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40 years of effective self-regulation

Advertising Standards Authority Annual Report 2001





p3



p4



p4



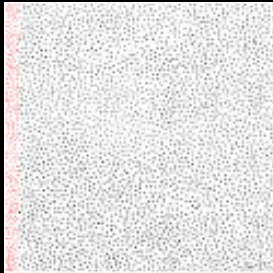
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p5



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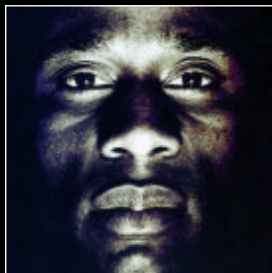
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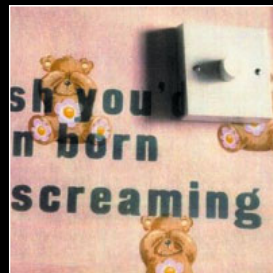
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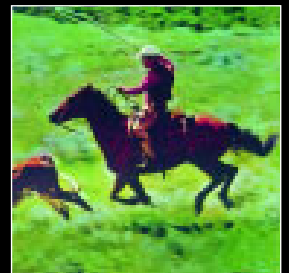
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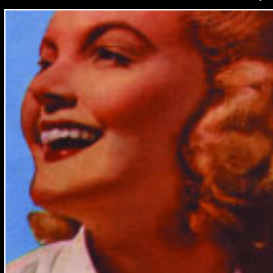
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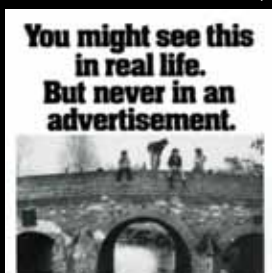
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p12



p12



p13



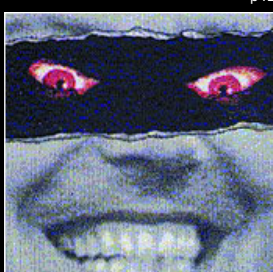
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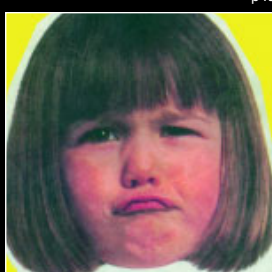
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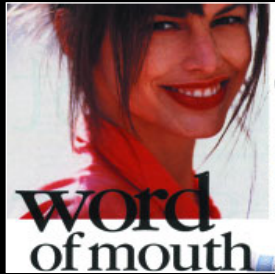
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p20



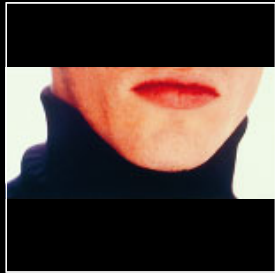
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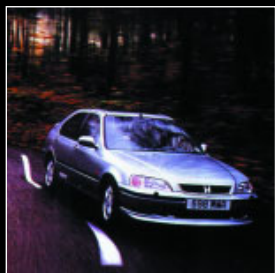
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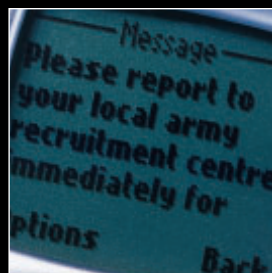
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p20



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For **40 years**, the Advertising Standards Authority (ASA) has kept abreast of changes in consumer expectations, the advertising industry and the media.

These 40 ads illustrate our work over the last four decades. Some were found to be misleading or offensive, others were judged acceptable.

Together, the ads demonstrate the effectiveness of the self-regulatory system in maintaining advertising standards while adapting to changing times.

- 2 Protecting Consumers
- 6 Reflecting Public Expectations
- 10 Taking Responsibility
- 14 Competitive Claims
- 18 New Media: New Challenges



Protecting

We receive more complaints about misleading advertising than any other issue. We insist that ads are honest and truthful – in the large print and the small.

The key to securing a fair deal for consumers and fair competition for business is the Codes' requirement that advertisers hold proof for their claims. When challenged, advertisers must prove their claims are true. If they cannot prove it, they cannot claim it.

consumers...

Self-regulation of non-broadcast advertising as we know it today began 40 years ago when the Advertising Association established what became the Committee of Advertising Practice (CAP), the industry body that sets the rules for advertisers, agencies and media. As the foreword to the very first edition of the British Code of Advertising Practice explained: 'The function of advertising is the advocacy of the merits of particular products or services... and this Code seeks to define practices considered undesirable by the organisations which have subscribed to it.'

That was in 1961. The following year, the industry established the Advertising Standards Authority under an independent Chairman, to adjudicate on complaints about advertising that appeared to breach the Code.



Voluntary control

The same year, an official report on Consumer Protection by the Molony Committee rejected the case for an American-style Federal Trade Commission to regulate advertising by statute. 'We are satisfied that the wider problem of advertising ought

to be, and can be, tackled by effectively applied voluntary controls,' reported the Committee. 'We stress, however, that our conclusion depends on the satisfactory working of the new scheme, and in particular on the continued quality and independence of the Authority at its pinnacle.'

(1) Ribena Toothkind (1998): Advertiser SmithKline Beecham took the ASA to the High Court over the Authority's upheld adjudications against Ribena Toothkind advertising. The judge supported the self-regulatory system.

Protecting Consumers

The aim of industry self-regulation was and remains to ensure that advertisements are 'legal, decent, honest and truthful'. That's in the interest of consumers – and also in the interest of good advertising. The ASA acts to keep a level playing field for all advertisers by maintaining standards – so consumers and business can benefit from healthy competition on fair terms.

Burden of proof

The majority of complaints to the ASA are about misleading advertising, so stopping dishonest or untruthful ads is the main business of the ASA. Under the self-regulatory system, the burden of proof is reversed in favour of the complainants. Advertisers have to be able to prove the claims they

make if challenged. A number of celebrated pre-1962 campaigns would probably not pass the substantiation test today.

40 years on, advertising in the UK overwhelmingly complies with the Codes. Because the industry is committed to making self-regulation effective, advertisements that break

Direct Line Instant Access Account

UP TO **5.75%** GROSS*

Small space. Big savings rate.

Call one of the numbers below for high interest with instant access.

0181 667 1121 0161 833 1121 0141 221 1121

LONDON MANCHESTER GLASGOW

CALL ANYTIME 9am to 5pm Monday to Friday and 9am to 5pm Saturday. Please quote ref. **DM46**

*5.75% gross paid on balances of £50,000 or more (subject to variations). Rates correct at 5th December 1996. Calls are recorded for your added security. Direct Line and the red telephone are trademarks of Direct Line Insurance plc, used with its permission.

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Poor targeting for Sony Playstation

Poor targeting for this mailing which purported to be a Medical Card and Test Results, led to

complaints from over 70 people, many of who were waiting for the results of medical tests.

The advertisers had intended to target young adult users of their product who they believed would need only a few seconds to identify the brand behind the mailing. However, many of the people sent the mailing were parents or older relatives of the end user. While these recipients might have bought the product, they would not necessarily be familiar with its branding.

The ASA considered that the poor targeting of the mailing meant that it was particularly likely to offend those awaiting the results of hospital tests. The complaints, that the mailing was misleading and offensive, were upheld.



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results – they reveal early stages of a progressive condition for which I am prescribing immediate treatment'.



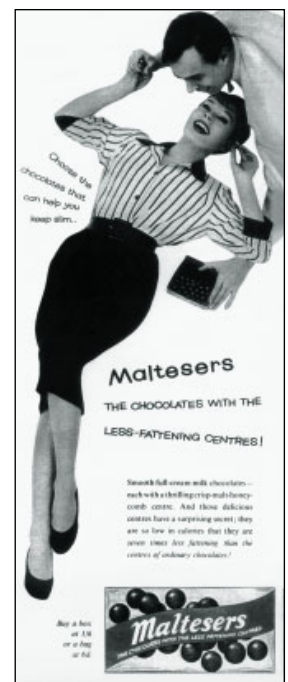
- (2) Sony Computer Entertainment UK Ltd (1998): This mailing, which appeared to be a medical card and test results, was judged to be misleading by the ASA Council.
- (3) Direct Line Financial Services Limited (1996): The ASA ruled that the words 'with instant access' were not acceptable in this national press ad as customers had to have money transferred to an existing bank or building society before they could access it.
- (4) (1992): When Anthony Green and Co ignored ASA requests to change their misleading advertising the Authority referred the company to the Office of Fair Trading.
- (5) Maltesers (1959): Since the

introduction of the Codes in 1962, claims like this one have had to be backed up with documentary substantiation. (6) British Railways Board (1984): The Authority agreed with complainants that the layout of this poster ad was likely to give a false impression about the proportion of trains that arrived late. (7) In 1993 the ASA investigated 'advertorials' such as this one from Sensodyne, against the background of a 47% growth in the use of this technique. (8) British Airways plc: Tough action by the ASA forced airlines to quote their prices inclusive of all taxes. The ASA has also insisted that airline ads make clear exactly

which airport is the destination so that consumers can assess flight 'bargains' fairly. (9) JEM Marketing (1994): This press ad breached the specific rules in the Codes for slimming products. (10) J Sainsbury plc (2000): Claims about organic food have been a feature of recent supermarket advertising. CAP's Help Note on organic claims is helping to keep such ads honest and truthful.



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advertising to children in non-broadcast media. In 2001, we considered complaints about 59 advertisements and upheld only nine of them.

From the very first edition, the misleading confusion of advertising with editorial material has been banned. And advertising must not masquerade as private correspondence.

Partnership

The partnership between the Code writing Committee of Advertising Practice and the complaints adjudicating ASA is the great strength of today's self-regulatory system.

CAP interprets ASA rulings to the industry and helps advertisers to comply with the Codes through Copy Advice and Help Notes. Self-regulation is flexible and can adapt speedily to new situations or products. Advertising can be aggressive in highly competitive markets. The ASA can move swiftly to address issues as they arise.

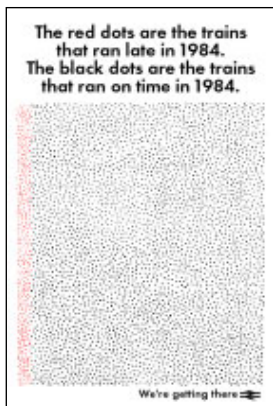
Over its first 40 years the ASA has built up a reputation for considered judgements and prompt action to secure compliance. From under 100 complaints in its first year of operation, the ASA now receives nearly 13,000 complaints a year.

The system also has a high level of recognition from the public and is important to consumer confidence in advertising,' she said.



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...testing claims



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The system has survived legal challenge from some of the most powerful advertising brands.

40 years after the Molony Committee reported, the Government too considers the self-regulatory system to be effective in the interests of consumers. Speaking at an industry summit to mark the 40th anniversary of the ASA, Consumer Minister Melanie Johnson congratulated the ASA and the advertising industry, on its achievements over the last four decades: 'The success of self-regulation is due to the hard work of many, including the ASA. But self-regulation could not work without the active participation and commitment of the advertising and publishing industries.'



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40 YEARS OF SELF-REGULATION

1961

The Council of the Advertising Association resolves to bring into being the ASA.

1962

22 August: ASA incorporated under the Companies Act 1948.

24 September: Inaugural meeting of the ASA.

1964

Spot checks begin on ads for slimming diets, hair treatments and knitting and sewing machines, vitamins, cigarettes, beauty treatments, gin, cocktails, vodka and health food drinks.

1965

Guidance is given to the travel industry to make sure that holidaymakers do not suffer inconvenience, disappointment or financial loss as a result of advertisements.

1966

Restrictions on advertising pregnancy kits are lifted and the ASA advises publishers they can use their discretion subject to safety conditions.

1968

Trade Descriptions Act gains Royal Assent. Government expresses its hope that the self-regulatory system would continue to operate alongside the statutory system.



Reflecting public

What makes an advertisement unacceptable?
We apply the industry's own rule that ads should not cause 'serious or widespread offence'.

Deciding whether or not to uphold complaints is not a question of censorship or social engineering. Rather, we aim to reflect public expectations, taking into account both medium and context.

Over time, the boundaries of offensiveness change. The challenge is to patrol the boundaries of expectation, not to try to enforce absolute standards of taste.

expectations...



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Right from its inception, the ASA was tasked with keeping ads 'clean'. Four decades ago, before the development of effective sanctions, the ASA turned to the British Federation of Master Printers for help in discouraging advertisements that might be an affront to public decency. Today, the current self-regulatory system means that advertisers who persist in using shock tactics to grab attention, or

use sensational or gratuitous images in the hope of getting media coverage, run the risk of becoming subject to poster pre-vetting. This means all their posters must be pre-approved by the Committee of Advertising Practice.

Less than a quarter of the complaints the ASA receives are about offensive ads, but our adjudications on these complaints attract the most



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attention and stimulate the most debate. Despite the headlines, research consistently shows that consumers enjoy advertising. Effective campaigns engage the public, through information about new products, or through creativity and wit – and it is this engagement that is the aim of all advertisers. But how effective advertisements are in their attempts to inform or entertain is not the concern of the ASA.

Instead, we act when the information appears to be dishonest or misleading, or when the attempt at entertainment has gone too far and become offensive.

(1) The 1994 Wonderbra campaign broke new ground with its sheer 'in your face' impact. (2) Lee Jeans (1997): Amusing, or offensive? Complaints about this ad were not upheld.

Reflecting Public Expectations



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(3) Irn Bru (1998): Nearly 600 people objected that this advertisement was offensive and challenged the implication that the cow would enjoy becoming a burger. The ASA decided the ad was unlikely to cause widespread or serious offence and that an investigation under the Codes was not justified. (4) 1997: French Connection's use of its FCUK trademark challenged the public – and the ASA, but agreement has now been reached and all FCUK ads are voluntarily pre-vetted. (5) Club 18-30 (1995): Complaints that this new campaign was offensive and socially irresponsible were upheld by the ASA. (6) Yves St Laurent Beauté Ltd (2000): This poster attracted the second biggest complaints tally ever. (7) British Safety Council (1995): This leaflet received 1,187 complaints – the most ever received about a single ad. (8) Sunday Times (1998): Objections that this advertisement was tasteless, provocative and blasphemous to Christians were upheld. (9) 'Scared? You should be. He's a dentist': Complaints about this 1998 ad by the Commission for Racial Equality were not investigated. (10) NSPCC (1999): Copy Advice was sought before the launch of this campaign.



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The right place

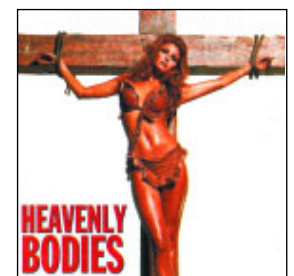
Context is key to the decisions that we make. In the right circumstances, striking advertising will be appropriate. But used within different media, the same image can cause serious or widespread offence. The Opium perfume advertisement featuring model Sophie Dahl first appeared in women's magazines in 2000. We received just four complaints. The same image, when displayed on billboards, attracted the second biggest complaints tally ever. The ASA Council decided that this image was acceptable in appropriate magazines, but not in the medium of the high street poster.



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Judging offence

Today, widespread access to the Internet means that consumers can have access to any material they like – acceptable or otherwise. Photographs of semi-naked women appear each day in national papers. The most popular TV programmes tackle controversial subjects before the 9.00pm watershed. Within this context, the ASA has to make judgements about what is offensive, or unacceptable in today's non-broadcast advertising. The self-regulatory system has had to prove its flexibility by adapting to changes in the wider environment in which advertising works.

What hasn't changed in 40 years is the level of debate about what is acceptable and what isn't. The wider public debates are reflected within our Council, a group of men and women who come from all walks of life and have a variety of approaches. Discussion is intelligent and lively. Each ad is judged on its merit and in context. Decisions are taken by majority vote, but all Council members judge the ads against the criteria laid down in the Codes: 'Advertisements should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on

the grounds of race, religion, sex, sexual orientation or disability.'

The application of the Codes changes with time, according to the context: be it world events, changing public attitudes, the medium or the audience. Some people may find some products offensive – but that is not grounds for objecting to advertisements for them.

When responding to concerns, the self-regulatory process means that the ASA investigates complaints about advertisements already in the public arena. We were not established to be a censor.

...avoiding

The self-regulatory system contrasts with the statutory system of regulation for TV and radio commercials, where advertisements have to be pre-cleared. This would be an impossible task in non-broadcast advertising, where millions more ads are involved. Self-regulation means the responsibility rests with the advertiser, to ensure their ads comply with the Codes. But sometimes, advertisers go too far.

Shock tactics

The 'Beaver Espana' poster campaign by Club 18-30 in 1995 was a marked change from earlier advertising by this brand, which had promised

to stop persistent offenders from trying to shock deliberately. Poster advertisers who have had complaints upheld against them by the ASA are no longer able to undertake new campaigns with impunity.

Charities often use shocking or hard-hitting imagery to get their message across, but such approaches aren't immune from complaints from members of the public. Charities often tell us, in their defence, that the circumstances their advertising portrays are realistic and that they are portraying the type of situations they are working to prevent. Whilst research shows that charities are



10

often shown greater tolerance by the public, who understand that they may need to shock to drive the message home, even charities can sometimes go too far.

engage the consumer. In 1982, the ASA conducted a study of women's views of advertising. Three-quarters of the women who took part in the research did not agree that ads had the capacity to degrade women. When the ASA repeated the research eight years later, three-quarters of women said that advertising could help to establish unrealistic views of the way women should look and behave. Four years later still, in 1994, the Wonderbra campaign broke new ground with its sheer 'in your face' impact. Despite complaints that this advertisement was offensive to women, the ASA considered the humorous approach was unlikely to cause serious or widespread offence.

In similar vein, the 1997 Lee Jeans 'stiletto heel' ad was also deemed to be humorous, although complaints by men about advertising belittling men have risen in recent years.

Balancing the right of advertisers to advertise with the rights of people not to be offended is not always easy. The ASA Council makes its decisions about taste and decency issues using all the evidence available – while using common sense and making judgements that it believes are in tune with the public's expectations. That means applying standards of acceptability that are themselves in constant flux.

censorship



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merely 'Whispered goodnights' and 'Golden memories'. Suddenly, 'Sex, sex, sex' was available for viewing on the high street. We upheld complaints that some of the ads were offensive, while others were unacceptable and irresponsible in advocating alcoholic excess. Following this campaign and criticism of the poster industry a poster pre-vetting regime was introduced

The prevailing rules of 'serious or widespread offence' still apply.

Hard-hitting

When the NSPCC came to CAP for Copy Advice with the ads for their 'Full Stop' campaign, the proposed strap line was: 'I wish you'd died in my womb'. Advice from the Copy Advice team changed this to the ad above. Still hard-hitting, the ad retained its impact – and the campaign still won awards – but, in the view of CAP's Copy Advice team, the changed ads were less likely to cause serious or widespread offence.

For the most part, advertising changes without the influence of the ASA. If the ASA Council needs to reflect the nation's changing expectations when judging what is likely to offend, so too do the advertisers themselves, as they try to

40 YEARS OF SELF-REGULATION

1970

A CAP working group looks at how to distinguish ads from editorial. New ruling and guidance issued: ads must be clearly and immediately recognisable as such.

1973

ASA publishes summaries of its rulings for the first time – but only persistent offenders are named.

1974

British Code of Sales Promotion published by CAP.

Prices and Consumer Protection Secretary Shirley Williams criticises the ASA for not being sufficiently well known by the public.

1975

The Advertising Standards Board of Finance Ltd (ASBOF) is set up to operate new levy arrangements.

New Codes for alcoholic drink and cigarette advertising introduced, along with pre-vetting for the latter.

1978

Director of Fair Trading, Gordon Borrie, calls for speedier response times and more effective compliance action in his report on the ASA.



Taking

As social attitudes have changed so have the advertising Codes. In the 1960's, tobacco and alcohol were promoted in ways that would not be acceptable today.

Few people now regard smoking as 'heroic', so we keep 'heroes' out of cigarette ads. Alcohol ads should not associate drinking with social success.

Equally, advertising to children is controlled by specific rules designed to prevent them being exploited for their inexperience and trust.

responsibility...

The Codes stipulate that advertisements must be prepared with a sense of responsibility to consumers and to society. As with serious and widespread offence, expectations of social responsibility have changed over time. Advertisers have become bolder to make their point, while consumers have become less accepting of anti-social messages.

Advertisers often claim that they are trying to make a point, by deliberately using shock tactics, or that they are trying to challenge traditional assumptions. While such an approach may be intended to provoke thought, it can also shock, or be viewed as socially irresponsible. The 1997 Accurist poster and national press ad which declared: 'Put some weight on' resulted in complaints from people who themselves had suffered eating disorders or who had family

or friends who had. Despite the advertiser's insistence that the model was naturally thin, the ASA upheld the complaints, considering that the ad could be seen to be mocking people with eating disorders and portraying being underweight as desirable and therefore advisable.

Dangerous ads

While eating disorders have only come to the public's attention in the last decade or so, the Codes have always highlighted particular audiences or products that advertisers need to treat with caution. The ASA's own advertising made the point in 1979, when a campaign was launched with a series of photographs showing children playing in the road, or sitting on the balustrade of a bridge, feet dangling over the edge. The strapline said: 'You might see this in real life. But never in an advertisement.'



(1) 1975: The Marlboro cowboy no longer features in UK cigarette advertising. (2) Silk Cut (1993): As a result of stricter Codes, tobacco advertising has adopted a more abstract approach.

Taking Responsibility

Today's Codes reinforce the requirement that ads 'should contain nothing likely to result in children's physical, mental or moral harm'. Pester power is outlawed too, as advertisements should not actively encourage children to make a nuisance of themselves to parents or others.

To mark the International Year of the Child in 1979, the ASA conducted research amongst children to gauge their reaction to advertising. Whilst the children surveyed proved to be discerning consumers, able to

recognise advertisements as such, the research also noted that 'their reaction is geared to their age, experience and the content of individual advertisements'. The Codes now insist that ads should not exploit children's credulity, loyalty, vulnerability or lack of experience.

Heroes disappear

Few topics in advertising have led to as much debate as the pros and cons of cigarette advertising. Public opinion has long been sharply divided, between those who believe that what is legal to sell should

be legal to advertise and those who believe that cigarette advertising should be banned.

In 1975 a particular Code for cigarettes and hand-rolling tobacco was included in the British Codes of Advertising and Sales Promotion. The Code states that advertisements should not incite people to start smoking or encourage smokers to increase their consumption or smoke to excess. This Cigarette Code and subsequent revisions meant that previously familiar icons, such as the Marlboro cowboy, disappeared from

non-broadcast ads in the UK. The cowboy no longer features as his presence provides a clear association between smoking and an outdoor lifestyle, suggesting health and wholesomeness. He is also represented as a heroic figure and this too is forbidden, particularly if such characters feature in advertisements in a way that would appeal to those who are adventurous or rebellious, particularly the young.

As the rules have got stricter, cigarette advertising has become increasingly abstract but, even

if the product isn't shown, all cigarette ads must be pre-approved by CAP's Copy Advice team. But despite the success of the self-regulatory rules, it appears that a statutory ban on tobacco advertising will shortly be introduced.

Alcohol agreement

As with cigarettes, the code of advertising for alcoholic drinks was based on rules agreed by the industry itself and once the strengthened Code was introduced in 1975, an immediate change was apparent. Suddenly, ads that implied

...raising stand



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(3 and 5) Cossack Vodka and Smirnoff (1970): Both these advertisements would be questioned under today's rules, which forbid associating alcohol with sexual capabilities and sporting achievements. (4) Craven A: The headline claims in this 1930's advertisement, together with the use of sporting imagery, would be forbidden under today's rules. (6) Diamond White (1996): The ASA was concerned that the models in this poster looked under 25 and were acting in a socially irresponsible way – a breach of the Codes. (7) Benetton (UK) Ltd: The ASA deemed this 1991 poster to be a poor reflection on the advertising industry and ordered the advertisers not to repeat the approach. (8) The ASA's own advertising made the point in 1979: children should not be shown in hazardous situations or behaving dangerously.

ards



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On the road

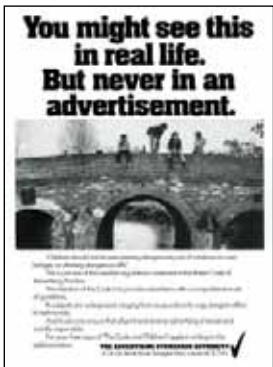
Motoring advertisements can give rise to complaints if they use speed claims as the vehicle's main selling point. With pressure on the industry from various quarters, it is particularly important that car manufacturers produce responsible advertising. The Codes stipulate that the predominant message of motoring ads should not be speed and the ASA is alert to concerns in this area.

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(9) Honda UK (1997): This national press advertisement was judged to have breached the Codes which state that speed should not be the predominant message of advertisements.
(10) Socially irresponsible – this Accurist ad offended sufferers of eating disorders, their families and friends.



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sexual success from drinking alcohol, or an unhealthy dependence on alcohol, were outlawed. But the system was faced with a new challenge when advertising of new alcohol brands targeted at young drinkers caused concern. The ad shown left (6) was banned, not only because it showed people acting in an irresponsible way after a night out, but also because the models did

not look as if they were over 25 years old – a clear breach of the Codes.

World events

Public attitudes to smoking and drinking have changed radically during the ASA's lifetime. But public expectations have also changed as the result of particular events. Three separate tragedies that occurred in the UK had a direct impact, not only on the way in which the public view advertising, but also on the Codes themselves.

In the wake of the Hungerford shooting in 1987, advertising for weapons and particularly those offered by mail order became a matter of Government concern. In CAP's monitoring process, out of more than a quarter of a million ads scanned, 281 revealed some level of problem. As a result of the public's and the Home Office's concern the Codes were amended to include new rules on violence

and anti-social behaviour: 'Advertisements for weapons and for items such as knives, which offer the possibility of violent misuse, should avoid anything in copy or illustration that may encourage such misuse.'

Similarly, the murder of head teacher Philip Lawrence in December 1995 and the Dunblane tragedy four months later provoked strong public reaction and complaints about violence in advertising soared by 25%. Monitoring by CAP revealed little problem with specific ads but the industry was warned to be aware of public sensitivity about using any imagery that might be seen to provoke or condone violence.

Benetton controversy

Despite this warning, Italian clothes company Benetton pressed ahead with a series of controversial posters, including images of a blood-stained T-shirt with a bullet hole and the infamous blood smeared baby (7).

Over 800 people wrote in to protest about this advertisement and the ASA deplored the advertiser's apparent willingness to cause distress with their advertising approach.

Speed trap

The specific rules in the Codes for motoring advertisements (see (9) above left) reflect the safety concerns addressed by the European Conference of Ministers of Transport (ECMT) Resolution on Advertising that Conflicts with Road Safety Aims, November 1989.

The resolution, to which the UK is a signatory, urges ECMT member countries 'to regard as inappropriate any advertising whose content extols performance or power and treats driving as a sport or shows scenes evoking motor racing, lightning acceleration and top speeds.' Effective self-regulation in this area is the best argument against statutory controls.

40 YEARS OF SELF-REGULATION

1981

Adjudications into competitive complaints are published.

1982

Research into women's attitudes to ads finds that women most dislike images of sexual suggestiveness and stereotypes in advertising.

1984

Misleading Advertisements Directive adopted, although this doesn't become law until 1988. Self-regulation is the 'established means' of implementing the Directive.

1987

The Hungerford shooting leads to amendments to the Codes to include new rules on violence and anti-social behaviour.

1988

The Control of Misleading Advertisement Regulations add a legal backstop to the self-regulatory sanctions.

1989

The first referral to the Office of Fair Trading in 1989 results in an injunction to prevent misleading slimming claims for Speedslim.

1990

ASA agrees to oversee new sections of the Codes that apply to list and database management.

A black and white photograph showing two hands holding toy cars. The hand on the left holds a white toy car, while the hand on the right holds a dark-colored toy car. The cars are positioned as if they are about to collide or are in a race. In the bottom foreground, the top of a person's head and their eyes are visible, looking up at the cars. The word "Competitive" is written in large, bold, red letters across the center of the image.

Competitive

claims...

Our independence from the ad industry is assured. This means we can work to maintain a level playing field between advertisers: keeping comparisons clear and fair.

Around one in ten complaints about advertising is not from a consumer but from a competitor. Maintaining a level playing field between advertisers has always been an ASA responsibility – and consumers benefit from healthy competition between advertisers.

How aggressive can rival campaigns be? The very first Code condemned the practice of 'knocking copy', but two years later the Codes were revised to allow 'substantiated competitive complaints inviting comparison with a group of products or with other products in the same field'.



(1) Daihatsu (UK) Ltd (1999): Vauxhall Motors Ltd challenged this national press advertisement for the Daihatsu Sirion 1.0+, claiming that the advertisers had omitted 34 specification advantages that the Corsa had over the Sirion and that the picture of the Corsa was an outdated one. The ASA upheld the complaint and considered that the comparison was unfair and misleading.

Competitive Claims

At the same time, denigration has always been unacceptable, whether of products or personalities, as the ASA made clear in 1968: 'There can be no possible excuse... for comparisons of an unfair kind or for contemptuous references to the products and services of a competitor... The Authority notes with approval that some advertisers..., although provoked by disparaging references to their wares by manufacturers of competing products, have shown commendable restraint in refraining from descending to the same level.'

Today's Codes permit comparisons in the interests of vigorous competition – as long as they are clear and fair. Denigration in advertisements continues to be prohibited, and advertisers should not unfairly attack or discredit other businesses or their products. Making unfair use of the goodwill attached to a trademark, name or a brand of another organisation is also forbidden.



(2) Unilever Plc, Ariel: The introduction of new formulae for washing powder in the early 1990's led to a public war between two leading manufacturers, with a series of advertisements making and challenging competitive claims. The ASA was called to intervene when Lever Brothers Limited objected to this advertisement. The complainants challenged the claim that no other product washed clothes as clean, as soft or as safely as the advertisers' product. The ASA supported the complainants, concluding that the advertisers had not substantiated the two claims and asked for the headlines in this ad to be deleted.

...kept in check

(3) St Ivel Ltd (1993): The self-regulatory system is flexible enough to react quickly to changes in legislation. The introduction of the new Trade Marks Act in 1993 allowed companies to mention rival products by name as long as this is done honestly and is not detrimental to – and does not take advantage of – the distinctive character or repute of the trademark. When St Ivel Gold published this national press advertisement Van den Berghs objected, considering that the comparison failed to acknowledge the health benefit of Flora's high content of polyunsaturates. In its ruling, the ASA expressed concern that the advertiser's attempts to achieve their intended aims could result in readers becoming prejudiced against Flora, particularly as it was a different type of spread to St Ivel Gold. The ASA requested that the advertisers refrain from the approach in future.

(4) Conservative Party (1996): Knocking copy by the political parties is no longer a matter for the ASA. Since October 1999, political advertising aimed at influencing voters in elections or referendums has been exempt from the British Codes of Advertising and Sales Promotion. It is for voters to make their own assessment of rival political claims. However, advertisements placed by central or local government that promote or explain policy issues are all subject to the Codes in the same way as any other type of advertising, as are all other public affairs campaigns. Before the Codes excluded election advertising, this poster was held to be unfairly denigratory. Complainants objected that it portrayed Tony Blair in an offensive way. The ASA agreed, considering that the advertisement depicted Tony Blair as sinister and dishonest and asked for it not to be used again.



Independent

The ASA's adjudications can make or break the marketing of a new product, so the stakes can be high. The ASA is able to stand its ground because it is genuinely independent of the industry. The Chairman and a two-thirds majority of Council are lay members. Since 1975 the self-regulatory system has also been funded at arm's length, through a levy on display advertising and more recently on direct mail, paid to a separate funding body, the Advertising Standards Board of Finance (ASBOF). These levies – 0.1% of display advertising and 0.2% of Mailsort contracts – mean that

the ASA can take on the most powerful multinational companies without worrying about next year's subscriptions. The ASA is never aware of how much any company contributes to the system.

The levy system also means that the ASA has the resources necessary to handle more than 12,000 complaints each year and independently check around 6,000 ads every week.

In addition, the funding supports the Copy Advice service, which provides pre-publication advice to advertisers, agencies and the media.

The system has developed over 40 years, sometimes in response to criticism. The Advertising Standards Board of Finance was established following calls by Government to make the system more robust. Today's self-regulatory system has come a long way, and it has won the confidence of consumers, industry and Government alike.

Help Notes: Supermarket wars

As part of its work to help maintain a level playing field between advertisers, CAP issues guidance for the industry in the form of Help Notes, which focus on a particular product or issue.

In 1995, a Help Note was issued outlining recommendations about 'basket of goods' comparisons, that involve comparing a number of items that a family might buy in a weekly shop to give a total saving against one or more rival stores.

The Help Note recommends that for the basis of the comparison, careful attention should be given to ensure that the selection of items included in a comparison is not biased in the advertiser's favour. It would, for example, be misleading for advertisers to base the comparison on its top 10 selling branded groceries and imply that all its other goods are equally cheap. Advertisers are

recommended to compare like classes of goods in supermarket 'basket of goods' comparisons. Discount lines, for example, should be compared with own brand value lines, own brands with own brands, branded goods with branded goods and premium goods with premium goods.

The Help Note also warns that some items, such as bottles of spirits, have a higher price and are less regularly purchased than ordinary food items. A substantial price differential between two such high-priced products, if included in a general food comparison, might easily skew the total result unfairly.

This particular issue was of concern to the ASA as it considered a complaint by Tesco that this 1998 Safeway's regional press ad (5) was denigratory because the price comparisons used were misleading.



5

The ASA was concerned that 85% of the price saving highlighted came from just four products, three of which were alcohol products. It considered that this did not represent an average weekly shop and so disproportionately affected the saving figure.

40 YEARS OF SELF-REGULATION

1991

The ASA co-founds the European Advertising Standards Alliance with 11 other countries.

Complaints top 10,000 for the first time.

1995

Advertisements on the Internet come under the Codes.

The British Safety Council's 'National Condom Week' leaflet attracts the most complaints ever received.

1998

The Commission for Racial Equality becomes the first advertiser to be subject to poster pre-vetting.

1999

The tenth edition of the Codes removes party political advertising from the Codes' remit: political parties will in future have to regulate themselves.

2000

Yves St Laurent's Opium poster featuring model Sophie Dahl attracts more complaints than any other ad for five years.

2001

admark, CAP's Internet advertising best practice scheme, is launched.

ASA adjudications are published weekly on the Internet.



New media:

New communications media offer new opportunities for advertisers. But some things don't change.

A misleading ad is still misleading whether it is e-mailed or sent by post. And offensive advertising may just as easily be found on a website as on a poster site.

The challenge to the ASA is to maintain standards in fast developing new media as effectively as we have done in established media over the past 40 years.

new challenges

Throughout its history, the self-regulatory system has had to adapt as external circumstances have changed. When the system began in 1962, it faced the challenge of getting to grips with inertia selling. A few years later, the ASA took on responsibility for monitoring direct mail. Later still, sales promotions were included within the ASA's remit. And since the early 1990's, the self-regulatory system has had to get to grips with a range of new and developing media, including the Internet.

In 1995, the ninth edition of the Codes extended the ASA's remit to include advertisements in 'non-broadcast electronic media' and the self-regulation of UK Internet advertising began. The system does not attempt to regulate the whole



of cyberspace, but the Codes do apply to advertising in paid for space, such as banners and pop ups, as well as commercial e-mails and sales promotions on websites.

Advertising on the Internet has brought new challenges for advertisers, as well as the self-regulatory system. As advertisers worked to develop brand



recognition and trust online, the Committee of Advertising Practice launched admark – a best practice online advertising scheme.

(1) Microsoft's Xbox (2002): Video advertisements and viral marketing campaigns, like this one for Microsoft's Xbox, all fall within the ASA's remit.

New Media: New Challenges

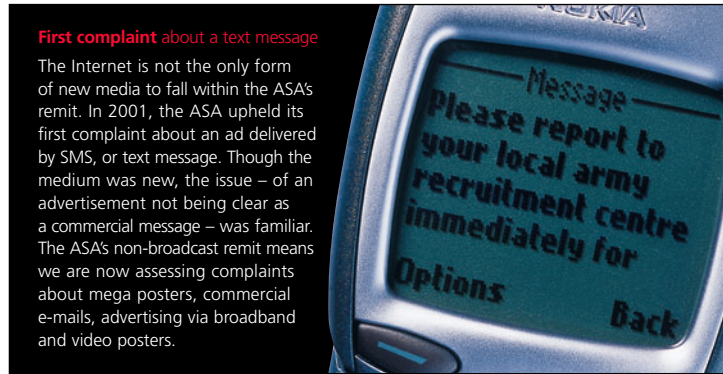


2



5

Admark is a membership scheme, open to all UK online advertisers and publishers, set up to boost consumer confidence in online advertising. Members are entitled to show the admark logo on paid for Internet ads, demonstrating their commitment to keeping the Codes. Members have also agreed to abide by the ASA's decisions. With some of the UK's biggest online advertisers amongst the founder members, admark provides reassurance to consumers and is a sign of best practice for advertisers.



3

BTinternet Anytime

For a fast, reliable Internet service



4

Advertising is changing with technology and the Authority has had to become a modern regulatory body in its approach and communication. Today's adjudications are published on the ASA's website, in comparison with the rulings of four decades ago which were never made public at all. While today's complaints must still come in to us in writing, they can arrive through the post, by fax or via an online complaints form on our website.

IT developments have helped us to rely less on dusty files and today's ASA Council can now consider ads online, via a dedicated intranet, while our virtual press office allows for effective media relations. Few of those present at the first meeting of the fledgling Authority in 1962 would have predicted the changes ahead.

Today, over 30 million non-broadcast ads are published in the UK each year.

Consumers are savvy and enthusiastic recipients of advertising, who enjoy its entertainment value and make use of the information it provides. The Internet is an established medium for commercial communications and the lines between broadcast and non-broadcast are becoming increasingly blurred.

The changes ahead are likely to be equally unpredictable. The ASA believes that self-regulation is the best way to ensure the maximum possible advertising freedom.

But that will only continue if the various partners in the self-regulatory system continue to ensure effectiveness in the face of changing expectations and changing media. As we mark our 40th anniversary we are looking back with satisfaction at the past and forward to the future with anticipation and confidence.

- (2) MaxPower (2001): Although this e-mail was sent only to people who had registered their details with the advertiser, the ASA considered that at first glance the e-mail misleadingly implied that it was an official document and could embarrass or distress recipients. Complaints were upheld.
- (3) Eidos Interactive Ltd: An ex-member of the British Army who received this text message at the end of September 2001 objected that the wording: 'Please report to your local army recruitment centre immediately for your 2nd tour of duty,' could cause undue fear and distress. The ASA agreed that, at first glance, the text message could distress recipients.
- (4) BTinternet Anytime (2001): The ASA upheld complaints about this banner ad, ruling that the claim to provide a reliable service was misleading.
- (5) Mega poster (2001): Giant posters on the sides of buildings are a new development – but they still have to comply with the Codes.

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