asbof

Annual Report 2016/17

(company limited by guarantee and not having a share capital)
Registered office:
7th Floor North, Artillery House
11-19 Artillery Row
London SW1P 1RT

Tel: 020 7340 0210
Email: info@asbof.co.uk
Website: www.asbof.co.uk
Registered in England No. 1195756

a small levy that makes a big difference

The Advertising Standards Board of Finance Limited

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asbof:

CHAIRMAN'S REPORT

The most important single task of the Asbof Board is the appointment of the (part time, but Executive) chair of the ASA. The Chair sets the tone, is key to the main decisions and is responsible for the appointment of the Council and the Chief Executive. We are fortunate that Lord (Chris) Smith has fulfilled this role brilliantly over the past ten years, but he steps down this summer.

This past year we set about, with the head-hunter Odgers, finding a new Chair. After an exhaustive process with many excellent candidates we have been lucky enough to be able to appoint Lord (David) Currie. David, an economist, has been the founding Chair of both Ofcom and the Competition and Markets Authority - both of which roles touch on the work of the ASA. His repute and his knowledge of regulatory matters are immense.

The ASA has been so well led for so long it would be easy to become complacent about its future, but we will always be vulnerable to those who would rather see regulation taken out of our hands. Only a short while ago there was a Lords debate questioning the appropriateness of the self-regulation of advertising. While there was little support for state intervention, we were reminded that few economic sectors are allowed to regulate themselves, self-regulation has become a minority habit!

It is our view that all benefit from regulation that keeps advertising “legal, decent, honest and truthful". The balance of the dominant lay membership of the ASA Council and the expertise of those involved in advertising provides both a sensitivity to the public interest and a practical knowledge of what is achievable. The ASA can be supple and speedy in a way that would be difficult for a statutory body. Council, with the co-operation of the media, can be quick to take down advertising that offends against the rules without mistaking the occasional miscreant for advertising as a whole.

We face twin threats.

The first is that the quality of the ASA's service and decisions declines, losing public and political support. More than anyone else's, it is the task of the Chair to maintain the high standard.

The second is inadequate finance. For many decades the work of the ASA has been supported by a 0.1% levy on all spend. Advertisers, Agencies and the Media have all understood the importance of this and payment and collection have run smoothly. However, the arrival and growing dominance of the web have brought into the advertising world companies that are new to this world, often US based (where there is no established self-regulation) and with a suspicion of outside 'rules'.

The UK management of the Search and social media companies are sympathetic and helpful but have to work, especially in the case of Search, within the constraints of what their owners will allow. We are jointly making progress but have still not achieved widespread collection of the levy from direct advertisers on the web. It is vital that we manage to institute opt out collection of the levy (as is the case in all other media) if we are to continue to be able to properly fund the ASA. For now our finances are secure. Asbof levy income rose by 8% in 2016/7 to reach £5.1m.

Of the two major web media: Facebook is seeking to add opt out levy payments to their direct invoices. Google UK have put in place an opt in system that has so far attracted fifteen major direct spenders producing the relatively minor sum of £190k pa (in all fields opt in only produces a small fraction of the return of opt out. Opt out is the lifeblood of UK self-regulation).

You will see in the ASA report that they have supplemented their complaint handling with reviews of fields of advertising which are known to be problematic, heading off problems before they become complaints. Not only is this better for consumers but it should lighten to load of complaints to the ASA.

2016/7 also saw a return to advertising by the ASA to keep the service it provides in front of the public and politicians.

Asbof is well served by its Board. All members give their time voluntarily. In the past year two stalwarts have moved on - Mike Hughes of ISBA and Tim Lefroy of the AA after many years of great support of the cause. Phil Smith and Stephen Woodford have joined the Board in their place.

We are also well served by James Best assiduously and patiently Chairing CAP, Sir Hayden Philips elegantly and thoroughly handling appeals and the tiny secretariat at Asbof. All deserve our thanks.

Sir Chris Powell
Chairman

19 October 2017

ADVERTISING STANDARDS AUTHORITY REPORT

2016 marked the year when we achieved the desired re-balancing of our work from reactive Complaints casework – still a crucial activity for us – to more proactive, intelligence-led, project-based work, with 22% of our direct service activity devoted to regulatory projects compared to 8% in the year before the launch of our strategy (2013).

We completed and implemented our Broadband Pricing project – following which we have been pleased to see almost 100% compliance with our tougher standards, including our requirement for all-inclusive pricing - and made extensive progress on our Gender Stereotyping and Broadband Speed projects. We completed six other projects on rent-to-own websites, claims management companies' ads, travel pricing substantiation, auction websites, disclosing vloggers ads and claims on osteopaths' ads. In response to some industry concerns about the dividing line between the ASA interpreting rules and CAP setting the rules, we introduced a protocol on the ASA and CAP respecting each other's primary responsibilities, which we put into practice with our CAP-led response to our Broadband Speed project.

We delivered against our two priority public KPIs: tackling irresponsible ads through securing the amendment or withdrawal of 4,824 ads and helping to make ads responsible by delivering 281,061 pieces of advice and training, both record highs, up 5% and 10% on 2015, respectively.

We protected the vulnerable through our rulings and high profile CAP activity, including preparing for the introduction of the ban on HFSS ads in children's non-broadcast media.

On the reactive casework side, we completed 6.6% more non-broadcast and broadcast cases than in 2015. Cases have now been increasing since Q2 2015. The recent decline in Formal Investigations (in significant part, a consequence of greater prioritisation under our strategy) began to level off, with those cases only 1.8% down. Productivity was good, with the Cost/No Additional Investigation case level with 2015 and the Cost/Informal Investigation and Cost/Formal Investigation 1% and 4% better than 2015, respectively. We met eight out of 12 of our turnaround KPIs.

Online 'advertiser owned' cases increased compared to 2015 (42% of all cases, compared to 39% in 2015). They continued to be more focused on misleading issues (89%, compared to 73% for all cases) and more likely to be investigated (28%, compared to 21%), but 'online owned' Formal Investigations were no longer more likely to be Upheld (55%, compared to 57%).

We launched the Understanding strand of our strategy, improved our engagement with Scottish stakeholders and made big strides under our Awareness strand, with very welcome progress on the media coverage side in particular. As a result of that media coverage and our own ad campaign, unprompted public awareness increased to a record 25%.

Work on our big capital expenditure projects – our new website and Case Management System - continued. The former delivered our new combined ASA and CAP website a little behind deadline but within budget on 2 March 2017. The latter focused, inter alia, on developing process improvements and collating detailed business requirements; it ran slower than we planned and we now anticipate that most of the building and implementing of the new system will take place in 2018. Expenditure (excluding extraordinary capital expenditure) was within our budget target (97.5-100%).

We spent considerable time and resources on some significant operational challenges in Complaints and Investigations: improving our turnaround/speed performance in the first half of the year and responding to high staff turnover in Complaints, which gathered pace from Q2 and became a problem. Those challenges negatively affected some scores in our otherwise positive Employee Survey (which showed 78% positive engagement overall) and pushed down our complainant satisfaction scores (from 71% to 61%).

Guy Parker

Chief Executive

Advertising Standards Authority

CAP

COMMITTEES OF ADVERTISING PRACTICE REPORT

The advertising codes, for which the Committees of Advertising Practice (CAP and BCAP) are responsible, are living things, as are the many guidance notes that help advertisers comply with them. They are constantly under review and subject to evolution in the light of legal, societal, technological or market developments. All were evident in the past year, with some significant work on CAP's part to keep the Non-broadcast Code and guidance up-to-date.

One major project over the year was our response to growing concern in government and society at large over the 'obesity crisis' besetting the UK, especially as it concerns children's diet and food preferences. Evidence suggested that, although a relatively minor influence, advertising nonetheless plays a part, and the industry agreed that we have a responsibility to support better food and drink choices where possible. After thorough pre-consultation with advertisers and media owners, input from CAP working groups and a full public consultation that received 652 responses, we introduced a new rule banning advertising for HFSS foods and drinks in children's non-broadcast media, including of course online, to match that already present in TV.

Our commitment to the protection of children was also to the fore in proactive work addressing the difficulty younger children may have in identifying the commercial intent of various interactive and immersive online content. Discussion with industry led to new guidance on 'enhanced disclosure' to make sure that children can always understand when an ad is an ad. This has been complemented by further new guidance, resulting from constructive industry input, to help advertisers in sensitive categories ensure that their use of social media does not inadvertently target too young an audience.

Gambling and e-cigarettes, both relative newcomers to mainstream advertising, categories already subject to strict constraints, and subject to critical attack as 'risky products', also provoked much thought on CAP's part. In the case of gambling, we sought evidence of any risk factors present in advertising that we had not identified; despite casting our net wide, none was forthcoming. However, a new DCMS review will bring this category back into focus in the current year. E-cigarettes, on the other hand, became subject to a ban in most media under the EU's Tobacco Products Directive; turning such an unclear piece of legislation into practical guidance for advertisers proved a delicate task for the CAP Executive. Further developments are expected on this front, too, as the category matures.

Another politically hot issue, broadband speeds advertising, resurfaced during the year, with significant industry discussion preceding a public consultation that will conclude in the present year.

And then there was Brexit – or at least its prospect. The international nature of advertising and of much of its regulation means that the CAP Code is closely integrated with its European fellows. Continuity in this relationship is sought on most fronts, but complications will inevitably arise and CAP is reviewing all aspects of this issue with the relevant government departments and our co-regulators.

Those were some headline 'events' of the year under review, but alongside them CAP's training, advice-giving and compliance work continued throughout, helping thousands of marketers, media owners and agencies ensure their advertising complies with the UK Codes, and making certain it is changed or withdrawn when it doesn't. My thanks go to the skilled and dedicated CAP Executive team for all that work.

James Best

MAILING PREFERENCE SERVICE REPORT

Funding

In recent financial years we have made significant changes to the methodologies for collection of the MASBOF levy which has increased available funding for industry self-regulation. Since 1st August 2011 the levy has been successfully collected by Royal Mail Wholesale with relatively few organisations opting out. From the 1st April 2012 Royal Mail Retail has also collected the levy as a built-in charge to the Advertising Mail product. This has increased the MASBOF levy collections and should ensure the future of MPS.

File Size

The size of the MPS file continues to increase. At the end of March 2017 there were 6.29 million names and addresses registered on the file. This represents a 2% increase on the previous year. The growth was steady throughout the year, with an average of 10,000 new registrations per month. The number of people registered with MPS is still modest compared with the Telephone Preference Service.

Public Relations and Awareness

Local authorities, national politicians and regulatory officials continue to view MPS as a critical consumer protection from unwanted marketing, it is also often included in environmental campaigns. A key achievement this year has been working with the new Fundraising Regulator to reduce unwanted charity solicitations. The new fundraising code of practice will make the use of MPS mandatory for the first time.

DMA spokespersons also took part in regular consumer, local radio, programmes.

Complaints

610 complaints were received in 2016, down from 721 in 2015. Of these only 76 or 12% needed to be passed to the Advertising Standards Authority. Early trends for 2017 show a very similar reduction in the number of complaints.

Chris Combemale

THE INDEPENDENT REVIEWER OF THE RULINGS OF THE ASA COUNCIL REPORT

In the year to the end of March 2017 I dealt with 40 requests for reviews of the rulings of the ASA Council in relation to non-broadcast advertising, compared to 34 in the previous year. Unusually, however, 9 of these requests were ineligible for review because the decisions complained of had been taken by ASA executives and not by the Council. (Where this occurs I inform complainants that if they write to the ASA the decision will be reviewed at a more senior level under the ASA's own internal complaints procedure.) One other case was withdrawn.

Of the resulting 30, I invited the Council to reconsider its ruling in only four cases. Of the cases returned to the Council it was decided that the investigation should be re-opened in all four of them. Two re-investigations are still ongoing, but in the two that have been decided the Council decided to change the rationale for its original Upheld ruling in one of them, and to reverse its original ruling in the second.

Independent review of the rulings of the ASA Council enables consumers and advertisers to question whether those decisions are fair and reasonable. Below I describe the two cases I have just mentioned.

The first concerned advertising by an ice cream manufacturer. The Council had upheld a complaint in relation to the claim in the ad "say no to added sugar". The request for me to review the ruling came not from the advertiser but from the ASA itself. This is a relatively recent but extremely useful procedural development which enables the ASA to ask for review when it spots something may have gone wrong. In this case, after the original ruling had been published, the Department of Health informed the ASA that they took the view that if sweeteners alone are used in place of sugar then that is likely to comply with the conditions of use associated with the permitted "with no added sugars" nutrition claim under the EU rules. This is important as the alternative position could result in the removal of a whole category of food and drink from the market and this would have an impact on wider government strategy and industry action on sugar and obesity reduction. Had the advertiser used such "sweeteners alone" then the Upheld ruling might have been reversed, but it was not because the advertised products also contained agave nectar and/or jaggery which are foods used for their sweetening properties and therefore non-compliant. This may sound a little obscure but it is a good example of ensuring that the rationale for a ruling is on very firm ground and of the value of the ASA being able to ask for a review of its own decisions.

The second case concerned advertising via email by a betting and gaming company for an incentive welcome offer that featured an image of Iron Man. The complainant challenged whether the ad was irresponsible because he believed the ad was likely to have particular appeal to children. The Council decided to Uphold the complaint. In the light of the advertiser's review request, quoting a previous similar case which the Council had decided to Not Uphold, I recommended that the case should be reopened. The point in doing so was not just to unravel why the Council had come to different views in two apparently similar cases but also so that a clear policy decision could be taken as to whether it was right or not to be very strict about the nature of the content, even if that content was most unlikely to be viewed by children and young persons. When the Council had originally considered the case it was not apparent from the papers that the importance of the decision being taken had been fully clear to it. The ASA executive, under my supervision, analysed a whole range of previous similar cases – an excellent piece of work. In the light of this I told the Council that it would be defensible to confirm their original decision but that would be a very strict interpretation of the relevant Code rule in circumstances in which a responsible advertiser had dome all that they reasonably could to prevent under-18s from viewing the email ad. In the event the Council agreed to reverse its decision on the basis that the ad was of particular appeal to children, but the specific features of the targeting meant that children would be unlikely to be exposed to the ad and that it was therefore not irresponsible.

I should conclude by mentioning one important change in the process of independent review. Since the inception of my role the advertising Codes have required the Reviewer to consult two Assessors – the Chairman of the ASA and the Chairman of ASBOF – before promulgating his conclusions in any case. A review of the workings of the ASA recommended that this practice should cease. While the Report on the results of the review said that no evidence of interference or bias had been found on the part of the Assessors the very process of consulting them gave the impression that there might be a perceived conflict of interest because of their central role in the management and funding of the regulatory system. The Council agreed. So in future any Determinations I make on review requests will not be so mediated in any way.

Hayden Phillips

asbof

STEPHEN HEMSTED - TREASURER

FINANCIAL RESULTS FOR THE YEAR

The statutory accounts in the format required by the Companies Act 1985, and including the auditors' report, which was unqualified, have been lodged with the Registrar of Companies, and are available on request from the secretary. The Balance Sheet and Profit and Loss Account which follow have been extracted from the statutory accounts.

BALANCE SHEET AT 31 MARCH 2017

	2017 £000s	2016 £000s
Tangible Fixed Assets	**-**	**-**
	=====	=====
Current Assets		
Debtors	-	14
Prepayments	14	18
Cash at bank and in hand	402	380
	416	412
Less Current Liabilities	39	47
Net Current Assets	**377**	**365**
TOTAL ASSETS	**377**	**365**
	=====	=====
ACCUMULATED RESERVES	**377**	**365**
	=====	=====

PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 31 MARCH 2017

	2017 £000s	2016 £000s
Income:		
Advertising levy	5,134	4,733
Mailing Standards Levy	1,402	1,466
Interest	13	13
Total Income	**6,549**	**6.212**
Payments to Self-Regulatory Bodies:		
The Advertising Standards Authority	5,605	5,315
Mailing Preference Service	525	520
Independent Reviewer	50	49
European Advertising Standards Alliance		2
Committee of Advertising Practice	32	34
Advertising Association	32	32
ASA Chairman Recruitment	25	-
Other	56	53
Total Regulatory Payments	**6,325**	**6,003**
Administrative Costs:		
Staff costs	159	152
Other operating costs	49	44
Depreciation	-	1
Total Admin Costs	**208**	**197**
Total Costs	**6,533**	**6.200**
Profit (Loss) before Tax	**16**	**12**
Corporation Tax	4	3
Profit (Loss) after Tax	**12**	**9**

THE BOARD OF DIRECTORS AND COUNCIL OF THE ADVERTISING STANDARDS BOARD OF FINANCE LIMITED

DIRECTORS AND MEMBERS OF COUNCIL as at 31 March 2017

Sir Chris Powell	Chairman
Paul Bainsfair	IPA
James Best	CAP
Lord Guy Black	NMA
Justin Cochrane	Outsmart
Chris Combemale	DMA
Richard Eyre	IAB
Phil Georgiadis	IPA
Jonathan Harman	RM
Stephen Hemsted	asbof
Mark Howe	IAB
Paul Hunter	NMA
Terry Lince	CAA
Andrew McCarthy	ISBA
Barry McIlheney	PPA
John McLellan	SNS
David Newell	NMA
Charles Ping	DMA
Phil Smith	ISBA/EASA
Duncan Tickell	PPA
Chris Whitworth	IPA
Stephen Woodford	AA

MEMBERS OF THE COUNCIL as at 31 March 2017

Trevor Fenwick	DPA
John Sylvester	IPM

Secretary & Treasurer: Stephen Hemsted

The fifteen associations represented are shown above by their initials

asb*of* is an independent body set up by the main organisations of those involved in advertising, and the associations now represented on the Board of Directors or by membership of the Council at 31 March 2017 are:

The Advertising Association	AA
Committee of Advertising Practice	CAP
Cinema Advertising Association	CAA
Direct Marketing Association	DMA
Directory and Database Publishers Association	DPA
European Advertising Standards Alliance	EASA
Incorporated Society of British Advertisers	ISBA
Institute of Practitioners in Advertising	IPA
Institute of Promotional Marketing	IPM
Internet Advertising Bureau	IAB
News Media Association	NMA
Outsmart Out of Home Ltd	Outsmart
Professionall Publishers Association	PPA
Royal Mail	RM
Scottish Newspaper Society	SNS