

Performance and objectives

2012 – 2013 Annual Statement
Advertising Standards Authority
Committee of Advertising Practice



Legal, decent, honest and truthful



Welcome

The Advertising Standards Authority (ASA) is the UK's independent regulator of advertising across all media. Our role is to ensure ads are legal, decent, honest and truthful by investigating and adjudicating on potential breaches of the Advertising Codes, and monitoring compliance.

The Committee of Advertising Practice (CAP) is the industry body that writes the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (The CAP Code) and the UK Code of Broadcast Advertising (The BCAP Code). CAP helps to enforce ASA decisions and provides advice and training to industry to ensure compliance with the rules remains high.

We aim to achieve our mission by getting better at regulating ads in all media, and in particular by:

- Making a success of regulating online ads
- Being an effective part of the response to societal issues shown to be affected by advertising
- Placing more emphasis on prevention rather than cure
- Being more efficient and in tune with consumers, business and society.

Here we summarise our collective performance in the first half of 2012 and set out our objectives for 2013.

Our mission

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

Our values

Our shared values are to be:

- Fair and respectful to all
- Accessible and helpful
- Intelligent and thorough, but also timely and proportionate
- Open and accountable, acting with integrity and never being afraid to admit when we're wrong
- An excellent team, inspiring excellence in each other.

Our external stakeholders will also find us:

- Independent in administering the Advertising Codes
- Evidence-based, targeted and consistent
- Reflective of society, not a social engineer.

Chairman's introduction



Rt Hon Lord Smith of Finsbury
ASA Chairman

As well as being a wonderful year of Jubilee, Olympics and Paralympics, 2012 does of course have added significance for all of us at the ASA. We are now 50 years old, and this autumn are celebrating our half-centenary. Over those fifty years we have matured and developed and acquired new responsibilities, and we remain a respected part of the regulatory landscape, helping to protect consumers, to maintain trust in advertising, and to ensure that the overwhelming majority of advertising is legal, decent, honest and truthful.

We are now well into the second year of our new responsibility for regulating marketing claims made on company websites, and the initial flood of additional cases and work that this prompted has – thankfully – settled down somewhat. Last year, in the immediate aftermath of our new online remit, we were 71% busier than we had been in 2010. Now we are 56% busier than in 2010. So our workload has stabilised, but is still a real challenge. 90% of all our online investigation cases are about issues of misleadingness, which means that our primary focus – as always – is on basic issues of consumer protection.

We have been diligent in ensuring compliance with our rulings in the online sector, recognising that problems very often

stem from ignorance of the Advertising Codes rather than an intention to mislead. Our Compliance teams have, in the past six months, completed work to bring 168 online cases into line – this represents something like a third of their total number of cases in the period. In all but 22 cases the issues were resolved without any recourse to the range of sanctions that are available. And for the 22, it does seem that the sanctions are proving very effective.

The fact that our caseload has settled down has meant that we have been able to take a more proactive approach in some key areas, working with advertisers to ensure compliance with the Advertising Codes. Our Copy Advice team, for example, has been working with practitioners and representatives in the complementary and alternative medicine sector, providing advice and guidance about what is and isn't likely to be acceptable on websites. Following our referral to the Office of Fair Trading (OFT), which resulted in Groupon signing undertakings, we have continued to work with Groupon and other daily deals companies to improve compliance, and complaints levels have begun to fall.

We now also have a stakeholder engagement programme in place, with staff from the ASA and CAP appointed to work closely with some key stakeholders on a long term basis. And we have so far this year delivered advice and training on more than 50,000 occasions. Our aim is to achieve at least 100,000 during the year – through online advice, newsletters, advice sessions, and a host of other contacts. We are well on course to achieve our target.

Last year's Bailey Review into the commercialisation and sexualisation of children has continued to inform much of our work in seeking to ensure that advertising doesn't harm or exploit children. We have been particularly keen to engage schools in helping children to

understand and learn about advertising and marketing and about the protections that are in place. We recently launched our schools resource pack, *Ad:Check – Understanding advertising regulation*, and 150 teachers have so far expressed interest in downloading the resource for use with their pupils.

We have been very busy through this whole period, and none of the progress we have made would have been possible without the hard work and dedication of our staff, in both the ASA and CAP. They have frequently gone far beyond the call of duty in order to make sure that the self-regulatory system is working well and effectively. They have delivered, and I'm hugely grateful to them for everything they've done to achieve it.

A handwritten signature in dark ink, which appears to read 'Chris Smith'.



Our performance

Advertising Standards Authority

Effective resolution of complaints

In the first six months of the year, we received and assessed 16,217 complaints about 10,298 cases (down 9% and 26.5% respectively on 2011). However, the comparable period last year included the introduction of our new online remit, which had prompted a significant influx of new complaints. Although the workload has settled down, we are 56% busier than in 2010 (a more stable comparator than 2011).

The increase in work is not solely related to online advertising, we have continued to see a significant increase in broadcast cases. The biggest cases of the year so far include two television ads: one by Kayak Software Corporation which depicts brain surgery (441 complaints; case ongoing) and an ad for Richmond Ham which features male nudity (Kerry Foods Ltd 371 complaints; upheld in part).

Despite the continuing high level of work, we exceeded most of our Complaints and Investigations Key Performance Indicators. We also measure our performance by listening to the views of complainants and advertisers through an independent customer survey. In the first half of 2012, 73% of complainants were satisfied with the way their case was handled (70% in 2011) and 82% of advertisers were satisfied (78% in 2011).

Groupon signed undertakings with the Office of Fair Trading following our referral. We're continuing to work with daily deals companies to help improve compliance across this sector.

Successfully regulating online ads

Our new online remit is now successfully integrated into our day-to-day work. We're confidently and regularly considering ad campaigns that run across media including on companies' own websites and social media they control. This year, we judged our first cases about marketing communications appearing on Twitter, including our first Upheld decision against

Nike for not making clear that tweets by Wayne Rooney and Jack Wilshere were ads.

Online remit cases comprised 27% of all cases received and 90% raised issues of misleading advertising, sometimes amongst other issues, compared to 82% for all cases.

Protecting children and young people

We continue to take seriously any concerns we receive about ads that are potentially inappropriate or harmful for children to see. As well as regulating against our tightened position on sexual imagery in posters, we also commissioned Ipsos MORI to research public perceptions of harm and offence in UK advertising. The research particularly looked into the views of parents and young people.

We have been working on our new Schools Engagement Programme, which is aimed at increasing knowledge about advertising regulation amongst young people, and through them, their parents. New teaching materials, *Ad:Check – Understanding advertising regulation*, were launched in October.

With the steps we have taken so far and the work we are currently undertaking, we are committed to ensuring that while advertising remains innovative, fun and creative, it also remains child-friendly.

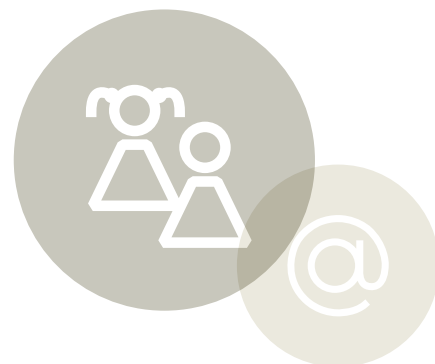
More efficient and in tune with consumers, business and society

Our new stakeholder engagement programme got underway, with staff appointed to work closely with some 45 key stakeholders on a long-term basis. Feedback indicates that stakeholders welcome having a named contact to facilitate communication and improve understanding of key issues. A six-month review of our new Inter-party Resolution process (that obliges industry complainants to attempt to resolve complaints about competitors directly

with them before having recourse to the ASA) shows that it has been very effective at reducing the number of competitor complaints we receive. There has been a 78% reduction compared with the average for the same period over the previous three years. Feedback from many of the large advertisers we deal with on a regular basis has been positive, but we plan to undertake a fuller review at the end of the year.

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

Finally, to improve accessibility, recognition and understanding of UK advertising regulation, we've been working on improving the ASA and CAP websites, including developing mobile sites. We've launched ASA and CAP Twitter feeds and have been updating our consumer and industry advice leaflets. For our 50th year, we've refreshed our corporate identity to be more reminiscent of our heritage 'tick'.



Our performance

Committee of Advertising Practice

We've had to be on our toes, alert and responsive to the variety of issues that we've faced in the first half of 2012.

Extending our remit online

We've helped to make a success of the ASA's extended online remit. Preferring prevention to cure, we've targeted sectors that have fallen under the spotlight of ASA adjudications: we've rolled out bespoke guidance and training events to help complementary and alternative medicine businesses secure compliance with the Code online. The response from the sector has been encouraging, but there's more work to be done. For the comparatively few companies that refuse to comply with ASA adjudications, we've successfully imposed sanctions: these are aimed at restricting web traffic to the companies' websites and, ideally, forcing a change in marketing copy. In 2010, we undertook to respond to any unforeseen consequences of extending the ASA's remit. We've been good to our word, acting quickly to clarify the scope of the distance selling rules and to qualify rules on infant formula and tobacco advertising.

Consultations

We've consulted the public and the industry to implement new rules and to clarify how to comply with existing rules. We've implemented guidance on broadband speed claims and "unlimited" claims for telecoms products. A rule on unplanned pregnancy advice services tackles misleading claims in this sector and, following changes in law, the Codes now require energy labelling in ads for types of energy-related products. Finally, following consultation with Ofcom and video-on-demand (VOD) media providers, we've produced guidance to clarify the scope of rules dedicated to VOD ads.

Addressing societal concerns

The Bailey Review called on CAP to play its part in protecting children from irresponsible marketing practices. We began a 12 months' review into the

use of children as brand ambassadors in online peer-to-peer marketing: we've invited evidence from the industry, government and academics, with the aim of announcing our findings in December this year. The Government Alcohol Strategy invited us to reconsider rules relating to the promotion of lower strength alcohol and the TV scheduling of alcohol ads. We've taken soundings from Government and the industry, and we're presently assessing evidence to inform our next steps. Finally, we've submitted evidence to the Keogh Review, which is considering the provision of cosmetic surgery and cosmetic interventions more widely. We've met organisations interested in the outcome of the review and we stand ready to play our part in ensuring ads for cosmetic surgery are responsible and have particular regard to vulnerable consumers.

Supporting compliance with the Advertising Codes

In the first six months of 2012, we recorded over 50,000 discrete occasions when individuals accessed CAP advice and training to assist compliance with the Advertising Codes: the majority of advice is provided freely; being made available online and through regular Insight newsletters. We produced topical articles on advergames, twitter ads and marketing around the Olympics, as well as enduring advice on the use of 'free' in marketing communications and simple steps to avoid making misleading claims.

Levelling the playing field

We applied the lessons learned from ASA adjudications across industry sectors. We initiated sector compliance action against telecoms providers (line rental charges), hoteliers (prices to include VAT) and gambling operators (featuring people aged under 25 in ads).

Change of guard

Stephen Locke succeeded Elizabeth Filkin as Chairman of BCAP's Advertising Advisory Committee. Stephen brings to

the role extensive experience of consumer and regulatory issues, having previously worked as Director of Research and Policy at Which?.

Chris Macdonald, Chairman of McCann Worldgroup London and CEO of McCann London, has been appointed Chair of the General Media Panel. He succeeds Farah Ramzan Golant CBE.



Key performance indicators

January – June 2012



Key performance indicator	2011 Performance January – June	2012 Performance January – June
Number of complaints received¹ Report of trend data on complaints received and resolved by quarter	15,622	16,217
Number of cases received² Report of trend data on the number of ads to which the total complaints relate	11,823	10,214
Number of complaints resolved¹ Report of trend data on complaints received and resolved by quarter	14,068	15,500
Number of cases resolved² Report of trend data on the number of ads to which the total complaints relate	11,092	10,298
Turnaround times for complaints We aim to resolve 80% of cases within the turnaround times stated (working days)		
Non-broadcast		
No investigation in 5 days (to 31 Mar) ³	87%	94%
No additional investigation in 10 days (after 1 Apr) ³	–	76%
No investigation preliminary work in 10 days (to 31 Mar) ³	78%	82%
No additional investigation after Council decision in 25 days	87%	87%
Informal investigation in 35 days	94%	90%
Standard investigation in 85 days	96%	84%
Complex investigation in 140 days	83%	68%
Broadcast		
No investigation in 5 days (to 31 Mar) ³	91%	96%
No additional investigation in 10 days (after 1 Apr) ³	–	90%
No investigation preliminary work in 10 days (to 31 Mar) ³	87%	91%
No additional investigation after Council decision in 25 days	93%	94%
Informal investigation in 35 days	94%	88%
Standard investigation in 85 days	95%	82%
Complex investigation in 140 days	82%	70%
Advice and training⁴ Total number of industry contacts and occasions when advice and guidance was provided by CAP and ASA	68,093	50,457
Websites		
Number of unique visitors to ASA website	374,199	397,678
Number of page views ASA website	1,712,007	1,863,402
Number of unique visitors to CAP website	87,563	64,947
Number of page views CAP website	640,483	546,181
Number of unique visitors to Copy Advice website	17,309	16,815
Number of page views Copy Advice website	158,236	141,010

¹ Refers to the number of individual complaints.

² Refers to the number of ads or campaigns complained about.

³ From 1 April 2012, the categories No investigation (5 days) and No investigation after preliminary work (10 days) were replaced by the single category No additional investigation (10 days).

⁴ Refers to the number of discrete occasions where training or advice was provided to industry practitioners. Includes Copy Advice enquiries, number of delegates at in-house and external training seminars, readership of e-newsletters, user views of webcasts, unique visits to online advice tools.

Our objectives for 2013

1

In a changing technological and media landscape, we will strive to ensure ads in all media are legal, decent, honest and truthful, protecting the public and helping consumers, business and society better to trust advertising.

2

We will continue to protect the vulnerable, particularly children, from inappropriate, offensive, harmful or misleading advertising, for example by acting, where appropriate, on the results of the ASA's *Harm and Offence Research 2012*.

3

We will make a success of our role regulating new 'transparency and control' rules about online behavioural advertising.

4

We will continue to place more emphasis on prevention rather than cure, making CAP Advice and Training available to more practitioners, more of the time.

5

We will improve our management, reduce manager supervision and continue to better equip and empower staff to do their jobs through ASA Transform, our programme to enhance the leadership and management of the ASA, and staff training.

6

We will conduct a Strategic Review to ensure that the ASA system remains effective and relevant for the next five years.

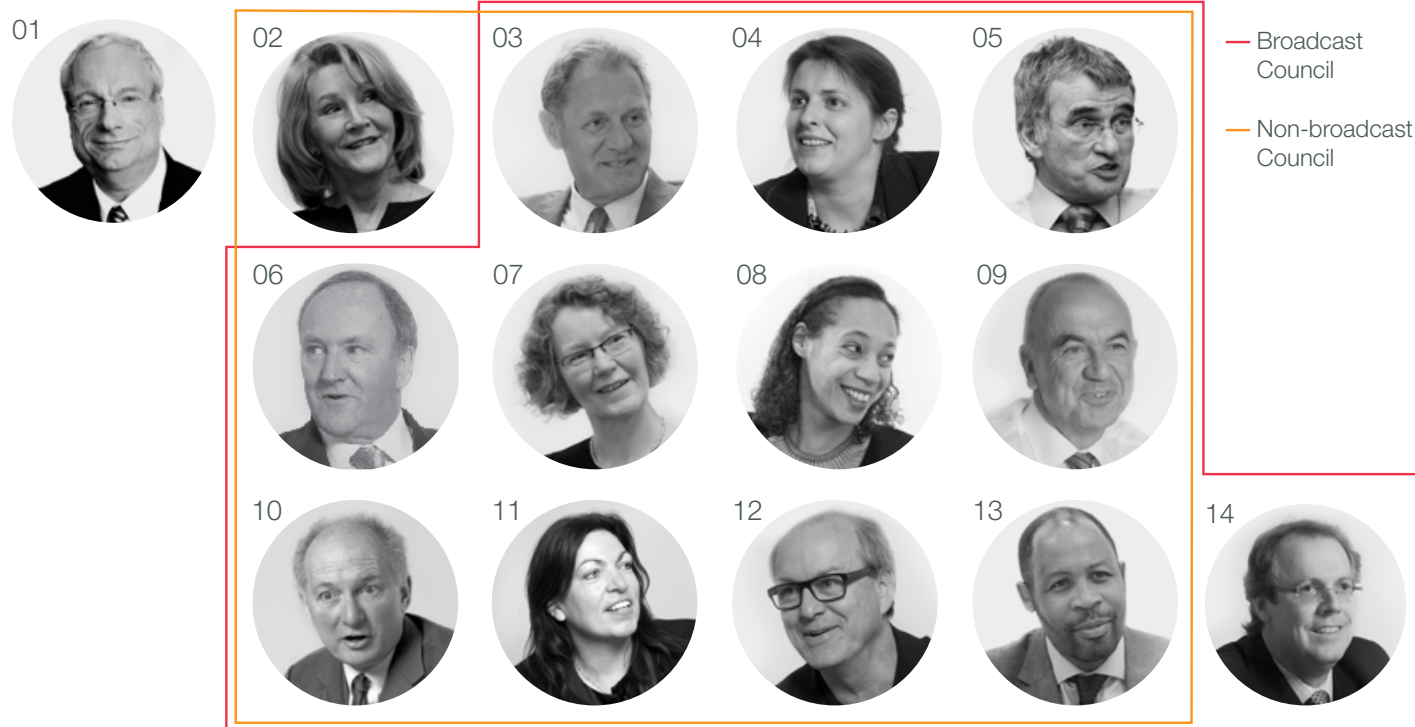
7

We will work towards ensuring that the ASA continues to have an effective backstop when the OFT ceases to perform that role in 2013.

8

We will review our external service standards to ensure that they are in line with our stakeholders' expectations and to improve public accountability.

ASA Council



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

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

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

Visit our website to find out more about the [ASA Council](#).

ASA Council members

01 Rt Hon Lord Smith of Finsbury

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

02 Sally Cartwright OBE

Non-broadcast industry background member
Chairman, Audit Bureau of Circulation

03 Sir Andrew Motion

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

04 Rachel Childs

Independent member
Child Protection Trainer for Hampshire County Council
Approved Subject Expert for OfQual
Assessment Associate for EDI/Pearson (Functional
Skills-Writing Entry Level 3)
Company Secretary for Plan B Project Solutions

05 David Harker CBE

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

06 John Mayhead CBE

Advertising industry background member
Non-executive member, Aviation Directorate
at Department for Transport
Former Marketing Director and Chairman of the
Marketing Society

07 Ruth Sawtell

Independent member
Non-executive Director, Hertfordshire Partnership
NHS Foundation Trust
Non-executive Director, Metropolitan Housing Partnership
Lay-member, Nursing and Midwifery Council

08 Louisa Bolch

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

09 Martin Narey

Independent member
Government Advisor on Adoption
Director, Martin Narey Ltd
Consultant and Writer
Non-executive Director, Fabrick Housing Association
Adviser on penal issues to G4S plc
Visiting Professor at the Universities of Durham and
Sheffield Hallam
Visiting Scholar at the University of Cambridge Institute
of Criminology

10 Alan Bookbinder

Independent member
Director, Sainsbury Family Charitable Trusts

11 Roisin Donnelly

Advertising industry background member
Corporate Marketing Director, Procter & Gamble (UK & Ireland)
Fellow and Past President of The Marketing Society
Chairman, Cosmetic Executive Women
Past President, Women in Advertising and
Communications (WACL)

12 Hamish Pringle FIPA

Advertising industry background member
Strategic Advisor, 23red
Partner, Pringle and Pringle LLP

13 Anthony Earle Wilkes

Independent member
Managing Director, Crystal Education and Training
Consultants Ltd (CETC Ltd)
Fellow & Council Member of the Institute for Learning
Chair of UKIED

14 Ray Gallagher

Broadcast industry background member
Communications & Public Affairs/Public Policy Consultant
Specialist Adviser, House of Commons Culture, Media
and Sport Select Committee

Council members are appointed for a maximum of two three-year terms and receive an honorarium of up to £17,500 p.a.

*The Senior Independent member sits in place of the Chairman when he is unable to attend the meeting or has a declared interest in the case being discussed.
A Register of Members' Interests may be requested from the Company Secretary.

Independent Review



Sir Hayden Phillips GCB DL
Independent Reviewer

In the first six months of 2012 I was asked to review 34 decisions, a further increase over the previous year's record number at this stage in the year. This reflects the increased volume of work at the ASA rather than any diminution of standards in the Council's decision making. As usual the range of the subject matter of the requests was wide and very varied.

Five of these requests were ineligible. Of the 29, I therefore reviewed, I invited the Council to reconsider their adjudication in seven cases (five non-broadcast cases – one of which also included a TV ad – and two purely broadcast cases). In

two of the cases the Council agreed to the recommendation to change its earlier verdicts, and in the other five it agreed to change the wording of the adjudication. I should explain that a change of wording reflects the fact that while a Council verdict was sound, the rationale justifying it was not accurately or sufficiently well expressed and therefore flawed.

In addition, in one case, I recommended that the Council should agree to reopen the investigation into a complaint. This does not happen often but is a valuable course of action in circumstances where the adjudication may not be flawed but where it is clear, for example, that insufficient work may have been done on some of the evidence considered or where, in my judgement, expert advice should have been taken, so that I conclude that the flaw was in the process by which the adjudication was made.

In the non-broadcast category 20 requests for review were received from advertisers and nine from complainants. Of these, 22 cases concerned complaints made by members of the public, and seven from competitor companies. Of the five broadcast cases, three requests

came from advertisers and two from complainants; all five originated in complaints from members of the public. I note that of the 29 non-broadcast requests 11 related to website advertising and one, for the first time, to 'tweets'.

In exceptional circumstances, the ASA Council can be asked to reconsider its adjudications, including a Council decision not to investigate a complaint.

Requests for review should be sent within 21 calendar days of the date on the ASA's letter sending out notification of the adjudication or of the Council's 'no additional investigation' decision. The Independent Reviewer may waive the 21-day time limit if he judges it fair and reasonable to do so.

Advertisers, complainants or broadcasters contemplating a request for review should study the relevant terms of reference carefully, ensure that they are signed by the appropriate person and submitted in time and in writing to:

Independent Reviewer of ASA
Adjudications
7th Floor North
Artillery House
11-19 Artillery Row
London
SW1P 1RT
email indrev@asbof.co.uk

Full terms of reference of the Independent Review procedure are set out in the broadcast and non-broadcast complaint handling procedures which can be found on the ASA website [here](#).

The Council's adjudication on reviewed cases is final. Adjudications that are revised following a review will be republished on our website.

The Independent Reviewer's annual report of his activities is included in our Annual Report.

Our standards of service

Our commitment

Measurement

Performance January – June 2012 (January – June 2011)

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

Publishing our contact details on all our literature.	Twice yearly Customer Satisfaction survey: 'Is accessible to the public'	80% (81%)
Ensuring our switchboard is open during normal office hours (9.00 am – 5.30 pm).	Customer Satisfaction Survey	As above
Ensuring our website is available at all times.	Customer Satisfaction Survey	As above
Accepting complaints online, by email, letter, fax or telephone.	Customer Satisfaction Survey	As above
Ensuring members of the public know of us and our role, and recognise our name and logo.	Spontaneous name awareness and logo recognition measured by a biennial Attitude and Awareness survey ¹	Name: 16% in 2011 (19% in 2009) Logo: 17% in 2011 (19% in 2009)

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

Acknowledging complaints within five working days. Replying to all other correspondence within ten working days. Keeping complainants advised of progress.	Twice yearly Customer Satisfaction survey: 'Time taken to acknowledge complaint' and 'Keeping you informed throughout the complaint process'	Time taken: 82% (77%) Keeping informed: 64% (62%)
Turning around complaints, on average, within 12 working days, with at least 80% being within target. Where an investigation is required, resolving them within 60 working days, recognising that complaints by commercial competitors can be protracted.	Achieve 80% target or better in quarterly turnaround statistics published on our website	Overall turnaround: 7.3 days (12.5 days) Within target: 88% (73%) Investigation average: 47.6 days (32.85 days) Within target: 88% (88%)
For complaints outside of our remit, we will advise our complainants within ten working days and suggest other organisations that may be able to help.	Customer Satisfaction survey for 'outside remit' complaints	50% (42%)
Responding to email enquiries within 48 hours during the working week.	80% of sample replied to within 48 hours	89% (67%)

¹ ASA biennial Attitudes and Awareness Survey 2009 and 2011; our next survey will take place in November 2013.

Our standards of service

Our commitment

Measurement

Performance January – June 2012 (January – June 2011)

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

Achieve the highest possible scores in our Customer Satisfaction surveys, whilst recognising that we operate in circumstances where around 80% of complaints result in a 'not upheld' decision.

At least 50% overall satisfaction from complainants

55% (53%)

Achieve the highest possible satisfaction scores from the advertisers with whom we deal in resolving complaints.

At least 60% overall satisfaction from advertisers

82% (78%)

Quality: Delivering a high quality and professional service.

The Chief Executive will respond within ten working days to correspondence from complainants or advertisers who are concerned that we are not meeting our standards of service when dealing with complaints.

80% of sample replied to within ten working days

80% (75%)

We will offer an Independent Review process for complainants or advertisers who can establish that a substantial flaw of process is apparent in an ASA Council ruling.

Reports from the Independent Reviewer in the Annual Report and Annual Statement

See 2011 Annual Report and page 8 of this Annual Statement

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

We publish our rulings each week on our website.

Publication every Wednesday

Met

Our website will provide full information on who we are, how we operate and our consumer research.

Customer Satisfaction survey: 'Usefulness of information on website'

73% (72%)

Publishing our performance statistics on our website on a quarterly basis.

Publication in January, April, July and September

Met

Publishing an Annual Report in April/May each year reviewing the activities of the previous year.

Publication by the end of May

Met

Publishing an Annual Statement in October each year updating our performance reporting (January – June) and setting out our objectives for the coming year.

Publication in October

Met

Advertising Standards Authority

Mid City Place, 71 High Holborn
London WC1V 6QT

Telephone 020 7492 2222

Textphone 020 7242 8159

Email enquiries@asa.org.uk

www.asa.org.uk

Committee of Advertising Practice

Mid City Place, 71 High Holborn
London WC1V 6QT

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Textphone 020 7242 8159

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