether such messages were warranted and concluded, correctly in our view, that neither research evidence nor the evaluation of consultation responses merited that requirement. In the light of this information, we trust that the Commission does not make them compulsory.

Also, we noted that, although it covered lotteries, the Gambling Act did not cover the regulation of the National Lottery, including National Lottery ads. Because we consider

that the regulation of all lottery ads should be consistent, we advised BCAP to review its rules on National Lottery advertisements. We are pleased that BCAP has accepted our advice and it has begun discussions with the National Lottery Commission on this matter.

## Evidence-based

The thorny subject of food advertising to children – a highly politically charged and emotive topic, has occupied the AAC for most of the past two years. We have worked with BCAP to try to ensure that restrictions are proportionate and evidence-based. The AAC has twice considered and endorsed BCAP's proposal for TV restrictions and supports its draft proposal for radio. We shall consider the BCAP Radio food rules again after they have been subjected to public consultation.

I should like to thank my colleagues for their hard work: BCAP, for carefully considering our advice, for accepting most of it and for explaining clearly the reasons for not accepting the rest; Andrew Brown, the Chairman of BCAP, and Ian Blair, the Ofcom observer, for their valuable contributions to AAC debates; the BCAP Executive, especially for guiding us through the minefields of food and gambling, and, finally, the lay members of the AAC for their commitment and input to our work throughout the year.

**Elizabeth Filkin**  
Chairman

The AAC is a consumer panel established by BCAP to advise on the drafting and interpretation of BCAP's TV and Radio Codes. Committee members are independent of the advertising industry and appointed following public advertisement.

# Financial report

Non-broadcast and broadcast combined  
For the year ended 31 December 2006

	2006 £	2005 £
<b>Income</b>		
Cash received from the Advertising Standards Board of Finance Ltd	4,463,000	4,886,000
Cash received from the Broadcast Advertising Standards Board of Finance Ltd	2,892,000	2,125,000
<b>Total</b>	<b>7,355,000</b>	7,011,000
<b>Expenditure</b>		
Salaries and direct staff costs	4,357,200	4,189,417
Indirect staff costs	322,329	319,885
Rent and accommodation costs	959,536	736,620
Travel, subsistence and entertaining	57,834	56,522
Consultancy and professional fees	436,723	454,696
CRM project costs	71,974	–
Depreciation	269,637	276,093
Telephone, postage, printing, stationery		
Other general expenses	502,991	497,345
Advertising and promotion	403,485	589,736
Onerous lease provision	(184,800)	191,413
<b>Total</b>	<b>7,196,909</b>	7,311,727
<b>Operating Profit/(Loss)</b>		
Profit on sale of tangible fixed asset	–	3,000
Interest receivable	43,402	34,209
Finance charges payable under finance leases	(31,536)	(44,814)
Pension Finance	7,000	6,000
<b>Profit/(Loss) on ordinary activities before tax</b>	<b>176,957</b>	(302,332)

Year to 31 December 2006

Audited income and expenditure figures for the combined non-broadcast and broadcast activity in 2006 are given above and are the total of the amounts recorded in the Report and Financial Statements of the two companies that were adopted by the Non-broadcast and Broadcast Councils at their respective Annual General Meetings held on 20 April 2007.

Income

Compared with 2005, income received from the Advertising Standards Board of Finance Ltd fell by £423,000 (8.66%) to £4,463,000. However, income received from the Broadcast Advertising Standards Board of Finance Ltd rose by £767,000 (36.09%) to £2,892,000. The total income was

£7,355,000; a rise of £344,000 (4.91%) compared with 2005. Interest received rose by £9,193 (26.87%) and produced additional income of £43,402.

Expenditure

In the early years of the combined non-broadcast and broadcast operation, budgets and forecasts of expenditure have been prepared on a cash basis. The budget agreed for 2006 of £7,649,113 included a £100,000 contingency to be set aside. The forecast of expenditure for the year was £7,605,294; a saving of £43,819 (0.57%). On the cash basis, the audited figures reveal a saving of £9,166 (0.12%) against forecast and a saving of £52,985 (0.69%) against the budget.

Savings in staff costs were realised due to the headcount being less than budgeted and turnover being higher than usual. Savings in other non-salary related staff costs and deferring some capital expenditure on IT and office equipment enabled the £100,000 contingency to be met. There were also savings from the successful disposal of previous office accommodation.

On the Profit and Loss basis, the audit confirmed expenditure of £7,196,909; a decrease of £114,818 (1.57%) compared with 2005 and considerably less than the costs anticipated in the Business Plan of September 2004 (£8,291,000).

The Report and Financial Statements for ASA and ASA(B) reflect a split of costs between non-broadcast and broadcast activity based on taking 61% and 39% respectively (the actual staff costs ratio for the year) 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.

Profit/Loss

The combined profit before tax of both non-broadcast and broadcast activity was £176,957 (2005 – loss of £302,332). The move from an overall loss to profit was due to an improvement in the income from the broadcast levy and the successful disposal of the liability for previous office accommodation, for which onerous lease provisions had been made in the last two financial years. After tax the combined profit was £345,185 (2005 – loss of £293,687).

Registered offices

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Telephone 020 7492 2222

Registered in England: No 733214

The Advertising Standards Authority  
(Broadcast) Ltd  
Mid City Place  
71 High Holborn  
London WC1V 6QT  
Telephone 020 7492 2222

Registered in England: No 5130991

# How to complain

If you want to complain about a TV, radio or cinema commercial, national newspaper advertisement or a poster, telephone us Monday to Friday between 9am and 5.30pm on 020 7492 2222 or visit our website [www.asa.org.uk](http://www.asa.org.uk).

For any other type of advertisement, such as a local newspaper ad, mailing, online banner or pop-up ad send us your complaint, preferably with a copy of the ad attached, by post, fax or via the online complaints form on our website [www.asa.org.uk](http://www.asa.org.uk).

What happens when we receive a complaint?

**01**  
When we receive a complaint, it is assessed against the Codes. If there appears to be a problem we will tell you we are taking up your complaint.

If there is no case to answer under the Codes we will tell you; in some cases, we may be able to suggest another body that can help.

**02**  
We try to resolve complaints as quickly as possible. For instance we can have an ad changed if it's a minor mistake, get your name taken off a mailing list or chase up undelivered mail order goods on your behalf. If a serious breach of the Codes is involved, then a formal investigation might be required.

**03**  
In a formal investigation, the advertiser must submit evidence in writing. The ASA Executive then writes a recommendation that goes to the ASA Council. Where needed, expert advice is sought. The Council then decides if there has been a breach of the Codes.

**04**  
If the Codes have been breached, the ad, promotion or direct marketing must be changed or withdrawn. Where the complaint is 'not upheld' no further action is taken. The adjudications are published on our website and are made available to the media. Advertisers and complainants are told in advance when the case will be published.

**05**  
In certain circumstances, advertisers or complainants can request a review of an adjudication. Both sides have 21 days to ask the Independent Reviewer of ASA Adjudications to review the case. If the Reviewer accepts a request for a review he can ask the Council to reconsider its ruling. Full details of the review procedure can be found in the CAP Code and in BCAP's Advertising Guidance Note No.3. See [www.cap.org.uk](http://www.cap.org.uk).

**06**  
We will check to see that our rulings are complied with. The ASA staff also monitor the media to make sure the Codes are being adhered to.

**07**  
The vast majority of advertisers comply with our rulings. We work closely with the advertising industry to act against the few who do not. Broadcasters cannot air ads that break the Codes and we can ask publishers not to print ads that don't meet the rules.

**08**  
Ultimately, we can refer non-broadcast advertisers who persistently break the Codes to the Office of Fair Trading for legal action under the Control of Misleading Advertisement Regulations. A similar safeguard exists for broadcast ads where a broadcaster who continually airs ads that break the Codes can be referred to Ofcom.



# Our standards of service

## Being accessible

We aim to be accessible to members of the public and the advertising industry. In 2006, 85% of complainants agreed that the ASA is accessible to the public.

We shall publish our contact details (website, address and telephone) on all our literature.

We shall ensure that our switchboard is staffed during normal office hours (9am – 5.30pm).

We shall ensure that our website is available at all times.

We shall accept complaints via the online complaint form on our website, by e-mail, forwarding SMS, letter, fax, telephone and text phone.

We shall aim to ensure that members of the public are aware of our existence and role and recognise our name and logo. In 2006, 22% of the public could spontaneously name the ASA. Our logo was recognised by 31% of the general public.

## Responsiveness

We aim to resolve complaints without undue delay, but complaints that require investigation can take longer than the average.

Our aim is to acknowledge complaints within five working days of receipt, reply to all other correspondence within 10 working days and keep complainants advised of progress on a regular basis. In 2006, 87% of complainants were satisfied with the time taken to acknowledge their complaint and 64% were satisfied that they were kept informed throughout the complaint process.

We aim to turn around complaints, on average, within 12 working days, with at least 80% being within this target.

If complaints warrant a full investigation, we aim to resolve them within 60 working days, whilst recognising that complaints by commercial competitors can be protracted.

In 2006, overall complaints were resolved within an average of nine working days, with 87% within target. Those requiring investigation were resolved within an average of 56 days, with 73% within target.

## Complainants

If a complaint is outside our remit we will advise within 10 working days and provide information on who should be contacted. In 2006, customer satisfaction for outside remit complaints was 57%.

We aim to respond to e-mail enquiries within 48 hours during the working week.

## Effectiveness

We aim to meet the needs of our customers, whether members of the public or industry.

Whilst recognising that we operate in circumstances where some 80% of complaints result in a 'not upheld' decision, we aim to achieve the highest possible scores in our Customer Satisfaction surveys. In 2006, overall complainant satisfaction was 61%.

We aim to achieve the highest possible customer satisfaction scores from the advertisers and agencies with whom we deal in resolving complaints. In 2006, this score was 78%.

## Quality

We aim to deliver a high quality and professional service. If a complainant or advertiser believes that ASA's handling of a complaint is not complying with these standards they can write to the Director General outlining their concerns and he will respond within 10 working days.

In 2006, 80% of such correspondence was answered within 10 working days. The average time taken was 8.9 calendar days.

If a complainant or advertiser believes that there is a substantial flaw in a Council adjudication, they may be able to secure an Independent Review by the Independent Reviewer of ASA Adjudications. The Independent Reviewer's report for 2006 may be found on pages 20–21.

## Transparency

We aim to be open about our procedures and decision making, and accountable for our performance.

Our adjudications are published each week on our website at [www.asa.org.uk](http://www.asa.org.uk). Our website provides fullest information on who we are, how we operate and our consumer research. The usefulness of the information on our website received an 83% satisfaction rating in 2006.

From April 2007, we shall publish our performance statistics on the website on a quarterly basis. We publish an Annual Report in April/May each year, reviewing our activities throughout the previous calendar year. We will publish an Annual Statement in October each year updating our performance reporting (January – June) and setting out our objectives for the coming year.



**Advertising Standards Authority**

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