

Showing more impact

Advertising Standards Authority
Committees of Advertising Practice
Annual Report 2017



Legal, decent, honest and truthful

ASA ✓ **CAP** ✓

Introduction



The Advertising Standards Authority (ASA) is the UK's independent regulator of advertising across all media.



The Committees of Advertising Practice (CAP) write the UK Advertising Codes and authoritative guidance on the rules.

Together, we work to make ads responsible. We do this by taking action against misleading, harmful or offensive advertising and ensuring compliance across all sectors. We believe responsible ads are good for people, society and advertisers. Our ambition is to make every UK ad a responsible ad.



You can read more about us online:

www.asa.org.uk

www.cap.org.uk

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Find out more online

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

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From 10 May 2018, our online report will contain the following additional information:

Download a copy at:
asa.org.uk/annualreport17

Independent Reviewer's report

The Independent Reviewer of ASA Council rulings, Sir Hayden Phillips, can hear from a party to a complaint to consider whether a Council ruling was fair and reasonable. If he thinks there was a substantial flaw in the decision he can recommend changes. Sir Hayden reports on cases he independently reviewed in 2017.



Advertising Advisory Committee report

The Advertising Advisory Committee (AAC) advises the Broadcast Committee of Advertising Practice (BCAP) on the consumer and citizen issues arising from key aspects of the TV and radio broadcast rules. Stephen Locke, AAC Chair, reports on the Committee's activity for 2017.



Industry Advisory Panel report

The Industry Advisory Panel provides industry insight and guidance to CAP and the ASA on non-broadcast and broadcast matters. Tim Duffy, the IAP Chair, shares some of the areas on which the panel advised CAP and the ASA on during 2017.



Promotional Marketing and Direct Response Panel report

The Promotional Marketing and Direct Response Panel advises CAP and the ASA on promotional and direct marketing matters. Chair, Catherine Shuttleworth, highlights some advice they provided during 2017.



Financial report

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



A word from David Currie ASA Chairman

It has been a great honour and privilege to take up the Chairmanship of the ASA.

During my period leading Ofcom, I oversaw the delegation of broadcast advertising regulation to BCAP, so I've watched the ASA system from afar for many years. Over that time I've seen it evolve and change, most recently extending its online remit to regulate ads on companies' own websites and social media – an area that grew to become a considerable part of our work.

We are coming to the end of the five-year strategy the organisation launched in 2014, which aimed to have more impact and to be more proactive. That has resulted in a rebalancing from reactive complaints-handling work towards more proactive action in sectors and on issues where evidence shows we need to act to protect consumers.

This has meant considerably more time invested in regulatory projects, policy development, compliance work and advice and training. Our aim has been to make

sure ads are responsible without consumers necessarily having to complain to initiate action. Consumers win because action is timely; advertising as a whole wins because the reputation of the industry is protected better.

As this report shows, during 2017 we acted in diverse sectors including broadband, gambling, travel, estate agents, higher education and others. This work has resulted in a record number of ads amended or withdrawn: 7,099, up a further 47% on last year's record number.

A characteristic I value highly in regulators is their ability to speak to people across all areas of the UK. I have been very happy to see the heightened activity and dialogue that ASA and CAP colleagues have had in Scotland, Wales and Northern Ireland.

My first speeches as Chairman were in Wales and Scotland respectively. We have made sure our research covers all nations of the UK so we can take account of differences in attitudes to and experiences of advertising.

We will be continuing this work in 2018 with activity in the North of England and Northern Ireland.

Behind all of our work is our dedicated, hard-working and very talented team of staff, who are committed to protecting the interests of the public. I would also like to express my thanks to ASA Council members, who bring their experiences from a wide variety of backgrounds to our regulation. As a Council, we also owe a debt of gratitude to former Chairman Chris Smith. His deft leadership facilitated the growth of the ASA's remit over the last decade, ensuring consumers are protected across an even broader range of media.

As a self-regulatory system, the ASA relies on the support of advertisers to be successful. The industry has invested in the system because there is a shared recognition that responsible ads are good for people, business and society as a whole. With their support, we look forward to continued success.



Lord Currie of Marylebone
ASA Chairman



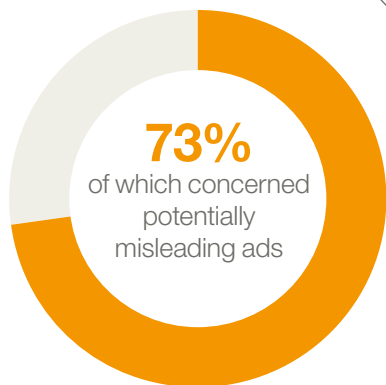
Our aim has been to make sure ads are responsible without consumers necessarily having to complain to initiate action.




The ASA in 2017



relating to
19,398 ads



we resolved
27,138
complaints
98% were
from the
public



In addition,
we resolved
20,952
own-initiative
compliance cases

Resulting in
7,099

ads being amended
or withdrawn
47% more
than in 2016

CAP in 2017

1,598

times our eLearning platform was accessed



5,168

advertiser queries were answered by our free Copy Advice service

5,549

people attended a training workshop or industry presentation



40,816

times our Insight newsletters were read

329,078

visits to advice and guidance on our website



Contributing to:

389,289

pieces of advice and training to businesses

39% more than in 2016





Regulation has to keep up with those [social] changes and our self-regulatory system has the flexibility, authority and support to do so.



A word from James Best CAP Chairman

Society seldom stands still. New technologies create new opportunities and behaviour. Ethical standards and expectations develop. And advertising reflects that – or sometimes leads it. Regulation has to keep up with those changes and our self-regulatory system has the flexibility, authority and support to do so.

This has been particularly evident in CAP's work over the past year. Our major projects have tackled developments in the wider world of communications and media, and in social attitudes and concerns.

Examples of the latter include our stricter new rules on the sexualisation of young people and our present initiative on harmful gender stereotypes. The first of those acknowledged our society's enhanced awareness of the potential dangers involved, the second that images and portrayals that would have been acceptable only recently are no longer so, as people have become more aware of the potential harm that gender

stereotypes can create. Both involved CAP and BCAP acting with the ASA to promote responsible advertising without the need for a statutory prompt.

The new non-broadcast restrictions on advertising for foods high in fat, sugar or salt in media of particular appeal to children, which came into effect mid-year, similarly recognised advertisers' responsibility, in this case to support wider efforts to tackle childhood obesity, even though evidence of advertising's contribution to such problems is sketchy. Self-regulation in action.

Our response to new advertising techniques enabled by online technologies included new guidance of particular relevance to social media on interest-based targeting. This guidance recognises the fact that children may not accurately record their ages on their social media profiles, potentially inviting inadvertently inappropriate ads for sensitive products like gambling or alcohol.

By advising advertisers to use existing targeting tools that take into account the interests of individuals as well as their stated age group, we can help preclude such mistakes.

Such work continues across several fronts. Our industry members and our expert executives work together to deliver robust rules, up-to-date advice, practical training and effective compliance; my sincere thanks go to all of them.

James Best
CAP Chairman

A word from Guy Parker

With complaints cases resolved up 14% on 2016, which itself was up 7% on the year before, 2017 was a particularly busy year. One of our biggest challenges was to continue to deliver on our promise to undertake more proactive project work in the face of that increase in our more reactive work.

We met that challenge, staying on top of the work, publishing nearly 500 rulings, securing the amendment or withdrawal of 7,099 ads (a new record), delivering 389,289 pieces of advice and training (another new record) and, last but not least, making welcome progress on a number of regulatory projects, many of them reviewed in this report.

Something had to give, of course, and that something was a dip in complainant

satisfaction and some missed turnaround targets, both areas we're reviewing to make sure the targets we're setting ourselves are stretching but achievable.

But 2017 wasn't just about Complaints casework and proactive regulatory projects. As David touched on in his piece and Shabnum explains opposite, we made really good progress extending our engagement around the nations and regions of the UK.

And I want to finish by highlighting another important ambition of ours: to increase people's awareness and understanding of the ASA system. With £17.8m of Advertising Value Equivalent of media coverage of our regulation (second only to 2016's £18.6m) and a new ASA ad campaign, we delivered:

prompted awareness of 60% (57% in 2016) and spontaneous awareness of 26% (25% in 2016).

We're doing a lot to make ads responsible and improving people's awareness of that work is vital. We know that the more people know about us, the greater their confidence is in advertising. And that confidence is merited, because responsible ads are good for us, good for society and good for businesses too.



Guy Parker
ASA Chief Executive



We're doing a lot to make ads responsible and improving people's awareness of that work is vital. We know that the more people know about us, the greater their confidence is in advertising.




Regulating for the whole UK



Shabnum Mustapha

Media and Public Affairs Manager,
ASA

We've extended our engagement around the nations and regions of the UK over recent years. We want to make sure we take account of differences in people's experience of advertising across different parts of the country, while also giving elected Parliaments and Assemblies a chance to make their priorities known to us. Here's a summary of our engagement across the nations and regions during 2017:

Our consumer research

Broadband fibre

We commissioned research across the UK into consumers' understanding of the word 'fibre' in ads and how this might impact their decision-making when shopping for broadband services.

Reference pricing

We conducted research in England, Scotland and Wales to understand how consumers engage with reference prices in ads.



Council meeting and stakeholder event in Wales

Our new Chairman, David Currie, made his first speech at an event attended by Welsh politicians, government officials and consumer bodies, followed by a full meeting of Council held in Cardiff Bay.

Seminar on gender stereotypes report in Cardiff

We returned to Cardiff to discuss our research findings on gender stereotypes in ads, with a seminar hosted by Julie James AM.



Scottish Parliament reception

We held our first event in the Scottish Parliament in December, including an address by Cabinet Secretary for Culture Fiona Hyslop MSP.











Launch of gender stereotypes report

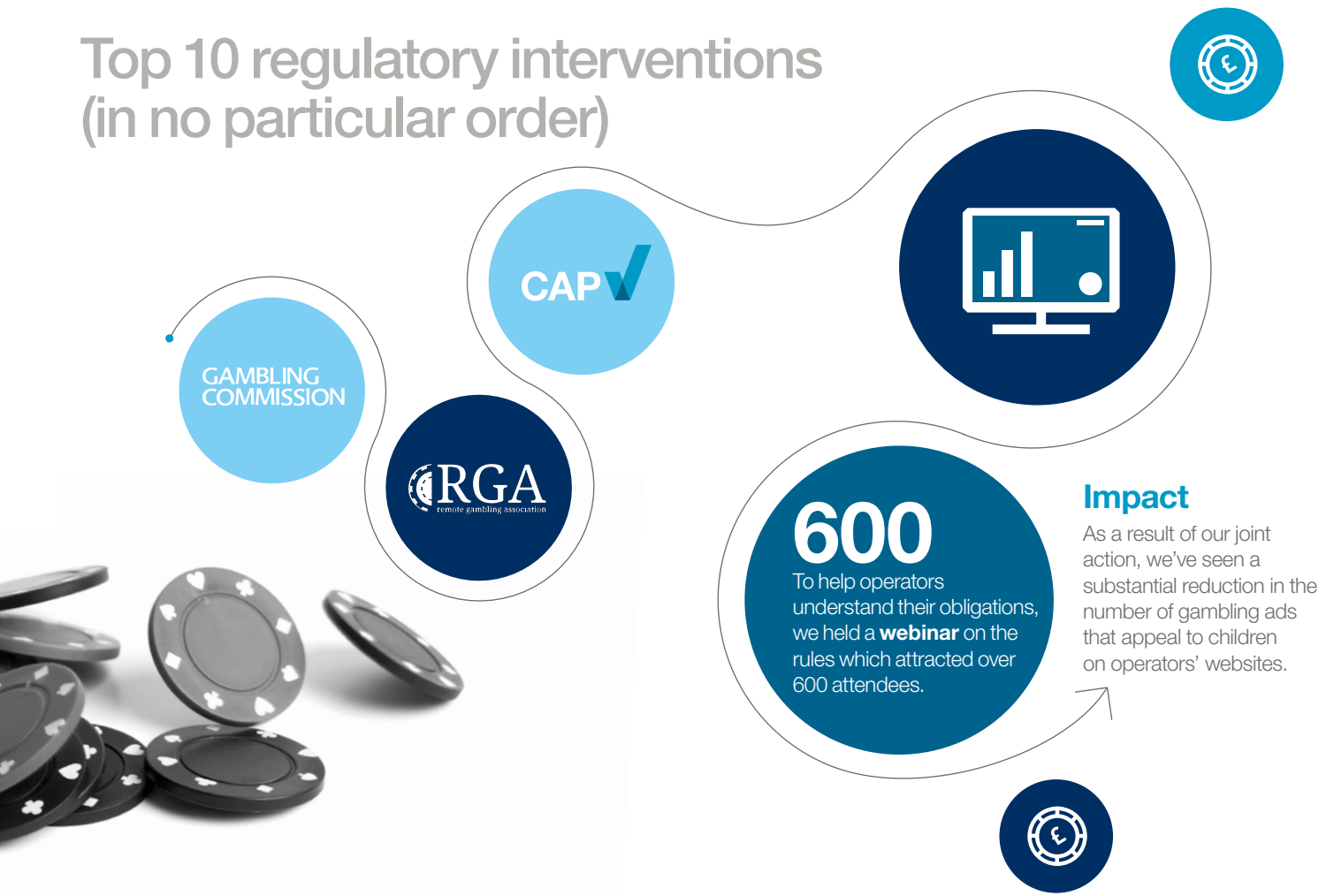
The ASA launched the findings of a report into gender stereotyping in advertising at a Parliamentary reception at Westminster.



Performance against our objectives

Objectives	Key activities				Key performance indicators
					Key to KPI progress: ✔ On-target ⚠ Requires action ✘ Off-target
 <p>Overarching objective We will continue implementing our strategy in pursuit of our ambition to make every UK ad a responsible ad, protect people and help them, society and business to feel more able to trust advertising</p>	Irresponsible ads tackled and support provided to make ads responsible	New joint ASA/CAP website successfully launched in early March	Protected the vulnerable through new rules on foods high in fat, salt or sugar and sexualised depictions of 16- and 17-year-olds	Substantial action in the gambling sector, including against affiliate ads, gambling operators' websites and in response to the DCMS gambling review	<p>7,099 ads amended or withdrawn ✔</p> <p>389,289 pieces of advice and training delivered ✔</p>
 <p>1. Maintaining our reactive/proactive balance We will refine our use of research/other intelligence and improve the effectiveness of our project work</p>	Produced quarterly Formal Intelligence Gathering reports to identify and analyse new and emerging issues	Completed Gender Stereotyping in Ads and Broadband Speed projects	Completed/progressed many other projects, including: Broadband Fibre; Reference Pricing; Online Labelling of Ads; and Subscription Models		<p>56% complainant satisfaction and 71% advertiser satisfaction – against targets of 75% ✘</p> <p>98% of Formal investigations cases enforced – against a target of 97% ✔</p> <p>4 out of 12 case types closed within target timescales ✘</p>
 <p>2. Increasing advice and training We will implement the findings of our review of our CAP advice and training services, helping us to increase our advice and training Touchpoints to 300,000</p>	Support project findings agreed and commitments made for 2018	Delivered a 39% increase in advice and training Touchpoints, including a 72% increase in online advice	1,014 eLearning sales. Seminar and presentation attendees more than double 2016 figure		<p>Maintain casework productivity: ✔</p> <ul style="list-style-type: none"> • Cost per No Additional Investigation case £65.58 (1% more than 2016) • Cost per Informal Investigation case £231 (1% less than 2016) • Cost per Formal Investigation case £598 (7% less than 2016)
 <p>3. Ensuring joined-up and consistent regulation We will continue to increase our understanding of and collaboration with other stakeholders, regulators and enforcement regimes. We will act on the findings of the independent audit of our performance against our Commitment to Good Regulation</p>	Published Dame Janet Paraskeva's audit of our performance against our Commitment to Good Regulation and responded positively to almost all recommendations	Made substantial progress reviewing how our decision-making meets the requirements of the Public Sector Equality Duty	Engaged with the Office for Product Safety and Standards' Business Reference Panel, agreed a formal MOU with the Competition and Markets Authority and played an active part in the Consumer Protection Partnership	Joined the Consumer Protection Partnership in Wales and the Ministerial Taskforce on Consumers and Markets in Scotland	<p>Maintained balance of reactive complaints casework and proactive regulatory project resourcing: 57% v 19% against target of 55% v 20% ✔</p> <p>Met target for number of high priority and other projects in 2017 ✔</p>
 <p>4. Delivering public research We will deliver our public research commitments, including undertaking two to four pieces of research into the views of the public about ads, and continue to ensure the ASA takes into account the views of those who live in different nations and regions of the UK</p>	Consumer research on Broadband Fibre took place in all four nations of the UK	Reference Pricing fieldwork carried out in Scotland, Wales and England	Held a seminar on Gender Stereotyping research findings in Cardiff		<p>389,289 pieces of advice and training – against target of 300,000 ✔</p> <p>Responded to 95% of standard Copy Advice enquiries within 24 hours – against target of 90% ✔</p> <p>89% satisfaction with Copy Advice service – against target of 90% ✔</p> <p>Improved cost per piece of advice and training by 33% (from £1.80 to £1.20) ✔</p>
 <p>5. Increasing awareness We will accelerate efforts to build awareness of the ASA system, including through launching a new public ad campaign and extending our engagement programme in the devolved administrations</p>	Launched new ad campaign, with 38 donors of space/airtime, many supporting for the first time	£17.8m Advertising Value Equivalent of media coverage generated, down 4.3% on 2016 but our second strongest year in recent memory	Extended devolution engagement programme to Wales. Secured eight meetings with Ministers, Shadow Ministers and Committee Chairs across Welsh and Scottish legislatures		<p>94% of respondents more confident of complying with Ad Codes immediately after an Advice:am event and 91% three months later – against targets of 90% and 70% respectively ✔</p> <p>Conducted two major pieces of research ✔</p> <p>Ensured fieldwork took place in devolved nations ✔</p>
 <p>6. Enhancing skills and capabilities We will make sure we have the skills, capabilities and IT training to undertake our work and deliver our strategy, including improving our understanding of emerging technologies</p>	Audited our digital media skills and established a team of digital specialists who progressed plans for training on emerging technology from 2018	Delivered 980 training sessions to 110.6 employees including internal workshops and Knowledge Sharing Sessions			<p>Prompted awareness 60% (57% in 2016) ✔</p>
 <p>7. Necessary technology We will make sure we have the necessary technology to deliver our strategy, in particular by launching our new case/contact management system</p>	Completed requirements gathering phase of our new case/contact management system, selected supplier, secured revised budget and successfully implemented phase 1 launch in January 2018				

Top 10 regulatory interventions (in no particular order)



1 Tackling irresponsible gambling ads



Sam Wilson & Ed Senior
Compliance Executives, CAP

For gambling, just as with other sensitive products, tough rules are in place to protect children and vulnerable people.

Gambling ads can't be targeted at, or appeal particularly to, children. While for the most part compliance is high, we became aware of some operators advertising casino games using icons featuring child-friendly images, including cartoon animals and fairy-tale characters. Working with the Gambling Commission and the Remote Gambling Association, we sent a 'cease and desist' letter to gambling operators instructing them to remove material that was likely to be of particular appeal to children and that was freely available to view (meaning anyone could see it online without having to verify that they were aged 18+). To help operators understand their obligations, we held a webinar on the rules which attracted over 600 attendees.

The aim was to enforce robustly the protections in place for children. Our monitoring of the sector indicates our actions have had a substantial effect.

To further strengthen the protections already in place, CAP published new guidance for advertisers of age-restricted products (such as gambling and alcoholic drinks) online. These standards require that advertisers prove they took full advantage of the range of social media targeting tools to ensure their ads are directed away from children. Simply filtering users according to age alone is unlikely to be sufficient since some children are registered with false dates of birth. The burden of proof is on the advertiser to show they've used the interest-based tools to target their ad responsibly.

"The aim was to enforce robustly the protections in place for children."

The rules also protect vulnerable people from ads which encourage problem betting behaviour.

In October, we investigated complaints about five gambling operators after their affiliate (a company paid to drive 'clicks' to the gambling operator's site) produced an ad which suggested that gambling could provide an escape from depression and solve financial concerns. Specifically, the ad claimed the husband was able to fund his wife's cancer treatment after a successful bet. This was an obvious and major breach of the rules, for which the five gambling companies were held jointly liable along with the affiliate, even though they claimed not to have seen or approved the ad. The ruling makes clear that operators need to ensure any marketing produced by their affiliates is in line with the rules.

Several gambling companies pledged to review or scale back their affiliate programmes following the ruling.

2 Targeting alcohol ads responsibly online

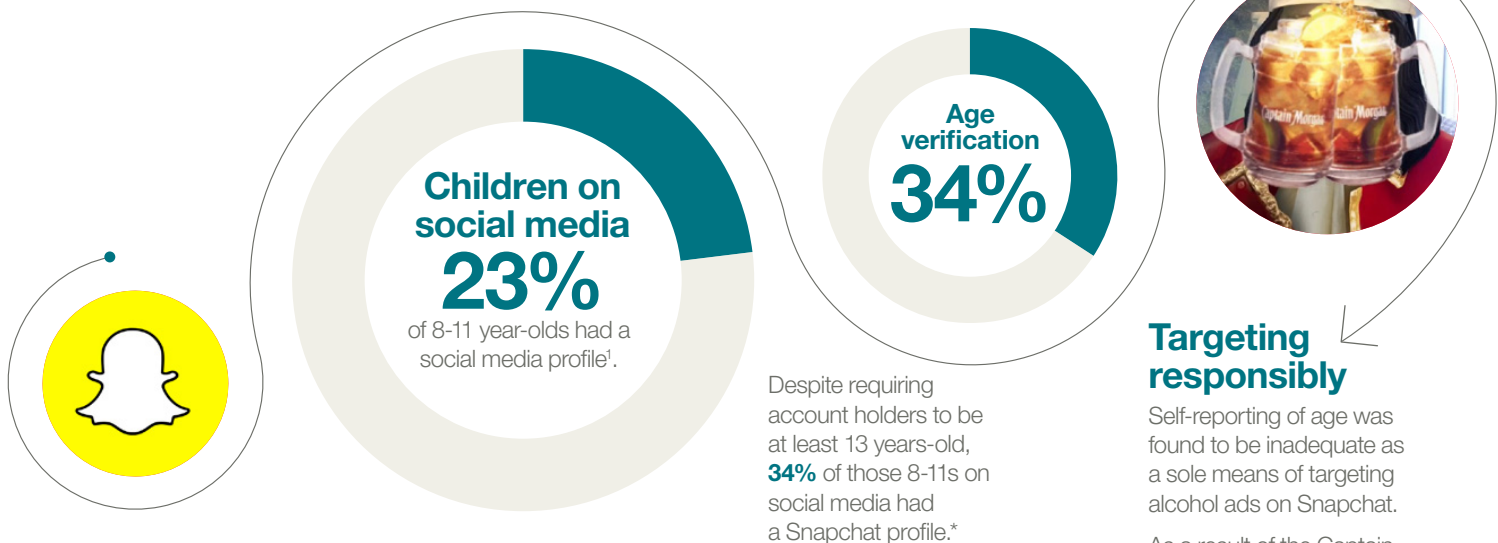


Nina Singh
Investigations Executive,
ASA

CAP's new standards requiring advertisers to show they've targeted ads appropriately on social media were applied in the ASA's ruling on Diageo's Captain Morgan's rum. A Snapchat lens made users' faces appear as a buccaneer with clinking glasses,

references to "Captain" and cheering sounds which were found to be likely to appeal particularly to children. One of the issues investigated was whether the lens was directed at people under 18. At the time, Snapchat was limited to filtering users by location and age, so Diageo chose to target the lens at 'over 18s' in the UK. We assessed the audience data provided by Snapchat and established that there is a large number of 13- to 17-year-olds in the UK who have accounts on Snapchat.

We also considered research by Ofcom which showed that 34% of a group of 104 children (8- to 11-year-olds) who reported having social media accounts were members of Snapchat. The investigation concluded that these figures show at least some of the audience were younger than their reported age. This calls into question self-reported ages, suggesting they're not, by themselves, a robust enough way to target ads on a platform which has a large child audience.



3 Implementation of the new food and drink advertising rules



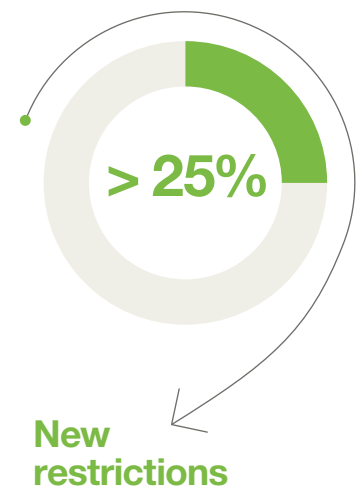
Andy Taylor
Regulatory Policy Executive,
CAP

Too many children are overweight or obese when they leave school – a major risk driver of ill-health in later life. While evidence suggests marketing plays a relatively small part in obesity, last year CAP announced new advertising restrictions for products which are high in fat, salt or sugar (HFSS) in non-broadcast media.

The new rules prohibit HFSS ads in children's media or where they make up more than 25% of the audience. They also prohibit the use of licensed characters and celebrities popular with children and promotions.

Since the rules came into effect on 1 July, we haven't seen evidence of widespread non-compliance and complaint levels have been low. CAP has assisted through providing extensive training and advice over 2017.

To further enforce the new restrictions, the ASA is expected to rule on the first significant precedent cases in 2018. CAP is also planning a wide ranging compliance and monitoring exercise in summer 2018. While the broad picture looks positive, concerns persist in areas such as promotions and social media engagement. These areas will be priorities when we come to assess the impact of the new restrictions.



HFSS ads are now prohibited in children's non-broadcast media or where children make up more than 25% of the audience.

* Ofcom Children and parents: media use and attitudes report (2016).

5 Tackling subscription traps



Jim Tebbett
Senior Compliance Executive,
CAP

It's official. The public love subscriptions, with figures from Citizens Advice showing 40 million people in the UK subscribe to at least one product or service. But with Citizens Advice also finding that consumers pay an average of £50 a month on unwanted subscriptions, and the EU stating that 97% of websites that offer a free trial subscription use at least one unlawful practice, it's more important than ever that advertisers are clear about what consumers are signing up to. This is particularly true where customers are tempted by a "free trial" or promotional offer.

The ASA has consistently ruled that ads which seek to enrol consumers into an ongoing subscription should present all significant conditions. One such condition is when a paid subscription starts automatically (after the trial) unless the arrangement is cancelled. Another is the extent of the financial commitment if the subscription is not cancelled during the trial. These significant conditions need to be prominent and distinct and should immediately follow the most prominent references to the trial or offer.

Taking on board research from partners, and building on ASA Council rulings, CAP published new guidance for advertisers about how to advertise subscriptions which start with "free trials" or promotional offers. Working alongside our partners in the Consumer Protection Partnership, we published the guidance in November's National Consumer Week.

The guidance was coordinated with the "Not what you signed up for campaign", delivered by Citizens Advice through leaflets, posters, consumer education packs and on social media.

Signs so far are promising, and we'll continue to scrutinise subscription arrangements in ads. We'll take any action necessary to make sure they're fair to consumers.

"...it's more important than ever that advertisers are clear about what consumers are signing up to."

JUSTEAB

National Bootie Day
New VIP Member Exclusive
First Style
from **£9**
That's 75% Off

New VIP Member Exclusive
FIRST PAIR FROM £9

New VIP Member Exclusive
FIRST PAIR FROM £9

£50

Consumers pay an average £50 a month on unwanted subscriptions.



40 million
people in the UK are
signed up to at least
one subscription

Ruling

The ASA ruled that this ad did not make sufficiently clear that by joining the website as a "VIP" member consumers would be enrolling in a £35 per month subscription contract.

6 Ensuring broadband ads don't mislead



Andrew Bruce
Operations Manager –
Investigations,
ASA

In response to concerns about speed claims in broadband ads, the ASA commissioned consumer research to assess levels of understanding.

It was clear from the findings that the existing standards – which permitted headline speed claims that were achievable by at least 10% of customers – were not sufficient to prevent consumers being misled. CAP went to work in reviewing the guidance, resulting in a new and tougher set of standards which will come into force in May 2018. From that

date, the speed quoted in broadband ads must be the median 'average' speed – this means the speed that's received by at least 50% of customers at peak time (between eight and ten at night). National ads can't tell everyone the exact speed they'll receive, because speeds are so specific to individual households, but this new approach will give customers a better indication of the speed they're likely to get with a particular service.

As CAP produced its new speed guidance, the ASA announced the conclusion of a review into the use of the word "fibre" in broadband advertising. Most "fibre" broadband doesn't just use fibre optic cables; the final strand of the connection to a customer's home is made using existing telephone wires or other cables (meaning the service is "part-fibre"). New products

which deploy fibre optic cables all the way to a customer's home are available in some parts of the country (running to about 3% of premises currently, but increasing). These "full-fibre" products can deliver a faster, more consistent service.

We conducted a review, which amongst other elements included commissioning and publishing more independent research. The review's outcome concluded that consumers are not being misled by the use of the word "fibre" to describe part-fibre services. While we announced there wouldn't be a change, we advised broadband companies to take care when advertising "fibre" broadband, including by following CAP's new speed guidance and avoiding phrases such as "most advanced on the market" if the service is part-fibre.

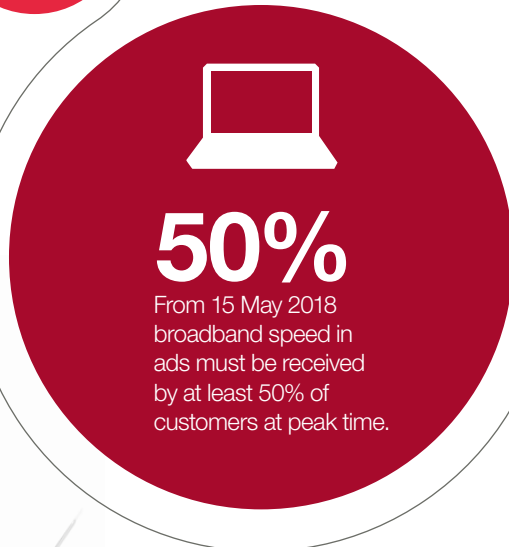
"A new and tougher set of standards will come into force in May 2018."



Source: Sky

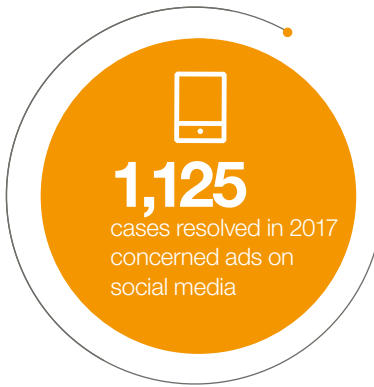
Previously

Headline "Up to X Mb/s" speed claims only needed to be achievable by at least 10% of customers.



Going forward

Consumers will see ads (like the one above) with median 'average' speeds.



Transparency

The ASA ruled that this snap was misleading because it needed to make clear it was an ad, since there was a commercial relationship between Marnie Simpson and Diamond Whites.

7 Making sure influencer ads are labelled transparently



Wura Sanusi
Investigations Executive,
ASA

It's increasingly common for brands to engage influencers on social networks such as Instagram, YouTube and Twitter to promote their products or services. The Advertising Codes don't prohibit this type of relationship, as long as brands and influencers are upfront that the content is an ad. Followers shouldn't be misled into thinking that material paid for and controlled by the brand is independent editorial

content. Since the relationship between an influencer and followers is based on trust and authenticity, transparency about commercial content is in everyone's interests.

Compliance in this area needs to improve, so we worked with digital and talent agencies to make sure they, and influencers themselves, are clear about the standards required of them. We issued simple guidance on how to label ads online – for example using '#ad' or something equally clear. We also announced forthcoming research into the public's recognition of ad labelling online to make sure our standards are in the right place.

In October, Geordie Shore star Marnie Simpson was the subject of the ASA's first ever ruling on a Snapchat ad. The snap showed an image of the influencer holding a product alongside a promotional link to the Diamond Whites brand's website. Our investigation found that more ought to have been done to make clear that the snap was advertising, rather than editorial content. Both the influencer and the brand agreed to use an appropriate indicator going forwards.

More work is planned to ensure consumers are not misled by poorly labelled advertising from influencers and brands.

8 Comparative claims for universities mustn't mislead



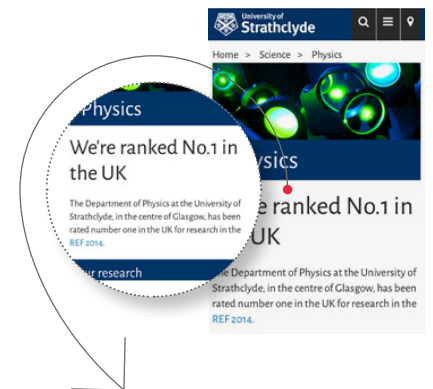
Helen Mathews
Investigations Executive,
ASA

The higher education sector is a competitive market, with universities often using comparison claims in their advertising such as students' grades, rankings in published league tables, graduate prospects, teaching ratings and student feedback.

In June we informally resolved a complaint about a "top 1% in the world" claim made by a university. Media interest prompted a series of further complaints about similar comparative claims by other universities. These cases were investigated as a group to draw lessons that could be taken forward by the sector as a whole.

The investigations found that, in total, six UK universities broke the advertising rules with claims that had not been substantiated, or through misrepresenting the sources on which the claims were based (including the findings of surveys and rankings). Examples of problematic claims included "Top university in England for long-term graduate prospects" and "The UK's No. 1 Arts University".

Alongside the publication of these rulings, CAP issued detailed guidance on how to make responsible comparative claims in the higher education sector, and how such claims can be substantiated. As ever, the burden is on the advertiser to show they can evidence what they claim in ads.



Misleading claims

The ASA ruled that this ad misleadingly implied the Research Excellence Framework (REF) 2014 had ranked the University of Strathclyde as the top performing physics department in the UK for research.

9 Ensuring holiday prices are fair to consumers



Lexie Kirkconnell-Kawana
Investigations Executive,
ASA

Package holidays are made up of moving parts: hotel rates change according to the number of vacancies; flight costs move as seats are bought up; commission rates vary. The travel company pulls together the ingredients into a single package, with added profit margin, and then advertises it to the customer. Since the costs of the component parts fluctuate, it's not uncommon to find that the package holiday cost changes several times each day.

This model is called "dynamic pricing", an approach that's become the norm as websites allow holiday companies to update their prices easily.

The Advertising Codes require advertisers to monitor availability and to give consumers the most up-to-date information about prices. In 2017, the ASA investigated over 250 complaints about travel ads, the majority of which were about holidays not being available at the price offered, or notional "savings" claims which couldn't be proved. These claims cause consumers to lose out because they might otherwise have shopped around. Sometimes the discount itself is time-limited, causing the customer to rush a transaction thinking the package is better value than it is.

Unsubstantiated 'discounts' were the problem in rulings published at the start of the summer against TUI and Jet2. We found the advertisers hadn't done enough to prove there was a meaningful saving. In the absence of further information about the basis of the comparator (or pre-discount) price, TUI and Jet2 were unable to prove the discount was genuine. The ads had to be changed or withdrawn.

While price fluctuations present challenges for advertisers, brands need to take reasonable steps to reduce the likelihood of consumers being misled. While recent work has focused on the travel industry, these pricing practice issues are a symptom of our fast-moving, increasingly connected world. We can expect to see similar challenges elsewhere. To help advertisers understand their obligations, we'll continue to provide resources and guidance on how prices can be presented responsibly.

"While price fluctuations present challenges for advertisers, brands need to take reasonable steps to reduce the likelihood of consumers being misled."



Hotel vacancies

Package holidays

are made of many moving parts...

Seat availability

Dynamic pricing

is tricky, but the ASA is protecting consumers to make sure they are not being misled.

Varying commission rates

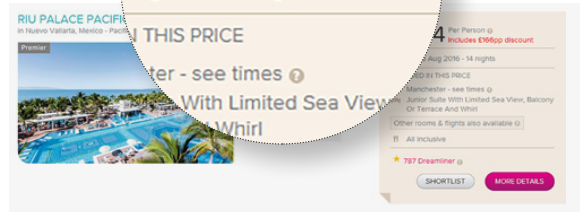


250

complaints were investigated by the ASA about travel ads

4 Per Person **Includes £166pp discount**

Aug 2016 - 14 nights



Ruling

The ASA ruled the savings claim in this TUI ad was misleading because of the basis of the comparator prices, online versus in-store, was not clear and TUI could not sufficiently evidence the discount.



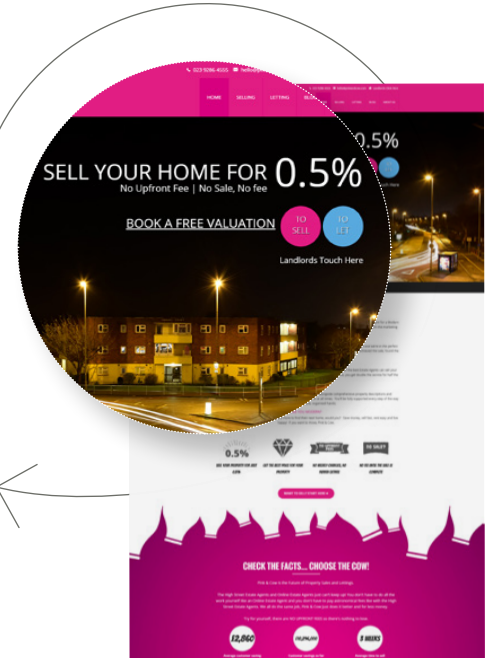
755

Property complaints
were resolved last year



Ruling

The ASA ruled this ad from Pink and Cow estate agents was misleading because it failed to clarify that the 0.5% fee did not include accompanied viewings.



10 Compliance action on estate agents



Nick Hudson
Operations Manager –
Compliance, CAP

The property sector is a dynamic marketplace. One of the most significant developments in this market has been the growth of online and in particular online-only estate agents. This change of model has sometimes been marketed through messages about competitiveness, both in terms of the fees payable and service offered. We noted an increase in the numbers of complaints received in this area, often about similar advertising issues. We also noticed an unusually high number of enquiries to our press office and engagement with our social media channels from people who sought to draw attention to difficulties experienced. Recognising that there were a number of repeat problems with potentially misleading issues in the property sector, we decided to draw these issues to the sector's attention through publishing clear guidance on the rules.

Estate agents are regulated under the Estate Agents Act 1979, with regulation being overseen by the National Trading Standards Estate Agency Team (NTSEAT). We worked closely with the NTSEAT to produce clear guidance under five specific headings:

- qualifications or exclusions to advertised fees;
- presentation of VAT on fees;
- 'fact-stretching' on property descriptions;
- the accuracy of comparative savings claims;
- the reliability of claims about local expertise.

The guidance was published as an 'Enforcement Notice', underlining that estate agents must take immediate action to ensure their ads complied. We were clear that if we continue to see problems in these areas we'll take targeted enforcement action to ensure a compliant level-playing-field in the market. Where advertisers are unwilling or unable to comply, referral to our legal

backstop, Trading Standards, was underlined as an option. NTSEAT then disseminated the guidance to all UK estate agents. We'll be following this up in 2018 with monitoring which will include tracking the levels of complaints and engagements with our social media channels to make sure the guidance has had the right impact.

“Recognising that there were a number of repeat problems with potentially misleading issues in the property sector, we decided to draw these issues to the sector's attention through publishing clear guidance on the rules.”

Complaints and cases in context

Resolving complaints and cases

Our action on misleading, harmful or offensive ads

There are three types of action the ASA can take.

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

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

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

Complaints and cases resolved

+14%

more cases were resolved than in 2016, while complaints resolved were down 5%



-5%
complaints resolved

2017

the internet overtook TV as the most complained about medium



	Non-broadcast		Broadcast		Overall totals	
	Complaints	Cases	Complaints	Cases	Complaints	Cases
▶ Total not investigated	12,053	10,695	10,006	4,973	21,837	15,477
Outside remit	2,513	2,370	650	508	3,152	2,867
No additional investigation	9,540	8,325	9,356	4,465	18,685	12,610
▶ Total investigated	4,312	3,709	1,051	260	5,301	3,921
Informal investigation	3,438	3,170	366	154	3,781	3,303
Formal investigation	874	539	685	106	1,520	618
Of which:						
Upheld/upheld in part	591	353	335	62	903	402
Not upheld	154	73	280	33	419	93
Withdrawn cases	129	113	70	11	198	123
▶ Total complaints and cases resolved	16,365	14,404	11,057	5,233	27,138	19,398

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

Ads amended or withdrawn

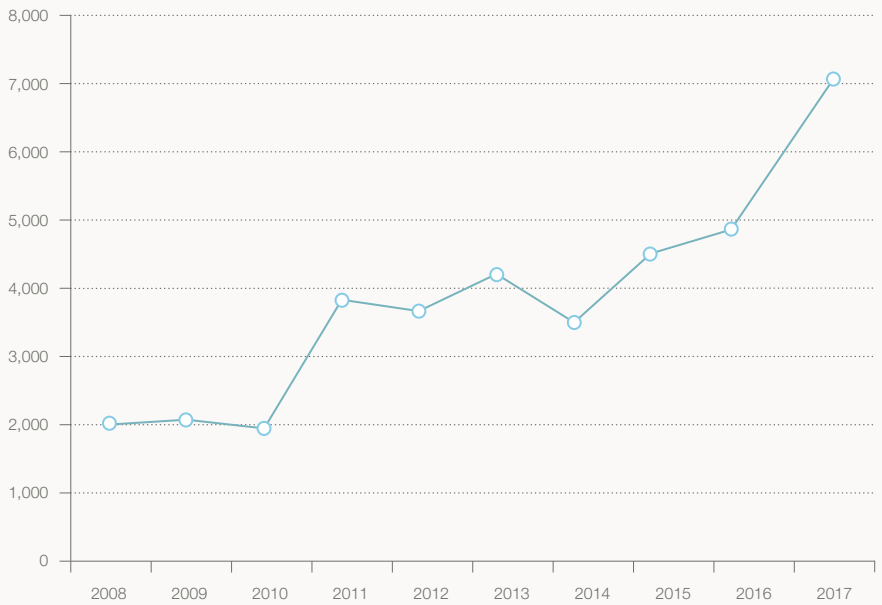
7,099

ads were amended or withdrawn in 2017, a 47% increase on 2016

47%
increase on 2016

2017

the health and beauty sector had the most ads amended or withdrawn



Turnaround performance

4 of 12

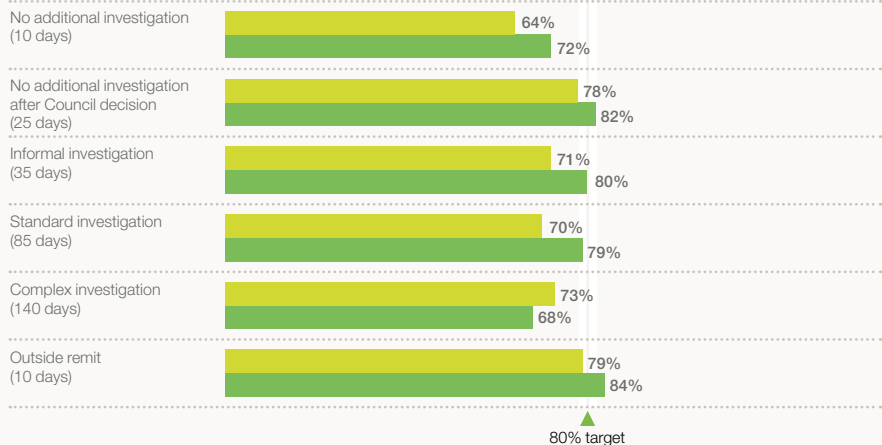
of our turnaround KPIs were met



We are reviewing our turnaround targets to ensure they are stretching, but achievable.

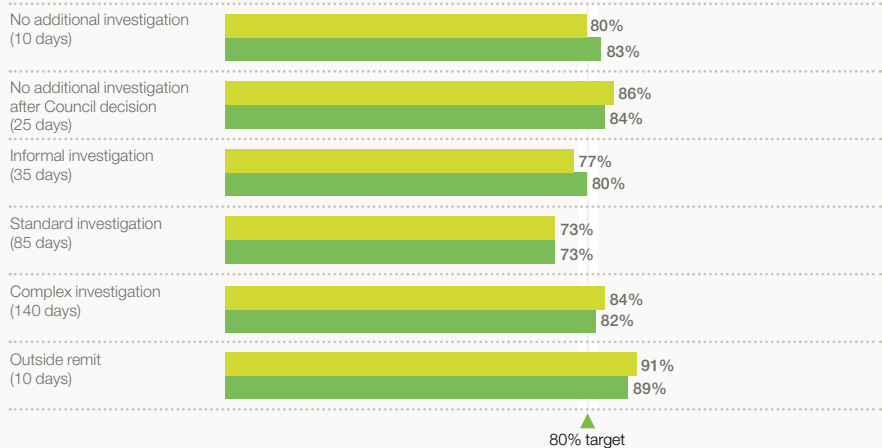
Non-broadcast

% on target for different case types



Broadcast

% on target for different case types



Complaints & cases in context

Trends in complaints and cases

Complaints and cases resolved by media

-29%

decrease in television complaints



+5%
increase in internet complaints



+7%

increase in email cases



+4%

increase in radio cases

Sector	2017		2016	
	Complaints	Cases	Complaints	Cases
Internet	10,932 (+5%)	9,951 (+8%)	10,431	9,201
Television	9,466 (-29%)	4,666 (+5%)	13,356	4,455
Email	964 (+6%)	924 (+7%)	912	860
Radio	854 (+13%)	609 (+5%)	758	581
Outdoor	810 (-26%)	571 (+4%)	1,100	548
National press	708 (+5%)	543 (-1%)	672	549
Point of sale	529 (+1%)	493 (+8%)	525	458
Leaflet	439 (+50%)	394 (+61%)	293	245
Direct mail	333 (-2%)	315 (+5%)	341	299
Regional press	303 (-11%)	258 (-4%)	342	270
Brochure	299 (+8%)	281 (+10%)	278	255
Packaging	291 (+61%)	285 (+150%)	181	114
Magazine	285 (-3%)	262 (+6%)	294	247
Transport	245 (-59%)	155 (-47%)	593	291
Other	239 (-21%)	191 (-24%)	303	250
In-game advertising	212 (+80%)	202 (+84%)	118	110
VOD	173 (-14%)	117 (-2%)	200	119
Cinema	141 (+19%)	85 (0%)	118	85
Press general	103 (+94%)	78 (+59%)	53	49
Text message	98 (+18%)	97 (+17%)	83	83
Circular	86 (-38%)	73 (-34%)	138	111
Mailing	67 (-38%)	60 (-33%)	108	89
Catalogue	61 (-25%)	60 (-21%)	81	76
Insert	48 (-17%)	37 (-31%)	58	54
Mobile	44 (-40%)	40 (-38%)	73	64
Directory	18 (0%)	18 (+6%)	18	17
Ambient	14 (-33%)	13 (-32%)	21	19
Fax	2 (+200%)	2 (+200%)	0	0
Voicemail	0 (-200%)	0 (-200%)	2	2

Complaints & cases resolved by sector

+26%
increase in health
and beauty cases

+11%
increase in
leisure cases

-37%
decrease in
non-commercial
complaints

+14%
increase in retail
cases

Sector	2017		2016	
	Complaints	Cases	Complaints	Cases
Leisure	4,371 (-22%)	3,327 (11%)	5,574	2,993
Retail	4,165 (7%)	3,431 (14%)	3,894	3,006
Health and beauty	2,993 (14%)	1,858 (26%)	2,624	1,476
Financial	2,340 (-39%)	1,339 (17%)	3,811	1,149
Food and drink	2,257 (4%)	1,254 (17%)	2,160	1,071
Business	2,131 (31%)	1,746 (25%)	1,626	1,397
Holidays and travel	1,934 (8%)	1,614 (14%)	1,798	1,412
Non-commercial	1,651 (-35%)	899 (1%)	2,521	894
Computers and telecommunications	1,642 (4%)	1,114 (-8%)	1,573	1,209
Property	762 (61%)	610 (39%)	472	439
Household	735 (24%)	478 (11%)	591	430
Motoring	669 (35%)	431 (12%)	497	385
Publishing	387 (11%)	346 (20%)	350	289
Utilities	240 (-31%)	212 (-4%)	346	221
Unknown*	222 (1%)	221 (3%)	219	215
Education	167 (18%)	161 (22%)	141	132
Alcohol	160 (40%)	136 (25%)	114	109
Clothing	128 (73%)	62 (27%)	74	49
Employment	123 (41%)	107 (37%)	87	78
Industrial and engineering	31 (41%)	23 (10%)	22	21
Tobacco	21 (320%)	21 (320%)	5	5
Agricultural	9 (-53%)	8 (-50%)	19	16
Electrical appliances	0 (-100%)	0 (-100%)	3	3

* includes complaints about advertising in general.

Complaints & cases resolved by issue

Over 3/4

of non-broadcast
complaints concerned
potentially misleading
ads versus...

1/3
of broadcast
complaints

Issue	2017				2016			
	Non-broadcast		Broadcast		Non-broadcast		Broadcast	
	Complaints	Cases	Complaints	Cases	Complaints	Cases	Complaints	Cases
Misleading	13,135 (78%)	12,167 (83%)	3,840 (33%)	2,499 (46%)	12,013 (73%)	10,570 (80%)	4,187 (28%)	2,481 (46%)
Offensive	2,130 (13%)	1,250 (8%)	5,814 (51%)	1,931 (36%)	2,131 (15%)	1,018 (8%)	8,011 (53%)	1,621 (33%)
Harm	852 (5%)	606 (4%)	1,424 (12%)	696 (13%)	770 (6%)	595 (5%)	1,966 (15%)	756 (16%)
No issue/ miscellaneous	723 (4%)	689 (5%)	412 (4%)	294 (5%)	888 (6%)	832 (7%)	503 (4%)	241 (4%)

N.B. Numbers in brackets represent percentage totals of complaints and cases by issue. Percentages may not add up to 100%, as they are rounded to the nearest per cent.

ASA Council

The ASA Council is the independent jury that decides whether an ad has broken the Advertising Codes. Two-thirds of the Council on each panel are independent of the advertising and media industries and the remaining members have a professional background in the advertising or media sectors.

Collectively, members offer a wide range of skills and experience from different perspectives.

In addition to being the jury that decides on whether ads have broken the advertising rules, the Council operates as the Board of the ASA.

On 1 October, we were delighted to welcome Lord (David) Currie who succeeded Lord (Chris) Smith as the ASA's new Chairman.

Earlier in the year we also said goodbye to Hamish Pringle, Sir Martin Narey and Ray Gallagher, and welcomed Tess Alps, Tracey Follows and Neil Stevenson to Council.

In 2017

The ASA Council ruled on cases in

62 sessions



11

meetings were
face to face



Resulting in

495

formal rulings



51

sessions were
via our Council
Online portal



Chairman

Lord Currie of Marylebone

Chairman of the ASA and CMA;
former founding Chairman of Ofcom



Independent members

Kate Bee

Freelance journalist;
Director, The Sober School



B N

Alan Bookbinder

Director, Sainsbury Family
Charitable Trusts



B N

Advertising industry members

Reg Bailey

Member, BBFC Advisory Panel
on Children's Viewing, Advertising
Association's Media Smart
Expert Panel



B N

Roisin Donnelly

Portfolio Non-executive Director;
Former CMO of P&G Northern Europe



B N

Rachel Childs*

Home Education English Lead
for The Reintegration Service in
West Berkshire; Former Junior
School Headteacher



B N

Wesley Henderson

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



B N

Tracey Follows

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



B N

David Hepworth

Writer and broadcaster
Director, Mixmag Media Ltd



N

Suzanne McCarthy

Chairs, Depaul UK; Southwark and
Lambeth Integrated Partnership;
Joint Audit Panel MOPAC and MPS



B N

Shireen Peermohamed

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



B N

Tess Alps

Chair of Thinkbox; Former first
Chief Executive of Thinkbox



B

Neil Stevenson

Chief Executive of the Scottish Legal
Complaints Commission



B N

Sam Younger

Public Interest Council Observer,
Chartered Institute of Taxation;
Vice Chair, Voluntary Service
Overseas; Chair, CILEX Regulation



B N

Key

B Broadcast Council

N Non-broadcast Council

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

Committees of Advertising Practice

CAP and BCAP are responsible for writing and updating the UK Advertising Codes.

Chaired by James Best, the Committees are made up of representatives of advertisers, agencies, media owners and other industry groups, all of which are committed to upholding the highest standards in non-broadcast and broadcast advertising.

Committee of Advertising Practice (CAP)

Advertising Association
 Cinema Advertising Association
 Direct Marketing Association
 Direct Selling Association
 Incorporated Society of British Advertisers
 Institute of Practitioners in Advertising
 Institute of Promotional Marketing
 Internet Advertising Bureau
 Mobile UK
 News Media Association
 Outsmart Out of Home
 Professional Publishers Association
 Proprietary Association of Great Britain
 Royal Mail
 Scottish Newspaper Society
 Television on Demand Industry Forum
 Clearcast
 Radiocentre

Broadcast Committee of Advertising Practice (BCAP)

Advertising Association
 BT
 Channel 4 Television Corporation
 Channel 5 Broadcasting Ltd
 Commercial Broadcasters Association (CoBA)
 Direct Marketing Association
 Electronic Retailing Association UK
 Incorporated Society of British Advertisers
 Institute of Practitioners in Advertising
 ITV plc
 Sky UK Ltd
 STV
 Clearcast
 Radiocentre
 S4C

Note

Clearcast, Radiocentre and S4C have observer status on the Committees.

CAP and BCAP convened formally

6
times



23



Projects were supported by the committees



Consultations

They were involved in public consultations on the advertising rules on broadband speeds, sexual portrayals of under-18s as well as two consultations on e-cigarettes.

Chris Smith – Thank you for ten years

During 2017 the ASA team said goodbye to our much admired Chairman Lord (Chris) Smith, who completed his term of office.

Chris was appointed ASA Chairman in 2007, overseeing the growth of the organisation over the subsequent decade. At a packed farewell reception in October, Sir Chris Powell, Chairman of the Advertising Standards Boards of Finance, and ASA Chief Executive Guy Parker expressed the appreciation of staff, advertising industry and other stakeholders for Chris' leadership.

"It's been our pleasure and our honour to work with Chris for the past ten years.

In that time, he's overseen an ASA that's dealt with 293,808 complaints relating to 166,585 ads or ad campaigns. An ASA that's secured the amendment or withdrawal of around 34,800 ads. And one that's helped CAP to provide over one

and a quarter million pieces of advice and training to the industry, to help them get their ads right before they run them.

He's led an ASA that now spends 50% of its time regulating online advertiser-owned advertising that was not even within our remit before 2011. He's masterminded the ASA's strategy to become more proactive, which has led to important changes in many areas, including broadband advertising and gender stereotyping. And he's led a fantastic ASA Council, appointing 22 superb members since he started."

Guy Parker

"Thank you Chris Smith for your contribution to advertising regulation."





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