

THE ADVERTISING STANDARDS AUTHORITY

15TH ANNUAL REPORT

1978.



**The Rt. Hon. Lord Thomson of Monifieth, PC**  
 First Crown Estate Commissioner;  
 Chancellor of Heriot-Watt University;  
 MP for East Dundee 1952-1972;  
 Minister for Europe 1966-67 and 1969-70;  
 Commonwealth Secretary 1967-69;  
 EEC Commissioner 1973-76.  
*June 1977\**



**A. M. Fisher, MA**  
 Head of Information Division, Unilever Ltd.,  
 and Advertising and Marketing Research  
 Adviser to Unilever in the U.K.;  
 Chairman of the Code of Advertising  
 Practice Committee 1973-75.  
*February 1976\**



**Michael Barnes, MA**  
 Chairman of the Electricity Consumers'  
 Council;  
 a Member of the National Consumer  
 Council.  
 He is a marketing consultant and was  
 formerly MP for Brentford and Chiswick  
 1966-74.  
*January 1979\**



**The Rev. Paul Flowers, BA, CEO, FRGS**  
 A Methodist Minister, currently working in  
 Southampton, and formerly a University  
 Chaplain.  
 He serves on the Executives of the Labour  
 Middle East Council and the Christian  
 Socialist Movement.  
 A member of many Church Committees, his  
 main interests are work with young people  
 and inter-Church relations.  
*January 1978\**



**C. Cory, MVO, DL, MA**  
 Director of John Cory & Sons Ltd., and  
 Associated Companies;  
 Chief Scout Commissioner for Wales since  
 1965;  
 Chairman of the Standing Conferences for  
 Wales of the Voluntary Youth Organisations  
 between 1963 and 1972;  
 A Member of the Welsh Arts Council;  
 Chairman of the Council of the Cathedral  
 School of Llandaff, and has been Director of  
 Llandaff Festival of Music from 1964.  
*January 1978\**



**C. J. M. Hardie, B. Phil, MA, FCA**  
 Partner in Dixon, Wilson & Co., Chartered  
 Accountants;  
 Formerly Fellow and Tutor in Economics,  
 Keble College, Oxford;  
 Deputy Chairman, National Provident  
 Institution; and Director of several other  
 companies;  
 Member of the Monopolies Commission.  
*May 1973\**

# COUNCIL MEMBERS



**Miss Patricia Mann, FIPA, FCAM**  
Senior Associate Director, J. Walter Thompson Co. Ltd.;  
Council Member of the Institute of Practitioners in Advertising and of Brunel University;  
Governor, Administrative Staff College, Henley.  
*June 1973\**



**The Baroness Phillips of Fulham, JP**  
H.M. Lord Lieutenant of Greater London;  
Director of the Association for the Prevention of Theft in Shops;  
President of Institute of Shops Acts Administration;  
Member of the National Consumer Council;  
Vice-President of the National Association of Local Councils;  
Vice-President: Pre-Retirement Association;  
President of the Keep Fit Association;  
President of the Association for Research into Restricted Growth;  
Chairman of the Beatrice Webb House Trust;  
President: Institute of Travel and Tourism;  
Vice-President: National Chamber of Trade;  
President of the National Association of Women's Clubs;  
a Baroness-in-Waiting and a Government Whip.  
*March 1974\**



**Miss Rosemary McRobert**  
Director, Retail Trading-Standards Association Inc.;  
Member of the Council of the Consumers' Association;  
Member of the Design Council;  
Chairman, Camden Consumer Aid Centres Management Committee.  
*December 1974\**



**G. P. Taylor, FRSA, MCAM**  
Managing Director of Guardian Newspapers Limited;  
Deputy Chairman of The Guardian and Manchester Evening News Limited;  
Director of Guardian Publications Ltd.  
*April 1975\**



**A. H. Newton, OBE, MP**  
Conservative Member of Parliament for Braintree since 1974.  
He is an Economist, and past Assistant Director of the Conservative Research Department.  
His special interests are in Economic Policy, taxation, and Social Services.  
*January 1978\**



**David Williams, MA, FIPA, MCAM**  
Chairman, Ketchum International Limited;  
Director of KM & G International Inc., USA  
Council Member, Institute of Practitioners in Advertising;  
Vice-Chairman, Royal Commonwealth Society for the Blind.  
*November 1975\**

*List of Serving Members as at 31st March 1979*

## Chairman

The Rt. Hon. Lord Thomson of Monifieth, PC

## Members

M. C. J. Barnes, Esq., MA  
C. Cory, Esq., MVO, DL, MA  
A. M. Fisher, Esq., MA  
The Rev. Paul Flowers, BA, CEO, FRGS  
C. J. M. Hardie, Esq., MA, BPhil, FCA  
Miss Patricia Mann, FIPA, FCAM  
Miss Rosemary McRobert  
A. H. Newton, Esq., OBE, MP  
The Baroness Phillips of Fulham, JP  
G. P. Taylor, Esq., FRSA, MCAM  
D. Williams, Esq., MA, FIPA, MCAM

*All members serve as individuals and not as representatives of any industry or trade or professional association.*

## Registered Office

Brook House,  
2-16 Torrington Place,  
London WC1E 7HN  
Telephone: 01-580 5555

## ASA/CAP Senior Secretariat

Peter Thomson, Director General ASA, Secretary CAP  
Tony Painter, Executive Director ASA (resigned 31 December 1978)  
Enid Cassin, Deputy Director  
Peter Smith, Deputy Director  
Geoffrey Williams, Deputy Director  
Gwenan Williams, Deputy Director

*\*Date of Appointment as member of the Authority.*



**Lord Thomson reviews the major events of the past year and looks ahead to what the next twelve months in Brussels and Whitehall may bring for the future system of U.K. advertising control**

The twelve months since the last annual report of the ASA have seen a number of important developments in the discussion of the future of the British system of maintaining advertising standards. The review by the Office of Fair Trading of the work of the ASA has been completed and published, together with its associated research. The Director-General of Fair Trading, Gordon Borrie, summed up his report to the Government as "the self-regulatory system is working well, but some improvements are clearly needed". The report itself in a key paragraph stated: "Our research and enquiries have not revealed a situation of crisis dimensions crying out for drastic action. There is no evidence that grossly misleading advertisements are rife." Both the House of Commons and the House of Lords have debated the European Commission's draft Directive on Misleading and Unfair Advertising. In general the tone of the debates paid tribute to the work done by the ASA and endorsed the present British balance between self-regulation and statutory enforcement as being most appropriate to British circumstances. They urged the Government to seek changes in the draft Directive to avoid the imposition of a common legal regime throughout the Community. The Government agreed.

Associated with these developments, the Secretary of State for Prices and Consumer Protection has opened up a dialogue between his Department and the advertising industry both on the general question of the role of advertising in the economy and on the most practical steps to strengthen the operation of

the ASA's self-regulatory system. On the latter question, the ASA Council and its associated Code of Advertising Practice Committee are having their own parallel discussions with the Department.

The options that were put forward for discussion by the Department were broadly two – either the conversion of the ASA into a statutory body on the lines of the Independent Broadcasting Authority; or the provision of some additional legal powers of enforcement to deal with the small number of advertisers who cannot be dealt with effectively by the ASA's sanctions.

The Council of the ASA has told the Secretary of State that it is unanimously opposed to the conversion of the Council into a statutory body. This does not arise from any objection of principle to Government-appointed bodies. The ASA Council is an independent body. Two-thirds of its members come from outside the industry and some of these serve willingly on statutory bodies in other fields. The Council's view arises from the belief that, given the way in which the self-regulatory system has developed, a change to a statutory structure would harm rather than help the effectiveness of the work they seek to do. In particular, it would seriously undermine the substantial and serious degree of co-operation in enforcing the self-imposed standards that the ASA has built up over the years from all sides of the industry.

The ASA Council therefore much welcomed the fact that the OFT's independent study came to the same conclusion in a closely-argued paragraph, which is worth giving in full because of the importance of this issue for the future.

# CHAIRMAN'S REPORT

Dealing with the proposal to convert the ASA into a statutory body with statutory powers, the Report\* said in Paras 6.5 and 6.6:

6.5 "There are a number of ways in which such statutory intervention could be achieved. The most radical would be to transform the ASA into a statutory body with statutory powers. This would probably involve Government selection of the members of the ASA Council, legislative recognition of the ASA's constitution and the British Code of Advertising Practice (together with a procedure for recognition of Code amendments introduced by the ASA) and a power whereby the ASA Council or its Chairman could take court action to stop offending advertisements.

6.6 "We see serious objections to this approach. First, it would be likely to seriously weaken the industry's commitment to maintain and finance self-regulation. At present the industry spends a considerable amount of money and executives' time on making its system work; the presence of a statutory body would be likely to make all this seem less worthwhile. Secondly, the combination of a diminution in the industry's involvement in the system and the creation of a statutory body could lead to the Code being interpreted in an excessively legalistic fashion. The strength of self-regulatory systems of control lies in the participants' willingness to observe the spirit of rules which they themselves have had a hand in drawing up. We fear that the growth of a more legalistic attitude would affect both the controlling body and those controlled by it: the latter would be less inclined to abide by the spirit of the Code and the former would be less inclined to pursue allegations of Code infringements when there was

scope for legitimate argument over whether a breach of the Code had in fact occurred. There would in other words be the risk of a 'them' and 'us' attitude. In particular, there is no guarantee that the creation of a statutory authority would of itself induce the speeding up of procedures which our enquiries suggest is desirable. Thirdly, the general objective in transforming the ASA into a statutory authority would be to increase the protection of the public interest. We are inclined to believe that this objective may be better achieved in practice, if not in theory, by a self-regulatory system which is kept on its toes by its vulnerability to criticism both public and official".

The Secretary of State, Mr. Roy Hattersley, after full discussions with everyone concerned, agreed that a consensus seems to be emerging – that the existing self-regulatory system offers the best basis for achieving the objectives of control; but that certain identified weaknesses in the existing system might best be remedied by some new statutory powers. There also seems to be a general presumption that the Director General of Fair Trading is the best placed to operate any new controls.

But the form of what sort of alternative strengthening would best serve the public interest still leaves difficult problems to discuss with the Government. In the view of the ASA Council (and of the OFT), it would be wrong to give the ASA itself power to go to Court to deal with advertisers it was unable to control through its own self-regulatory arrangements. This course is open to similar objections to those brought forward against a Government-appointed ASA, as it would be bound to inhibit the willing co-operation most advertisers give the ASA in providing the information required to adjudicate on a com-

plaint. Discussion should therefore concentrate on the kind of proposal put forward by the OFT report for a residual power in the hands of the Director-General to seek an injunction against an offending advertiser in a way that "could not be used to duplicate the work of the ASA, only to supplement it".

The next twelve months are likely to see decisions about the future system of advertising control both in Brussels and in Whitehall. They therefore remain critical months for those in the advertising industry and those charged with the responsibility of running the control system. In my judgment, what is at issue, both for the European Community and for the United Kingdom, is of an importance to consumer protection policy generally which goes beyond advertising itself. In the Code of Advertising Practice (and in closely associated codes such as the one adopted by the manufacturers of proprietary medicines), Britain has a highly developed version of a self-regulatory code which is now seventeen years old. It is an example of how, over a wide range of consumer affairs, the best way to ensure the public interest would be flexible, adaptable, self-regulatory codes, enjoying the support and encouragement of Government ready to use legal powers where necessary to deal with the pirate fringe who refuse to operate voluntarily the Code. Codes of Practice which are genuinely self-regulatory and do not need all the paraphernalia of Parliamentary procedures to amend them to meet changing conditions and to solve problems as they are found to arise in practice, can serve the public better than statutory regulations and complicated, costly court procedures.

For the European Community, too, the Code of Practice approach offers many advantages. It avoids the temptation to try to run the details of our daily

life from Brussels. Those in the European Commission concerned with consumer affairs could do a very useful job by providing comparative information about codes of practice in other countries and seeking to encourage each country to adapt to their own circumstances the best features of other codes of practice. It is significant that the Council of Europe, covering sixteen Western European nations rather than the Community's nine, is recommending member Governments to follow Britain's lead and improve service to consumers by encouraging industry-wide codes of practice rather than introduce new legislation. They suggest that the codes should be based on the pattern created by the Office of Fair Trading.

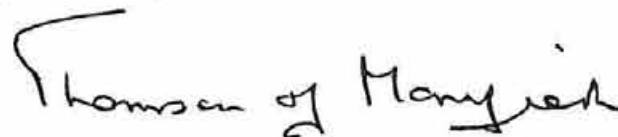
While decisions on the future are awaited in Brussels and Whitehall, this is a time for all associated with the self-regulation system to be on their toes to illustrate its vitality and effectiveness. During the past year the ASA has in a number of ways been expanding its activities. While continuing – and indeed expanding – our basic service of investigating and adjudicating on citizen's complaints, we are seeking to move to a greater extent from reacting to individual complaints to a positive effort to ensure good standards in sensitive areas of advertising. The section of our Secretariat which monitors selected categories of advertisements has been put on an entirely new footing and its findings are now being published regularly in our Case Reports. The Case Reports now include, in addition to the list of adjudications, a regular editorial commentary seeking to give both the industry and the general public a clearer understanding of how the Code of Advertising Practice works.

The Code has been undergoing one of its major revisions, and I would like to thank particularly the Chairman of the CAP Committee during 1978,

Cholmeley Messer, and the ASA Director-General, Peter Thomson, for their monumental labours on this revision. Cholmeley Messer is retiring as CAP Chairman after two busy years. I have been much indebted to him for his indefatigable energy, his wise and witty judgment and not least his personal enthusiasm for the self-regulatory system. I look forward to working equally closely with his successor, Peter Scruton.

Indeed, what I find striking as an outside Chairman is the degree to which some of the best people in the advertising industry are ready to give so much voluntary service to man the CAP Committees and the many sub-committees and copy panels which provide the lifeblood of the self-regulatory system. This enlightened self-interest is at the end the main justification for the argument that in an area like advertising, self-regulation is better than state regulation. It creates between industry, the Government and the public a situation of co-operation rather than confrontation. It ensures that those in the media and the advertising business devote their considerable intellectual energy to raising standards, whereas with statutory control they would be free to concentrate on conducting their campaign within the letter of the law. Policy makers, whether in Brussels or in London, would do well not to put that achievement of self-regulation at risk.

\**“Review of the U.K. self-regulatory system of advertising control.” A report by the Director General of Fair Trading. November 1978.*



29th March, 1979

## Comments on the Office of Fair Trading's Review of the United Kingdom's self-regulatory system of advertising control

The report of this Review, which was published in November 1978, was welcomed by the Authority. It confirmed our belief that, in general, self-regulation works well, and its helpful analysis of the areas in which improvements could be made has already become the natural starting point for any discussion of the future of self-regulation.

Inevitably, there is a small number of areas where we find the OFT's analysis unconvincing, and others where we feel that their grasp of the admittedly complicated and unusual structure of the ASA/CAP system does inadequate justice to it. For the most part, however, the issues over which we differ from the Report are not of sufficient importance or general interest as to warrant detailed examination here, though, naturally, they have already formed, and will continue to form, the subject of discussion between the Authority and the OFT.

There are, however, two areas in which we believe our dissent from the Report's findings should be put on record. The first of these relates to the assessors' evaluation of the nearly 3000 advertisements in the BMRB survey.

The assessors were, by definition, not expert in the use of the Code and it is no surprise to discover that there are a number of instances in which their interpretation goes against the intentions of those who drafted the Code as well as others where their decision conflicts with precedents established by decisions of the Authority's own Council. This divergence was to be expected and we only refer to it because the extent to which the Code was, in our judgment, wrongly applied affects the numbers of advertisements declared to contravene the Code and hence the measure of the self-regulatory system's efficiency implied by the all-important figure of 7% (of advertisements allegedly contravening the Code). Our own analysis suggests that only 182 of the 315 advertisements declared to be contrary to the Code were in fact breaches of it as we understand and apply it – and this figure included the very substantial number of cases (78) in which, since the relevant substantiation has not been made available to us, we are obliged to take on trust the assessors' evaluation of that substantiation as inadequate. In our view, only one-sixth of the "failures" reproduced in the BMRB report amount to substantial breaches of the Code: that is to say breaches which might reasonably be expected to cause avoidable harm, whether economic or other, to the consumer. While such a figure, which equates to between one and two percent, is too high – it implies hundreds of thousands of unacceptable advertisements in the course of a year – it is notably better than the figure of 7% which

emerges from the OFT report, encouraging though that might well be felt to be in itself.

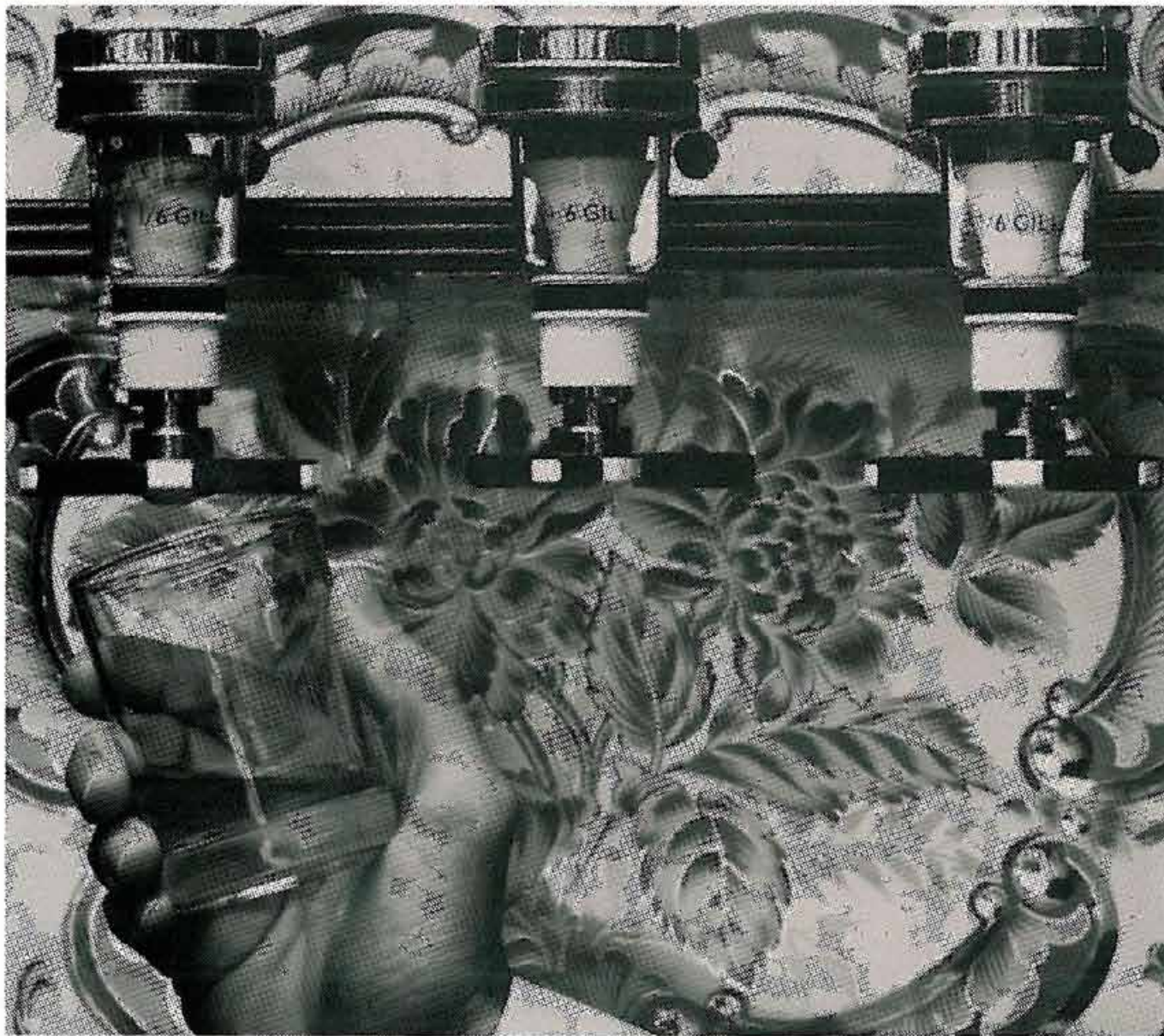
Moreover, we feel we should emphasise that the cases in which our assessment differs from that of the OFT assessors appear to be weighted significantly towards advertisements carried in the national press. We therefore view with some reserve the distinction drawn in the Report between the degrees of success supposed to be achieved by the national and regional press respectively in weeding out unacceptable advertisements.

Finally, in connexion with the question of numbers, we take issue with those who have dismissed the wider application of the findings of the OFT research project, on the grounds that it was concerned "only" with the degree to which the Code is observed – with the implication that, had the standard been something more vague, such as the extent to which advertisements mislead, exploit or offend the consumer, the picture that emerged would have been darker. This view we reject entirely. The Code embraces provisions which are, deliberately, broadly drafted, as well as those which set out detailed prescriptions for acceptable advertising. There is no evidence that any advertisement which could generally be agreed to mislead, exploit or offend was exempt from the sanctions under the Code as it stood at the time of the OFT's research project. We conclude, therefore, that while there may be minor respects in which the scope of the Code could be improved, there is every reason to suppose that, in giving a generally clean bill of health in terms of the Code to a sample of advertisements, the OFT has also painted a generally satisfactory picture of the standard of all that part of advertising that is not directly under statutory control.

The second point which we would like to put on record relates to the Report's assessment of the efficiency of the sanctions available to self-regulation and its criticism in that context of the speed with which the Authority deals with complaints. We begin by accepting entirely the philosophy that justice delayed becomes justice denied, and the consequences of that for our own operations. To the extent, therefore, that the Report makes practical suggestions for greater speed in our procedures we are already in process of putting many of its recommendations into effect, and as the Chairman has observed, we are happy to discuss how some statutory provision might provide for instant action in that tiny number of cases where it is truly necessary.

We think it is essential, however, that, in emphasising the importance to the complainant of speed, we do not lose sight of the equal importance to the advertiser of due process – an adequate opportunity, but not an excessively protracted, opportunity, to answer the case against him. Justice can be denied in more than one way. In this context, it is particularly important that the realities of the situation are well appreciated. Our experience is that in over half the cases which come to us by way of complaint, the advertisement complained of has ceased to appear *before* the complaint is made to us. And in more than nine out of ten cases, the advertisement has ceased to appear – often as the result of voluntary withdrawal by the advertiser – within the month that we allow ourselves for investigation. It is also important to realise that, where action to prevent further publication is appropriate, it will be taken; it does not have to wait until the report of the outcome of a complaint appears in one of our Case Reports, which in the nature of things take time to produce.

## Issues of the Year:



**The extension of the monitoring programme in 1978 provides the important service of furnishing facts and figures about what is happening rather than what is thought to be happening**

Long before the Office of Fair Trading published the report of its review of the self-regulatory system of control, the Authority had recognised the need to extend its monitoring activity, and consequently, in September 1978, we established a separate Monitoring section, which now publishes facts and figures about its work quarterly, in the ASA Case Reports. There are two distinct branches to the monitoring programme; they are first a comprehensive coverage of specific categories of advertisements, and second a general "across-the-board" scrutiny of local newspapers from all parts of the country, national daily and Sunday newspapers, and a number of weekly and monthly magazines. At present\*, the specific categories are alcohol, motor vehicles, hearing aids, and advertisements addressed specifically to children and those in which children appear. When undertaking

*\* March 1979*

# MONITORING

its across-the-board monitoring, the Monitoring section has an eye to the Code as a whole, not simply to the specific provisions of a particular Section or Appendix, and it is in fact this general monitoring which has given rise to the overwhelming majority of investigations.

The success of an exercise designed to monitor the degree of compliance with a set of rules is not measured by the number or flagrancy of the transgressions detected and corrected; if it were, then the ASA's monitoring programme would be declared a dismal failure. We have exposed no hotbed of sinister and underhand practices perpetrated by advertisers out to cheat and offend their customers; nor have we amassed evidence that the Code is generally ignored and manipulated by unscrupulous practitioners. Of the thousands of advertisements we have scrutinised, only a handful have been found to show a serious disregard of the Code likely to lead to their audience being significantly misled or offended. The cynic may say that the results are so because the Code is inadequate; that it is easy to conform to a code whose standards are either too low or are the wrong ones. The smug self-flatterer may say that the results show that everything in the garden is lovely; that the critics can be ignored. Neither has the truth.

On what grounds then can the ASA's monitoring section claim success? It has in its work developed links with many agencies, advertisers, newspapers and magazines, and, by opening up direct communication between them and the control body, has spread the Code's gospel to many whose grasp of the workings of the ASA and CAP Committee was incomplete. It has detected a considerable number of breaches of the Code; granted, the vast majority of

them are what may be called "technical" or "administrative" contraventions and represent only a tiny proportion of the thousands of advertisements pored over, nevertheless their investigation shows that the ASA is determined that the industry's Code of Practice will be implemented thoroughly and that there is no question of lip-service to a mass of words. The monitoring section provides the important service of furnishing facts and figures to indicate what is actually happening in a particular area of advertising rather than what is thought to be happening, and thereby highlights those areas in which discussion may be required and gives a balanced and rational platform on which it may take place.

Although it is true that most of the investigations into individual advertisements involve "non-serious" breaches of the Code, it must not be overlooked that a number, albeit a relative handful, have revealed glaring instances of ignorance or disregard of the Code. For example, a double-page, colour advertisement by a publisher promoting advertising space in his magazines, featured models dressed as provocative and seductive schoolgirls drinking wine and beer and surrounded by cigarettes and other products which had been advertised in the pages of those magazines during 1978. The Authority's opinion was that, in view of the detailed rules governing the portrayal of young people in advertisements for alcohol and cigarettes, the advertisement departed completely from the spirit of the Code. The advertiser professed that he had no intention of contravening the Code in any way or causing any offence. He would have avoided doing so if he and his agency had exercised more discretion and taken greater account of the Code when preparing the advertisement. There were no valid excuses; the advertisement was simply irresponsible.

Sheer irresponsibility was again manifested in an advertisement for whisky, which showed, superimposed over a shot of a whisky bottle, a young woman sitting astride a motor bike. The advertisement displayed a total disregard for safety (and the law) in associating drink with driving. It was so obviously contrary to the principles of responsible advertising that professions of regret like "I'm sorry - it slipped through" are ludicrous.

"Formulated to help your skin stay younger"; "For the woman who wishes to keep her skin soft and young". Claims like these have appeared in advertisements for skin moisturisers and face creams; they directly and obviously contravene the Code. A motor car manufacturer used comparative tables in his advertisement and in one table he so manipulated the presentation of the figures that he gave his product an unfair advantage. Here was no unfortunate ambiguity, but a blatant breach of the principle of fair competition.

The monitoring section has been looking closely at advertisements addressed to children and its conclusion is that the degree of responsibility shown by advertisers and publishers is very high. The distinction, however, between advertising and editorial matter in comics can sometimes become blurred, and it is extremely encouraging to report that the three major publishers of children's newspapers have in common agreed, above and beyond the Code's existing rules on the identification of advertisements, to place the heading "Advertisement" above all whole-page and half-page advertisements, whether or not they are easily distinguishable as such - a positive and helpful initiative, particularly appropriate in this International Year of the Child.

*Issues of the Year:*



# ADVERTISING TO CHILDREN

We believe the requirements of the British Code of Advertising Practice and the British Code of Sales Promotion Practice in relation to children to be fuller and more stringently applied than those of any other country.

The children's market, i.e. the market for goods purchased by children with money that is their very own or by parents for them, is a very important one and deserves, and gets, serious attention from the makers of sweets, crisps, ice cream, comics and other low unit cost items. Whether it is right or wrong to advertise to children is a question which will always prompt keenly argued replies for and against, but what is agreed without demur is that as long as advertising to children is a lawful occupation, its practitioners must display extreme care, integrity and understanding.

The ASA's experience of non-broadcast advertisements addressed to children, gained through its monitoring programme and its analysis of complaints from members of the public, has brought forth no evidence that an irresponsible attitude prevails amongst advertisers. Nevertheless, complacency is dangerous, since the potential for damage is clearly great if advertisements which are directed at a vulnerable audience (which children are generally considered to be) are prepared without a sense of responsibility; and so it is never untimely (and in this International Year of the Child it is positively apposite) to repeat the advice that all those concerned with advertising to children should remind themselves constantly that it is prudent as well as proper to take a responsible attitude and to follow the spirit as well as the letter of the rules and guidelines of the British Code of Advertising Practice.

**There is no evidence that an irresponsible attitude prevails among those who advertise to children but it is prudent as well as proper to display care, integrity and understanding**

Advertising directed at children is a subject of controversy both at home and abroad, and the discussion intensifies. The Secretary of State for Prices and Consumer Protection has said, and repeated, that children are a particularly vulnerable group and must be given special protection. In Europe, officials of the EEC are preparing, amongst others, drafts for a directive on advertising aimed at children, and in the United States, with the Federal Trade Commission engaged in active investigations, the issue is being hotly debated.



**Discussions in 1978 between the fuel industries, equipment manufacturers and advertisers have had useful results**

During the year we became aware of growing concern about fuel and heating, advertisements, to a point

# ON ADVERTISEMENTS: EDITORIALS

that meetings were held between the Authority, the fuel industry and the advertising industry, and an ASA Council sub-committee was set up to produce guidance notes on heating advertisements. Though these notes were planned to be published at the same time as the revised Code in the Spring of 1979, the guidance they contain was operated within the ASA Secretariat for several months of 1978.

Topicality often highlights problems which are not apparent in the day to day operation of the Code. The escalating fuel costs of 1977 and the Government's energy conservation programme focussed attention on the advantages of saving fuel. In the winter of 1977/78 some of the positive claims that were made gave rise to consumer complaints to the ASA. One of the advantages of a voluntary system of control of advertising is that you can move onto problems as they arise. Although there is no special section in the Code of Advertising Practice that deals with heating advertisements, it did not take long to isolate the sections of the Code which regulate the claims most commonly criticised. We then looked at the basis for substantiation of claims put forward by fuel and heating and insulating advertisers. We found that the claims often turned on substantiation based on complex technical evidence which was the subject of sharp differences of opinion between competing industries and, although someone has to try and hold the ring, "proving" that one side is correct and the other is not is another matter. Other complaints criticised heating advertisements because they were selective, e.g. "Warm your house with our new low cost heating system for only £2 a week – no messy installation and upheaval". Unless an advertisement makes it clear this means £2 a week for 52 weeks a year and that the house is a particular size and insulated in a particular way, a

promise like this would be in breach of the Code of Advertising Practice.

The fuel industries and the leading equipment manufacturers are part of the self-regulatory system of control of advertising. A series of meetings were set up with advertisers. It became clear that what was needed was agreement as to what constituted acceptable substantiation in terms which could be explained to consumers. If advertisements contain claims or comparisons, the criteria or special circumstances on which they are based (for example, the size of the family, the type of dwelling, the geographical location, the hours of occupancy, the standards of thermal comfort) should be made clear in the advertisement.

As a result of these consultations, the ASA Council sub-committee produced guidance notes on heating advertisements which were agreed by the main fuel advertisers and approved by the Council. The enquiry into heating advertising asked for by the Council also provided an opportunity to deal in some depth with the problems of advertising clearly and fairly in new product areas. Meetings were held with the manufacturers of Domestic Solar Hot Water systems, and the Solar Trade Association has agreed to incorporate the points about the advertising of these systems agreed as a result of meetings with the Authority.

There will still be heating advertisements which appear and which are in breach of the Code, just as there are still people who break laws. The "heating initiative" that the Council has taken should mean that advertisers produce the substantiation for claims quickly and clearly and that we all know what we are talking about.

In April we published the first of the editorials which now accompany the monthly Case Reports. We anticipated – rightly – that they would give us a regular opportunity to comment on matters of particular importance or complexity and to help advertisers interpret and observe the Code. We have been able, for instance, to dwell at some length on questions of decency, on women in advertisements, on some aspects of self-regulation, on the guidance available from CAP and on several other subjects.

The editorial is certainly of use to the Secretariat: we judge, from the reactions of readers, that it is proving helpful to practitioners and other interested bodies.

weekly and its terms of reference are "to examine posters, press advertising and, for cinemas in the West End of London, front of house advertising submitted to the Committee for films carrying an "X" certificate from the British Board of Film Censors and for any other film on which the Distributor seeks the advice of the Committee. The purpose of the examination is to ensure, so far as possible, that none of the advertising approved by the Committee will cause members of the general public to be offended on grounds of indecency, horror, violence, racial or sex discrimination or religious belief. The Committee takes no responsibility for the content of any film or the appropriateness of any advertising having regard to the content of the film".

Members of the Committee include representatives of film distributors, exhibitors, media owners, the British Board of Film Censors and KRS itself, and although action by the Committee against an advertisement that may be misleading as opposed to offensive is outside its remit, nevertheless the Authority's representative is not hampered by his membership of the Committee from subsequently investigating the advertisement in question in terms of the British Code of Advertising Practice.

Strictly, the Authority's nominee represents the CAP Committee and the views he expresses to the Advertisement Viewing Committee on a particular matter have no binding force on any determination which the Council of the ASA may reach if it is later called upon to consider the same matter. The sovereign authority of the ASA is thereby preserved.

The work of the KRS Advertisement Viewing Committee is a useful contribution to the task of ensuring that the content of British advertising maintains a high standard and the Authority is glad to play a part in it.

**As a member of the KRS Advertisement Viewing Committee the Authority now has an additional opportunity of ensuring high standards in advertising**

In May 1978 the Kinematograph Renters' Society (KRS) invited the Authority to sit on its Advertisement Viewing Committee. The Committee sits

# “A QUESTION OF STANDARDS”

The Authority has produced a film on its work which is now available on free loan

To supplement the resources employed in the continuous and vital job of publicising the self-regulatory control system, the ASA has produced a film entitled “A Question of Standards”. It gives in digestible form an explanation of what the Advertising Standards Authority is, what it does and how it does it, giving examples of the sort of cases investigated and showing in action the Cases Officers who investigate them.

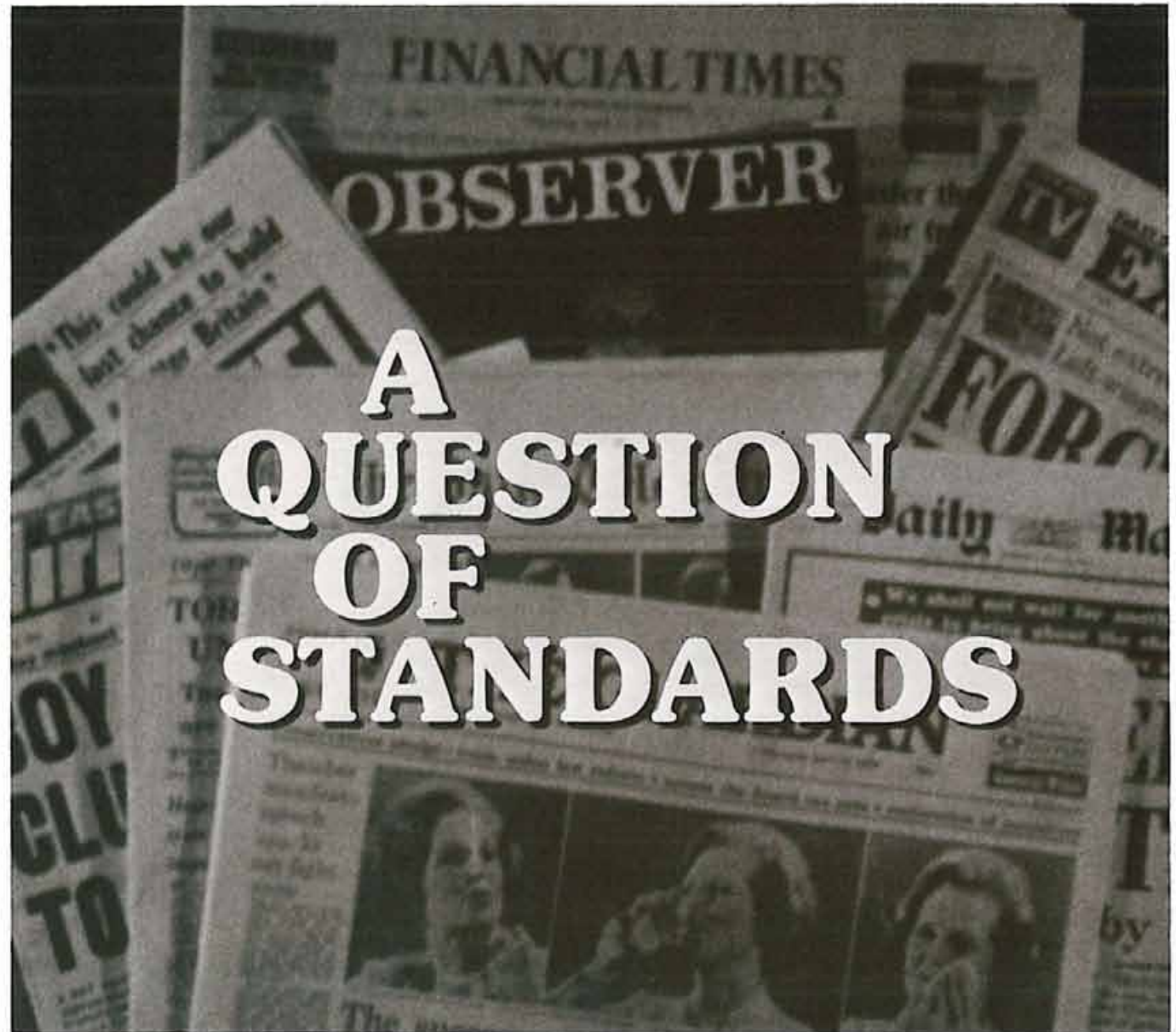
It shows a meeting of the Council and includes conversations with the Chairman and Director General.

The film, providing as it does a clear, interesting and precise summary of the work of the ASA, is a very useful educational tool and is of particular value to schools, colleges and clubs as well as to local authority trading standards departments, consumer groups, advertising agencies, newspapers and indeed any group interested enough to borrow it. It will certainly help the Authority to make itself known over a much wider area.

The film (16 mm) is available on free loan from Viscom Audio Visual Library, Parkhall Trading Estate, London SE21 8EL.

It is in colour and lasts for 19 minutes.

Video cassettes are also available.



the self-regulatory system and makes recommendations which could lead to further improvements in the system to be welcomed by the industry. A number of the recommendations of paragraph 12 of the Report were of particular importance, among them the possibility of some form of publication of the complaints dealt with by the CAP Committee and the need to balance any speeding up of complaints procedures against the importance of giving all parties a fair hearing. The Committee also feels that penal sanctions are likely to destroy goodwill and that corrective advertising needs further study in depth before any decision as to its usefulness is taken. Whatever statutory changes were necessary would involve the OFT/ASA/CAP relationship, and CAP welcomes the working party which has been set up to discuss the consequences of the recommendations of the OFT Report.

At the behest of the Sales Promotion Sub-Committee, the Secretariat has conducted a regular monitoring survey of retail promotions in selected locations nationally and has, as always, provided Code users with guidance in problems of interpretation at the planning stage of particular promotions.

The Health and Nutrition Sub-Committee has strengthened the Secretariat's liaison with the DHSS and other bodies in the health field and the guidance of specialist advisers to the Committee has continued to support the Sub-Committee in its work.

The Financial Advertising Sub-Committee has made recommendations concerning the financial sections of the Code and has made appropriate comment to the Department of Prices and Consumer Protection on their draft Advertising Regulations under the Consumer Credit Act.

The Mail Order Sub-Committee has contributed to the revision of the Code and has been able to further the dialogue between the Office of Fair Trading and the industry, through its links with the CAP media bodies.

The demands on the Copy Panel continue to be inconsistent, erratic and usually determined at short notice. The Panel has met 17 times during the year to deal with 88 items. The giving of copy advice to advertisers and their agencies at the pre-publication stage has been expanded throughout the year and is a trend which the Committee supports wholeheartedly.

Monitoring is dealt with separately in this report and all that is necessary here is to record that up to September 1978 it has been carried out by both the CAP Committee and the ASA, but on the creation of a new Monitoring section it became solely an ASA function. From January 1979 the Newspaper Publishers Association and the Newspaper Society have been operating a revised joint system for the recognition of advertising agencies. Recognition will be concerned with two main areas: credit worthiness and adherence to the industry's Code of Practice.

There have been a number of changes among membership of the Committee during the year. We regret the loss of the services of retiring members and welcome the arrival of their replacements.

We reported the investigation of 467 competitor complaints in 1978 of which 305 were upheld either in whole or in part, 149 were not upheld. 13 complaints were withdrawn or concerned matters outside the remit of the Committee.

### **The CAP Committee reviews a year of considerable activity and productivity**

This was a significant year for CAP in that it has seen the preparation of the new Code of Advertising Practice, the progress of an EEC Directive on Misleading and Unfair Advertising, the Office of Fair Trading Review of the self-regulatory system and criticisms of that system by the Secretary of State for Prices and Consumer Protection.

The CAP Committee's view is that the OFT Report is informed and constructive. It shows confidence in

# THE BRITISH CODE OF ADVERTISING PRACTICE: REVISION

## **Some comments on the revised Code – and two observations on areas where the Code is closely related to statutory provisions**

The Sixth Edition of the British Code of Advertising Practice was published in April 1979. By the time this Report appears it will be well on the way to full implementation.

The need for a thorough overhaul after five years' experience of the Fifth Edition was clear and we congratulate the CAP Committee on the result of their labours, and for their ready acceptance of the suggestions the ASA put forward. The new Code is, we believe, altogether easier to use, with a more rational lay-out, a greatly expanded table of contents and index and a method of binding which not only enables the book to lie flat when open – which is a great convenience to the user – but also permits of a far simpler system for the insertion of amendments. The substance of the Code, though much re-arranged, has changed less but there are a number of points on content to which we would draw particular attention. First, we welcome the fact that it proved possible to meet so many of the points made by bodies such as the National Consumer Council and the Con-

sumers' Association, whose suggestions for improvements we had sought, as well as all seven of the points made by the OFT's assessors and summarised in Appendix H to the report of their Review.

Second, we are pleased that the pruning of a certain amount of dead wood has permitted a more extended treatment of some of the trickier areas of the Code, such as those dealing with worth and value claims and testimonials.

Third, we very much appreciate the efforts that have been made to introduce greater clarity into sections such as that dealing with mail-order advertising and to remove the impression of a contradiction between that section and the rules on the proper use of the concept of the guarantee.

We would make two final observations on areas where the Code is closely related to statutory provisions. Among the recommendations of the OFT assessors was one relating to consumer credit which the experience of the CAP Committee and ourselves made us both very ready to accept. This was the recommendation that the Code should relax the requirement that a variety of information ought to be given whenever an advertisement went beyond a bare indication of the availability of credit. Our experience had been that this effectively precluded the advertiser from using a wide range of advertisement claims which were most unlikely to mislead or confuse. There did not seem to be any compensating advantage to the consumer. We are concerned therefore that the proposed advertisement regulations under the Consumer Credit Act 1974 (an earlier version of which the 5th Edition of the Code had attempted to summarise) that it is expected will supplant this portion of the new Code later this year, should

appear to make precisely the same mistake. There is a tendency to assume that because it is reasonable to require certain information to be given to the consumer before he buys something or otherwise commits himself, it necessarily follows that it makes sense to require that information to be given in an advertisement. While there are certainly occasions when it does make sense, there are cases, of which this is one, where overall the effect of inappropriate regulations on advertisement content may perhaps be to drive commercial communication into channels which are less easily controlled.

As noted above, the new Code contains a substantially extended section dealing with the vexed question of price comparisons and worth and value claims. This reflects the experience gained by the Authority and the CAP Committee in applying the rules on these matters which had been introduced into the 5th Edition. We believe that the new rules mark a great step forward in clarity and consistency, and we therefore regret that steps should have been taken to introduce statutory regulations in this area without the new Code having time to prove its worth. We recognise that the problem is not entirely one of advertising but we believe that advertising both can and should be treated separately from – albeit on the same general basis as – on-pack offers. We cannot repress the suspicion that the ban proposed on worth and value claims has its origins in two unacceptable propositions: that it is justifiable to forbid a practice either because its control presents administrative problems or because it is known to irritate (though not to mislead or exploit) some proportion of those to whom it is directed. Neither of these seems to us a good reason for statutory intervention and we hope that further thought will be given to this matter in the light of the new Code.

# Analysis of Investigated Complaints ~ January ~ December

Complaints concerning the non-receipt of mail order goods or refunds numbered 409 and in 77% of cases the complaints were satisfactorily resolved with the receipt of goods or refunds. Complaints concerning copy claims numbered 636 and of these 60% were upheld either wholly or in part. In these instances the Authority received assurances from the advertisers that the claims or advertisements in question would not be repeated.

An analysis of the breaches of the Code reveals the great majority to be in relation to Section II, 4.2.1., which states that:

“Advertisements should not contain any statement or visual presentation which, directly or by implication, omission, ambiguity, or exaggerated claim, is likely to mislead the consumer about the product advertised, the advertiser, or about any other product or advertiser.”

Another aspect of the Code which has resulted in a number of upheld complaints is the requirement that all claims relating to matters of fact should be capable of substantiation and that this substantiation should be held in readiness for production without delay to CAP or ASA. Two matters of particular concern to us have been that substantiation has not always been *immediately* available in accordance with the requirements of the Code and that in a number of instances the submitted substantiation has been found inadequate to support the advertisement claims in question.

A product group breakdown of investigated complaints (excluding those related to mail order delays) is on page 23.

**This year the Authority provides a graph of comparative figures for the three years 1976-77-78**

A total of 1,045 complaint investigations were concluded during the period January – December 1978.

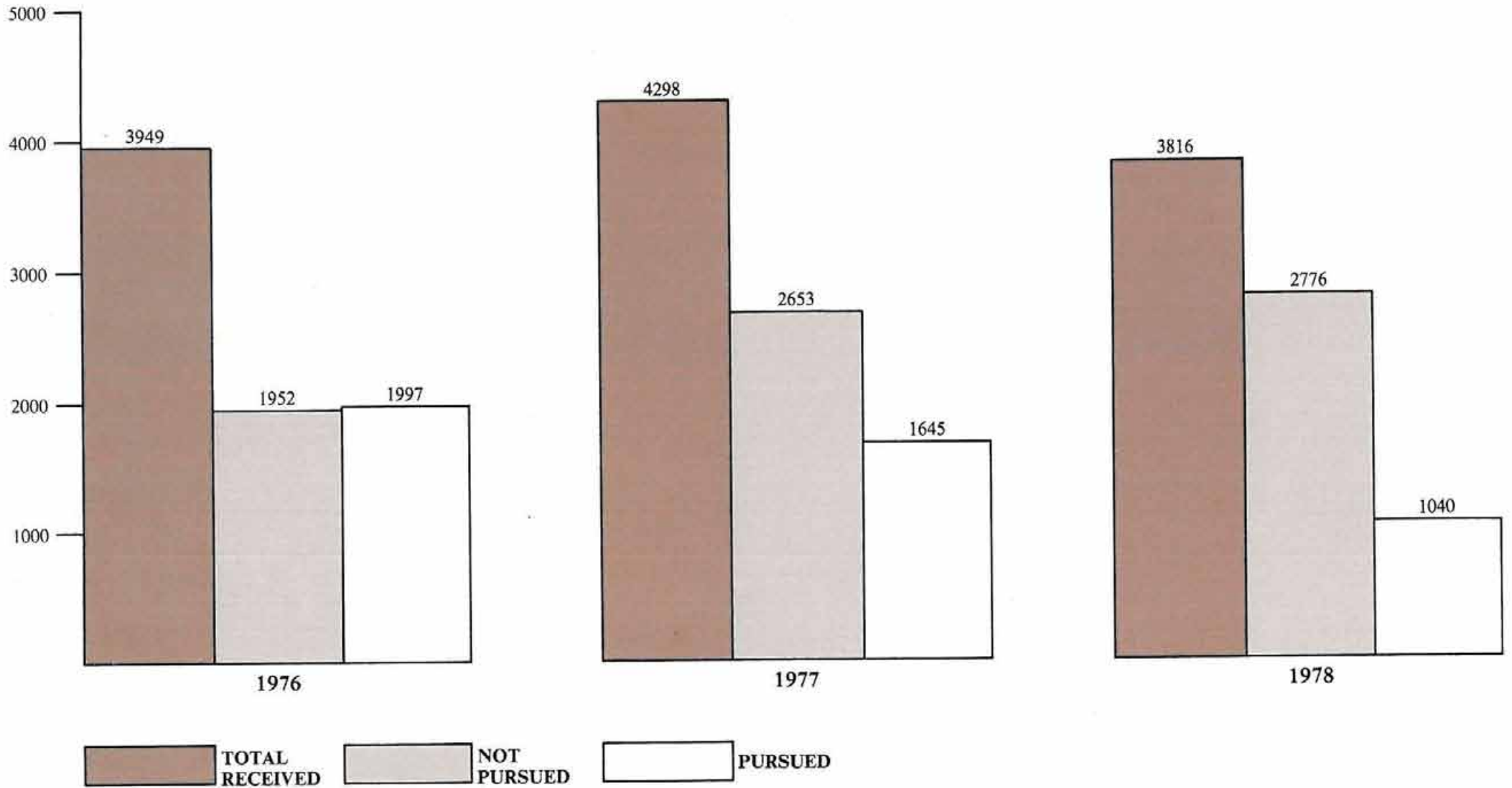
# COMPLAINTS STATISTICS

## Summary of complaints received – January – December 1978

MONTH	TOTAL	NOT PURSUED					NP TOTAL	PURSUED		TOTAL PURSUED
		TV	OR	NJ	AI	MD		MO DELAY	COPY	
January	195	12	31	35	26	10	114	28	53	81
February	266	25	31	66	48	21	191	33	42	75
March	268	15	38	54	56	24	187	28	53	81
April	213	12	40	55	39	20	166	22	25	47
May	366	53	60	80	45	21	259	52	55	107
June	559	33	91	183	52	57	416	66	77	143
July	418	20	90	110	58	38	316	57	45	102
August	320	33	65	80	52	14	244	28	48	76
September	301	16	69	85	39	17	226	27	48	75
October	326	31	46	81	58	22	238	32	56	88
November	316	21	37	89	44	32	223	46	47	93
December	268	27	32	80	46	11	196	29	43	72
<b>TOTAL</b>	<b>3816</b>	<b>298</b>	<b>630</b>	<b>998</b>	<b>563</b>	<b>287</b>	<b>2776</b>	<b>448</b>	<b>592</b>	<b>1040</b>

KEY: OR = Outside Remit NJ = Not Justified AI = Already Investigated MD = More Details Required.

### Complaints Received: Comparison 1976-77-78



# COMPLAINTS STATISTICS

## Product Group Breakdown of Complaints Investigated January - December 1978

General Group	CASES REPORTED													Total
	35	36	37	38	39	40	41	42	43	44	45	46		
Alcohol	1	1						1	2	1	1	1	8	
Betting	1				1		3						5	
Binoculars										1			1	
Book/Audio Clubs					1						3		4	
Building Societies/Services	2									2	1		5	
Camping Equipment								2					2	
Caravan Site Developer								1					1	
Charitable Organisation												1	1	
Clocks/Watches	1		1	1					1			2	6	
Clubs							2						2	
Coins										1			1	
Commemorative Items	1												1	
Computer Dating		1											1	
Confectionery					1								1	
Corporate Advertising									1				1	
Cycles & Equipment	2	1			1	1							5	
Development Corporation											1		1	
Educational				1									1	
Electrical							2		1				3	
Employment/Training	1	2	3	1	2	1	2		2	1	2		17	
Entertainment	3	1	1	2	1	1	2		3		1	1	14	
Estate Agents/Property Dev.	2		2	1	3		1		1		1		11	
Films												1	1	
Financial	1	1	4	4	3	2	3			3	1	4	26	
Fuel	4	3											7	
Government Depts./Agencies	2	1						1		1			5	
Hi-fi/Audio/Radio/TV/Records	6	1		3	3	1	3	1			7	1	26	
Holidays		3	2	5	1	2	4				3	1	21	
Homework	1												1	
Hotels			1				1	1					3	
Industrial/Equipment		2			1							1	4	
Insurance										1			1	
Leisure										1			1	
Local Authorities			1		1					1			3	
Locks												1	1	
Luggage							1						1	
Medical											1		1	
Motoring & Accessories	9	2	7	1	3	3	4	5	5	3	4	6	52	
Novelties	2												2	
Office Machinery							1					1	2	
Oil										1			1	
One Day Sales								1					1	
Paint					1								1	
Pens						1		1			1		3	
Philately		1											1	
Photographic		3	1		2			2	4	1	1		14	
Promotions/Competitions	7	8	3	5	2		2	4	2	3		2	38	
Publishers	1	1		2		2		1	3	2			12	

General Group	CASES REPORTED													Total
	35	36	37	38	39	40	41	42	43	44	45	46		
Radio Phone													1	1
Religious Organisation														1
Restaurants		1												1
Retailers	11	2	8	8	7	5	4	3	5	4	3	6	65	
Rust Protection												2	1	3
Services	5	1	1	3	2									12
Sportswear & Equipment												3		3
Sundries		2	4	1	1	3				3	1	1	4	20
Sunlamps		2												2
Tobacco/Cigarettes	1						1							2
Travel	2	5	7	2	2	2	7	4	3	4	2	1	41	
Ventilation	1													1
Water Softener													1	1
Yachts			1											1
Personal Group														
Clothing		2		2				1	2		1	1	9	
Cosmetics/Toiletries			2		2	2	3	1	1	2	1	2	16	
Footwear							1	1					2	
Hair	1			1			1	2	1				7	
Health Foods/Medicines		1				1							2	
Hearing Aids				1		1	2	1					6	
Jewellery	1	1	1			1	2					2	8	
Optical							1		1				2	
Pharmaceutical					1			1					2	
Pregnancy Testing			1										1	
Proprietaries			2										2	
Slimming							1					1	3	
Treatments							2		1				4	
Household Group														
Appliances	4												4	
Bathroom Equipment					1	1		1				1	4	
Bedding			2	2	1	2						1	8	
Building Materials			3										3	
Carpeting							1	1		1			3	
Cleaning Equipment				1									1	
Cutlery												1	1	
Double Glazing/Windows	1					1			2	1			5	
Fencing											1		1	
Floor Coverings			1										1	
Food	1	1				2	2	1	2				9	
Furniture		2			1	2		1	1				8	
Gardening				1		1	1	1	2	2	1	1	9	
Heating/Energy/Insulation			4	4	1	2		1	1	1	2	6	22	
Kitchen Equipment	3				2	1	2				1	1	10	
Sewing Machines					1		1						2	
Showers												1	1	
Swimming Pools						1		1					2	
Washing Machines										1			1	

# FINANCIAL STATISTICS

## The Advertising Standards Authority Ltd. Expenditure Account for the Year ended 31st December 1978

1977		1978
164,703	Salaries and Staff Costs	215,655
57,194	Rent and Accommodation	72,800
13,149	Travel and Entertaining	15,357
9,922	Consultancy and Professional Fees	15,836
3,097	Council Honoraria and Expenses	6,071
	Leasing, telephone, postage, printing, stationery, furniture and other general expenses	49,949
<u>40,021</u>		<u>375,668</u>
288,086	Advertising and promotion	312,841
<u>186,328</u>		<u>688,509</u>
<u>474,414</u>		

## The Advertising Standards Authority Limited Registration No: 733214 England

A non-profit making company limited by guarantee.

*FP Format Print Limited  
Europa House, Fraser Road, Erith, Kent.  
Telephone Erith (38) 47866.  
Photography on pages 12 and 14 by Paul Bussell  
Design: Pearl Design Associates*

