

# The Advertising Standards Authority

# XIII

Annual Report 1974—1975

# Contents

List of members of the Authority with biographical details	4
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## **REPORT**

Chairman's Report	5
Issues of the Year	16
Complaints resolved in 1974-5	23

## **COMPLAINTS**

*Any member of the public may complain to the Authority about any particular advertisement, except on radio or TV. There are no forms to be completed and no set rules of procedure. All that is required is a letter of explanation, together with a copy of the advertisement to which exception is taken.*

*Complaints by telephone will not be acted upon unless they are subsequently confirmed in writing.*

*Anonymous letters are ignored.*

*Complaints should be sent to the ASA  
15 Ridgmount St., London, WC1E 7AW*

# The Advertising Standards Authority Ltd

## *Chairman*

The Rt. Hon. the Lord Drumalbyn,  
PC, KBE

## *Members*

A. Campbell-Johnson, CIE, OBE

Mrs. J. Fort, MA

C. J. M. Hardie, B.Phil, MA, ACA

Miss Rosemary McRobert

Miss Patricia Mann, M.CAM, FIPA

The Rt. Hon. Lord Peddie, MBE, LI.B, JP

The Baroness Phillips of Fulham, JP

Mrs G. L. S. Pike, CBE, JP

A. A. Ross, FIPA

A. R. M. Sedgwick

G. P. Taylor

The Hon. C. M. Woodhouse, DSO, OBE

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

## *Director & Secretary and Registered Office*

Peter Thomson

15 Ridgmount St., London, WC1E 7AW

Telephone: 01-580 0801

**The Rt. Hon. the Lord Drumalbyn, PC, KBE**

President, Commonwealth Producers  
Organisation, 1967-70. Minister of State,  
Board of Trade 1963-64. Minister without  
Portfolio 1970-74. Previously Chairman of  
The Advertising Standards Authority 1965-70.  
*April 1974\**

**A. Campbell-Johnson, CIE, OBE**

Chairman of Campbell-Johnson Limited,  
Public Relations Consultants; Fellow and  
Past President of the Institute of Public  
Relations; Press Attache to the Viceroy and  
Governor General of India (Lord  
Mountbatten) 1947-48. *December 1973\**

**Mrs. Jean Fort**

Formerly Head Mistress of Roedean School.  
*September 1965\**

**Miss Patricia Mann, M.CAM, FIPA**

Associate Director and Creative Planner,  
J. Walter Thompson. Governor of the CAM  
Education Foundation. Council Member of  
the Institute of Practitioners in Advertising  
since 1966. *June 1973\**

**C. J. M. Hardie, B.Phil., MA, ACA**

Fellow and Tutor in Economics, Keble  
College since 1968, Joint Fellow, Oxford  
Centre for Management Studies, since 1970.  
*May 1973\**

**The Rt. Hon. Lord Peddie, MBE, LI.B, JP**

Chairman, Post Office Users National Council  
since 1970. Former member of the Prices and  
Incomes Board and Chairman from 1970-71.  
Member of the Consumer Council (1963-68).  
Vice-Chairman of the Reith Commission on  
Advertising (1965). Chairman of the  
Co-operative Party from 1958-65. Director of  
Co-operative Wholesale Society from 1945 to  
1965. *October 1972\**

**Miss Rosemary McRobert**

Director, Retail Trading Standards  
Association Inc. Member of the Council of  
the Consumers' Association.  
Member of the Design Council.  
*December 1974\**

**The Baroness Phillips of Fulham, JP**

General Secretary of the National Association  
of Women's Clubs. Formerly a Baroness-in-  
Waiting and Government Whip in House of  
Lords. Broadcaster, J.P., former teacher.  
Founder of Housewife's Trust; past-chairman  
and member of Women's Advisory Committee  
of the B.S.I. Member of Consumer Affairs  
Sub-Committee of Metrication Board.  
*March 1974\**

**Mrs. G. L. S. Pike, CBE, JP**

Chairman of the Women's Group on Public  
Welfare. Formerly Chairman of National  
Federation of Women's Institutes. Member of  
the Food Standards Committee of the  
Ministry of Agriculture, Fisheries and Food.  
*September 1965\**

**A. A. Ross**

President, Ogilvy Benson & Mather Limited.  
Chairman of the Advertising Association.  
Fellow and Immediate Past President of the  
Institute of Practitioners in Advertising.  
*June 1972\**

**A. R. M. Sedgwick**

Director of Gillette Industries Ltd. European  
Director of Corporate Public Affairs for the  
Gillette Company since 1968. Council member  
of the Advertising Association and the  
Incorporated Society of British Advertisers.  
*June 1972\**

**G. P. Taylor**

Fellow Royal Society of Arts (FRSA).  
Member of CAM Society (M.Cam). Director  
of The Guardian and Manchester Evening  
News Ltd. Managing Director of  
Guardian Newspapers Ltd. *April 1975\**

**The Hon. C. M. Woodhouse, DSO, OBE.**

MP for Oxford 1959-66 and 1970-74.  
Director of Education and Training,  
Confederation of British Industry (1966-70).  
Director-General, Royal Institute of  
International Affairs (1955-59). Parliamentary  
Secretary, Ministry of Aviation (1961-62).  
Joint Parliamentary Under-Secretary of State  
Home Office (1962-64). *March 1967\**

*\*Date of appointment as member of the Authority*

# Chairman's Report

The past year has seen important new developments in the self-regulatory control of advertising. The ASA now has more money to make its work known and more staff. These are the key factors.

1. With the object of providing more money for the operation of the control system, a surcharge on most forms of advertising expenditure of 0.1% has been instituted, and the Advertising Standards Board of Finance has been formed to collect it quarterly. This should yield well over £300,000 in a full year for the ASA.

2. The staff of the ASA has been strengthened from 9 to 26 which will enable it to handle the increased number of letters expected from the public; to extend monitoring; and to make new contacts with other organisations interested in consumer protection and improve existing ones.

3. Larger and more appropriate premises have been leased.

4. The influence of independents within the system has been increased. The ratio of independents to industry members on the ASA Council is now 2:1, and one independent member sits on each of the 5 copy advisory panels and 3 other sub-committees of CAP.

5. The Fifth Edition of the British Code of Advertising Practice was introduced in May 1974, and in 1975 a Code for advertisements for Alcoholic Drinks has been introduced and will shortly come into full operation as an Appendix to the main Code. Since the end of this year, a Code for cigarettes has also been introduced.

6. With the object of making the ASA and the Code much more widely known, a national advertising campaign was planned in conjunction with Roe Humphreys Ltd; and ran in April and May 1975. Media have provided a substantial amount of free space since then. A significant effect of our having increased funds at our disposal is that it enables us to strengthen considerably our links with bodies such as the Citizens Advice Bureaux, the Women's Institutes, Consumer Advice Centres and other organisations which have as their principal aim, or one of their main aims, helping the consumer. Our object is to let them know who we are, where we are, and how we can assist them and those who seek their help. Last autumn we published a leaflet about the ASA and distributed it widely.

We have sent copies of the Code to Citizens Advice Bureaux and Consumer Advice Centres as well as to public libraries, and have made them available to University and College departments on request. We have also prepared a shorter version of the Code and have offered it free in our advertisements to individuals who write and ask for it.

Our senior staff now also participate in radio broadcasts and television programmes on matters of consumer interest. They can make many more visits than before to various parts of the country and have been well received. In the course of these visits they address meetings and have talks with local authorities' Consumer Protection Departments and Trading Standards officers. They also have been meeting the advertisement staffs of regional papers to discuss the Code and ASA decisions.

It is our hope that all these various bodies will not only tell us about any aspects of advertising which are causing them concern, but will encourage individuals, who come to them with their problems arising from advertisements, to refer them to us, confident that we will deal with them competently and impartially.

### **The Proper Relationship**

The justification for the self-regulatory system is rooted in the proper relationship between advertiser and customer. It is simply not in the interest of manufacturers and suppliers of services to mislead and disappoint their customers. If they do, the word soon gets round. Advertising agencies need satisfied clients, advertisers need satisfied customers, publications need satisfied readers. Nor are advertisers content to see other traders misleading the public, whether or not those traders are in direct competition; for malpractices bring advertising as a whole into disrepute and lessen its effectiveness. Benefits to advertiser and consumer should be complementary, provided a proper balance is maintained. That is why the advertising industry as a whole is willing to support an independent body such as the ASA and to expect it to act impartially not only between advertiser and advertiser but between advertiser and the consumer. An advertiser (or advertising agency) who has confidence in the system will not willingly flout it. He knows that if one is allowed to do so, others will follow and all will suffer.

### **The ASA way of working**

The ways in which the Authority works to ensure compliance with its decisions can vary from case to case. After the complaint has been discussed with an advertiser and the relevant passages of the Code have been examined, it often happens that the advertiser or his agency agree to alter the advertisement so that it no longer violates the Code. If the Authority judges that a breach of the Code has taken place and is unable to secure compliance with its judgement, it contacts the main media organisations informing them that the particular advertisement has been found unacceptable. There is also the important sanction of publicity. To stress what I have earlier indicated in this Annual Report: the Authority has greatly strengthened its contacts with radio and television programmes, as well as with regional newspapers and consumer organisations. The Cases Report which gives the Authority's decisions on complaints sent in by members of the public, is distributed regularly to the media. In these ways, the Authority is determined that the public should be alerted to

its work, the responsibility of the advertisers made clear, offenders isolated and abuses checked. The industry has demonstrated its support for the system not only financially but in other ways as well. First, it responded readily to the request for experienced people from among advertisers, advertising agencies and media to serve on the various CAP sub-committees. These men and women perform a valuable but time-consuming service with scrupulous fairness. They deserve gratitude. Media are demonstrating their own involvement by providing free space to help in making the system known to the public. The funds available for the advertising campaign are limited. They do not stretch wide and far enough to enable all media to be included in the campaign. What is particularly significant and heartening is that free space has been generously offered by media not included as well as by those that are. In some cases the media will publish ASA advertisements, in others they will publish their own advertisements associating themselves with the commitment to the system. I look forward to describing the extent of the effort

in the next Annual Report. There have been one or two voices preaching the pure doctrine of competition and urging non-co-operation, as if competition and co-operation were wholly incompatible. They seem to imply that the practice and policy now being followed are entirely new. They are not. They derive directly from the system set up at the time when the Molony Committee on Consumer Protection was preparing its report thirteen years ago. That Committee recommended that the system be given a fair trial. Much has been accomplished. But the Molony Committee required that the system should be known to the public and responsive to its needs. That is what we are now seeking to achieve.

#### **Our Advertising Campaign**

We have launched our national advertising campaign to make the system of control better known. The ASA chose Roe Humphreys as its advertising agency. I cannot speak too highly of the zeal with which they have undertaken this task. The message is simple. There is the Code which requires advertisements to be legal, decent, honest and truthful. There is a

body charged with the supervision of the system—the ASA—to whom anybody can write and send their complaints about advertisements and their comments on the Code and its working. To help them to do so, booklets containing the main points of the Code have been prepared and a copy is available free of charge to anyone who asks for it. (Naturally, if anyone wants bulk supplies, a charge will be made).

#### **Pre-Vetting**

But certain advertisements are examined by either the control body or one of the organisations adhering to CAP *before* publication. There are several ways in which “pre-vetting” does take place. Copy may be submitted either at the discretion of the advertiser or advertising agency, or on the “invitation” of the central control body or member organisation. In the latter case, if the invitation is refused, media are recommended not to accept copy for publication. Taking voluntary submission first, it is sensible for advertisers who are planning an expensive campaign to submit copy for approval at an early stage before space is booked, rather than risk the rejection of

one or more of the advertisements, or of the whole campaign. This is encouraged whenever the advertiser is in any doubt. In the case of television advertisements, advertisers are not required to submit an outline of their advertisements in writing before going to the expense of filming; they do so as a matter of commercial prudence. The same considerations apply to cinema advertisements. The Screen Advertising Association has recently set up a system for pre-vetting film advertisements at script stage, as well as at the submission of visuals and story board.

Advertisements for alcoholic drinks are a special case. A new code has been agreed by the industry and approved by the ASA. It was published in February 1975. Existing advertisements are being examined, and brand advertisers are being advised to submit new copy for approval. They are voluntarily doing so. There would be little point in inviting retailers offering a variety of brands of alcoholic beverages to submit copy, since the content of their advertisements rarely, if ever, gives rise to objection.

There are two sets of circumstances in which advertisers are invited to submit copy for pre-vetting. First an advertiser whose copy has been judged to be in breach of the Code may be invited to submit any further copy for advance approval. This procedure is currently being followed with some mail order and food advertisers. If he fails to do so and his copy still infringes the Code, media are recommended not to accept his advertisements for publication. Second, there are categories of advertisements which are subject to special requirements. For example, in the case of advertisements for slimming the Code requires new copy to be submitted at least seven days before the publication's dead-line, so that the publication can satisfy itself that the copy complies with the Code; and before a new product is advertised, the Code requires substantiation of all claims made in the proposed advertisements. New advertisements for pregnancy testing are not acceptable unless the advertiser has satisfied the control body that he is himself suitably qualified or employs someone who is.

Similarly, advertisements for franchises are not acceptable unless the advertiser has satisfied the control body or member organisation that the offer is genuine and reasonable. We are asking advertisers of wigs and hairpieces to submit copy for pre-vetting. Unlike television and radio advertisements, the vast majority of advertisements in the press, in magazines and periodicals, on outdoor sites, in cinemas are not subject to approval of an outside control body before publication. Since it is estimated that there are some 26 million new display advertisements each year, it would be, if not impossible, certainly hopelessly uneconomic to "pre-vet" them all. But each advertisement has to be approved successively by the advertising agency (if one is employed), by the advertiser, and by the medium which accepts the advertisement for publication.

### **Children**

From time to time the ASA makes special studies of particular categories of advertising. The first is advertisements to children. In this category, little ground for

complaint has yet been revealed despite a monitoring of children's publications. Few complaints have come that Appendix B is not observed. There are of course, powers under the Consumer Protection Act 1961 to make regulations as regards the safety of goods and the marking with prescribed warnings, and the sale of goods not complying with any such regulations is prohibited. However, the Code as it affects children is under review, taking into account experience in other countries.

### **Cosmetics**

The second category is advertising for cosmetics. Therapeutic claims in advertisements are referred wherever appropriate to our principal medical consultant. It is for consideration whether advertisements for cosmetics, as distinct from medicinal products, should be treated in a separate Appendix of the Code. A draft directive on cosmetics is at present before the European Economic Commission, but this has to do mainly with the elimination of potentially harmful ingredients. The kinds of satisfaction offered by

cosmetics are highly subjective, as well as being subject to changes in taste and fashion; but that is no reason why there should not be some real objective basis for claims that are made for the medicinal characteristics and effects of the product. It seems clear that cosmetics when advertised as remedies for ailments ought not to be treated simply as cosmetics.

#### **Medicinal**

There is one area of advertising which excites some criticism but gives rise to remarkably few consumer complaints, namely "across-the-counter" medicinal products.

A high proportion of the total sales of such products are accounted for by brand owners who belong to the Proprietary Association of Great Britain (PAGB) That Association has its own rules for advertisements with which its members are obliged to comply, and as part of its service to members it requires all advertisements for new products, or for products the formula for which has been changed, to be submitted for examination to ensure that they do comply with its rules. Continuing advertisements

for each product are reviewed at three yearly intervals in the light of changing medical knowledge. PAGB as a member of CAP, also has regard to the Code. In addition, the ASA and PAGB monitor press and magazine advertisements for all across-the-counter medicinal products, whether or not the brand owners are members of PAGB. Whenever a claim made in an advertisement for any such product appears to be false or exaggerated, or the advertisement taken as a whole misleading, the opinion of the medical consultants retained by the ASA or PAGB, as the case may be, is sought.

Sometimes criticism is directed quite rightly against advertisements which are under examination at the time and are subsequently required to be altered or discontinued. Sometimes it is based on the complainants' own opinions as to how advertisements will be, or ought to be, interpreted by others. A very small proportion of complaints to the ASA are from people who say that they themselves have been misled by an advertisement of this kind. To get a better insight into how the "ordinary man in the street" does

interpret such advertisements and how he comes to buy the products advertised, it might be well worthwhile for a project to be carried out by research experts on behalf of consumers, advertisers and doctors jointly. Why is it that hardly any complaints come scarcely at all from users of the products? Several possible answers come to mind, but none are self-evident or can be taken as valid without evidence.

The Medicines Act 1968 envisages that no medicinal product should be sold unless the Health Ministers have issued a "product licence" for it, which is valid for five years and renewable. But it has been stated that it will be several years before all existing medicinal products have been duly licensed; as an interim measure they can be sold if they have obtained "licences of right", which can be suspended or revoked in the event of abuse, and are also subject to periodical renewal.

Any advertisement for a medicinal product must conform to the specification contained in the licence. For the purposes of the Act, "advertisement" includes labels on containers and also leaflets about and supplied with

the products. It must not be false or misleading, or contain unauthorised recommendations for use. Of course any advertisement in the general press which contained only the name and the bare specification of the product would scarcely attract attention, let alone be read. So specifications will still have to be translated into the idiom of advertising. The Health Ministers may, however, make regulations in relation to medicinal products to ensure that adequate information is given, that misleading information is not given, and to "promote safety". They may also prohibit the use of any word or phrase which could mislead the public as to the nature of a medicinal product or as to the conditions of body or mind for which they might be used. They have power to call for copies of advertisements issued within the previous twelve months. The ASA has been discussing with the PAGB the control of advertisements for across-the-counter medicinal products whether supplied by members or non-members of the PAGB, with a view to establishing a system which would commend itself to the Health Ministers. Provided that

the specifications in the licences are readily available, no insuperable difficulty in devising such a system is envisaged. Should the system prove in any way deficient, the powers of Ministers could always be invoked to remedy the deficiency.

#### **Cigarettes**

On the subject of cigarette advertising, intensive discussions have taken place during the year between the Advertising Standards Authority, the Tobacco Industry and the Department of Health and Social Security.

Cigarette advertisements have been coming under criticism for some time, and it was thought preferable for an independent body such as ASA to assume the responsibility of formulating and administering a new Code. This new Code has been approved by CAP and by the Authority as the best that can be achieved in the present state of legislation. It will be brought into operation progressively over a period of six months. While the Department agree that the new Code, and the arrangements for securing compliance with it, should provide a significant improvement on the

situation over the next few months, it does not go as far as they would have liked. Nor would it have done if we had felt able to include more of the amendments they supported. However, we pointed out that one of the amendments would in practice have involved imposing restraints on cigarette advertising far beyond the limits of what we would regard as appropriate or practical for a self-regulatory system. Such restraints, we felt, could be properly imposed only by Parliament.

#### **Monitoring**

The task which the self-regulatory system undertakes, namely to ensure that advertisements comply with the British Code of Advertising Practice, involves continuous and unremitting effort. Responsibility for ensuring compliance with the Code rests upon everyone concerned with the conception, preparation and publication of advertisements. With the advertiser who briefs his advertising agency on the product or service; with the advertising agency who thinks up and works out the campaign; with the advertiser, again, who approves it;

with each of the media which accepts the individual advertisements in the programme. Far too little credit is given to the media for their part in the process of self-regulation. It is a vital part; and it costs them a great deal of money. True, newspapers or periodicals may reject advertisements for reasons other than non-compliance with the Code. That is their prerogative; and it may be their duty. But the fact remains that the whole system of self-regulation is and has all along been based on the obligation of media to ensure as far as is reasonably practicable that advertisements which they accept for publication comply with the Code, which has been approved by their representatives on the CAP Committee.

But it is not for media to verify *every* fact in an advertisement; and they may not always spot a misleading implication or a technical infringement. Indeed many complaints, typically in the mail order field, arise not because the terms of the advertisement itself are in breach of the Code but rather from the advertiser's failure adequately to perform his role in the bargain entered into by the

consumer. Monitoring by the ASA—or by the media's own association—is very much a second best to checking by media, for its purpose is to detect infringements in advertisements which have already appeared. Fortunately the media in the main do their job conscientiously, and monitoring does not reveal many advertisements which the ASA considers breach the Code. Of course, if media were to confine themselves to their legal obligations, the number of infringements could soon become intolerable. That is the measure of the part the responsible media play.

#### **Investigation**

Side by side with monitoring goes the handling of complaints. Wherever it appears that there may have been an infringement, the advertiser or advertising agency is invited to substantiate the claim that is challenged. When the substantiation involves technical matters, it is referred to the appropriate expert consultant for his opinion. The issue will then be submitted to the collective wisdom of experienced and sensible people. There were already in existence sub-committees of the CAP

Committee to deal with Health and Nutrition, Financial Advertising (Consumer Credit and Investment), Sales Promotions, and Mail Order Advertising. All other doubtful advertisements were referred to a single general copy panel. In order to deal more expeditiously with doubtful advertisements, CAP decided to set up five general copy advisory panels. To meet the criticism that there was no independent presence in the CAP structure, it was agreed that one independent member of the ASA Council should sit on each of the five general copy advisory panels and on the four specialised sub-committees.

Each of these panels and sub-Committees serves as a sort of jury. If one of the parties is aggrieved by the decision, he can, with the permission of the Chairman of ASA and of CAP ask to be heard by the ASA Council or a Committee thereof. This form of appeal has been recognised for several years and has been followed in the voluntary systems of Canada and the USA. Here, it has not often been invoked so far.

### **Code Background**

In May 1974 the Fifth Edition of the British Code of Advertising Practice, first published in 1961, was introduced. Throughout the previous year the process of revising the Code and bringing it up to date had gone on. The aim was to provide for all concerned with the planning of advertising campaigns and the creation or publishing of advertisements a single comprehensive document to which they could readily and constantly refer. It was therefore decided to bring together the various notes of guidance which had been issued from time to time in amplification eleven main provisions. There are eleven appendices dealing with various subjects and designed to be read in conjunction with the main body of the Code. They give guidance on the way in which advertisements should be clearly distinguished from editorial matter and on advertisements to children, and for slimming, betting tipsters, consumer credit, investments, "Sales", mail order, and hair and scalp treatments. Medicinal and kindred products have a separate section in the main body of the Code.

As always, a reasonable period of time has to be allowed for all concerned with publishing advertisements to make themselves familiar with new provisions and to bring their thinking and practice into line with them. By the end of 1974 the new Code had established itself. Copies of the Code were distributed through the associations belonging to the Code of Advertising Practice Committee to all their members and were sent to libraries and many consumer and academic bodies. For those organisations requiring bulk supplies a charge is made. The introduction of the Code coincided with the Biennial Conference of the Advertising Association, under the Chairmanship of the Rt. Hon. John Freeman, MBE. The AA chose the subject of control of advertising as the main theme of the conference. The process of preparing the Code had involved all the associations representing advertisers, advertising agencies and media; it had generated widespread interest in the working of the self-regulatory system within the advertising industry. Moreover, the year 1973-4 had witnessed the

enactment of the Fair Trading Act 1973 and the setting up of the Office of Fair Trading, which had greatly stimulated public interest in the effect of advertising on consumers. It was therefore timely and appropriate to review the working of the self-regulatory system. While the Conference noted the progress that had been made, it was far from complacent about the impact that the system had made on the public at large, and in particular on those sections of the public who are most vulnerable to exploitation.

### **Promoting the Code**

The AA invited the Secretary of State for Prices and Consumer Protection in the new government, the Rt. Hon. Mrs. Shirley Williams, MP, and the Director-General of Fair Trading, Mr. John Methven, to address the Conference. Both made it plain that it was not enough to have a good Code; for the Code to be fully effective it was necessary that not only the advertising industry itself but also the public should know about it and about the body responsible for its administration, and so should be able to bring their complaints and make their views known to that

body. They questioned the extent to which it was enforced in fringe areas, particularly among those advertisers and media who are not members of any association adhering to CAP; and they doubted whether there was sufficient protection for the very young, the very old and those who had special problems such as ill health, weight or financial stress. They wanted to see more examination of advertisements before publication, particularly in special areas such as cigarette and alcoholic drinks advertising. They also felt that independent influences should be exercised not only by the supervising body but throughout the system. Lastly they made it plain that for the system to become better known and more efficient, more resources would have to be provided for it by the industry.

#### **Financing of the Control System**

When the advertising industry decided at the Conference of the AA in 1962 to set up the ASA as an independent body to supervise the working of the control system, there seemed no alternative to financing it through the Advertising Association, which also financed the new Code of Advertising

Practice Committee (CAP). This Committee was and is representative of all the associations adhering to the Code. It is the co-ordinating body for the industry in all matters affecting the Code. In 1965 it was decided that it would be both more efficient and more economical to have a combined secretariat for the ASA and CAP, the Secretary of ASA also acting as Secretary of CAP, although for accounting purposes the two bodies had separate budgets.

The existing Advertising Investigation Department of the AA continued to monitor advertising and to investigate complaints submitted to the AA. In 1972, for reasons of economy and of securing greater uniformity in the interpretation of the Code, that department was transferred to the ASA/CAP Secretariat.

It is greatly to the credit of the Advertising Association that immediately after the 1974 Conference it set about solving the problem of providing more funds for the Control System than could have been provided through AA's resources. This was a courageous step, particularly in view of the deepening economic difficulties. First, we in the ASA had to

estimate what we required to make the system more efficient and better known. More staff were needed to intensify monitoring and to extend it to publications rarely examined so far; to deal with the increase in queries, comments, complaints which would result from making the system better known; to improve and maintain contact with consumer and trade associations and education and consumer protection bodies. More juries were required to decide whether advertisements were either misleading or offensive; more expert consultants to advise on the validity of claims in advertisements. Money would also be needed for research into the ways in which advertisements are likely to be taken by both average consumers and consumers in the "vulnerable" groups.

We estimated our requirements for ASA and CAP at £150,000 in the first year, rising to £200,000 later at current prices. In addition we budgeted for £150,000 in the first year to advertise the system and the Code. The AA estimated that this amount plus the cost of collecting it would be covered by a surcharge of 0.1% on all expenditure on advertisements in

the press, magazines and other periodicals and on outdoor and cinema advertising and direct mail. Classified advertisements were excluded in most cases for the time being, not because they are less subject to supervision, but because of the difficulty of collecting the proposed surcharge on them. Television and radio advertisements were also excluded because, being subject to statutory control and having their own system of financing their controls, they are outside the scope of the self-regulatory system, though linked with it through the Independent Television Companies Association's membership of CAP. The surcharge is collected quarterly on relevant advertising expenditure in the previous quarter. A company, the Advertising Standards Board of Finance Limited, has been formed to collect it. The Board consists of representatives of the larger trade associations belonging to CAP, and is advised by a separate committee representative of all such associations. The Board published the outline of the scheme in large-space advertisements, and the details in a paper which was distributed to advertisers, advertising agencies and media

through their trade associations. We have been informed by the Board that they have had excellent co-operation from all concerned in ironing out difficulties of assessment and in making adjustments to secure that the surcharge is collected fairly and in ways convenient to those concerned, provided always that the outcome is the same—0.1% of relevant advertising expenditure.

The ASA is most grateful to those guarantors whose generous action enabled us to get going under the new system of financing before the revenue began to be collected. We were thus able to strengthen our staff by appointing two deputy directors, Miss Pamela Horner and Mr. Ian Lyon, and other supporting staff early in 1975. On 15th February we moved to new larger premises.

The articles of Association of the ASA have been changed to allow of a higher proportion of independents than of industry members on the Council of the ASA. Whereas previously there were six independents and six industry members, plus the independent chairman, now at least one-third and not more than half of the Council must be drawn from the

industry. Currently eight of the members are independents and four are from the industry.

I would not like to end without paying my tribute to those who have made such steps possible. I took over the chairmanship of the ASA in April 1974 from Lord Tweedsmuir. In conjunction with Mr. Peter Thomson, the Director of the ASA, he had done much to prepare the way for the move forward. I am indeed grateful to them, and also to the members of the Council and staff of the ASA for their support. Secondly, I would like to record my own appreciation of the services which Mr. A. M. Fisher has rendered to the system during the two years of his chairmanship of CAP. Together with Mr. Thomson he was in large measure responsible for the new Code. My predecessor and I are deeply indebted to him for his sagacity and his friendly and very positive co-operation. I wish his successor Mr. R. A. Wadsworth as distinguished a tenure of office. In a year when so much has happened and so many have had a part in creating the new Fund and the new atmosphere it is almost invidious to mention individuals. Nevertheless I feel I must place on

record how much the whole system owes to the vision and leadership of Lord Robens, the President of the ISBA who carried the advertisers with him; the wise and constructive skill of Mr. John Hobson, the Chairman of the AA; the kindly good sense and resourcefulness of Mr. George Bogle, the Chairman of the Advertising Standards Board of Finance, and the masterly co-ordination and steadfast encouragement given by the President of the AA.

Sir John Davis.

Lastly my very warm thanks to Mr. J. S. Williams, OBE, the retiring Director General of the AA for his many kindnesses over the six years during which I have been chairman of the ASA. He never once interfered, but was always ready with help or advice. And a warm welcome and all good wishes to his successor, Mr. Roger Underhill.

DRUMALBYN,  
*Chairman.*

# Issues of the Year

## Key Issues

What is it that makes an advertisement misleading? Ought advertising to be merely informative, or is it proper that an element of persuasion enters in? If persuasion is allowed, how does the public understand or approach the persuasive aspect of an advertiser's statement?

In 1974-75 these central issues, which recur each year in various guises, were raised with the publication of a report prepared for the European Bureau of Consumer Unions (BEUC). This "BEUC Report" was entitled "A Study of Advertising in the United Kingdom and the Federal Republic of Germany". The section relating to the UK was prepared by members of the staff of Britain's own Consumers' Association.

## A Step Forward

We welcome this study. It was based upon a concrete examination of specific cases. It marks a substantial step forward in isolating the issues that have, in the past, divided us from these and other critics. The report accepts the contribution of self discipline to advertising control: "We suggest

that the basis of control remain voluntary, but that if necessary the principal supervisory body in each country (in Europe) be restructured to conform to the following three principles."

- a. It should be impartial; it should not be representative solely of the advertising industry. (To this criterion, the Advertising Standards Authority already conforms).
- b. It should be knowledgeable, it should have access to performance data on the products, including the results of the advertisers' copy tests, but it should be able to commission further evidence if the circumstances demand it. (This, too, is a fair description of the Authority's present position and the increased funds to which reference is made elsewhere are already enabling it to commission its own research).
- c. It should be effective. It should have the power to order amendments to copy or the cessation of a campaign. (This, too, is a power which the Authority, in effect, though

not by law, possesses and exercises regularly, as its published Cases Reports show).

In addition, the authors of the Report suggest what they describe as "two major changes". The first of these is the introduction of a system of systematic monitoring, and the second, is the imposition of pre-vetting in particularly sensitive areas. It has to be said that monitoring has been a function supervised by the Advertising Standards Authority since its inception in 1962 and is now one which is performed by its own staff; pre-vetting too has increasingly come to be employed as a tool for the control of difficult areas. An example within the recent past related to the introduction of the new slimming code in 1973, when a substantial improvement in the standard of advertising in this sector was achieved as a result of a requirement that advertisements should be submitted for clearance prior to publication. Other examples, this year, are health food products advertising in certain periodicals, and hairpieces. Individual advertisers have often been made the subject of presubmission requirements. On both of the "two major changes"

proposed by the Report, the Advertising Standards Authority is able to say not only that it agrees with the thinking that leads to the recommendations, but that it has been putting them into operation for several years. By implication, the report pays tribute to the successful work of the Authority. It finds that 86% of advertising in the UK is *not* misleading, even when judged against the Report's tough criteria. This finding was reflected in group discussions that are reported; typically, it emerged from these that "overall, no-one had experienced a great deal of disappointment because of paying heed to an advertisement . . . . . dishonesty was too strong a word to apply to advertising".

### Judging Advertisements

However, it is still a matter for concern that as many as 14% of the advertisements reviewed in the Report were found, on its criteria, to be "misleading". What were these criteria?

1. False claims as to recommendation or approval, as to uniqueness, as to performance, as to physical

characteristics or as to value or price.

2. Either total, or partial, omission of significant or important information.
3. Undue emphasis, either where all relevant information is given but attention is drawn to only one part of it, or where comprehension of the relevant information is prevented, or made more difficult, by unclear presentation or by the inclusion of irrelevant information.
4. Ambiguity, both in the normal sense of statements open to two interpretations, one true and the other false; and in the sense of what the authors of the Report call "equivocation". By this they mean the ascription to third parties of opinions about an advertised product which could not honestly be held by the advertiser.
5. Exaggeration, both in the sense of making something appear universally true when it is not and in the sense of hyperbole about performance, the physical characteristics of the goods on offer or their value.

### For Example

There is, in the abstract, very little we would want to quarrel with in these criteria. Indeed we ourselves use them to judge advertisements. And we were using them long before the BEUC Report was published. In the current year, for example, under (1) we dealt with a false claim in an advertisement for a camera that 99.8% of light was transmitted through the lens on to the film and with a car manufacturer announcing guaranteed prices which were not offered to one complainant. Under (2) we had the case of a "silver service" being offered without the advertisement making clear that it was silver-plated. An example of action taken under (3) would be the case of a mail order advertiser, advertising a "para-military" radio in such a way as to imply a connection with the armed forces and listing separately terms which had the same meaning: VHF and UKW. For ambiguity, there was a popular football competition announcing prize winners with such phrases as "14 win £300" which should have read "14 share £300". Alcohol advertising produced the

exaggerated claim that “Only the best wine and herbs” were used in an aperitif. A member of the public complained that it was generally known that fine wines were not used in vermouth and ingredients besides wine and herbs were used. The copy was amended to read “Only carefully selected wines and herbs are good enough for the world’s most beautiful drink”. Beauty depends here on the palate of the imbiber—and not on our Code, nor the law of the land. In fact, in all these cases offending copy was altered or an undertaking given that it would not be used in future.

### Reservations

There are, however, some important reservations which make the application of these criteria a question upon which reasonable men and women may well differ: as, for instance, in their view of whether some information that is omitted is significant or important for the advertisement in question.

A consumer may be very concerned about what he or she considers an excessive consumption of alcohol. The BEUC Report complains that an advertisement for gripe water

did not include the information that one of the ingredients was alcohol. But need it? For the pack makes this ingredient clear; and provided the directions for use are followed, no harm would be occasioned to children.

Very many advertisements combine an informative element with a persuasive element. The authors of the Report say, “Rather than appear gullible, consumers adopt a sceptical and defensive pose towards advertising claims”. Consumers in general recognise:

- a. that any advertisement is likely to blend the information and the persuasive and
- b. that the persuasive element is likely to include value judgements which may not coincide with those of the particular consumer who sees the advertisement.

Because of the persuasive element present in so many advertisements, it may indeed be true that all the relevant information is given, but that emphasis is placed only on one part of it. On a newspaper page, the advertiser has to compete for the attention of the reader

along with other advertisers and editorial headlines. It is not necessarily reprehensible for him to headline or highlight what he considers to be the most compelling sentence in such circumstances, provided the advertisement as a whole makes the meaning plain. Then there is the matter of “equivocation”—the ascription to third parties of opinions about a product which could not be honestly held by the advertiser. Certainly quotations from unsolicited testimonials can be an effective way of drawing attention to any product. The Code of Advertising Practice is explicit: “Testimonials should not contain any statement or implication contravening the provisions of this Code and should not be used in a manner likely to mislead”. Furthermore, we have this year added to the Code: “Where an illustration of a person is used in conjunction with a testimonial, *implying personal endorsement of a product*, that person should be the person giving the testimonial”. On hyperbole, the Code states: “Obvious hyperbole, which is intended to attract attention or to amuse, is permissible provided that it is not likely to be taken as a

positive claim to superior or superlative status". So a beer may "claim" to reach parts of the body that other beers cannot reach. But the Authority has to be particularly vigilant to see that the excuse of "amusing" is not used as a cover for serious misstatements.

#### **Accuracy and relevance**

It seems to us sensible to look at the whole content of an advertisement, including the avowedly persuasive elements, from the point of view of deciding to what extent it satisfies the consumer's legitimate demand for information presented in such a way as not to mislead. The consumer can legitimately demand *accuracy* and *relevance* in the information which is conveyed to him by an advertisement. The assessment of accuracy presents fewest problems. From time to time of course, there is an advertisement about the accuracy of which the experts cannot agree. In such cases the Authority may make up its own mind as to where the balance lies, or it may decide that the only fair thing is to require the advertiser himself to make the division of opinion clear in his advertisement. More problematical are those cases

in which objectors say that certain aspects of an advertisement, such as the people pictured using the goods or the setting in which they are displayed—that is, material which is not overtly descriptive of the physical characteristics of the goods or services on offer—convey inaccurate "information" about the nature of the product.

If one believes that it is wrong for an advertiser to appeal to motivations for purchase other than purely rational ones, one is likely to feel that implications as to the benefits of "status" in the eyes of the consumer's friends are undesirable and probably untruthful. Thus, a critic may say that by omitting more "relevant" considerations, the presentation is incomplete or disgraceful or even "misleading"—in that it leads people to be moved in a way that he personally does not want them to be moved.

It is vitally important to distinguish this definition of "misleadingness" from the other criteria of "misleadingness" which we have examined.

We respect the views of those who deplore appeals to vanity or acquisitiveness. But so long as the

presentation adheres to the Code, the advertiser should not be accused of inaccuracy.

There are also attacks on the *relevance* of advertisements. We take it that unless the advertiser so arranges things that his advertisement is perceived by the consumer as being relevant to his wants or his needs, then his expenditure on advertising will have been in vain. The advertiser usually pays close attention to ensuring that he succeeds in conveying the sort of information that his research goes to show is wanted by most of the consumers of goods of the kind he is offering. What of course he cannot do, is to foresee and provide in one advertisement all the information that may be perceived as being relevant to all the individuals who may read it.

The authors of the Report, in dealing with one of their categories of misleadingness, that of "partial omission", are basing themselves implicitly on the assumption that there exists, in regard to each advertised product, a single set of facts which may be categorised as "the relevant information". We would challenge this assumption. But there are

certain statements which may mislead most people if they are not properly qualified. The omission of such qualifying information is clearly blameworthy.

### **Dangers**

We have seen that under the general banner of misleadingness a variety of campaigns can be conducted. Following the Code of Advertising Practice, this Authority willingly sides with many of the crusaders—responsible advertisers and concerned consumers. But we have to beware of following any campaign which could lead to the triumph of one particular moral or social dogma. This may arise when a critic calls an advertisement misleading because it may motivate people in a way he personally deplors. The Authority must also beware of following any campaign which could limit the freedom of speech presently enjoyed under the laws of the land. For it is sometimes true that critics simply call a leaderwriter, a preacher or an advertisement “misleading” because they disagree with the views expressed. Under the law, the advertiser, like any other citizen, has a right to his freedom of speech. There may well

be occasions when others disagree with him—with equal fervour and sincerity. It would be unreasonable for advertisers to pay for the propagation of opinions about their goods, or services, with which they disagree. Yet this is the logic of some objections to advertisements. And these are the dangers of some of the allegations of “misleading” advertising in the BEUC Report.

### **Women in Advertisements.**

Another issue of principle which concerned the Authority during the year arose from correspondence with two women’s organisations—AWARE and Women in Media. Both bodies were concerned at the way in which women were portrayed in advertisements and asked for the Authority’s views on a number of advertisements which they felt misrepresented the role of women in society, or exploited women as items of commerce rather than individuals. It seemed to us that the advertisements raised two separate and distinct issues:-

- a. Did any advertisement breach the present Code of Advertising Practice?
- b. Should the Authority, and

hence the advertising business, involve itself in seeking to change current conceptions of women’s role in society?

On the first point, we felt that some of the advertisements trod too close to the boundary of good taste to be entirely acceptable, and we so informed the advertisers. On the second point, it seemed to us that the nature of advertising—a selling tool for the manufacturer, a source of information to the consumer—is such that it is ill-suited for use as a lever to shift social attitudes. Unless an advertisement achieves rapport with its audience it cannot perform its task of selling effectively, and unless the information it contains is seen as relevant, it is likely to be ignored by the consumer. We cannot agree with the view our correspondents appear to hold that to represent an attractive woman in an advertisement was tantamount to “a promise of sexual gratification”, while to represent a woman in the role of housewife amounted to a restriction of women’s opportunities. If advertising still largely reflects a traditional view of woman’s role,

this is because that is how the majority of those to whom it is speaking see themselves—either as they are or wish to be. If a substantial change in attitudes takes place—advertising will surely reflect that change.

But, if advertising is ineffective as an engine of social change, it is highly effective in its true role, that of laying before women a far wider choice of goods and services than would be available without it.

#### **Political Advertisements.**

Shortly before the October General Election we received two complaints about advertisements of a political character. These caused us to look again at the policy set out in Paras. 37-39 of our Sixth Report.

One of the advertisements complained about was in the nature of a cartoon, published by Aims of Industry; the other was an advertisement published by GKN quoting responses to two questions about nationalisation put to non-management employees. We followed our normal practice of referring complaints in the first place to the advertisers for their comments. We then considered whether the complaints came

within our responsibilities and decided they did not, because their purpose was clearly to influence opinion with a view to political action.

These decisions were in line with the policy set out in the Sixth Report to which since then we have adhered.

We see no reason to depart from it now.

The Code is designed essentially to apply to advertisements about goods or services available for sale or hire, or required for purchase or hire, including hire of services. It places the main emphasis on goods and services available to consumers.

The end products of the advertisements covered by it are transactions, not votes in Parliament or in a General Election.

Of course, not everything that appears in newspapers and periodicals in paid-for space is necessarily an advertisement, whether in the commonly accepted sense or for our purposes; for example, speeches of chairmen of companies at General Meetings and notices of social events that have taken place are not advertisements. But, in any event, there is no reason why there should not be the same freedom of

expression in paid-for advertisements as in chairmen's or anybody else's speeches, subject to the law.

In our view, ultimate responsibility for any matter appearing in the press lies with the editor. Editors are as free to accept or reject a political advertisement as a report, an article or a letter. It follows that anyone who considers that an editor has abused his discretion should address his complaint to that editor and through him to his readers, and if he fails to obtain satisfaction he should take it to the Press Council.

Whether an advertisement is to be treated under the self-regulatory system as political or not depends, in our view, not on the nature and character of the advertiser, but on the purpose which the advertisement is designed to achieve. It matters not whether the advertiser has party political affiliations; if the advertisement is designed to influence opinion with a view to promoting or preventing some clearly indicated political action, then it is a political advertisement for advertising purposes.

Nor does it matter how the cost of the advertisements is borne; for instance, a trade union, a company

or an association to which trade unions or companies contribute will only incur expenditure on an advertisement designed to promote or prevent particular political action if it is in the interest of that trade union, company or association to promote or prevent that action.

While, therefore, their object is, to them, to further their own members' interests, financial, commercial, social etc., such an advertisement can be treated as political so far as the self-regulatory system is concerned.

We therefore conclude that it would be inappropriate as well as impracticable for the ASA to entertain complaints about political advertisements.

# Complaints received from April 1974 to March 1975

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During the year under review, four Case Reports were issued, (Nos. 5-8 inc) giving details of a total 516 cases which had been investigated by the Authority.

### Mail Order

Mail order advertisements accounted for 319 complaints and of these 76% were resolved by goods or a refund being received by the complainant.

### Other Complaints

A breakdown of the basis of complaint in those cases not attributable to mail order advertising reveals:

1 Advertisement considered misleading in its overall effect	59*
2 Specific claims challenged	55*
3 Matter of taste/social responsibility	24
4 Criticism of promotion	19
5 Other contraventions of Code	25
6 Outside ASA remit	15
(* Of these 114 complaints, 24 related to prices)	
TOTAL	197

Of the complaints investigated, 38% were upheld.

## Analysis by Advertiser

An analysis of the advertising investigated is as follows:

1 Consumer Advertising of goods by manufacturer	60
2 Consumer Advertising of goods by retailer	56 (Mail order 31 other 25)
3 Consumer Advertising offering services/facilities (inc promotions)	60
4 Trade/industrial advertising	6
5 Public service/government/nationalised industries	15
TOTAL	197

# Complaints received from April 1974 to March 1975

Personal		Household		General		Service Industries	
Cosmetics	3	Furnishings	13	Food/Confectionery	15	Banks	3
inc hairpieces wigs etc		Linen	3	Alcohol	5	Building Societies	—
Toiletries	2	Electrical appliances inc TV/radio	16	Other drink	1	Other Financial	6
inc suntan oil soap deodorant etc		Central Heating	1	Cigarettes	5	Racing tips	2
Pharmaceuticals		Double glazing	1	Other tobacco	—	Dating Organisations	3
(aspirin, plasters, etc)	7	DIY	1	Motor car		Entertainment	4
Clothing	4	General	4	Cycles & accessories	12	Restaurants	1
Shoes	2			Petrol	1	Holidays	10
General	8			Fuel except Petrol	4	Hotels	2
(luggage jewellery accessories)				Books/records	5	Airlines	5
				Cameras	5	Other travel	1
				Other leisure equipment	5	Estate agents	4
				Hi-fi	—	Industrial causes	—
				Plants/seeds/bulbs	1	Newspapers/magazines/ publishers	7
				Other gardening	4	TV rental	—
				Baby products	—	Charities	1
				Pets	1	Various organisations	11
				Petfoods	—	Recruitment	1
						Miscellaneous	7
	—		—		—		—
	26		39		64		68
	—		—		—		—

# Complaints received from April to June 1975

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Total number of complaints received 1078

Not pursued as complaint considered unjustified  
or outside the ASA remit 176

TV complaints referred to IBA 31

Complaints investigated 871