Using TECHNOLOGY for good

Annual Report 2019
Advertising Standards Authority
Committees of Advertising Practice

love islanders cheat sheet to declaring ads on social media

TECHNOLOGY

GIFTS

HASHTAG cheat sheet to declaring ads on social media

You don't have to graft to get to grips with the key advertising rules in life after the villa. We don't want to get all Factor 50 on you, so we've written an ABC cheat sheet to help celebs and influencers stay loyal to their followers.

We know authenticity is key to engaging with your followers. Part of that is letting them know when you're advertising them something. When a brand pays you to promote their products or services (either with money or with gifted stuff) you're advertising, and your post needs to make that clear.

BRANDS CONTROL ENFORCEMENT FOLLOWERS DISCOUNT CODES AUTHENTICITY

If you're paid for a post or you're posting about a gift you received you must make clear it's an ad. If you don't the ASA will take action where a brand has controlled your message. These count too. If you're being rewarded for sales from a discount code or affiliate link in a post you need to say this is an ad. If only some of the links or content relate to the promoted product you need to make clear which parts of the post are an ad.

We and the CMA are active in ensuring transparency. If it's covered by the ASA, other rules apply to things like alcohol, gambling, slimming products or any items offering health benefits. For example, you're not allowed to advertise slimming products to under-18s. Make sure you're working with a brand who knows the rules.

Don't just assume your followers know when you're advertising something. They're not mind-readers. Spell it out clearly.

Gifted products and freebies count as payment-in-kind. If your post features a freebie you've been given to promote to your followers, you need to label your post as an ad. If you're using a hashtag make sure it's clearly visible upfront, don't hide it away. Doing that will ensure that you're being true to yourself and your followers. Don't take the chance of getting the ASA aggy. If in any doubt, add #ad/advert/advertisement.

For more information about declaring ads on social media please visit asa.org.uk/influencers
Find the abridged report online at: asa.org.uk/ar19

This extended, online report contains the following additional information:

Independent Reviewer’s report
Sir Hayden Phillips, the Independent Reviewer of ASA Council’s rulings, reports on cases he reviewed in 2019.

Advertising Advisory Committee report
The Advertising Advisory Committee (AAC) advises the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) on the consumer and citizen issues arising from key aspects of the rules. Stephen Locke, AAC Chair, reports on the Committee’s activity for 2019.

Industry Advisory Panel report
The Industry Advisory Panel (IAP) provides industry insight and guidance on non-broadcast and broadcast matters. Tim Duffy, IAP Chair, shares some of the areas on which the panel advised CAP and the ASA during 2019.

Promotional Marketing and Direct Response Panel report
The Promotional Marketing and Direct Response Panel advises CAP and the ASA on promotional and direct marketing matters. Chair Catherine Shuttleworth highlights some advice it provided during 2019.

Financial report
Find out more about how we are funded and our expenditure.

CONTENTS

About the ASA and CAP 01
Chairmen’s reports
A Q&A with David Currie 02
A Q&A with James Best 04
Our strategy
A word from Guy Parker 06
Our performance against our objectives 08
Our work in 2019
Using technology and working with online platforms 10
Prioritisation and partnership working 13
Protecting vulnerable people 16
Complaints and cases in context 20
Governance
ASA Council 25
Committees of Advertising Practice 26
Independent Reviewer’s report 27
Advertising Advisory Committee report 28
Our panels 29
Industry Advisory Panel report 30
Promotional Marketing and Direct Response Panel report 31
Financial report 32

READ ABOUT OUR CASE STUDIES COVERING THE FOLLOWING THEMES:

USING TECHNOLOGY and working with online platforms 10

PRIORITISATION and partnership working 13

PROTECTING vulnerable people 16
TOGETHER, WE WORK TO MAKE ADS RESPONSIBLE.
We do this by taking action against misleading, harmful or offensive advertising and ensuring compliance across all sectors.

THE ADVERTISING STANDARDS AUTHORITY (ASA) is the UK’s independent regulator of advertising across all media.

THE COMMITTEES OF ADVERTISING PRACTICE (CAP) write the UK Advertising Codes and provide authoritative guidance on the rules.

About the ASA and CAP
A Q&A WITH DAVID CURRIE
ASA Chairman

IN THIS REPORT
WE LOOK BACK ON
A YEAR OF CHANGE.
One that saw us launch our
new corporate and Diversity
and Inclusion strategies,
move to a new office and,
right at the end, see a new
government elected. All have
a fundamental impact on
the way we work and our
regulation. Here, we ask our
Chairman, David Currie, for
his thoughts on some of the
key issues on our agenda.

Q: 2019 is the first year of your new
strategy More impact online. What
strides have you made in delivering
this new strategy?
A: Our five-year strategy outlines the ASA’s
commitment to continue our rebalancing
away from reactive complaints casework
and towards ‘collective’ regulation and
proactive tech-assisted intelligence
gathering, complaint handling, monitoring
and enforcement. We’re one year in, but
already have some exciting examples of
how we’re using technology and research,
including our groundbreaking use of
avatars, to boost our proactive monitoring
and compliance actions. This report also
outlines our plans to develop our data
science and machine-learning capability to
deliver a step change in the way we regulate.

Q: Are there any challenges to
delivering this plan?
A: The unprecedented circumstances
we find ourselves in at the time of writing
(a global health emergency) will pose
challenges to fulfilling our strategy. But I
have been heartened by our rapid and
seamless move to a virtual mode of working
and by our ability to adapt, reprioritise
and act swiftly and effectively to tackle
misleading or irresponsible ads that exploit
health-related anxieties around Covid-19
– more about that in next year’s report.

Q: In last year’s report you talked about
collective regulation, what actions
have you taken in relation to this
in 2019?
A: Working with other organisations,
including our overseas partners,
strengthens our regulation. Through
this we’re able to secure compliance in
almost 100% of cases, including online.
Co-regulatory enforcement mechanisms
are provided by a range of public authority
backstops, including Trading Standards,
the Competition and Markets Authority
(CMA), the Gambling Commission,
Ofcom and the Information Commissioner’s
Office (ICO).

Q: You also launched a new Diversity
and Inclusion Strategy. What are the
ASA’s aims?
A: I believe passionately that continuing
to recruit and retain the best people from
diverse backgrounds is critical to delivering
our strategy. We have an ambitious
four-year Diversity and Inclusion strategy to
continue to drive our organisation forwards.
In all of this, our aim is to attract diverse talent,
better engage BAME staff, get greater
female representation at director level and
continue to build an inclusive workplace.

Lord Currie of Marylebone
ASA Chairman
TACKLING MISLEADING ADS AND IRRESPONSIBLE ADVERTISERS

97% of the complaints the ASA receives come from the public.

In 2019, we resolved 34,717 complaints, relating to 24,886 ads, of which were potentially misleading.

70% of which were potentially misleading.

Resulting in 8,881 ads being amended or withdrawn.

99% of formal cases were enforced.

In addition, we resolved 4,469 own-initiative compliance cases.

Only 9 advertisers needed to be referred to Trading Standards for further action.

62 sanctions were applied leading to compliance.
Q: What role does CAP play in delivering the ASA’s strategy: More impact online?

A: For the ASA to deliver its strategy, the Advertising Codes and guidance need to be up to the challenge of regulating online advertising, as fast as that evolves.

This is, of course, in the advertising industry’s interest, so our Committees and their advisory panels are fully engaged in the ASA’s goal of greater impact online. The enduring principles of responsible and fair advertising on which the Codes are based are as relevant to ads online as in any other medium, but the scale, breadth, complexity and constant development of online advertising mean we have to give sustained attention to the sector. Doing so, I think, has given the ASA the basis on which to act effectively.

Q: Your strategy talks about supporting and working more closely with social media platforms and tech giants, what does that look like?

A: The biggest players in online advertising work closely with CAP in several ways. They are represented on the CAP Committee through their relevant member organisations, particularly (but far from solely) the Internet Advertising Bureau (IAB UK). In parallel, as members of the Incorporated Society of British Advertisers, the Institute of Practitioners in Advertising or Advertising Association, among others, advertisers and agencies with an online focus have their views represented on the Committee, too.

But the leading platforms also contribute to CAP’s work in many other ways, such as through working groups set up by the Committee to consider individual issues, and by providing training and information about market developments. Our very successful guidance on the online targeting of young audiences and how to help reduce their exposure to ads for restricted products like alcohol or gambling has been developed and updated through such co-operation with the relevant platforms.

Q: How is CAP meeting the challenges of policy-makers and advertisers?

A: With the bulk of advertising spend now online, policy-makers and advertisers alike are concerned to prevent the irresponsible use of the medium. This is a real challenge, given the global, fast-moving and disparate nature of the online ecosystem.

If you are seldom exposed to novel online advertising techniques, it’s easy to be either too relaxed about them or too anxious, believing what can be scare stories. CAP is fortunate to have an executive well versed in online media, supported by an array of industry bodies determined to ensure that the ASA can act against the misuse or abuse of advertising online as anywhere else. Jibes about the “wild west of the internet” are seriously outdated (at least as far as advertising is concerned), as the ASA’s stats demonstrate.

But constant vigilance is necessary, and CAP’s commitment to scanning and gathering intelligence allows it to keep on top of emerging concerns among policy-makers, across society and in the media over aspects of online advertising. The cases evidenced in this report illustrate CAP action to stay abreast of the market and of the ASA’s needs.

James Best
CAP Chairman
DELIVERING ADVICE AND TRAINING IN NEW WAYS

Constantly innovating to offer advice and guidance on the advertising rules.

Introduced a rulings podcast, releasing five episodes with over 1,000 listens.

Worked with six large online platforms to include links to CAP advice for new advertisers.

Launched CAP Bitesize, a video series offering advice to SMEs with over 2,400 views in its first month.

Answered 6,973 queries from businesses through our Copy Advice service.

Published 75 online articles as part of the resources on our website.

Sent 25 Insight newsletters to subscribers.

Hosted 11 face-to-face events and 43 bespoke and industry events attended.

Almost 1,500 people attended a webinar or took an eLearning module.

Check out our latest training, advice and resources here.

550,242 pieces of advice and training to businesses.

More impact online, despite the socio-political uncertainty.

We launched our world-leading Avatar Monitoring, our proactive capture and analysis of online ads using ‘avatars’ that mimic the browsing of children and young people. That innovative use of technology helped us catch out careless targeting by gambling operators and brands promoting high fat, salt or sugar foods. But we’ve only just started and, of course, the wider benefit is the signal it sends to companies and platforms: skip on using or developing filters and controls to allow age-inappropriate ads to be targeted away from children and other vulnerable people, and you could pay the consequences.

We focused on prioritisation, partnership working and process improvement, achieving our targeted reduction in rulings, in particular by reducing formal investigations into non-sensitive website advertising by small businesses and prioritising an ‘education first’ approach to resolving lower detriment cases. And we piloted a systematic approach to tackling pricing issues by a big online retailer, supporting additional verification of reference prices to improve the quality of pricing information displayed to consumers.

At the time of writing, we are fully occupied with responding to the Covid-19 crisis. We are prioritising ensuring our staff are safe and secure.

We are refocusing our regulation so we exercise a lighter touch on businesses who face an existential threat, but an uncompromisingly heavier touch on those exploiting the crisis for financial gain.

THE SIX STRANDS OF OUR STRATEGY

People

We will put people first, which means everyone not just people who complain to us. We’ll be open to listening in new ways and we’ll continue to improve our engagement with the UK’s nations and regions.

Online

We will improve our regulation of online advertising. We’ll continue to focus on misleading content and inappropriate targeting, but we’ll also seek to work more closely with the large online platforms so we help each other to protect people from irresponsible ads. We’ll develop our thought-leadership in online ad regulation.

Effectiveness

We will deliver high quality, proactive regulatory projects on ads that cause the most detriment to people. We’ll prioritise better, explore using machine learning to improve our regulation, look to act more nimbly and simplify our regulation where we can.

Buy-in

We’ll seek greater buy-in from online-only advertisers, retailers, brands, micro and SME businesses and the social influencer community, by highlighting the benefits of our regulation and being open to regulating differently.

Enforcement

We will improve how we proactively identify and remove irresponsible ads (particularly online) and our sanctioning of non-compliant advertisers.

Independence

We will continue to regulate without fear or favour, taking account of the evidence base at all times. We’ll continue to demonstrate the effectiveness of our regulation through our actions and our communication, and we’ll be open-minded to change that strengthens the ASA system.

Regulating political advertising

As with other recent elections and national and regional referenda, the 2019 General Election played out against a backdrop of rising concern about truth in political campaigns.

Amidst the point scoring, finger pointing and rhetoric, a familiar question resurfaced: Why can political parties act with apparent impunity when making claims in ads and other election materials?

To many, including those in adland, it doesn’t make sense that ads for commercial products by businesses large and small throughout the UK should be held to greater account than ads that might swing votes and flip seats.

We at the ASA agree. That’s why we’re stating clearly that we think claims in political advertising should be regulated. But while that’s straightforward in theory, it’s complex in practice.

Before addressing the difficult question of how, an essential first step must be that the political parties in the nations (and campaign groups, in the case of referenda) agree to be regulated.

Assuming that buy-in from the parties can be secured, it leaves the small matter of ensuring that any new regulator is properly funded, the scope of its remit is clearly defined, and its independence is protected.

The ASA is not the right body to lead political advertising regulation. However, we stand ready to share our experience of regulating non-political ads and exploring how we might contribute our expertise to a more collaborative regulatory arrangement.

We set out our thinking in more detail on our website.

Guy Parker
ASA Chief Executive
OUR PERFORMANCE against our objectives

OBJECTIVES

Improving regulation of online ads
We will continue to focus on misleading content and inappropriate targeting, collaborating more with large online platforms to protect people from irresponsible online ads.

Introducing new approach to case handling
We will begin prioritising better, exploring whether machine learning can improve our regulation, adopting lighter touch for people to complain to us and improving our processes.

Restoring our reactive/ proactive balance
We will increase the proportion of our time spent on proactive, intelligence- and public research-led regulation, in particular protecting vulnerable people. We will report on the number of ads amended or withdrawn and the pieces of CAP advice and training delivered.

Increasing advice and training
We will continue to implement the findings of our review of our CAP advice and training services, helping us to increase our advice and training Touchpoints to 550,000.

Implementing the Buy-in, Enforcement and Independence strands
We will begin to implement the Buy-in, Enforcement and Independence strands of our strategy, including by exploring data-driven intelligence gathering and machine learning to improve our identification and removal of irresponsible ads.

REGULATING FOR THE WHOLE OF THE UK
We will continue to take into account the views and interests of those who live in different nations and regions by capturing and analysing intelligence, and by producing distinct pieces of research into the public's views about ads. We will explore new ways of listening.

DEMONSTRATING THE EFFECTIVENESS OF OUR REGULATION
We will continue to demonstrate regulatory effectiveness through our actions and communication, but we will be open-minded to change that strengthens the ASA system. We will raise awareness of our online ad regulation among all stakeholders.

RECRUITING THE BEST PEOPLE AND DELIVERING IMPROVEMENTS
We will recruit, retain and develop the best people. We will embed our new case contact management system, and deliver continuous improvements. We will develop our thought leadership in the regulation of ads online.

KEY ACTIVITIES

Set up an ASA/CAP Online Forum with representatives from online platforms and networks to help improve our regulation of online ads
Developed a CAP Advice Alert system for more efficient identification and removal of scam ads across multiple platforms and networks (more info on p13)
Reviewed our competitor complaints processes, including key standards, and identified areas to pursue in 2020
Established a Machine Learning Online Casework System to automatically route complaints. We also subscribed to an online monitoring platform to assist intelligence gathering and reputation management

MORE IMPACT ONLINE: We will begin implementing our 2019 – 2023 strategy in pursuit of our ambition to make every UK ad a responsible ad, to protect people and to help them, society and business to feel more able to trust advertising.

MORE IMPACT ONLINE

550,242 ads amended or withdrawn – against a target of 550,000
Responded to 97% of standard Copy Advice enquiries within 24 hours – vs. target of 90%
94% satisfaction with Copy Advice service – vs. target of 90%
Improved Cost per Piece of Advice and Training by 4%
79% of respondents more confident complying with 550,000 rule after an AdWatch event – vs. target of 70%
99% of Formal Investigation cases enforced – vs. target of 90%
Two pieces of research delivered, AdWatch Monitoring and TV Ad Exposures, but neither involved the public's views of ads
Awareness of our online remit increased by 57% from 49%

Key to KPI progress:
- On-target
- Requires action
- Off-target

50% of cases touched upon had reached the decision-making stage in 2020 – vs. target of 50%
A high volume of complaints, our office move and the implementation of a new case management system meant we maintained, rather than increased, the balance between reactive casework and proactive project work

2019 projects included: Children’s Exposure to Age-restricted Online TV Ads; Content Discovery Networks; Faux Fur Ads; Misleading Postal Charges; Online Labelling of Ads; Ads in Children’s Apps; E-cigarette Ads on Instagram; Non-invasive Pre-Natal ‘Testing’ Ads; and Cosmetic Intervention Training Providers’ Ads

Nine other projects are under way: Influencers Enforcement; Vitamin D3 Ads; Data Harvesting Lead Generation Ads; Debt Advice Service Lead Generation Ads; Weight Loss Injecting; House Raffles; Scam Ads in Online Media; Homeopathic Ads for CEASE Therapy; and RRPR Ltd Price Claims in the Car Sector

The ASA/CAP Online Forum reached 56% of the UK adult online population in May, exceeding our target of reaching 550,000 new users – vs. target of 550,000

Took two key strands of our strategy, including by exploring whether machine learning can improve our regulation, adopting lighter touch for people to complain to us and improving our processes.

94% satisfaction with Copy Advice service – vs. target of 90%

£22.3m worth of media coverage (significantly above our £18m target)
£33m worth of media coverage (2% worse than 2018 including inflation)

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Two pieces of research delivered, AdWatch Monitoring and TV Ad Exposures, but neither involved the public’s views of ads

USING TECHNOLOGY
and working with online platforms

Our avatars made **196,000 VISITS** to over **250 WEBSITES**

USING AVATARS TO MONITOR AGE-RESTRICTED ADS

In the new strategy we set out the ASA’s commitment to use technology in new ways to strengthen our online regulation.

In 2019, we published details of our monitoring project which used avatars (programs mimicking the online profiles of internet users of different ages) to identify online ads for high fat, salt or sugar (HFSS) food and drinks. Although we did not find any ads with content specifically aimed at children, we did identify a number of incidents where ads for HFSS products were served in children’s online media, in particular YouTube videos aimed at children.

We followed up our findings by engaging with advertisers and YouTube to ensure rigorous measures were in place to limit children’s exposure to age-restricted ads.

The 2019 Avatar work gives us a springboard to expand our proactive monitoring of online advertising. We’ve already started tracking Botox ads on Instagram and we’re planning more projects to monitor whether children are exposed to age-restricted ads, including alcohol, gambling and HFSS, throughout 2020 and beyond.

Conor Gibson
Compliance Executive, CAP

Leading us to capture and review **95,000 ADS**
As part of our commitment to listening in new ways, we’ve recently started using Brandwatch, a social intelligence tool, to strategically monitor ad content online. Using Brandwatch, we can both observe trends across a broad range of online content, such as gender presentation in ads, and also look closely for individual breaches of the advertising rules, such as unlabelled ads from individual influencers. This real-time consumer intelligence enables us to scale up our regulation online by monitoring compliance and ensuring high standards in all UK advertising.

USING TECHNOLOGY-ENABLED CONSUMER INTELLIGENCE to regulate ads online

2019 saw considerable media scrutiny of ads for Botox on social media. The ASA responded by launching investigations into Botox posts on Instagram. This led to a sector-wide compliance project in partnership with the Medicines and Healthcare products Regulatory Agency (MHRA).

Working with over 25 trade bodies, regulators and pharmaceutical companies, an Enforcement Notice was sent to more than 130,000 practitioners.

To maximise awareness of the rules among this audience, we launched an informative ad campaign using donated space across Facebook and Instagram.

We followed this up by using Brandwatch, our media monitoring software, to proactively identify and report problem posts to Instagram for immediate removal.

In the first quarter of monitoring, over 12,000 problem posts were removed.

Prescription-only medicines such as Botulinum toxin injections, most commonly Botox, are prohibited from being advertised to the public.

FACEBOOK

“We’re committed to making Facebook and Instagram a positive place for all and our ongoing collaboration with the ASA and CAP on campaigns like this one are key. We were pleased to offer advertising support so this important message is seen by over a million people in the UK.”

Steve Hatch, Facebook Vice President, Northern Europe

The ASA’s online Botox ads reached 1.39M PEOPLE

WORKING COLLABORATIVELY to enforce a Botox ads ban

As part of our commitment to listening in new ways, we’ve recently started using Brandwatch, a social intelligence tool, to strategically monitor ad content online.

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USING TECHNOLOGY
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BECOMING A LEADER
in AI-driven advertising regulation

The avatar monitoring project and our proactive approach to tackling Botox ads on social media demonstrate how the ASA is already using technology to regulate.

But our aim is to deliver a step change so we can respond to the scale of the challenge of regulating an ever-increasing number of website and social media ads. We want to be leaders in AI-driven advertising regulation and, with the help of an AI consultancy, we now have a clear data science plan that is our road map to realising this ambition.

Using a three-phased approach over the next four years, we will build an internal data science capability that will utilise advanced machine-learning techniques to tackle fundamental regulatory issues and provide an even greater level of consumer protection.

TACKLING SCAM ADS
in paid-for spaces

Working in partnership with the major ad platforms and networks we developed a Scam Ad Alert system to quickly share information about paid-for scam ads. This system allows ad networks to respond quickly to remove them and prevent similar ads appearing.

A three-month trial of the system began in January 2020. It represents a significant step forward in intelligence sharing and has the potential to play a part in reducing the impact of these harmful ads on consumers.

Scam ads, like this example, often feature fake celebrity stories and link through to cryptocurrency scams.
You don’t have to graft to get to grips with the key advertising rules in life after the villa.

We don’t want to get all Factor 50 on you, so we’ve written an ABC cheat sheet to help celebs and influencers stay loyal to their followers.

We know authenticity is key to engaging with your followers. Part of that is letting them know when you’re advertising them something.

When a brand pays you to promote their products or services with money or with gifted stuff you’re advertising, and your post needs to make that clear.

These count too. If you’re being rewarded for sales from a discount code or affiliate link in a post you need to say this is an ad. If only some of the links or content relate to the promoted product you need to make clear which parts of the post are an ad.

If your post features a freebie you’ve been given to promote to your followers, you need to label your post as an ad.

Don’t hide away the hashtag – make sure it’s clearly upfront, don’t hide it away. Doing that will mean that you lose the ads/aff link element of what you’re doing.

If you’re using a hashtag make sure it’s clearly visible upfront, don’t hide it away. Doing that will mean that the ads/aff link element of what you’re doing isn’t visible.

If you’re paid to post or you’re posting about a gift you’ve received you must make clear it’s an ad. If you don’t the ASA will take action where a brand has controlled your message.

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Don’t just assume your followers know when you’re advertising something. They’re not mind-readers. Spell it out clearly.

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For more information about declaring ads on social media please visit asa.org.uk/influencers

ENSURING BRANDS AND INFLUENCERS know when to label their ads

Recognising that the focus of our current strategy is to have more impact online, we continued our work in relation to influencer marketing – from creating a ‘cheat sheet’ for Love Island contestants in partnership with ITV to hosting a training event that included the CMA as a co-presenter, to give the industry clear and comprehensive guidance on the regulatory framework in which it operates.

Following the publication of the ASA’s research on labelling influencer marketing in September, work began in earnest to update and refine all of our guidance resources – including our joint guidance with the CMA published in 2018 – for a relaunch of the updated resources in early 2020.

Receive advice on the ad rules and infographics like these direct to your inbox. Sign up to the Insight newsletter at asa.org.uk/newsletter
PRIORITISATION and partnership working

IMPROVING OUR EFFECTIVENESS

Through our strategy, we are exploring ways to help us to prioritise better, freeing up our time to focus on the issues that matter most.

We’ve developed our ‘education first’ approach to help deliver a lighter-touch regulation where that’s appropriate, and have partnered up with other organisations, including Primary Authorities of large advertisers, to work collaboratively to tackle thematic issues where possible rather than relying on formal investigations.

TACKLING SME WEBSITE-ONLY ADVERTISING COMPLAINTS

Streamlining our approach has helped us to make great gains in our handling of SME website complaints. Through our ‘education first’ approach, we resolved a significant number of claims seen on the websites of SMEs without employing a lengthy investigations process, particularly where issues related to harm and offence.

We issued more Advice Notices for minor breaches for SME website claims. Advice Notices get to advertisers more quickly with details of why the ad was wrong and how to amend it.

As a result of our efficiencies, in 2019 we also saw a 34% reduction in the number of published rulings compared with the previous year.

WORKING IN PARTNERSHIP to tackle misleading reference prices

Throughout 2019, the ASA continued to tackle the thorny question of how to ensure the pricing information consumers rely on when making purchasing decisions is accurate.

Responding to a number of complaints about misleading reference prices for products marketed online, the ASA trialled a collaboration with a large online retailer and their Primary Authority (PA).

PRICING EXPERT GROUP

New modes of delivering advertising to consumers require new forms of regulation. In 2019, the ASA committed to working with regulatory partners to help improve the quality and consistency of advice provided to advertisers presenting pricing information to consumers online. This ongoing project aims to promote collective regulation by bringing various regulatory partners together to enable dialogue when setting standards for achieving our ambition for every UK ad to be a responsible ad, thereby benefitting consumers, society and business.

ADVICE NOTICES ON ISSUES OF HARM, OFFENCE AND IRRESPONSIBILITY

<table>
<thead>
<tr>
<th>Quarter</th>
<th>SME website claims</th>
<th>Large company website claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q1 2018</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Q2 2018</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Q3 2018</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>Q4 2018</td>
<td>7</td>
<td>4</td>
</tr>
<tr>
<td>Q1 2019</td>
<td>31</td>
<td>7</td>
</tr>
<tr>
<td>Q2 2019</td>
<td>37</td>
<td>3</td>
</tr>
<tr>
<td>Q3 2019</td>
<td>51</td>
<td>10</td>
</tr>
<tr>
<td>Q4 2019</td>
<td>42</td>
<td>8</td>
</tr>
</tbody>
</table>
ASA RULINGS GIVE HMRC LEVERAGE to crack down on misleading tax avoidance schemes

Tax avoidance schemes cost taxpayers billions of pounds in lost revenue every year. These schemes also entice unsuspecting members of the public, including the low paid and self-employed, into tax arrangements that are not legitimate and which result in HMRC investigations. The ASA has teamed up with HMRC to crack down on them.

The ASA upheld three complaints brought by the HMRC into ads promoting contractor loan schemes, disguised remuneration trusts and stamp duty avoidance schemes on residential property. We found that the ads misled by omitting information explaining how the arrangements would leave taxpayers at the risk of an HMRC investigation. The advertisers weren’t able to evidence that the schemes were approved by the official bodies they referred to, including HMRC, the Solicitors Regulation Authority and the House of Lords.

We also ruled that the ads didn’t include sufficient disclaimers about the risks of entering into the scheme, such as potential loan charges or penalties.

In 2019, HMRC used our rulings to successfully crack down on the vast majority of companies making misleading claims about these kinds of tax arrangements. We are now working together with them on plans to tackle the remaining pockets of non-compliance.

HMRC HAVE WELCOMED ASA INVESTIGATIONS INTO COMPLAINTS ABOUT ADVERTISEMENTS FOR TAX AVOIDANCE ARRANGEMENTS

In turn, we have used these ASA rulings as part of our communications to warn taxpayers against using tax avoidance schemes, specifically in the Spotlight series published on gov.uk (Spotlight 40, Spotlight 42, Spotlight 43) and at meetings or through correspondence with tax agents. The investigations have helped raise public awareness that both the statements made in these adverts and the absence of the possible consequences of joining the arrangement are misleading.
PROTECTING vulnerable people

We upheld an ad for breast enlargement by MYA Cosmetic Surgery, which trivialised the decision to undergo surgery. We then worked with MYA to ensure the focus of their ads did not imply that aspirational lifestyles can only be achieved through cosmetic surgery. This resulted in a shift from women wearing revealing outfits in luxurious settings to everyday stories of both men and women of varying physiques. This is an example of the ASA and CAP working together with advertisers to tackle harmful perceptions of body image.
**HARMFUL GENDER STEREOTYPES**

first ads assessed

2019 saw the first results of a new rule banning harmful gender stereotypes in advertising. The rule, which came into effect on 14 June, was the culmination of work that included extensive research, a lengthy public consultation, and the publication of detailed CAP guidance for advertisers outlining scenarios that would be considered problematic.

The ASA will continue to investigate complaints, to ensure advertisers are getting it right when it comes to eliminating harmful gender stereotypes from their ads.

We ruled that

**Philadelphia, Mondelez UK Ltd**

* Upheld

While the ad attempted to be humorous, it relied on two hapless dad characters who became distracted while caring for their infants, perpetuating a gender-based stereotype that men are less able than women to care for children.

**Buxton, Nestle UK Ltd**

* Not upheld

The ad depicted a female ballet dancer, and a male drummer and rower. The ASA found that as the ad focused on the levels of drive and talent, and the skills were shown to be equally difficult and demanding, it did not break the rule.

**Volkswagen Golf**

* Upheld

The ad directly contrasted stereotypical male and female roles by juxtaposing images of men in extraordinary environments carrying out adventurous activities with women who appeared passive or engaged in a care-giving role. The ASA found that the ad did break the rule as it unintentionally portrayed these characteristics to be exclusive to each gender.

**Foster’s, Heineken**

* Not upheld

The radio ad for Foster’s beer portrayed a phone-in with characters Brad and Dan, and a caller seeking advice about how to avoid moving in with his girlfriend. The ASA found that, as the characters were known for offering unrealistic advice to men facing social conundrums, the ad did not present gender stereotypes in a way that was likely to cause harm.

* The image is from a separate but related ad, that also features Foster’s characters Brad and Dan.

**REMOVING IRRESPONSIBLE CLAIMS**

for autism therapies

In 2018, we ruled CEASE therapy claims made on a practitioner’s website not only broke our rules, but had the potential to harm the mental and physical wellbeing of young people. This prompted us to serve an Enforcement Notice to 150 practitioners of CEASE therapy to make them aware that they could not make direct or implied efficacy claims in their ads, including their own websites. In 2019, we monitored whether those required changes had been made, resulting in several referrals to Trading Standards for further investigation.

**CEASE THERAPY**

CEASE therapy (Complete Elimination of Autistic Spectrum Expression) is a form of homeopathic treatment which some therapists claim can treat or cure autism.
PROTECTING vulnerable people

In April 2019, new guidance on gambling and the protection of children and young people came into effect. It provides significant new detail on unacceptable types of content, including certain types of animated characters, licensed characters from movies or TV and sportspersons and celebrities likely to be of particular appeal to young people, and references to youth culture. It also adds to existing guidance on the responsible targeting of ads, covering all media, including social networks and other online platforms.

The new guidance stops ads from including content that might draw children and young people’s attention to gambling, and reinforces the strong framework of protections that limit their exposure.

Andy Taylor
Regulatory Policy Executive, CAP

LIMITING THE APPEAL OF GAMBLING ADS to children

In April 2019, new guidance on gambling and the protection of children and young people came into effect.

It provides significant new detail on unacceptable types of content, including certain types of animated characters, licensed characters from movies or TV and sportspersons and celebrities likely to be of particular appeal to young people, and references to youth culture.

It also adds to existing guidance on the responsible targeting of ads, covering all media, including social networks and other online platforms.

The new guidance stops ads from including content that might draw children and young people’s attention to gambling, and reinforces the strong framework of protections that limit their exposure.

James Ogilby
Investigations Executive, ASA

BANNING VAPING ADS on Instagram

E-cigarette advertising is restricted on the media it can be placed in and the type of content it features.

In December 2019, the ASA ruled that e-cigarette ads posted from a public Instagram account weren’t consistent with these restrictions, setting a new standard for the industry. This meant that e-cigarette brands were required to make their Instagram accounts private so their posts could only be seen by those who actively chose to follow them. The ASA also found content used in the ads went beyond what was acceptable.

Later that month Instagram separately decided to remove vaping products from certain aspects of their platform.

The ASA upheld this complaint against BetIndex Ltd because it featured players who were under 25 who weren’t the subject of the bet offered.

The posts, like this ad from British American Tobacco UK Ltd featuring Lily Allen, showed models and celebrities holding electronic cigarettes.

Jadon Sancho is now the football stockmarket’s third most valuable player, with many traders seeing handsome profits. Join Football Index and trade your passion.

Become a football trader. Over 18s only, Ts&Cs apply. Please trade responsibly.

Facebook
Football INDEX - Bet & Trade
Sponsored by

James Ogilby
Investigations Executive, ASA
In December, we published an update to our report on children’s exposure to age-restricted TV ads for alcohol, gambling and high fat, salt or sugar (HFSS) food and soft drinks.

Data up to 2018 showed that children’s exposure to alcohol ads on TV has remained at similar levels since 2015, and their exposure to gambling ads has remained steady since 2014. Exposure to HFSS ads continues to decline markedly since 2016.

Although children are increasingly moving towards online media, data showed that they watched an average of 9 hours of television per week in 2018.

We will continue to monitor TV ads in and around kids’ programming to ensure that the rules appropriately limit children’s exposure.

Cherie Leung
Regulatory Policy Executive, CAP
COMPLAINTS AND CASES in context

Resolving complaints and cases

OUR ACTION ON MISLEADING, HARMFUL OR OFFENSIVE ADS

There are three types of action the ASA can take as a result of an investigation.

- **No additional investigation**
  
  We may decide there is no problem under the Advertising Codes and take no further action. In other cases, we are unable to investigate because the complaint or the advertising material falls outside of the ASA’s remit.

- **Informal investigation**
  
  Where appropriate, the ASA will resolve issues informally. For example, where a minor or clear-cut breach of the Advertising Codes has been made, we may issue an Advice Notice on how to comply with the Advertising Codes, or seek assurance that an advertiser will change or withdraw their ad immediately.

- **Formal investigation**
  
  If the ad raises concerns under the Advertising Codes, we can conduct a thorough investigation in which all sides are given the opportunity to comment. Advertisers will be asked to provide their arguments and evidence to support their advertising claims and approach. Final rulings are made by the ASA Council, with complaints either upheld or not upheld. They are published in full on our website each week.

ADS AMENDED OR WITHDRAWN

8,881

ads were amended or withdrawn this year, an 18% decrease on 2018 but the second highest total ever

In 2019, the **RETAIL SECTOR** had the most ads amended or withdrawn

In 2019, **20**
### COMPLAINTS AND CASES BY MEDIA*

<table>
<thead>
<tr>
<th>Media</th>
<th>2019 Complaints Number</th>
<th>2019 Cases Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Online</td>
<td>16,767</td>
<td>14,775</td>
</tr>
<tr>
<td>Television</td>
<td>9,971</td>
<td>5,216</td>
</tr>
<tr>
<td>Outdoor</td>
<td>1,787</td>
<td>744</td>
</tr>
<tr>
<td>Email</td>
<td>1,094</td>
<td>1,024</td>
</tr>
<tr>
<td>Packaging and point of sale</td>
<td>936</td>
<td>890</td>
</tr>
<tr>
<td>Radio</td>
<td>887</td>
<td>598</td>
</tr>
<tr>
<td>Leaflet, brochure, catalogue or directory</td>
<td>801</td>
<td>717</td>
</tr>
<tr>
<td>National press</td>
<td>544</td>
<td>437</td>
</tr>
<tr>
<td>Direct mail or circular</td>
<td>533</td>
<td>358</td>
</tr>
<tr>
<td>Other</td>
<td>382</td>
<td>330</td>
</tr>
<tr>
<td>Transport</td>
<td>359</td>
<td>219</td>
</tr>
<tr>
<td>Magazine</td>
<td>266</td>
<td>205</td>
</tr>
<tr>
<td>Local or regional press</td>
<td>258</td>
<td>188</td>
</tr>
<tr>
<td>Cinema</td>
<td>186</td>
<td>102</td>
</tr>
<tr>
<td>Press other</td>
<td>115</td>
<td>98</td>
</tr>
<tr>
<td>Ambient</td>
<td>31</td>
<td>22</td>
</tr>
</tbody>
</table>

* We are currently updating how we categorise complaints and cases by media and are unable to compare 2019 data with 2018.

Almost 3x as many ONLINE CASES WERE RESOLVED AS TV CASES in 2019.

### ONLINE COMPLAINTS AND CASES BROKEN DOWN*

<table>
<thead>
<tr>
<th>Online media</th>
<th>2019 Complaints Number</th>
<th>2019 Cases Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Website, social media or app (own site)</td>
<td>9,035</td>
<td>8,338</td>
</tr>
<tr>
<td>Website, social media or app (influencer ad)</td>
<td>4,401</td>
<td>3,670</td>
</tr>
<tr>
<td>Website, social media or app (paid ad)</td>
<td>1,894</td>
<td>1,663</td>
</tr>
<tr>
<td>Video on demand</td>
<td>567</td>
<td>300</td>
</tr>
<tr>
<td>Game</td>
<td>403</td>
<td>373</td>
</tr>
<tr>
<td>Search</td>
<td>348</td>
<td>318</td>
</tr>
<tr>
<td>Messaging app</td>
<td>86</td>
<td>84</td>
</tr>
<tr>
<td>Website, social media or app (other)</td>
<td>32</td>
<td>28</td>
</tr>
<tr>
<td>Viral</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

**Online total**: 16,767 Complaints, 14,775 Cases

* We are currently updating how we categorise complaints and cases by media and are unable to compare 2019 data with 2018.

Complaints about INFLUENCER POSTS made up more than ¼ OF ALL ONLINE COMPLAINTS.
## COMPLAINTS AND CASES in context

Resolving complaints and cases

### COMPLAINTS AND CASES RESOLVED BY SECTOR

<table>
<thead>
<tr>
<th>Sector</th>
<th>2019 Number</th>
<th>% +/-</th>
<th>2018 Number</th>
<th>% +/-</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leisure</td>
<td>5,473</td>
<td>8%</td>
<td>4,348</td>
<td>6%</td>
</tr>
<tr>
<td>Retail</td>
<td>5,166</td>
<td>-11%</td>
<td>3,850</td>
<td>-13%</td>
</tr>
<tr>
<td>Health and beauty</td>
<td>3,779</td>
<td>-3%</td>
<td>2,671</td>
<td>0%</td>
</tr>
<tr>
<td>Food and drink</td>
<td>3,402</td>
<td>36%</td>
<td>1,839</td>
<td>10%</td>
</tr>
<tr>
<td>Financial</td>
<td>2,657</td>
<td>17%</td>
<td>1,715</td>
<td>-1%</td>
</tr>
<tr>
<td>Business</td>
<td>2,222</td>
<td>-23%</td>
<td>1,920</td>
<td>-18%</td>
</tr>
<tr>
<td>Non-commercial</td>
<td>1,983</td>
<td>-12%</td>
<td>1,205</td>
<td>2%</td>
</tr>
<tr>
<td>Holidays and travel</td>
<td>1,975</td>
<td>-6%</td>
<td>1,709</td>
<td>-12%</td>
</tr>
<tr>
<td>Computers and telecommunications</td>
<td>1,770</td>
<td>-7%</td>
<td>1,311</td>
<td>-3%</td>
</tr>
<tr>
<td>Household</td>
<td>1,370</td>
<td>22%</td>
<td>947</td>
<td>10%</td>
</tr>
<tr>
<td>Motorizing</td>
<td>1,180</td>
<td>30%</td>
<td>553</td>
<td>4%</td>
</tr>
<tr>
<td>Unknown</td>
<td>773</td>
<td>153%</td>
<td>508</td>
<td>70%</td>
</tr>
<tr>
<td>Property</td>
<td>726</td>
<td>-26%</td>
<td>635</td>
<td>-9%</td>
</tr>
<tr>
<td>Publishing</td>
<td>544</td>
<td>45%</td>
<td>375</td>
<td>10%</td>
</tr>
<tr>
<td>Clothing</td>
<td>462</td>
<td>130%</td>
<td>359</td>
<td>143%</td>
</tr>
<tr>
<td>Utilities</td>
<td>452</td>
<td>11%</td>
<td>301</td>
<td>-10%</td>
</tr>
<tr>
<td>Alcohol</td>
<td>304</td>
<td>32%</td>
<td>200</td>
<td>2%</td>
</tr>
<tr>
<td>Education</td>
<td>234</td>
<td>4%</td>
<td>220</td>
<td>0%</td>
</tr>
<tr>
<td>Employment</td>
<td>161</td>
<td>-4%</td>
<td>128</td>
<td>-5%</td>
</tr>
<tr>
<td>Industrial and engineering</td>
<td>49</td>
<td>9%</td>
<td>44</td>
<td>0%</td>
</tr>
<tr>
<td>Tobacco</td>
<td>30</td>
<td>20%</td>
<td>25</td>
<td>19%</td>
</tr>
<tr>
<td>Agricultural</td>
<td>5</td>
<td>-76%</td>
<td>3</td>
<td>-81%</td>
</tr>
<tr>
<td>Electrical appliances</td>
<td>0</td>
<td>-100%</td>
<td>0</td>
<td>-100%</td>
</tr>
</tbody>
</table>

* Includes complaints about advertising in general.
## COMPLAINTS AND CASES RESOLVED BY ISSUE

<table>
<thead>
<tr>
<th></th>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-broadcast</td>
<td>Broadcast</td>
</tr>
<tr>
<td></td>
<td>Complaints  Cases</td>
<td>Complaints  Cases</td>
</tr>
<tr>
<td>Misleading</td>
<td>17,303  15,498</td>
<td>3,179  2,179</td>
</tr>
<tr>
<td></td>
<td>(70%)  (78%)</td>
<td>(29%)  (37%)</td>
</tr>
<tr>
<td>Offensive</td>
<td>1,898  1,200</td>
<td>3,549  1,722</td>
</tr>
<tr>
<td></td>
<td>(7%)  (6%)</td>
<td>(32%)  (29%)</td>
</tr>
<tr>
<td>Harm</td>
<td>2,146  1,609</td>
<td>2,405  1,339</td>
</tr>
<tr>
<td></td>
<td>(9%)  (8%)</td>
<td>(22%)  (23%)</td>
</tr>
<tr>
<td>No issue</td>
<td>3,437  1,482</td>
<td>1,933  670</td>
</tr>
<tr>
<td></td>
<td>(14%)  (8%)</td>
<td>(17%)  (11%)</td>
</tr>
</tbody>
</table>

Over **3/4** of Non-broadcast cases concerned potentially misleading ads, compared with just over **1/3** of Broadcast cases.

N.B. Numbers in brackets represent percentage totals of complaints and cases by issue.
COMPLAINTS AND CASES in context

Resolving complaints and cases

### COMPLAINTS AND CASES RESOLVED BY OUTCOME

<table>
<thead>
<tr>
<th></th>
<th>Non-broadcast</th>
<th>Broadcast</th>
<th>Overall totals</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Complaints</td>
<td>Cases</td>
<td>Complaints</td>
</tr>
<tr>
<td>Total not investigated</td>
<td>17,786</td>
<td>14,066</td>
<td>27,471</td>
</tr>
<tr>
<td>Total investigated</td>
<td>6,365</td>
<td>5,230</td>
<td>7,246</td>
</tr>
<tr>
<td>Informal investigation</td>
<td>5,544</td>
<td>4,888</td>
<td>5,837</td>
</tr>
<tr>
<td>Of which:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upheld/Action taken</td>
<td>3,952</td>
<td>3,508</td>
<td>4,103</td>
</tr>
<tr>
<td>Not upheld/No action taken</td>
<td>1,592</td>
<td>1,380</td>
<td>1,734</td>
</tr>
<tr>
<td>Formal investigation</td>
<td>821</td>
<td>342</td>
<td>1,409</td>
</tr>
<tr>
<td>Of which:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upheld/Upheld in part</td>
<td>594</td>
<td>230</td>
<td>1,082</td>
</tr>
<tr>
<td>Not upheld</td>
<td>146</td>
<td>49</td>
<td>239</td>
</tr>
<tr>
<td>Withdrawn cases</td>
<td>81</td>
<td>63</td>
<td>88</td>
</tr>
<tr>
<td>Totals complaints and cases resolved</td>
<td>24,151</td>
<td>19,296</td>
<td>34,717</td>
</tr>
</tbody>
</table>

* Both non-broadcast and broadcast figures include multimedia figures which appear only once in the ‘overall totals’ column.

### TURNAROUND PERFORMANCE

4 of 6 turnaround KPIs were met

#### Turnaround performance Non-broadcast

<table>
<thead>
<tr>
<th>KPI</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>No additional investigation (10, 15 or 20 days*)</td>
<td>86%</td>
</tr>
<tr>
<td>Informal investigation (25 or 35 days*)</td>
<td>84%</td>
</tr>
<tr>
<td>Formal investigation (60 or 115 days*)</td>
<td>75%</td>
</tr>
</tbody>
</table>

80% target

#### Turnaround performance Broadcast

<table>
<thead>
<tr>
<th>KPI</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>No additional investigation (10, 15 or 20 days*)</td>
<td>92%</td>
</tr>
<tr>
<td>Informal investigation (25 or 35 days*)</td>
<td>82%</td>
</tr>
<tr>
<td>Formal investigation (60 or 115 days*)</td>
<td>70%</td>
</tr>
</tbody>
</table>

80% target

* Dependent on case type.
The ASA Council is the independent jury that decides whether an ad has broken the Advertising Codes. The Council also operates as the Board of the ASA.

In 2019, we sadly said goodbye to David Hepworth, who came to the end of his term of service. We were delighted to welcome Kirsten Miller.

**CHAIRMAN**

Lord Currie of Marylebone  
Chairman of the ASA; Founding Chairman of Ofcom and the Competition and Markets Authority

**INDEPENDENT MEMBERS**

Aaqil Ahmed  
Media Consultant, Aaqil Ahmed Media Consultancy; former Head of Religion and Ethics at BBC and Channel 4

Kate Bee  
Freelance journalist; Director, The Sober School

**ADVERTISING INDUSTRY BACKGROUND MEMBERS**

Zaid Al-Qassab  
Chief Marketing Officer, Channel 4; Trustee, WaterAid UK

Wesley Henderson  
Past Director, Consumer Council for Northern Ireland; Education Team Leader Northern Ireland for Cats Protection

Suzanne McCarthy  
Chairs, Depaul UK, Fire Standards Board, Joint Audit Panel MOPAC and MPS; Vice Chair, Valuation Tribunal Service

Reg Bailey  
Former Marketing Director; Member, BBFC Advisory Panel on Children’s Viewing, Advertising Association’s Media Smart Expert Panel

Tess Alps  
Chair and founder CEO of Thinkbox. Previously Chair of PHD and director of ITV companies. BAFTA member

Nita Patel  
Freelance sustainability consultant. Co-founder, CAYA; business adviser on the Mayor of London’s Economic Action Partnership

Shireen Peermohamed  
Partner, Harbottle & Lewis LLP; Video Standards Council, Member of Appeals Panel

Tracey Follows  
Founder of futures consultancy, Futuremade; former CSO of J Walter Thompson and APG Chair

Neil Stevenson  
Chief Executive of the Scottish Legal Complaints Commission, and Chair of Changing the Chemistry

Kirsten Miller  
Digital Marketing Executive; Former Managing Partner of Maxus

Sam Younger*  
Chair, Voluntary Service Overseas; Chair, CILEx Regulation

**Key**

- Broadcast Council
- Non-broadcast Council

* The Senior Independent member sits in place of the Chairman when the Chairman is unable to attend the meeting or has a declared interest in the case being discussed.
COMMITTEES of Advertising Practice

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

Committed to upholding the highest standards in non-broadcast and broadcast advertising, the Committees are made up of representatives of advertisers, agencies, media owners and other industry groups.

Committee of Advertising Practice (CAP)
- Advertising Association
- Cinema Advertising Association
- Data & Marketing Association
- Direct Selling Association
- Incorporated Society of British Advertisers
- Institute of Practitioners in Advertising
- Institute of Promotional Marketing
- Internet Advertising Bureau
- Mobile UK
- News Media Association
- Outsmart Out Of Home Ltd
- Professional Publishers Association
- Proprietary Association of Great Britain
- Royal Mail
- Scottish Newspaper Society
- Television on Demand Industry Forum
- Clearcast*
- Radiocentre*

Broadcast Committee of Advertising Practice (BCAP)
- Advertising Association
- British Telecommunications plc
- Channel 4 Television Corporation
- Channel 5 Broadcasting Ltd
- Commercial Broadcasters Association
- Data & Marketing Association
- Electronic Retailing Association UK
- Incorporated Society of British Advertisers
- Institute of Practitioners in Advertising
- ITV plc
- Sky UK Ltd
- STV Central Ltd
- Clearcast*
- Radiocentre*
- S4C*

* Clearcast, Radiocentre and S4C have observer status.
An independent review of the rulings of the ASA Council enables consumers and advertisers to question whether those decisions are fair and reasonable.

There were 40% fewer eligible requests for review in 2019 than in the year before (29 vs. 47 in 2018). This decrease was broadly in line with the 34% reduction in the number of formal rulings in 2019 compared with 2018.

As in 2018, the number of cases in which the Council accepted my advice to overturn their original decision was tiny. At 29, the number of requests was back to the level when I became Independent Reviewer ten years ago. Overall, my present workload reflects very favourably on the effectiveness and acceptability of the ASA’s judgements; but my role provides a route of protest and a process of quality control. I will report on two cases from 2019 which reflect those two elements, depending on your point of view.

The first, a rather cross protest against a Council ruling concerning an ad for a food supplement described as containing “ground-breaking, clinically researched ingredients”. The EC regulations on nutrition and health claims are complex and technical and the complainant challenged whether they had been met. The Council found in favour of the complainants. The advertiser asked me to review the ruling and presented a range of arguments, all of which I dismissed. I do not name the company as most of their arguments were very poor.

They disputed the ASA’s failure to put their submission to the Council but they had been told there was a 1,000-word limit which they then much exceeded so I could find no flaw. They argued that the Advertising Codes only require an advertiser to hold evidence, not to submit it. This was bizarre and was easily dismissed. They also argued that it was a flaw that there was no oral hearing but the ASA has never held them. These were just some of their arguments. The point of referring to this case is to urge advertisers, even if cross about a ruling against them, not to request a review unless they have good substantive arguments.

The second was a TV ad for Sky Bet promoting their ‘Request a Bet’ service. Two complainants challenged whether the ad was irresponsible as it implied that people with a good knowledge of sport were likely to experience gambling success. The Council upheld the complaint.

However, there were two flaws of process. The Council had not been informed about a contemporaneous ad very similar in nature on which they had made the opposite decision, nor had they been told that a betting specialist at the Gambling Commission had told the ASA that he thought the ad was acceptable. On the substance I observed that the ad made no direct reference to betting success and that the references to sports knowledge were about knowing how to put together a complex bet. I also pointed out that the law acknowledged that some people will have more skill and knowledge in some forms of gambling. I recommended that the Council reversed its decision, which it did.

### REVIEW CASES 2019–2018

<table>
<thead>
<tr>
<th>Non-broadcast</th>
<th>2019</th>
<th>2018</th>
<th>Broadcast</th>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total cases received of which:</td>
<td>20</td>
<td>45</td>
<td>17</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Ineligible/withdrawn</td>
<td>5</td>
<td>8</td>
<td>3</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>In progress</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Not referred to Council</td>
<td>12</td>
<td>26</td>
<td>11</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Referred to Council of which:</td>
<td>3</td>
<td>11</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Unchanged</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Decision reversed</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Wording changed</td>
<td>1</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Re-opened investigation</td>
<td>1</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>In progress</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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</tbody>
</table>
The Advertising Advisory Committee (AAC) advises BCAP and now CAP on the consumer and citizen issues arising from key aspects of broadcast and non-broadcast advertising regulations. The six members are drawn from a range of different backgrounds, to ensure that ad rules are effective, evidence based and responsive to public concerns.

October 2019 marked a major milestone, as we moved from only covering broadcast media (TV and radio), to also offering advice on print publications, cinema, billboards, online and other non-broadcast media within the remit of CAP. This welcome development reflects both changing technology and the way in which many advertising issues are pan-media in their impact.

The AAC had five formal meetings during the year. Our agendas continue to be dominated by familiar topics – such as gambling and lotteries, medical services and products, and the protection of children. But even in these areas, the appropriate policy responses need to adapt to changing contexts, especially developments in technology. One priority for the Committee has been to sharpen the overall framework that is used to approach upcoming issues. General concepts such as the consumer interest, proportionality, the precautionary principle and vulnerability are often cited, but they need as much precision as possible. The AAC has also become increasingly concerned to ensure greater clarity on the complex but important theme of environmental protection within the Advertising Codes.

A further theme of the AAC’s work has been advising CAP and BCAP on their response to external scrutiny. A key example arose in mid-2019 with the government’s consultation on the scheduling of TV ads for HFSS foods on TV, and associated calls for tightening restrictions. The AAC recognises the need to strike a careful balance, noting that there are many safeguards already in place, and that TV ads are not the sole cause of high HFSS consumption. There are also doubts about the quality and relevance of the available evidence. But the influence of TV advertising in this area is not negligible, and we recognise increasing levels of public concern about the risks. We worked closely with BCAP to ensure that their response remained open to the case for change. We subsequently used this as a case study of how the AAC can improve its effectiveness in scrutinising future proposals – especially by getting involved early in the Executive’s policy thinking process.

I’d like to close by thanking Malcolm Phillips, Shahriar Coupal and all the CAP and BCAP Executive team for their excellent support.
OUR PANELS

The advertising industry is central to the success of the self-regulatory system; as part of that, CAP and the ASA receive valuable support from three industry panels – the Industry Advisory Panel, the Promotional Marketing and Direct Response Panel and the Online Publications Media Panel.

The panels bring together advertisers, creatives, media planners and publishers who volunteer their time to give advice on marketing communications’ conformity with the Advertising Codes. The panels also provide a forum for the exchange of information and ideas between the industry, the ASA and CAP.
The Industry Advisory Panel (IAP) brings together marketing professionals, media practitioners and others with expert knowledge of the UK marketing industry. It advises the ASA and CAP on a broad range of broadcast and non-broadcast matters.

In 2019, the Panel provided expert advice across a range of topics, including complex supermarket price comparisons, novel online and offline remit considerations and the use of swearing and related wordplay in ads. Members also offered their valuable insight in some of the first cases to be considered under the new rules restricting the use of harmful gender stereotypes.

We bid a warm farewell to some of our longer-serving members and welcomed a couple of new members to ensure a continually diverse range of opinions, and benefit from knowledge across different industry sectors and experience. I would like to thank all Panel members, past, present and future, who volunteer their time and wisdom for the benefit of the self-regulatory system.

“Last year the Panel continued to provide a crucial industry perspective on a wide range of cases, giving the ASA and CAP access to expert knowledge across the breadth of marketing.”

Tim Duffy
Chairman

MEMBERS
Jonathan Allan
Sara Bennison
Lillian Betty
Jenny Biggam
Alexia Clifford
Ed Couchman
Shahriar Coupal (Secretary)
Matthew Dearden
Tim Duffy (Chairman)
Tim Evans
Peter Gatward
Steve Goodman
David Hepworth
Vicki Holgate
Chris McLeod
Nita Patel
Emma Smith (Assistant Secretary)
Charlie Snow
Nik Speller
Michael Todd
Stephen Vowles
Mark Wallace
The Promotional Marketing and Direct Response Panel (PMDRP) advises the ASA and CAP on promotional marketing and direct marketing matters.

In 2019, the PMDRP continued to provide an industry perspective and expert advice in the dynamic and innovative promotional marketing sector. The Panel provided insights into promotional mechanics such as ‘Winning Moments’ and free entry routes, as well as helping to ensure that the ASA and CAP had an important industry perspective on ‘Black Friday’ promotions and what constituted ‘unnecessary disappointment’ and ‘reasonable equivalents’ with regard to awarding alternative prizes.

“Last year the PMDRP continued to help the ASA and CAP to tap into the knowledge and expertise of senior promotional marketing experts on issues ranging from House Raffles to ‘free’ gifts. These practical insights from marketing professionals are an essential tool to help make sure the ASA and CAP’s decision-making processes remain up-to-date and informed.”

Catherine Shuttleworth
Chair, Promotional Marketing and Direct Response Panel

MEMBERS
Peter Batchelor
Mark Challinor
Shahriar Coupal (Secretary)
Michael Halstead
Nick Hudson (Assistant Secretary)
Wesley Henderson
Chris McCash
Andrew Rae
Mani Roberts
Rupa Shah
Catherine Shuttleworth (Chair)
Carey Trevill

The Online Publications Media Panel was established at the instigation of the Advertising Association Council, and with the endorsement of CAP, to advise CAP and the ASA on the proper distinction between editorial and advertising in online publications, in the event of any confusion.

The Panel has not been required to meet in 2019.

Catherine Shuttleworth
Chair, Promotional Marketing and Direct Response Panel

MEMBERS
Peter Batchelor
Mark Challinor
Shahriar Coupal (Secretary)
Michael Halstead
Nick Hudson (Assistant Secretary)
Wesley Henderson
Chris McCash
Andrew Rae
Mani Roberts
Rupa Shah
Catherine Shuttleworth (Chair)
Carey Trevill
We are funded primarily by advertisers through arm’s length levy arrangements that guarantee the ASA’s independence. Collected by the Advertising Standards Board of Finance (Asbof) and the Broadcast Advertising Standards Board of Finance (Basbof), the 0.1% levy on the cost of buying advertising space and the 0.2% levy on the Royal Mail’s Mailsort and Advertising Mail contracts ensures that the ASA is adequately funded without revealing to us which companies are contributing. We also receive a small income from charging for some seminars, the sale of eLearning materials and from the European Interactive Digital Advertising Alliance for regulating online behavioural advertising.

YEAR TO 31 DECEMBER 2019
Audited income and expenditure figures for the combined non-broadcast and broadcast activity in 2019 (see table) are the total of the amounts recorded in the Audited Report and Financial Statements of our two operating companies, namely The Advertising Standards Authority Limited (ASA), and The Advertising Standards Authority (Broadcast) Limited (ASA(B)). These were adopted by the Non-broadcast and Broadcast Councils at their respective Annual General Meetings held on 24 April 2020.

INCOME FOR THE YEAR
Compared with 2018, total income received from Asbof and Basbof increased by £382,000 (4%) to £9,582,000. Other income decreased by £24,000 (21%) to £137,000. Interest received increased by £1,000 (9%) to £12,000.

EXPENDITURE FOR THE YEAR
Compared with 2018, total expenditure increased by £354,000 (4%) to £9,635,000. This total expenditure was less than the original budget for the year by £633,000 or 6%.

The Audited Report and Financial Statements for ASA and ASA(B) reflect a split of costs, determined by Asbof/Basbof, to reflect the workload between non-broadcast and broadcast activities, of 66% and 34% respectively, and applying them to the non-specific costs – overheads, general office costs and the like. Specifically identifiable costs were allocated in full to the relevant function.

**NON-BROADCAST AND BROADCAST COMBINED FOR THE YEAR ENDED 31 DECEMBER 2019**

<table>
<thead>
<tr>
<th></th>
<th>2019 £’000</th>
<th>2018 £’000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Funding received from:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Advertising Standards Board of Finance Limited (Asbof)</td>
<td>6,245</td>
<td>5,895</td>
</tr>
<tr>
<td>The Broadcast Advertising Standards Board of Finance Ltd (Basbof)</td>
<td>3,337</td>
<td>3,305</td>
</tr>
<tr>
<td><strong>Total income</strong></td>
<td>9,582</td>
<td>9,200</td>
</tr>
<tr>
<td><strong>Expenditure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries and direct staff costs</td>
<td>6,189</td>
<td>6,087</td>
</tr>
<tr>
<td>Office accommodation and general costs*</td>
<td>1,791</td>
<td>1,556</td>
</tr>
<tr>
<td>Communications costs</td>
<td>396</td>
<td>502</td>
</tr>
<tr>
<td>Legal and professional fees*</td>
<td>646</td>
<td>476</td>
</tr>
<tr>
<td>Information technology costs</td>
<td>368</td>
<td>435</td>
</tr>
<tr>
<td>Depreciation*</td>
<td>181</td>
<td>143</td>
</tr>
<tr>
<td>Travel, subsistence and entertaining</td>
<td>64</td>
<td>82</td>
</tr>
<tr>
<td><strong>Total expenditure</strong></td>
<td>9,635</td>
<td>9,281</td>
</tr>
<tr>
<td><strong>Operating loss</strong></td>
<td>(53)</td>
<td>(81)</td>
</tr>
<tr>
<td>Interest receivable</td>
<td>12</td>
<td>11</td>
</tr>
<tr>
<td>Other income (i.e. seminars, advice and eLearning)</td>
<td>137</td>
<td>113</td>
</tr>
<tr>
<td><strong>Profit on ordinary activities before tax</strong></td>
<td><strong>96</strong></td>
<td><strong>43</strong></td>
</tr>
</tbody>
</table>

* The increases in these expenditures were primarily due to the office relocation.