

asbof

Annual Report 2018/19

(company limited by guarantee and not having a share capital)

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Registered in England No. 1195756

*a small levy
that makes a
big difference*

**The Advertising Standards
Board of Finance Limited**

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A word from Mark Lund

Asbof Chairman

As the incoming Chair of Asbof and Basbof I can take no responsibility for the successes of the year and indeed owe a great debt of gratitude to my distinguished predecessor Sir Chris Powell, who stepped down after nine years in June of 2019. I am very honoured to be succeeding him and, alongside the ASA, CAP and many others, to have the task of ensuring the health of a system of self-regulation that I feel is a vital part of the UK's long term success as an excellent, dynamic and responsible producer of marketing communications.

The year saw Asbof levy income rise by 6% to £5.5m with most of this growth coming from direct payments on search to the Google with Asbof website, set up with the welcome help of Google. We now have over 20 major clients signed up including Ebay, M&S and Moneysupermarket.com. In addition, Amazon and Asos are among those making direct contributions to the levy, while Facebook also continues to pay a contribution to the levy in respect of their direct clients.

This growth is very encouraging, but it does not yet come close to matching the growth in spend in digital search and display which grew to more than half of all spend (56%) during the year and are forecast to continue to expand. We therefore still need to generate a bigger take from these areas to guarantee both the future of self-regulation and its equitability.

In respect of these long-term changes to what remains a buoyant and dynamic UK ad market, my feeling is that Asbof needs to look at longer term as well as shorter term solutions. So as well as working with the major digital players in areas like those above, and with the IPA in the field of measuring and improving agency compliance, I have also commissioned with PWC a review into the funding, governance and operations of Asbof to identify how best to reform the system for the new era.

The Masbof levy fell this year by 10% to £1.2m, a result of long-term changes in the postal market, but this was also matched by a corresponding fall in the ASA's casework in the area. This structural change was offset this year by a very welcome one-off distribution of £1.1m from the closure of the SHOPS scheme, a fund set up by the Newspaper industry to cover compensation to consumers buying directly by mail from advertisers, facilitated by Chris Combemale of the DMA and David Newell of the Newspaper Marketing Association.

Under the leadership of David Currie and Guy Parker the ASA had a highly productive year with both handling of complaints and the delivery of proactive training and advice to the industry, up significantly and delivered from a largely unaltered resource level. The ASA are

embracing the new world of digital delivery and data capability in their new strategy and I believe will benefit not only from this but their move to great new premises in the last quarter of 2019.

CAP remains the nexus of the industry's direct contribution to establishing the rules by which self-regulation works and is brilliantly chaired by James Best who I am delighted to say has extended his term to 2022.

I would also like to thank Hayden Phillips whose independent reviews are of great quality and the Asbof secretariat who power the system with great resilience and skill.

A handwritten signature in black ink, appearing to read 'Mark Lund', is positioned above the typed name and title.

Mark Lund
Chairman



Advertising Standards Authority

The final year of our 2014-2018 strategy was dominated by Brexit, increasing political pressure for tighter restrictions on HFSS¹ and gambling ads, an emerging ad industry response to low trust in advertising, a growing 'techlash' against US tech companies for contributing to social (more than advertising) harms and tightening financial circumstances for the ASA system.

We achieved excellent performance on our two priority KPIs: we secured the amendment or withdrawal of 10,850 ads, up 53% on 2017 (itself a record year); and we delivered 535,483 pieces of advice and training, up 37% on 2017 (again, a record year).

In part in response to greater awareness of the ASA following our focus on improving media coverage and running our own ad campaign, public complaints increased 26% to unprecedentedly high levels. We responded by increasing our staffing (but not at the expense of regulatory project resource) and implementing Operations *Spring Clean* and *Rebalance*, measures to deprioritise certain cases and close them either early or with standard responses. Those successfully brought our workload down to manageable levels and improved our productivity, enabling us better to focus our activity on higher priority work. We improved our customer satisfaction scores and our case-turnaround performance compared to 2017.

Website advertising² cases increased as a share of complaints cases resolved (43% v 41% for all cases; 61% v 57% for investigated cases). Cases continued to be both more focused on misleading issues (88% compared to 72% for all cases) and more likely to be investigated (31% compared to 22%). They were marginally more likely to be Upheld (62% compared to 60%).

We protected children through: cases involving HFSS food, gambling, cosmetic surgery and influencer ads; CAP/BCAP gambling guidance; and innovative research into children's exposure to age-restricted ads on TV and online. We protected the financially vulnerable through: projects on *Reference Pricing*, *Secondary Tickets* and *Parcel Delivery Charges*, all of which tackled misleading pricing; CAP/BCAP gambling guidance; and progress on swifter take-down of online scam ads (albeit with much more to do). We also completed or made progress on projects on *Online Labelling of Ads*, *Content Discovery Network Ads* and *Superimposed Text in TV Ads*.

¹ Foods and drinks high in fat, salt or sugar

² 'Website advertising' comprises businesses' own claims on their own websites, social media spaces, apps and/or advergames; the term excludes paid-for online advertising

We engaged heavily with officials and politicians on gambling, HFSS and, in particular, demonstrating the role and effectiveness of the ASA system online, given the focus on social media and online harms.

We delivered a record year for media coverage, made good progress extending our engagement to Northern Ireland, successfully prepared for the introduction of GDPR, made slow progress implementing our new case/contact management system (albeit without exceeding our budget) and made progress with our Accommodation Review (in difficult financial circumstances).

We delivered well against our 2014-2018 *Having More Impact; Being More Proactive* strategy, delivering more impact and greater proactivity through our investment in regulatory projects. We also developed and launched our new 2019-2023 *More Impact Online* strategy.

Our financial performance was sound – we came in 1.2% under budget – but the financial context became more difficult towards the end of the year. Brexit uncertainty and, in particular, a forecasted gap between levy income and ASA system expenditure in future years mean we will need to make smart choices in 2019 on our new accommodation, how we prioritise and partnership-work when it comes to our regulation of website advertising, particularly by micro- and SME businesses, and how we use technology.

When launching our new strategy, we called for a step-change in industry commitment to, and funding of, the ASA system, something we are following up in 2019.



Guy Parker
Chief Executive
Advertising Standards Authority



Committee of Advertising Practice

I don't know who thought it up, but 'The Committees of Advertising Practice' is a dull-sounding name.

Deceptively so in light of CAP and BCAP's actual work.

First, because as the industry's rule-making 'legislature' – as opposed to the ASA's role as the judiciary – the Committees and their Executive are at the sharp end of advertising regulation.

Evolving the Codes by which clients, agencies and media platform owners alike behave means bringing a diverse 'industry' to agreement on restrictions to their freedom to act, in the name of consumer protection and fair competition. It means gaining collective consent to moving advertising behaviour in line with fast-developing communication techniques and social attitudes.

Our policy team's important work on HFSS foods, online influencer-marketing, gambling harms and gender stereotypes in ads are examples of such change during the past year. Research, careful thought, wide consultation and collective decision-making resulted in new and effective Code and guidance development to keep advertising standards high.

It's the same with the CAP team's other key functions: securing compliance with ASA rulings from a fragmented and heterogeneous spread of advertisers and platforms, and keeping practitioners informed and up-to-date with their responsibilities as new rules and guidance emerge.

Both roles are seeing record levels of activity. Over 500,000 pieces of CAP advice and training were served to businesses in 2018, twice 2015's total. CAP guidance was read over 450,000 times in our e-newsletters or on our website. 67,000 people attended, watched or listened to training events, webcasts and podcasts. Copy Advice answered some 6,250 individual questions about the acceptability of new advertising ideas or approaches.

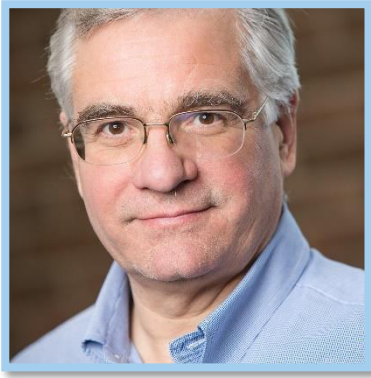
Meanwhile Compliance succeeded in ensuring that 98% of the ASA's formal rulings were enforced, securing responsible behaviour from advertisers large and small.

The name may be dull, but CAP's work is anything but. The industry's thanks are due to our expert and committed Executive; and mine go to all those across the industry who give their time and thought to our work and so to the successful future of advertising in the UK.

A handwritten signature in black ink, appearing to be 'James Best', with a stylized, overlapping loop structure.

James Best

Chairman of the Committee of Advertising Practice (CAP)



Mailing Preference Service

Funding

The Masbof Levy is collected by the industry to support the costs of industry self-regulation such as the Mailing Preference Service and Advertising Standards Authority. In recent financial years we have seen the collection of the MASBOF levy reduce year on year as a result of the decline in use of the Royal Mail's Advertising Mail product (the levy is currently collected on addressed mail only). If the decline in addressed mail volumes continues there may be a need to consider a new or additional, funding method. An industry review and consultation will start in 2020 to determine the best approach reducing the decline in Masbof revenue.

File Size

The size of the MPS file continues to increase. At the end of March 2019 there were 6.6 million names and addresses registered on the file. This represents a 3% increase on the previous year. The growth was steady throughout the year, with an average of 14,000 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. Most significantly 2018 saw the implementation of the General Data Protection Regulation (GDPR). The DMA undertook a large program of work to create industry guidance, highlighting the significance of Legitimate Interest as a legal ground for direct marketing, particular postal communications. An unprecedented number of speaking engagements, industry events, published articles and media attention gave the DMA the opportunity to get the message out to the marketing community. JICMAIL was launched successfully in January 2018 in a collaboration of the postal companies, Royal Mail, Whistle, UK Mail and the DMA, which chairs the JICMAIL, ISBA, IPA and other members of the ASBOF community.

Complaints

446 complaints were received in 2018, a relatively large reduction down from 647 in 2017. Of these only 36 or 8% needed to be passed to the Advertising Standards Authority. Early trends for 2019 suggest that we will see a similar number of complaints and referrals.

Chris Combemale
Group CEO



A word from Hayden Phillips

The Independent Reviewer of the Rulings of the ASA Council

In the year to the end of March 2019 I dealt with 41 requests for reviews of the rulings of the ASA Council in relation to non-broadcast advertising. Seven were ineligible for review, and 1 request was withdrawn (which is rare but occasionally happens).

Of the remaining 33, I invited the Council to reconsider its ruling in 8 cases. Of these 4 were conducted via a re-opened investigation. (This is a process which I can direct should be conducted. The ASA Executive does the further work under my supervision then presents a report to the Council with a, usually, revised Draft Recommendation. I attend the Council and confirm whether or not all the issues I had earlier identified have been dealt with satisfactorily.) In the other 4 cases, the Council decided to reverse its ruling in 1, to change the wording of the rationale in 2, and in the final case I instructed that a formal investigation should be conducted although the Council had earlier decided one was not necessary. Again, this happens rarely but occasionally.

Below I describe two cases, one in which the Council agreed to amend the wording of the ruling and the other in which it agreed to reverse its decision.

The first concerned website advertising for a breed of miniature Argentinian horses, the Falabella. The review process, initiated by the original complainant, was lengthy and bizarre. Her substantive complaint had been upheld by the Council but the ruling contained one sentence which deeply offended her. This read, with the offending words underlined: *“The mother studbook for Falabella horses was based in Argentina and there was at present no authorised daughter studbook in the UK which meant that very few horses in the UK were likely to be officially of the Falabella breed”*. This sentence was based on what the ASA had been told by Defra about this important but abstruse issue. The complainant forcefully protested that the statement was untrue as her Equuleus Falabella Stud still held its recognition from the mother studbook in Argentina as the authorised UK daughter studbook, and sent me some evidence which, on the face of it, seemed adequate proof of that.

Defra could not provide me with any evidence to back up what they had told the ASA and eventually agreed that they could well have been mistaken. Council therefore agreed that the sentence should be removed and some minor consequential amendments also made. I had never expected to become, albeit temporarily, an expert on miniature horse breeding and breathed a sigh of relief when this protracted case was closed. The complainant was very happy.

The second case was less exotic but provides a good illustration of how the process of independent review can enable the Council to reflect on whether it had got a ruling right. It concerned an ad in the form of a letter from Smart Pension Ltd to businesses about workplace pensions. It was headed “GET COMPLIANT IN MINUTES” and “Failing to set up your workplace pension now could soon blow a hole in company finances”. The complainant challenged whether the ad was likely to cause undue distress. The Council upheld the complaint under Code rule 4.2 namely: *“Marketing communications must not cause fear or distress without justifiable reason; if it can be justified, the fear or distress should not be excessive”*. This was a very rare example of the application of this rule to business to business communications.

I put to the Council three main reasons why I considered a Not Upheld ruling would have a sounder justification.

First, it seemed to me that the warnings of dire consequences of non-compliance in the ad/letter were in line with the approach which was being taken by the Pensions Regulator itself and I gave the Council a number of quite fierce examples of what the Regulator had said. I said that it seemed to me that the size of some of the fines for non-compliance that had already been levied could indeed *“blow a hole in company finances”*. If you were an SME company that risk was a very real one.

Second, I said I was not persuaded that the ruling struck a fair balance between the warnings in the ad about the potential consequences of non-compliance (the first half of the first page only) and the rest (a much longer section) of the ad’s offer of help and support. I said if you were a company which had received the ad and were near to the deadline for compliance but had not yet acted, then the ad offered a lifeline.

Third, I argued that I did not feel that the Council had placed enough weight on the fact that the ad was a business to business communication, not one directed at individual consumers. The complainant was a business which ought to have been aware of its workplace pensions observations and, if it was not, then a sharp ‘wake-up call’, in the light of the Regulator’s own approach, seemed wholly justifiable. I said I found the idea of a company, even an SME, being put in unjustifiable fear or distress, because of the warnings in a part of this ad, very difficult to swallow. The Council decided to change its ruling to a Not Upheld.

I have reviewed rulings on a rich variety of ads in the last year – e.g. Ribena, funeral directors, orthodontistry, energy companies, medical devices, baby buggies, car sales and many more – and I hope my responses to them have underpinned the value of the independent review process.



Hayden Phillips

The Independent Reviewer of the Rulings of the ASA Council



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 2019

	<u>2019</u> £000s	<u>2018</u> £000s
Tangible Fixed Assets	<u>1</u>	<u>2</u>
Current Assets		
Debtors - Prepayments	17	19
Cash at bank and in hand	<u>476</u>	<u>441</u>
	493	460
Less Current Liabilities	<u>79</u>	<u>71</u>
Net Current Assets	<u>414</u>	<u>389</u>
TOTAL ASSETS	<u>415</u>	<u>391</u>
ACCUMULATED RESERVES	<u>415</u>	<u>391</u>

PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 31 MARCH 2019

	<u>2019</u> £000s	<u>2018</u> £000s
Income:		
Advertising Levy	5488	5,183
Mailing Standards Levy	1197	1,330
SHOPs distribution	1100	0
Interest	<u>6</u>	<u>7</u>
Total Income	<u>7791</u>	<u>6,520</u>
 Payments to Self-Regulatory Bodies:		
The Advertising Standards Authority	6890	5,590
Mailing Preference Service	495	525
Independent Reviewer	50	50
Committee of Advertising Practice	35	34
Advertising Association	32	32
ASA Chairman Recruitment	-	-
Other	<u>50</u>	<u>64</u>
Total Self-Regulatory Payment	<u>7552</u>	<u>6,295</u>
 Administrative Costs:		
Staff costs	163	157
Other Operating costs	44	50
Depreciation	<u>1</u>	<u>1</u>
Total Admin Costs	<u>208</u>	<u>208</u>
 Total Costs	 <u>7760</u>	 <u>6,503</u>
 Profit (Loss) before Tax	 31	 17
Corporation Tax	(7)	(3)
 Profit (Loss) after Tax	 <u>24</u>	 <u>14</u>

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

DIRECTORS AND MEMBERS OF COUNCIL as at 31 March 2019

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
Tim Cable	RM
Stephen Hemsted	asbof
Mark Howe	IAB
Paul Hunter	NMA
Kathryn Jacob	CAA
Andrew McCarthy	ISBA
John McLellan	SNS
Owen Meredith	PPA
David Newell	NMA
Charles Ping	DMA
Phil Smith	ISBA/EASA
Martin Telling	IPA
Duncan Tickell	PPA
Stephen Woodford	AA

MEMBERS OF THE COUNCIL as at 31 March 2019

Trevor Fenwick	DPA
John Sylvester	IPM

Secretary & Treasurer: Stephen Hemsted

The fifteen associations represented are shown above by their initials

asbof 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 2019 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
Professional Publishers Association	PPA
Royal Mail	RM
Scottish Newspaper Society	SNS