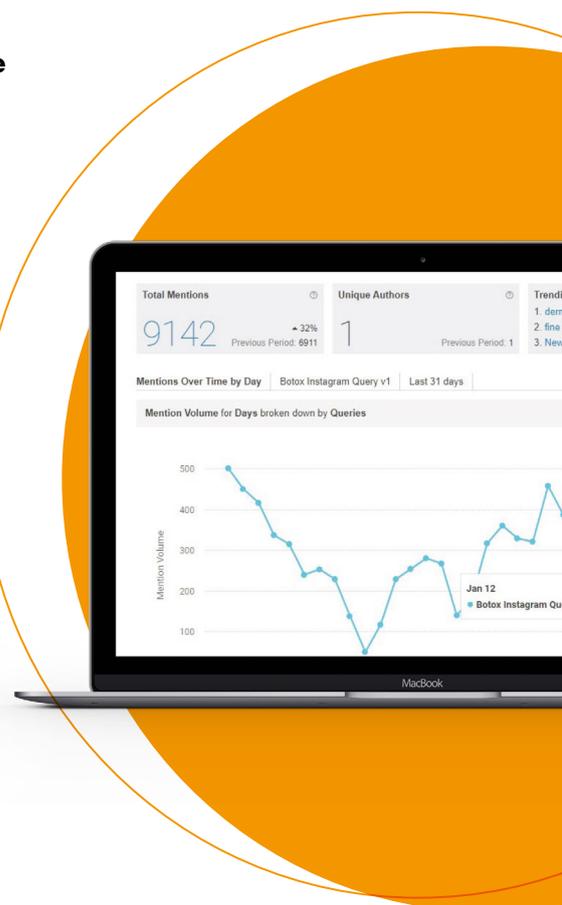
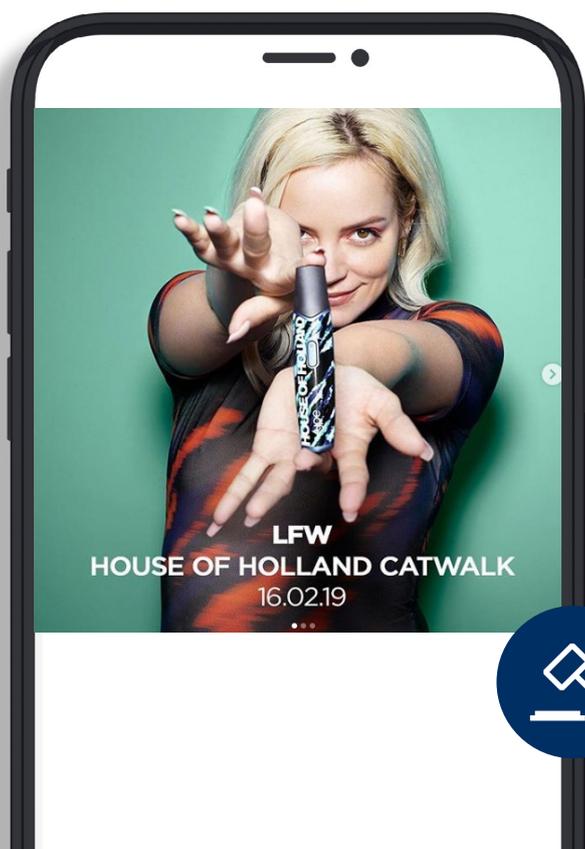




# Using **TECHNOLOGY** for good

Annual Report 2019  
**Advertising Standards Authority  
Committees of Advertising Practice**



Find the abridged report online at:  
[asa.org.uk/ar19](http://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 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.

Get the latest rulings and practical compliance advice direct to your inbox

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**CONTENTS**

<b>About the ASA and CAP</b>	01
<b>Chairmen's reports</b>	
A Q&A with David Currie	02
A Q&A with James Best	04
<b>Our strategy</b>	
A word from Guy Parker	06
Our performance against our objectives	08
<b>Our work in 2019</b>	
Using technology and working with online platforms	10
Prioritisation and partnership working	13
Protecting vulnerable people	16
<b>Complaints and cases in context</b>	20
<b>Governance</b>	
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**



# About the **ASA** and **CAP**



**ASA**

## **THE ADVERTISING STANDARDS AUTHORITY**

(ASA) is the UK's independent regulator of advertising across all media



**CAP**

## **THE COMMITTEES OF ADVERTISING PRACTICE**

(CAP) write the UK Advertising Codes and provide authoritative guidance on the rules



### **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.

# 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.

Other than that, delivery of our new strategy depends on effective funding of the system and buy-in from key partners. Our funding is under pressure because of the movement of ad budgets into online media/platforms that are either not levied or not levied easily. While the majority of large advertisers buy in to the ASA system, the increase in businesses, including small and medium-sized enterprises (SMEs), advertising online – particularly in 'owned' space – challenges that model. That's one reason why part of our strategy focuses on engaging these groups.

**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

70%

of which were  
potentially misleading

In addition, we resolved

**4,469**

own-initiative  
compliance cases

99%

of formal cases  
were enforced

Resulting in  
**8,881**

ads being amended  
or withdrawn

62

sanctions were  
applied leading  
to compliance

**Only 9**

advertisers needed to be  
referred to Trading Standards  
for further action

# A Q&A WITH JAMES BEST

## CAP Chairman

### AS WE REFLECT OVER THE LAST 12 MONTHS,

we ask CAP Chairman James Best to offer his insights into the challenges of advertisers and policy-makers, and how CAP contributes to the delivery of the ASA strategy.

#### **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



→ **550,242** pieces of advice and training to businesses

### Consistently supporting

businesses to advertise responsibly



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**.

# A WORD FROM GUY PARKER

## Chief Executive's report

**2019 SAW GOOD PROGRESS** implementing our 2019 – 2023 strategy, *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

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.

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: skimp 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.

All that without compromising quality: our customer satisfaction and other quality scores held up and we were pleased to win two out of two judicial reviews, involving CityFibre and Actegy.

A word on our vital work with online platforms. We successfully troubleshot some long-standing issues and we are

rolling out new ways to tackle scam ads more systematically. Successful delivery of our strategy will involve us working more closely with the platforms, combining their substantial investments in ad review systems with our independence, regulatory expertise and ability to build positive relationships between key stakeholders.

We're reallocating some of the resource we've freed up to more proactive regulation and we're planning our investment in data science, including machine learning, but we need the ad industry to deliver a successful outcome to its review of our funding model.

We must be unstinting in our ambition to make ads responsible, wherever they appear. But we must also be smart in recognising and communicating that that will continue to involve different approaches: prioritising and partnership working for our regulation of website advertising claims; working more closely with online platforms and networks to tackle bad paid-for ads; and educating and enforcing to tackle the very different challenge of inadequately labelled or otherwise irresponsible influencer advertising.



**Guy Parker**  
ASA Chief Executive

## Regulating political advertising

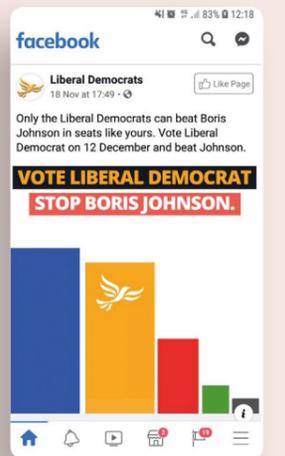
As with other recent elections and national and regional referenda, the 2019 General Election played out against a backdrop of rising concern about truth in political campaigns.

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 ad land, 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 referendums) 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.

Full Fact, the UK's independent fact-checking charity, found problems with the claims in each of these ads



### THE SIX STRANDS OF OUR STRATEGY



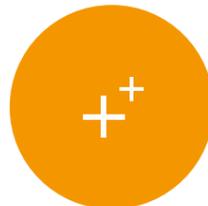
#### People

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.

# OUR PERFORMANCE

## against our objectives

**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.

OBJECTIVES	KEY ACTIVITIES				KEY PERFORMANCE INDICATORS	
<b>Improving regulation of online ads</b> 	We will continue to focus on misleading content and inappropriate targeting, collaborating more with large online platforms to protect people from irresponsible online ads	Set up an ASA/CAP Online Forum with representatives from online platforms and networks to help improve our regulation of online ads	Developed a Scam Ad Alert system for more efficient identification and removal of scam ads across multiple platforms and networks (more info on p12)	Started developing ideas for Online Gatekeeper Standards to better hold online platforms and networks to account under the CAP Code	Produced a Data Science Plan to deliver a step change in our capability to deliver our strategy	Meet customer satisfaction targets: <ul style="list-style-type: none"> <li>No additional investigation cases 51% – vs. target of 50%</li> <li>Informal cases 79% – vs. target of 75%</li> <li>Formal investigation cases 84% – vs. target of 75%</li> <li>Advertisers 72% – vs. target of 75%</li> </ul>
<b>Introducing new approaches to case handling</b> 	We will begin prioritising better, exploring whether machine learning can improve our regulation, adopting lighter-touch ways for people to complain to us and improving our processes	Continued to prioritise complaints and cases through our 'education first' approach, resulting in a decrease in formal rulings (more info on p14)	Reviewed our competitor complaints process, and identified areas to pursue in 2020	Explored a 'Report not complain' feature as well as limiting the personal servicing of complaints. Recommendations to follow in 2020	Established a Machine Learning Project exploring use cases such as automated routing of complaints. We also subscribed to an online monitoring platform to aid intelligence gathering and reputation management	4 of 6 case types closed within target timescales
<b>Restoring our reactive/proactive balance</b> 	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	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 Ads (aka Avatar Monitoring); Botox Ads on Social Media; and Children's Exposure to Age-restricted TV Ads	We also completed projects on: Superimposed Text in Broadcast 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 IV Drip Ads; Data Harvesting Lead Generation Ads; Debt Advice Service Lead Generation Ads; Weight Loss Injections; House Raffles; Scam Ads in Online Media; Homeopathic Ads for CEASE Therapy; and RRP/List Price Claims in the Car Sector	Maintain casework productivity within 5% of 2018 levels <ul style="list-style-type: none"> <li>Cost per No Additional Investigation case £61.71 (3% worse than 2018 including inflation)</li> <li>Cost per Informal Investigation case £181 (2% worse than 2018 including inflation)</li> <li>Cost per Formal Investigation case £670 (3% worse than 2018 including inflation)</li> </ul>
<b>Increasing advice and training</b> 	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	Increased Touchpoints by 14,768. We improved our website, making it easier to access advice and move between articles. We reported a 14% increase in online Touchpoints and an 11% increase in Advice Online readership	Reached more SMEs with Bing, Amazon, eBay, Twitter, LinkedIn and Groupon including links to the CAP Code as part of their advertiser on-boarding process. We also launched a CAP Bitesize video series offering SMEs targeted advice	Created targeted help for influencers including a training event, and a Love Island themed advice graphic backed by joint PR with ITV		Maintained balance of reactive complaints casework and proactive projects: 59% to 18% vs. target of 55% to c.20%
<b>Implementing the Buy-in, Enforcement and Independence strands</b> 	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	Conducted a desk review of good independence governance practices across 14 UK regulators and 30 international advertising regulators	Launched a Parliamentary network and attracted 16 members across the Commons and Lords	Subscribed to online monitoring platform to aid monitoring and enforcement of our rules		<b>8,881</b> ads amended or withdrawn
<b>Regulating for the whole of the UK</b> 	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 through conducting two to four pieces of research into the public's views about ads. We will explore new ways of listening	Scotland: Completed two-year Scottish engagement plan; met over a dozen MSPs; and held a panel discussion in Holyrood when the gender stereotyping rule came into force  Northern Ireland: Four visits including a discussion on alcohol advertising and a training event for the Utility Regulator  Wales: Meetings with six AMs and the Chief Medical Officer. Hosted a round table event at the Welsh Assembly and presented at the Gambling All Party Group	We carried out and published a further tranche of Children's TV Exposure. Because of our focus on monitoring age-restricted ads on TV and online, we did not conduct research into the public's views about ads	We delivered customer satisfaction research, and online labelling research was published in September		<b>550,242</b> pieces of advice and training delivered – against a target of 550,000
<b>Demonstrating the effectiveness of our regulation</b> 	We will continue to demonstrate regulatory effectiveness through our actions and communication, but we'll be open-minded to change that strengthens the ASA system. We'll raise awareness of our online ad regulation among all stakeholders	Over £8m donated by media owners to the existing ASA ad campaign (twice that of the last two years), resulting in a reach of 56% (target 60%) and a frequency rating of 79 (target 8)	Began developing our new ad campaign in collaboration with the Advertising Association-led Trust Working Group and agency Leith. Focusing on iconic ads, the campaign will launch in Scotland in 2020	£22.3m worth of media coverage (significantly above our £18m target)		Responded to 97% of standard Copy Advice enquiries within 24 hours – vs. target of 90%
<b>Recruiting the best people and delivering improvements</b> 	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	Launched a new Diversity and Inclusion Strategy 2019 – 2023, identifying specific areas for improvement, and delivered 649 training impacts to staff	New case contact management system launched to remaining teams in May	Moved into new offices in Shoreditch in September 2019, achieving c.20% saving across the term of the lease	Sought expertise from AI specialists at the CMA, FCA, Regulators and Artificial Intelligence Working Group, Google and AI start-ups/consultancies, in particular Faculty, to ensure we have appropriate in-house data science skills to deliver our strategy and develop our thought-leadership	94% satisfaction with Copy Advice service – vs. target of 90%
						Improved Cost per Piece of Advice and Training by 4% including inflation (from £0.96 to £0.93)
						78% of respondents more confident complying with Ad Codes after an Advice:am event – vs. target of 90%
						99% of Formal Investigation cases enforced – vs. target of 97%
						Two pieces of research delivered, Avatar Monitoring and TV Ad Exposure, but neither involved the public's views of ads
						Awareness of our online remit increased to 57% from 49%

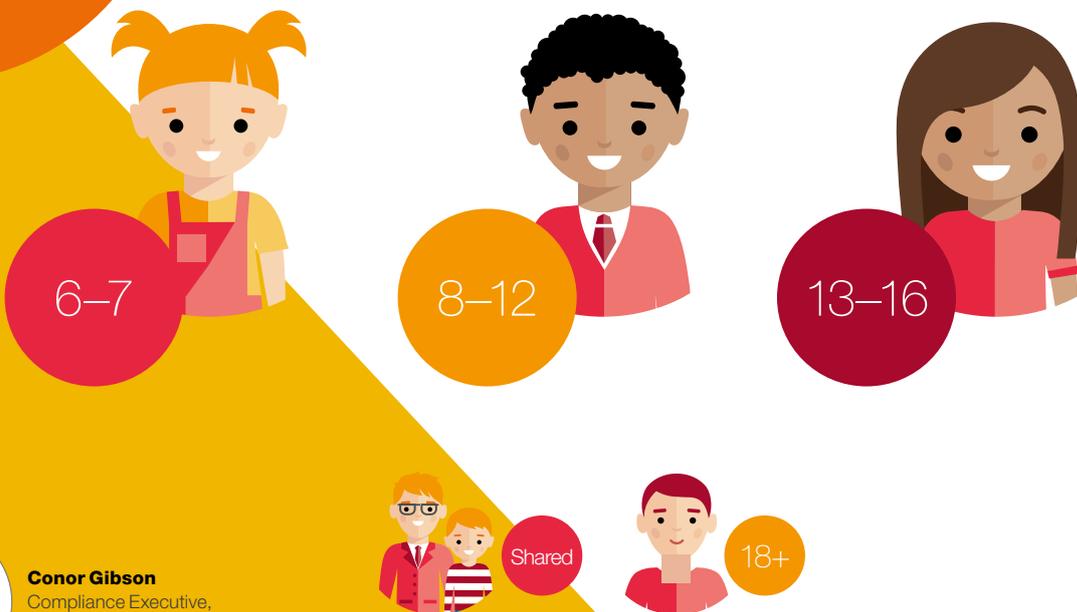
**Key to KPI progress:**

- On-target
- Requires action
- Off-target

# USING TECHNOLOGY

## and working with online platforms

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



**Conor Gibson**  
Compliance Executive,  
CAP

### 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.

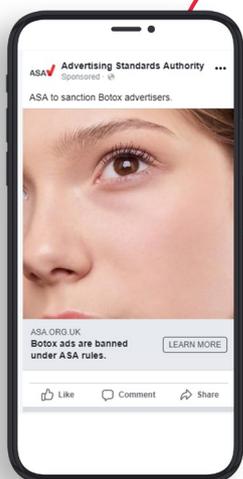
Leading us to capture and review **95,000 ADS**



## 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**



**Jim Tebbett**  
Senior Compliance Executive, CAP

## WORKING COLLABORATIVELY to enforce a Botox ads ban

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.

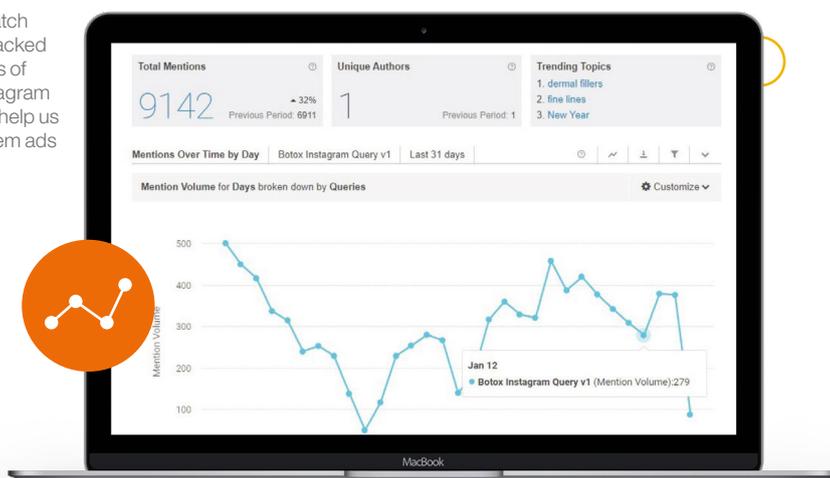
**i** Prescription-only medicines such as Botulinum toxin injections, most commonly Botox, are prohibited from being advertised to the public.



**James Miller**  
Digital Communications Specialist, ASA

## USING TECHNOLOGY-ENABLED CONSUMER INTELLIGENCE to regulate ads online

This Brandwatch dashboard tracked daily mentions of Botox on Instagram in real time to help us identify problem 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

## and working with online platforms



**Jo Poots**  
Head of Operations –  
Complaints and  
Investigations, ASA

### 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.



**Jessica Tye**  
Operations Manager –  
Investigations,  
ASA

### 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



# PRIORITISATION

## and partnership working

**love islanders**  
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.

**ASA**

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

**BRANDS**  
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.

**CONTROL**  
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.

**DISCOUNT CODES**  
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.

**ENFORCEMENT**  
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.

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

**GIFTS**  
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.

**HASHTAG**  
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**. It is what it is.

**ASA**  
For more information about declaring ads on social media please visit [asa.org.uk/influencers](https://asa.org.uk/influencers)



**Emma Smith**  
Operations Manager –  
Copy Advice,  
CAP

## 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](https://asa.org.uk/newsletter)

# PRIORITISATION

## and partnership working



**Justine Grimley**  
Operations Manager –  
Complaints,  
ASA

### 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.



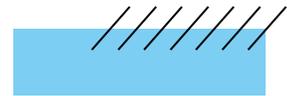
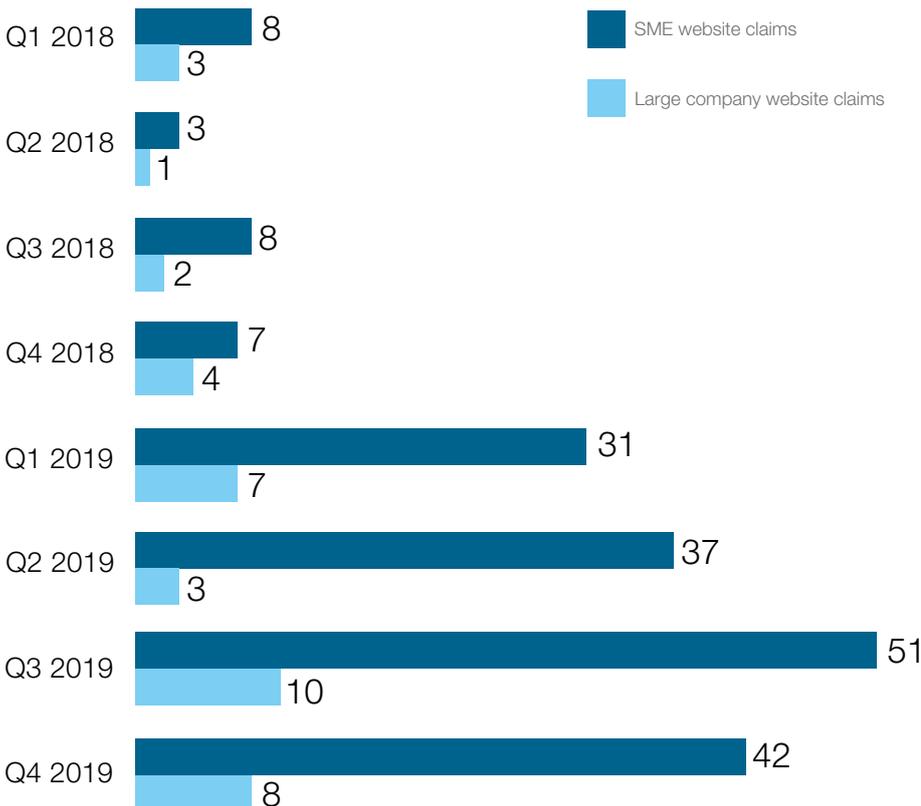
**Jane Eldridge**  
Head of Casework,  
ASA

### 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).

### ADVICE NOTICES ON ISSUES OF HARM, OFFENCE AND IRRESPONSIBILITY



### 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 benefiting consumers, society and business.

We found examining individual examples of misleading reference prices provided limited information about what was happening at scale. Were these one-off errors, or were systems inadvertently returning misleading reference prices more broadly?

Using example complaints received by the ASA as test cases, the retailer and PA were able to interrogate the underlying system, leading to a change to the logic used to verify reference prices across hundreds of thousands of products. Reference prices consumers see on this retailer's website are now more reliable reflections of previous selling prices, providing greater confidence that price savings are genuine.

**OUR  
PRICE**



**YOU  
SAVE!**



**Miles Lockwood**  
Director of Complaints  
and Investigations,  
ASA

## **ASA RULINGS GIVE HMRC LEVERAGE** to crack down on misleading tax avoidance schemes

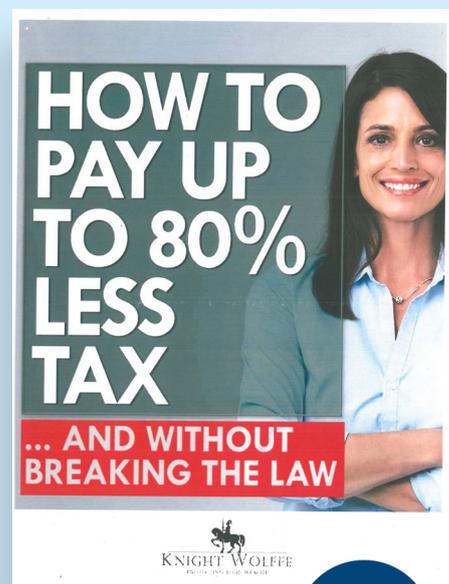
Tax avoidance schemes cost taxpayers billions of pounds in lost revenue every year. These schemes also entice unsuspecting members of the public, including the low paid and self-employed, into tax arrangements that are not legitimate and which result in HMRC investigations. The ASA has teamed up with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



We ruled that Knight Wolffe Ltd didn't hold enough evidence to support the claims in their leaflet and they shouldn't imply they were endorsed by HMRC



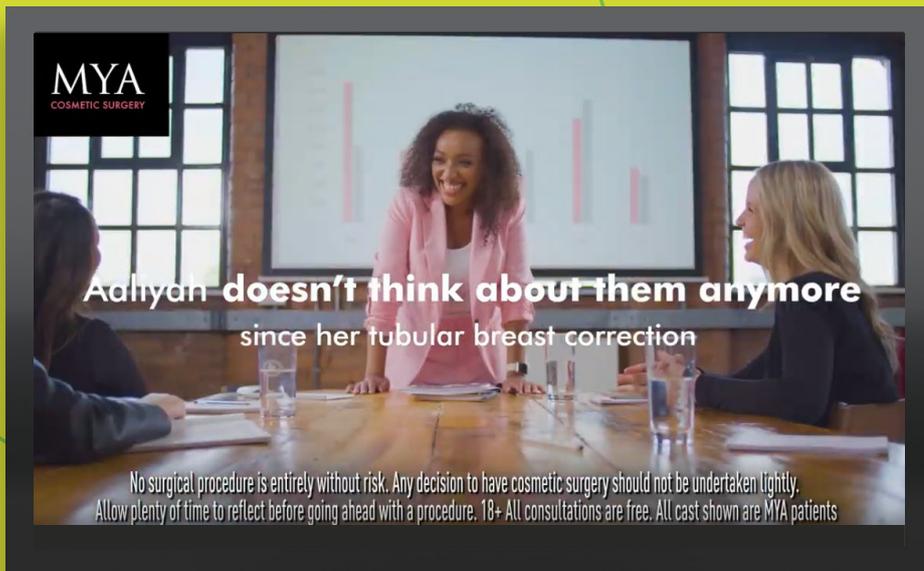
**HM Revenue  
& Customs**

### **"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

Now



**Sean Brierley**  
Investigations Executive,  
ASA

Before

**WORKING WITH  
ADVERTISERS  
TO CREATE  
RESPONSIBLE ADS**  
for cosmetic procedures

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.



**Catherine Drewett**  
Operations Manager –  
Investigations,  
ASA

## 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

## We ruled that



#### Philadelphia, Mondelez UK Ltd

✗ Upheld

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.

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.



**Victoria Bugler**  
Senior Compliance Executive –  
Investigations,  
CAP

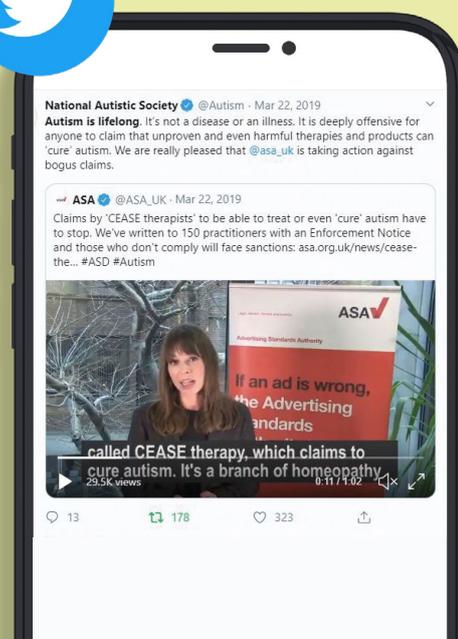
## REMOVING IRRESPONSIBLE CLAIMS

### for autism therapies

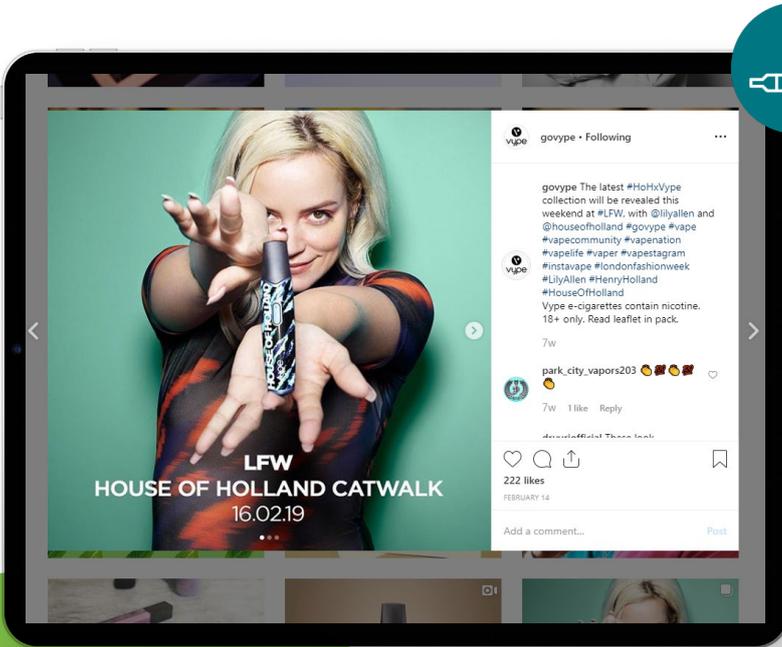
In 2018, we ruled CEASE therapy claims made on a practitioner's website not only broke our rules, but had the potential to harm the mental and physical wellbeing of young people. This prompted us to serve an Enforcement Notice to 150 practitioners of CEASE therapy to make them aware that they could not 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.

#### i 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



**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 sportspeople 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

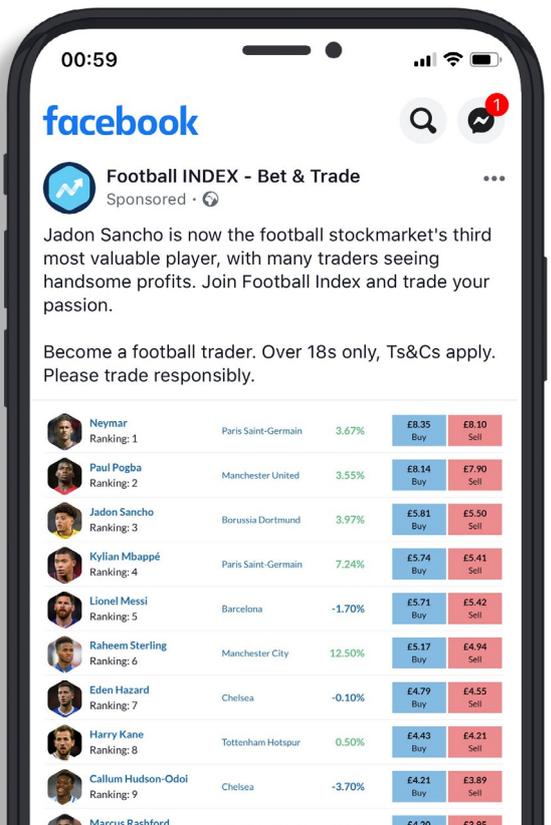
E-cigarette advertising is restricted on the media it can be placed in and the type of content it features.

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.

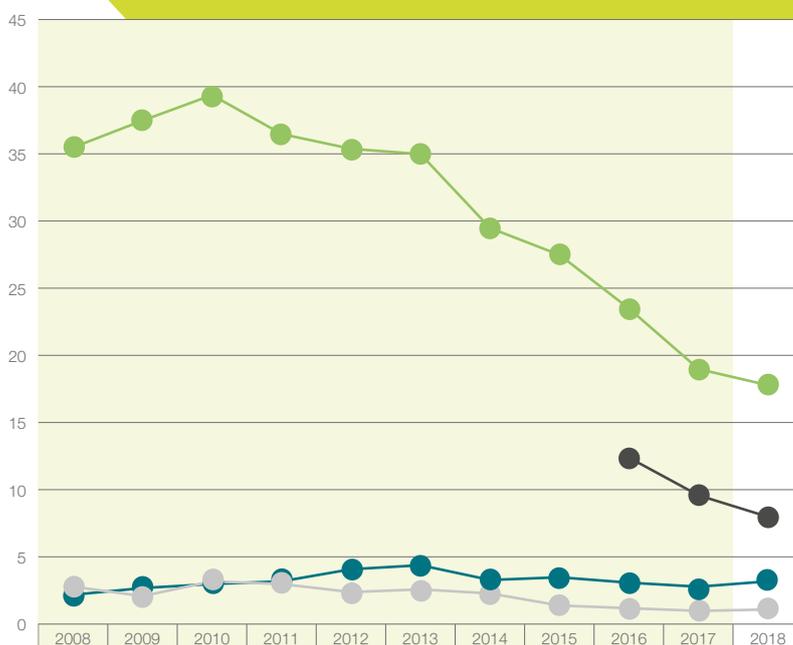
The posts, like this ad from British American Tobacco UK Ltd featuring Lily Allen, showed models and celebrities holding electronic cigarettes

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





**CHILDREN'S EXPOSURE TO AGE-RESTRICTED TV ADS**  
over the last decade



**AGE-RESTRICTED ADS VS. OTHER ADS IN 2018**



- Non-age-restricted ads 84.50%
- Non-HFSS food products and drinks 6.90%
- HFSS food and drinks 5.60%
- Gambling 2.20%
- Alcohol 0.80%



**Cherie Leung**  
Regulatory Policy Executive,  
CAP

**TRACKING THE TV ADS**  
that children see

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.

# 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.

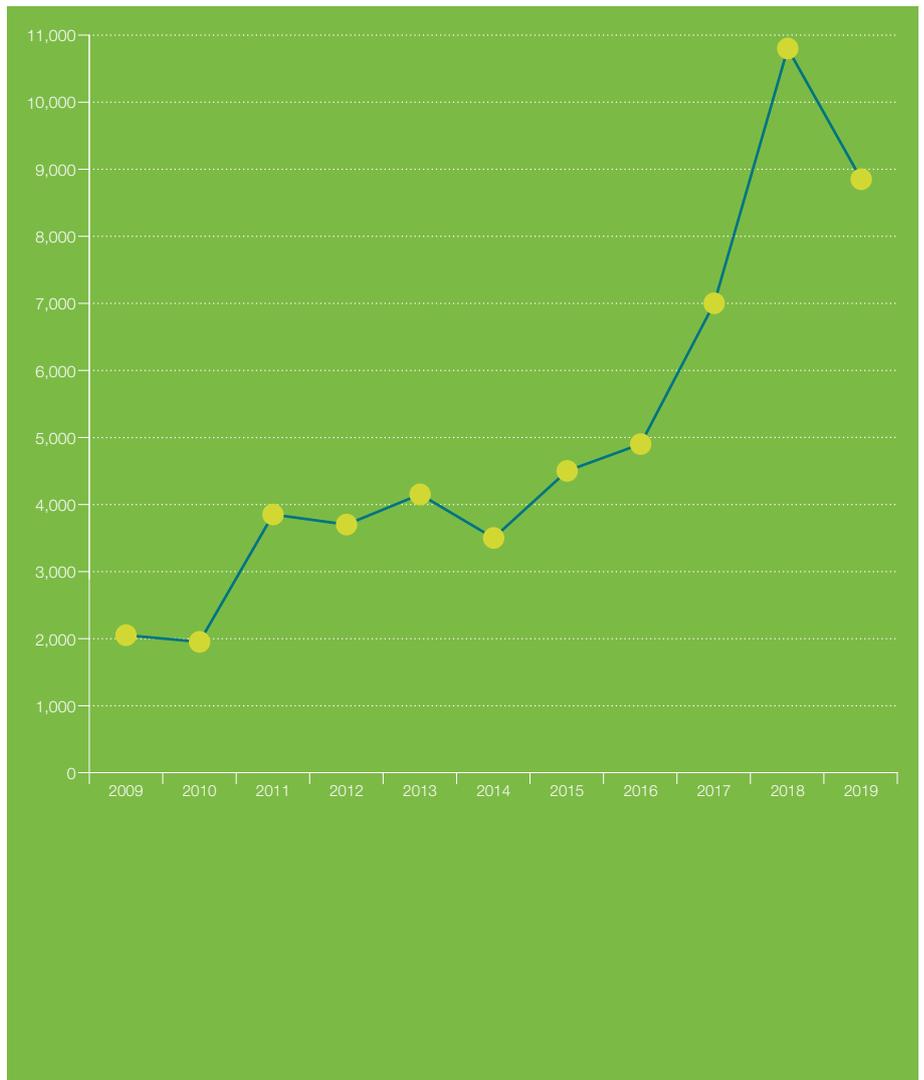
## ADS AMENDED OR WITHDRAWN



**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



## COMPLAINTS AND CASES BY MEDIA\*



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

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

## ONLINE COMPLAINTS AND CASES BROKEN DOWN\*



Online media	2019	
	Complaints Number	Cases Number
Website, social media or app (own site)	9,035	8,338
Website, social media or app (influencer ad)	4,401	3,670
Website, social media or app (paid ad)	1,894	1,663
Video on demand	567	300
Game	403	373
Search	348	318
Messaging app	86	84
Website, social media or app (other)	32	28
Viral	1	1
<b>Online total</b>	<b>16,767</b>	<b>14,775</b>

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

# COMPLAINTS AND CASES in context

Resolving complaints and cases

## COMPLAINTS AND CASES RESOLVED BY SECTOR



**-13%** decrease in retail cases

**+8%** increase in leisure complaints

**+36%** increase in food and drink complaints

**-18%** decrease in business cases



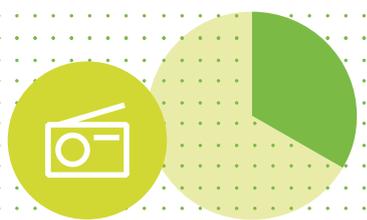
Sector	2019				2018	
	Complaints		Cases		Complaints	Cases
	Number	% +/-	Number	% +/-	Number	Number
Leisure	5,473	8%	4,348	6%	5,083	4,116
Retail	5,166	-11%	3,850	-13%	5,817	4,409
Health and beauty	3,779	-3%	2,671	0%	3,914	2,670
Food and drink	3,402	36%	1,839	10%	2,500	1,678
Financial	2,657	17%	1,715	-1%	2,264	1,728
Business	2,222	-23%	1,920	-18%	2,892	2,346
Non-commercial	1,983	-12%	1,205	2%	2,251	1,181
Holidays and travel	1,975	-6%	1,709	-12%	2,091	1,936
Computers and telecommunications	1,770	-7%	1,311	-3%	1,908	1,352
Household	1,370	22%	947	10%	1,121	860
Motoring	1,180	30%	553	4%	908	534
Unknown	773	153%	508	70%	305	299
Property	726	-26%	635	-9%	975	694
Publishing	544	45%	375	10%	374	341
Clothing	462	130%	359	143%	201	148
Utilities	452	11%	301	-10%	406	333
Alcohol	304	32%	200	2%	231	196
Education	234	4%	220	0%	226	220
Employment	161	-4%	128	-5%	167	135
Industrial and engineering	49	9%	44	0%	45	44
Tobacco	30	20%	25	19%	25	21
Agricultural	5	-76%	3	-81%	21	16
Electrical appliances	0	-100%	0	-100%	2	2

\* Includes complaints about advertising in general.

## COMPLAINTS AND CASES RESOLVED BY ISSUE



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



	2019				2018			
	Non-broadcast		Broadcast		Non-broadcast		Broadcast	
	Complaints	Cases	Complaints	Cases	Complaints	Cases	Complaints	Cases
Misleading	17,303 (70%)	15,498 (78%)	3,179 (29%)	2,179 (37%)	17,849	15,977	4,393	2,837
Offensive	1,898 (7%)	1,200 (6%)	3,549 (32%)	1,722 (29%)	2,542	1,423	4,735	2,165
Harm	2,146 (9%)	1,609 (8%)	2,405 (22%)	1,339 (23%)	1,537	1,110	2,464	1,247
No issue	3,437 (14%)	1,482 (8%)	1,933 (17%)	670 (11%)	1,150	1,083	720	496

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

	Non-broadcast		Broadcast		Overall totals	
	Complaints	Cases	Complaints	Cases	Complaints	Cases
<b>Total not investigated</b>	<b>17,786</b>	<b>14,066</b>	<b>9,871</b>	<b>5,524</b>	<b>27,471</b>	<b>19,438</b>
<b>Total investigated</b>	<b>6,365</b>	<b>5,230</b>	<b>919</b>	<b>229</b>	<b>7,246</b>	<b>5,428</b>
Informal investigation	5,544	4,888	309	165	5,837	5,038
Of which:						
Upheld/Action taken	3,952	3,508	166	113	4,103	3,607
Not upheld/No action taken	1,592	1,380	143	52	1,734	1,431
Formal investigation	821	342	610	64	1,409	390
Of which:						
Upheld/Upheld in part	594	230	507	35	1,082	254
Not upheld	146	49	96	27	239	71
Withdrawn cases	81	63	7	2	88	65
<b>Totals complaints and cases resolved</b>	<b>24,151</b>	<b>19,296</b>	<b>10,790</b>	<b>5,753</b>	<b>34,717</b>	<b>24,866</b>

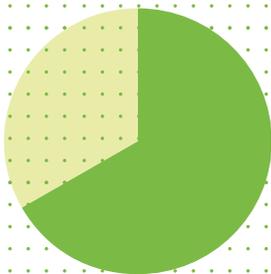
\* Both non-broadcast and broadcast figures include multimedia figures which appear only once in the 'overall totals' column.

3% more complaints were resolved than in 2018



## TURNAROUND PERFORMANCE

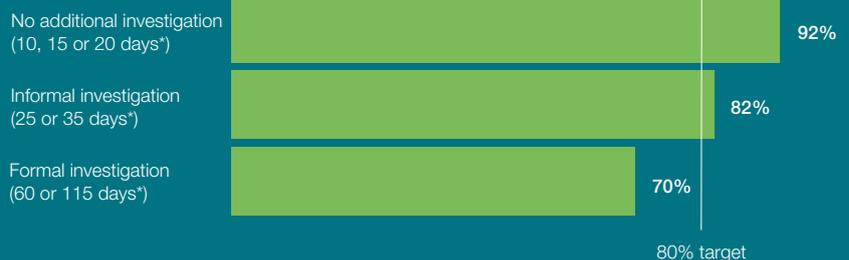
4 OF 6 turnaround KPIs were met



### Turnaround performance Non-broadcast



### Turnaround performance Broadcast



\* Dependent on case type.

# ASA Council

**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



B N

### Kate Bee

Freelance journalist; Director, The Sober School



B N

## ADVERTISING INDUSTRY BACKGROUND MEMBERS

### Zaid Al-Qassab

Chief Marketing Officer, Channel 4; Trustee, WaterAid UK



B N

### Tess Alps

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



B

### Wesley Henderson

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



B N

### Suzanne McCarthy

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



B N

### Reg Bailey

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



B N

### Tracey Follows

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



B N

### Nita Patel

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



B N

### Shireen Peermohamed

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



B N

## Key

**B** Broadcast Council

**N** 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.

### Kirsten Miller

Digital Marketing Executive; Former Managing Partner of Maxus



N

### Neil Stevenson

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



B N

### Sam Younger\*

Chair, Voluntary Service Overseas; Chair, CILEx Regulation



B N

# 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.**

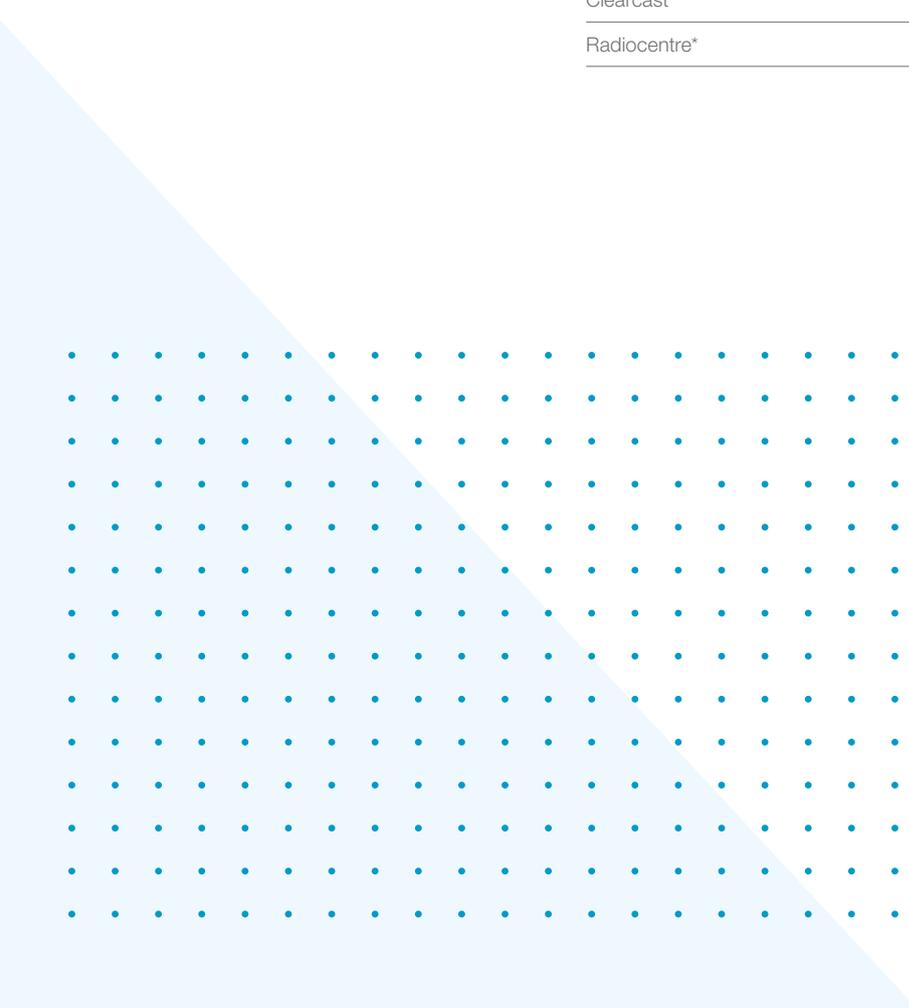
## Committee of Advertising Practice (CAP)

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.



# INDEPENDENT REVIEWER'S report

**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.

**Sir Hayden Phillips, GCB DL**  
Independent Reviewer  
of ASA Council Rulings



## REVIEW CASES 2019–2018

	Non-broadcast		Broadcast	
	2019	2018	2019	2018
<b>Non-broadcast</b>				
Total cases received of which:	20	45	17	11
Ineligible/withdrawn	5	8	3	1
In progress	0	0	0	0
Not referred to Council	12	26	11	7
Referred to Council of which:	3	11	3	3
Unchanged	0	0	0	0
Decision reversed	1	1	2	1
Wording changed	1	4	0	1
Re-opened investigation	1	6	1	1
In progress	0	0	0	0

# ADVERTISING ADVISORY COMMITTEE report

**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.

## Stephen Locke

Chair, Advertising Advisory Committee Members



## MEMBERS

James Best (Observer)

Rachel Childs

Robin Foster

Stephen Locke (Chair)

Mike O'Connor

Adair Richards

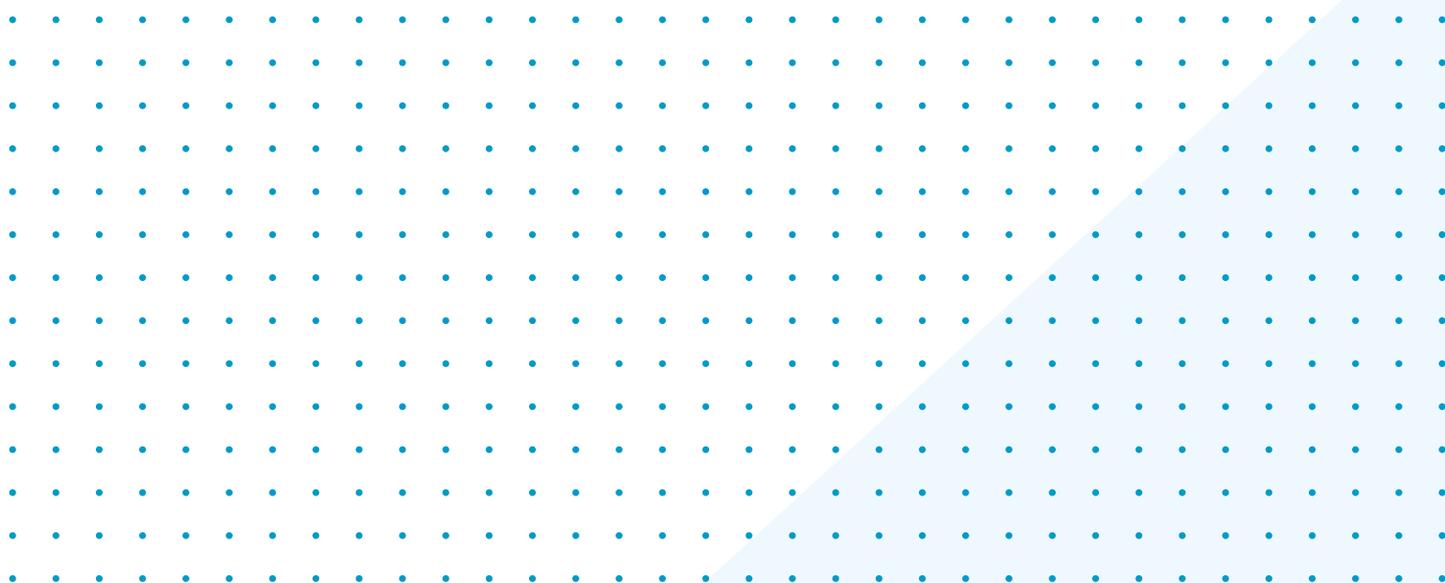
Ruth Sawtell

Nabila Zulfiqar

## 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.



# INDUSTRY ADVISORY PANEL report

**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

# PROMOTIONAL MARKETING AND DIRECT RESPONSE PANEL report

## **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

# ONLINE PUBLICATIONS MEDIA PANEL report

## **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.

### **MEMBERS**

Chairman, Advertising Standards Board of Finance

Chairman, The Regulatory Funding Group

# FINANCIAL report

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 of 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%.

## PROFIT FOR THE YEAR

The combined profit before tax of both non-broadcast and broadcast activity was £96,000. After tax the combined profit was £74,000.

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

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

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



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