

Formal Intelligence Gathering Report: Q1, 2021



Introduction

This report sets out intelligence gathered in quarter 1, 2021 to help inform our regulation.

It has several key purposes:

- To identify up to date intelligence of relevance to our work to help meet our commitment to timely, proactive regulation.
- To help us assess how, if at all, the ASA system is acting on the intelligence gathered.
- To question whether more might be done to tackle the issue at hand.

It is not necessary or desirable for the ASA system to act on every item of intelligence presented in this report beyond absorbing the information to improve its general administration of the Advertising Codes.

Intelligence gathered in Q1, 2021

A1.1 Published research

<p>Gambling: Research by University of Glasgow & University of Stirling: while lockdown led to reduction in gambling for majority of regular sports bettors, one in six started new form of gambling and a third increased frequency with which they gambled.</p>
<p>Gambling: Research conducted on behalf of the Labour Party in the RoI, whose Labour Party Bill would look to ban gambling advertising, found two-thirds of people agreed that ads acted as a catalyst to gamble/place a bet.</p>
<p>Gender stereotyping: Research by PLHresearch – found 59% of women surveyed say advertising has out-dated view of women and 81% want to see all types of women used by brands to promote their goods – points to subtle ‘sneaky sexism’ in ads.</p>
<p>Gender stereotyping: Research by UM, in conjunction with CALM, found 64% of males aged 18-34 believe negative male portrayals in advertising can cause ‘real psychological damage’.</p>
<p>Diversity: Facebook’s survey (UK, US and Brazil) and content analysis found that limiting and negative representations are still present in online ads – 54% said they do not feel fully culturally represented in online ads.</p>
<p>Accessibility: RNIB’s qualitative research into provision of audio described Xmas ads highlighted issues raised by participants including omission of brand names in the description & need to help audiences experience the characters or scenes in the ad.</p>

HFSS: Obesity Action Scotland's [analysis](#) of promotions to which supermarket shoppers are exposed during an online shopping event shows 21% were for 'unhealthy' products and 11% were for alcohol.

Ad Labelling: [Research](#) conducted for ASA Ireland shows 51% of people in Ireland say they are concerned by a lack of transparency in influencer marketing.

VSPs: [Research](#) conducted for [Ofcom](#) looks at the experience of online harms on VSPs and suggests 27% of users have been exposed to potentially harmful/ misleading advertising – with half saying this occurred on Facebook.

Fertility clinics: Academic [research](#) found UK fertility clinics are not advertising clear and transparent information on the costs of egg freezing.

Media trends

IPA TouchPoints - [Report](#) suggests significant drop in correlation between how younger and older **generations** spent their time with commercial media in 2020, highlighting impact lockdown has had on accelerating diversification of media habits between generations.

YouGov's International **Media Consumption [Report](#)** – data from 17 countries, shows acceleration of video streaming in UK over 2020, an increase in podcast listenership & a rise in use of news apps on a mobile/tablet. The [survey](#) also found that, across nations covered, UK is least trusting of social media advertising (10%).

Thinkbox - [Reports](#) on changes in **TV consumption** brought about by lockdown, including growth of all forms of TV (including 'broadcaster' TV), an increase in all 'video' time by 40 minutes/day and the fact that TikTok accounted for 3.5% of this time.

UKSSIC - [Research](#) found 51% of children said they had seen more **misleading content online** in the last year than before 2020.

Media / Ad Data

Kantar – [Amazon](#) secured 49% of all 1.3m new **UK subscriptions to VOD services** in Q4 2020.

FCA – Financial Lives 2020 [survey](#) found that between March and October 2020, the number of **adults with characteristics of vulnerability** increased by 3.7m to 27.7m.

Audience Project – [Survey](#) reports that 17% of UK respondents claim that they don't watch traditional TV and only **stream or download TV-like content**.

Nielsen – Nielsen's ad spend [data](#): **Government was largest spender** in 2020: estimated ad spend of £164m. While Unilever & L'Oréal increased spend year-on-year, fall in spend among brands e.g. McDonalds & Amazon contributed to overall 20% drop in **total ad spend**.

IAB - The IAB's Real Living [survey](#) shows **online shopping** increased during lockdown and 57% say they don't plan to reduce this once the pandemic is over.

Targeted ads online: IAB Europe commissioned [research](#) shows 75% of Europeans prefer today's experience of the internet over an internet without targeted ads.

A1.2 Other regulators

Privacy / ad targeting: The CMA [opened an investigation](#) into Google's proposals to remove third party cookies and other functionalities from its Chrome browser.

Algorithms: The CMA's Data, Technology & Analytics (DaTA) Unit [released a paper](#) on harms arising from use of algorithms, e.g. personalised pricing & ranking, protected characteristic discriminations. They also released a [call for information](#) on the issue.

Environmental Claims: The CMA [announced the findings](#) of a global sweep of (randomly selected) websites, with the headline that "40% of firms' green claims could be misleading".

Digital Markets: The CMA [published a refresh](#) to their Digital Markets Strategy with further details about plans for establishing the Digital Markets Unit ([now launched](#)) in order to develop a new pro-competition regulatory framework for digital markets.

Digital Regulation: the relevant regulators involved ([CMA](#), [ICO](#) and [Ofcom](#)) published the Digital Regulation Cooperation Forum [2021-2022 workplan](#), to ensure greater cooperation on online regulatory matters; the ASA will have input where relevant.

COVID-19: The CMA [published an update](#) on their work in response to the coronavirus pandemic, the most significant of which remained consumer problems around unfair practices in relation to cancellations and refunds.

Annual Plan: CMA [publishes annual plan](#) for 2021-22; key priorities include protecting consumers and driving recovery during and after the pandemic; fostering effective competition in digital markets; and supporting the transition to a low carbon economy.

Adtech: ICO [resumes investigation](#) of real time bidding and Adtech industry (paused in May 2020 due to pandemic). Also confirms working with CMA to consider Google's Privacy Sandbox proposals to phase out support for third party cookies on Chrome.

Gambling: Gambling Commission [published their National Strategy](#) to Reduce Gambling Harms update; makes reference to the work it had undertaken (with the ASA) to prevent inappropriate advertising and unfair practices (with the CMA).

Age verification online: GCHQ, DCMS & Home Office [project](#) to "age assure" children online, giving online service providers "age confidence" re: audience members.

Influencer marketing: FTC [requires](#) influencers to disclose a communication as an ad if they have a ("material connection") relationship to a brand, including if the brand has personal or family connections.

Influencer marketing: Ad Standards Canada [clarifies](#): if an influencer in a material relationship with a brand creates contact “not contractually obligated” by that relationship, they must disclose.

A1.3 Consumer Advocacy Groups

Online harms: 5Rights Foundation [report](#) argues for more proactive, upstream regulation than currently envisaged under reactive, ‘after the fact’ regulation.

Click to dial ads: Which? [reports](#) Google paid-for search ads for insurance companies are directing consumers to websites that use ‘click-to-dial’ ads, which reportedly incur large telephone bills and are against Google’s own terms.

Fake reviews: Which? [reports](#) easy-to-find companies taking payment for providing fake Google and [Amazon market place](#) reviews for a range of different companies advertising on these platforms.

A1.4 Public affairs / political contact

Body Image: Women & Equalities Select Committee [report on body image](#) recommends Govt works with ASA to ensure work on body image is inclusive; impact of ad bans on negative body image; and legally restrict or ban use of altered images.

Influencer Advertising: DCMS Committee [inquiry into Influencer Culture to](#) examine power of influencers, how influencer culture operates, absence of regulation on promotion of products/ services, aside from existing policies of individual platforms.

Online Scam Advertising: Work & Pensions Committee [report on pension scams](#): regulators powerless to hold search engines and social media to account for hosting scam ads, calls for them to be required to ensure financial promotions are authorised.

Online Advertising Regulation: Northern Ireland Executive [Online Safety Strategy](#): protect young from ‘commercialism’ (exposure to inappropriate advertising, marketing schemes, hidden costs, scams, in-app purchases, illegal/age-restricted products).

Climate-change: [Crunch time](#) in France as debate hots up on Climate Change Bill, which seeks limits on ads by fossil fuel companies.

Post third-party cookie era: IAB Europe [guide](#) to post-third-party cookie era provides overview of alternative solutions being developed to replace cookies.

A1.5 Media monitoring

<p>Covid ads: Various ads in the Govt's ongoing public information/safety campaign prompted complaints and media coverage. Ryanair's 'Jab and Go' ad campaign became the third most complained about ad of all time.</p>
<p>Online media giants: Google pledges to drop personalised ad tracking; threatens to quit Australia in dispute over royalties to news publishers. Facebook similar threats. Amazon under fire for Prime cancellation process. Ads appearing on 'ad free' Spotify.</p>
<p>Buy now pay later: Significant criticism through the media and public policy arena of the "buy now pay later" sector, in particular pressure on Klarna, as concerns about consumer debt increase.</p>
<p>Debt Advice: high profile ASA rulings against debt advice companies welcomed by the Money and Pensions Service.</p>
<p>Body confidence: misleading use of filters on Instagram by influencers to promote beauty products prompts commentary on the broader issue of body image. Enforcement Notice warns weight loss companies to desist from promoting POMs.</p>
<p>Gambling: Concern re. 'loophole' in ad rules allows gambling football shirt sponsorship; criticism of Whittingdale to lead Gambling Review. Significant fallout from Football Index collapse, GC said to be 'asleep at the wheel'. The rise of eSports.</p>
<p>HFSS: Govt facing opposition within own ranks on proposed restrictions on HFSS ads, hints it might row back on plans; ASA's latest CCTV monitoring: significant fall in number of HFSS ads appearing on children's websites & YouTube channels.</p>
<p>Environment: environmental initiatives by traditionally high carbon producers; Green campaigners' calls for bans on SUV ads and criticism of the ASA gaining traction; complaints from dairy/meat industries that Oatly ad misleads about CO2 emissions.</p>
<p>Stereotypes: Media commentary on negative depictions of and harm caused to men. Ongoing discussion of depictions of women. ASA inundated with complaints about ageist Oatly ad.</p>
<p>Harm and offence: Cadburys creates a storm by featuring two men kissing. Dominos prompted complaints with its 'anti-Chinese' ad.</p>
<p>Europe, Brexit and delivery charges: surcharges on imported goods and ongoing concerns around parcel delivery charges.</p>
<p>Broadband: ongoing spat between telecommunication giants following competitor complaints.</p>
<p>High risk financial ads: FCA notes social media companies can no longer hide behind (E-Commerce) exemption from financial promotions regime: like newspapers they can be liable for promotion of unauthorised financial products.</p>

<p>Climate change: Liverpool City Council considers banning ads for high-emission car models and flights on its estate.</p>
<p>Addressable TV ads: Roku's acquisition of Nielsen's addressable TV ad business another chapter in the arguably slow-to-blossom dynamic TV ad sector.</p>
<p>Ads and independent media: Poland witnessed a media black out over government plans for a tax on ad revenue.</p>
<p>Climate Change: government drawing up plans to tackle "planned obsolescence".</p>

A1.6 Social media

<p>Body Image: Increased discussion of body image, and particularly video manipulation that may be used by models, brands or influencers. Similarly, an 'unfiltered' bikini snap of Khloe Kardashian stimulated discussion.</p>
<p>Gambling and Sport: Growing criticism against football clubs promoting gambling on social media. Many influential figures in the game have spoken out.</p>
<p>Bandwagon-backlash: More and more discontent with lip-service social posts by brands, such as the recent Burger King campaign on International Women's Day.</p>
<p>Hybrid cars: A small but vocal group of people remain frustrated at ASA stance on hybrid car ads.</p>

A1.7 In-house data capture

GENERAL

<p>Complaint and case receipts: 44% increase in complaint receipts (13,132) and a 10% increase in case receipts (6,218) compared with the average quarter in preceding 12 months.</p>
<p>TV ads: 77% increase in complaints about TV ads (6,497) compared with the average quarter in the preceding 12 months and an 15% increase in case receipts (1,458)</p>
<p>Online: 5% increase in complaints (4,749) and a 28% increase in cases (3,689) about online content (both IR and OR) compared with the average quarter in the preceding 12 months.</p>

No Additional Investigation complaints: 12% increase in cases (4,092) resolved as NAIs compared with the average quarter in the preceding 12 months.
Out of Remit complaints: 2% increase in cases resolved as OR (992) compared with the average quarter in the preceding 12 months.
No Additional Investigation after Council Decision: 75% increase in cases resolved as NAICD (93) compared with the average quarter in the preceding 12 months.
Formal Investigations: 11% decrease in cases resolved formally (66) compared with the average quarter in the preceding 12 months. See below.
Informal Investigations: 7% decrease in cases resolved informally (228) compared with the average quarter in the preceding 12 months. See below.
Harm, Offence, Misleadingness: 27% increase in complaints (1,537) and a 22% increase in cases (1,010) regarding harm / irresponsibility , compared with the average quarter in the preceding 12 months. 13% increase in complaints (1,303), 20% increase in cases (691) about offence , compared with the average quarter in the preceding 12 months. 17% increase in complaint receipts (5,458) and 9% increase in case receipts (4,289) about misleadingness compared with the average quarter in the preceding 12 months.

OTHER AREAS (including sensitive issues)

E-cigs: Compared with the average quarter in the preceding 12 months, Q1 2021 witnessed a 65% decrease in complaints (11) about ads for e-cigs, and a 45% decrease in cases (11).
Gambling: Compared with the average quarter in the preceding 12 months, Q 2021 witnessed a 16% decrease in complaints (186) about gambling ads, and a 11% decrease in case receipts (173 v 195).
Alcohol: Q1 2021 witnessed a 17% decrease in complaints (106) about alcohol ads compared with the average quarter in the preceding 12 months and a 10% decrease in cases (78).
Gender stereotyping: Q1 2021 witnessed a 5% increase in complaints (77) about gender issues compared with the average quarter in the preceding 12 months and a 16% increase in cases (51).
Identification of online ads on social media: Q1 2021 witnessed a 37% increase in complaints (1,053) about identification of online ads compared with the average quarter in the preceding 12 months and a 33% increase in cases (840).
HFSS: Q1 2021 witnessed a 29% increase in complaints (18 v 14), and a 33% increase in case receipts (16 v 12) receipts, compared with the average quarter in the preceding 12 months.
Botox: Q1 2021 witnessed a 49% decrease in complaints (52 v 101) and a 47% decrease in case receipts (52 v 99) receipts, compared with the average quarter in the preceding 12 months.
Coronavirus: In Q1 the sub-category 'Coronavirus' was selected 1,957 times (a 28% increase on Q4). We received 1,132 Quick Reports in Q1, compared with 462 in Q4 last year. Fewer than five of these were logged and assigned for further assessment. These robust numbers can be explained by the appearance of the Ryanair 'Jab & Go' ad in this period.

Race: Q1 saw 173 complaints about ads allegedly discriminating on the basis of race, an 18% decrease on the average quarter in the preceding 12 months, and a 2% increase in cases (122). We continue to receive an increasing number of complaints about the racial make-up of couples / families in (TV) ads; Q1 saw 115 complaints, which was a 55% increase compared with the average quarter in the preceding 12 months. There was a 71% increase in cases (96 v 56).

High-value prize promotions: Copy Advice saw an increase in copy advice enquiries and queries from complaints execs about high value prize promotions. Recurring issues regarding closing dates (lack of; being extended; etc.).

Promotions on social media: An increase in complaints about promotions in social media, which are being run by influencers. They followed on from an upheld ruling, published in March, about a giveaway advertised on Instagram ([Molly Mae Hague, 03 March 2021](#)).

A1.8 Legislation changes

Audiovisual Media Services Regulations: [From 1 January](#), AVMSD and country of origin principle no longer apply. Euro Convention on Transfrontier Television framework applies (20 EU country signatories).

EU New Consumer Agenda: [it will tackle](#) misleading green claims; cooperation on CV-19 and misleading ads; influencer marketing via guidance to Unfair Commercial Practices Directive; use of CPC network to coordinate action to these ends.

Food (nutrition & health claims): Govt [published](#) GB nutrition & health claims (made on foods) register. Further guidance published on 11/01/21, marked as subject to update. Ad Codes to be amended to reflect changes following input from DHSC.

EU Digital Services Act: [deals with](#) liability of online platforms and intermediaries for various matters, including algorithms used for targeted advertising. Monitoring progress, as relevant to OPNS work.

Alcohol & [HFSS]: EC's [Beating Cancer Plan](#) promises monitoring and enforcement to reduce young people's exposure to alcohol ads and guidance to help member states reduce marketing of HFSS ads to children.

European Commission's [proposal](#) for an Artificial Intelligence Act: harmonised rules on AI, not directly applicable in UK any longer, but could form context to UK policy-making in this area, and therefore have a bearing on ASA's AI work.