

ASA system submission to the Department for Environment, Food & Rural Affairs' call for evidence on the fur market in Great Britain

1. Background and Introduction

- 1.1. This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the 'ASA system.'
- 1.2. The ASA is the UK's independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for 59 years and the broadcast Advertising Code (written and maintained by BCAP) for 17, with our remit further extended in 2011 to include companies' advertising claims on their own websites and in social media spaces under their control.
- 1.3. We are responsible for ensuring that advertising is legal, decent, honest and truthful and our work includes undertaking proactive projects and acting on complaints to tackle misleading, harmful or offensive advertisements. We are committed to evidence-based regulation and we continually review new evidence to ensure the rules and our application of them remain fit-for-purpose.
- 1.4. Our system is a form of "collective regulation" – neither statutory nor purely self-regulatory – and involves the active participation of a range of legal backstops and partner organisations including National Trading Standards, Ofcom, the Gambling Commission, the Information Commissioner's Office, the Medicines and Healthcare products Regulatory Agency, the Financial Conduct Authority, and the Competition and Markets Authority. We use our convening powers to bring together the ad industry and media owners to set, maintain and police high standards. Through the sharing of information, joined-up enforcement action and referral processes, our partners bolster our regulation and assist us, where necessary, to bring non-compliant advertisers into line. Together, this 'collective regulation' helps to protect people and responsible business from irresponsible ads: ads that mislead, harm or offend their audience.
- 1.5. The UK Advertising Codes are drafted and maintained by CAP and BCAP, supported by experts in our Regulatory Policy team. This authorship of the rules by the ad industry is an important part of our system. It means businesses have a direct stake and an enlightened self-interest in adhering to the standards they set and creates a level-playing field amongst them. Many of the rules derive directly from legislation, of course. For example, the rules requiring ads not to mislead or be likely to mislead originate from UK consumer law. However, many do not, particularly those seeking to prevent harm, offence and social irresponsibility. Whichever the case, in setting the rules which govern UK advertising, CAP and BCAP have multiple checks and balances in place to ensure the process is transparent, open to scrutiny and follows the principles of good regulation. From calls for evidence and public consultations on rule changes, having an independent consumer panel advising CAP and BCAP, Ofcom signing off on BCAP rule changes and, ultimately, the ASA System's processes being open to judicial review. All to ensure the system is wholly accountable to everyone with a stake in advertising.
- 1.6. In addition to investigating ads, we also provide a wealth of training and advice services (most of which are free) for advertisers, agencies and media to help them understand their

responsibilities under the Codes and to ensure that fewer problem ads appear in the first place. CAP and BCAP provided 722,523 pieces of advice and training in 2020.

- 1.7. The ASA system is providing this written submission in response to the Department for Environment, Food & Rural Affairs' call for evidence on the fur market in Great Britain

2. ASA System consultation response

- 2.1. The ASA has concerns that consumers have been misled by some adverts for "faux fur" products which in fact contained real animal fur. Consumers have an expectation that products advertised as "faux fur" or "fake fur" contain no real animal fur, particularly those who may be opposed on ethical grounds to purchasing real animal fur products.
- 2.2. For the avoidance of doubt, the ASA has no evidence that retailers and sellers are deliberately intending to mislead consumers. We understand problems usually arise from supply chain pollution. Nonetheless, advertisers have a responsibility to ensure that what they sell is what they claim it to be, so it is important to ensure retailers and sellers abide by our rules and wider consumer protection legislation.
- 2.3. The ASA rules on misleadingness are clear: Advertising must not materially mislead or be likely to do so. Before distributing or submitting an ad for publication, marketers must hold documentary evidence to prove claims that consumers are likely to regard as objective and that are capable of objective substantiation. In the absence of adequate substantiation, the ASA may regard claims as misleading.
- 2.4. Therefore, advertisers must not claim products are made from "faux fur" if they contain real animal fur, and they must be confident that their claims are true.
- 2.5. In January 2019, we ruled against [an ad on www.boohoo.com](#) for a "Faux Fur Pom Jumper" and [an ad on www.amazon.com](#) for Zacharia Jewellers' "Zac's Alter Ego Faux Fur Pom Pom Headband". Whether a product contains real fur or "faux fur" is likely to materially affect some consumers' decision to respond to the ad, and claims that a product contains or is made from "faux fur" is likely to be understood by consumers to mean that it contains no real animal fur. In both cases, test reports found that the "faux fur" was real animal fur, most likely rabbit. We concluded that the ad was misleading and breached the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing.
- 2.6. Following these rulings, our Compliance Team issued an [Enforcement Notice](#) to UK retailers on misleading "faux fur" claims in clothes and accessories. This also applied to sellers on UK-facing online platforms and marketplaces. The Notice provided advice to help advertisers keep to the rules, including details about a three-step animal fur identification test.
- 2.7. The Notice also recognised that it may be difficult for online marketplaces to examine all the products sold on the platform, but that did not remove the responsibility they have to ensure that the products sold on the platform are correctly described. If they have a "no animal fur policy", online marketplaces should proactively educate marketplace sellers on how to tell real fur from "faux fur" and make sure their policies match up to their promise.
- 2.8. The Compliance team made it clear that they would take targeted enforcement action to ensure a level-playing-field, which could include referral to our legal backstop.

- 2.9.** Since issuing the Enforcement Notice, the ASA has received ten complaints about fake “faux fur” claims. Two of the cases were referred to the ASA for formal investigation, both of which were Upheld. The first was a [ruling in April 2020](#) against three product listings for “faux fur” jackets seen on www.sorelleuk.com. The second was a [ruling in April 2021](#) against three product listings for “faux fur” products seen on www.justyouroutfit.com.
- 2.10.** In three instances (including the two advertisers ruled against) the advertisers either refused to cooperate or did not respond. Two of these cases have now been referred to our legal backstop, Trading Standards. One further case is subject to ongoing self-regulatory sanctions.
- 2.11.** The ASA will continue to raise consumer and retailer awareness of this issue and to clamp down on any retailers who prove to be non-compliant with our rules. However, the issue of real fur being used in “faux fur” products is far wider than its advertising. Our rulings and related actions in relation to ads for “faux fur” have highlighted the supply-contamination of faux fur coming into the UK, and entering the retail chain, with items needing to be tested by a laboratory to prove its source. The supply-side nature of the problem means that our role, as the UK regulator of advertising, is limited to reactively tackling advertising of such products and proactively alerting consumers and retailers of the underlying issues than can render their advertising misleading. Retailers can play a role but they too need to rely, to an extent, on what they’re being sold by suppliers being what it claims to be. As an observation we suggest that greater scrutiny and testing of consignments of goods labelled as “faux fur” entering the UK at the trade border from overseas might offer a more comprehensive solution to this problem.

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