

asbof

Annual Report 2017/18

(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 Chris Powell

Asbof Chairman

This has been one of the busiest years for the Advertising Standards Authority. More advertisements have been amended or withdrawn than ever before as the awareness and coverage of the ASA's activities has spread. It is to the benefit of all that there is, and is known to be, an active 'policeman' ensuring that misleading claims and offensive material cannot be allowed to appear.

Much of the work is preventive - a record four hundred thousand pieces of guidance or training were delivered by the ASA and their recent work in targeting areas known to have problematic claims, contacting advertisers even before any complaints have been received, contribute to a trustworthy advertising market.

The web increases complaints in two ways. It makes it easier for people to report work they believe to need attention and the web's expansion of the number of advertisers has brought in many organisations new to Advertising, and sometimes less familiar with the need to stick to what is verifiable.

On top of this the ASA has run an effective advertising campaign, through the generosity of the media's donation of space and time, that seems to have contributed to an increase in awareness.

It is a pity then that we still haven't persuaded nearly enough advertisers in what is now the biggest single segment of the media market - Search - to pay the tiny levy that in aggregate pays for self-regulation. This is not a general web advertising problem - Facebook make up the under collection on social media from their own funds, but is a problem where Search is bought direct (rather than through Agencies, who do collect the levy) - by far the biggest proportion. In direct Search our levy pick-up is a tiny 15% of the total, for the rest of advertising it is around 70%. As a greater proportion of ad spend moves to Search the ASA's revenue is decreasing just as the demands for its work are increasing.

Google UK have helped by setting up a means for advertisers willing to pay on Search to register and pay, and their Managing Director has written to their largest spenders urging them to sign up. We at Asbof put considerable resource and effort into contacting what we believe to be the largest direct spenders but while there has been some success (twenty or so signed up, producing around £400k pa) this is far short of what is needed.

This is not unexpected. Opt IN only ever achieves relatively minimal success. Opt OUT, which is the system throughout the rest of UK Advertising, achieves majority sign up. The result is that Search now accounts for 25% of ad-spend, 38% of the ASA'S workload, but only 10% of our levy income. We, and Google UK, will continue to seek ways to close the gap.

This has been the first year of Lord Currie's Chairmanship of the ASA and we are benefitting enormously from his wide experience and reputation in the field of regulation.

There have been changes on the Board of Asbof. Phil Smith, who took over from Mike Hughes as Director-General at ISBA, joined in June 2017 and along with Stephen Woodford at the AA has been active in helping us seeking a sound long-term funding arrangement.

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

A handwritten signature in black ink, appearing to read 'Chris Powell', written in a cursive style.

Sir Chris Powell
Chairman



Advertising Standards Authority

We continue to implement our *Having More Impact; Being More Proactive* strategy throughout 2017. Good evidence of our success was: the record 7,099 ads amended or withdrawn in 2017, up 47% on 2016; the record 389,289 pieces of advice and training delivered, up 39% on 2016; the impact of our *Gender Stereotyping* and *Broadband Speed* projects; and the introduction of CAP's tough new rules for ads for foods high in fat, salt and sugar (HFSS), preventing children being targeted with HFSS ads in non-broadcast media, including online, and thereby achieving the same standards as have applied to TV ads for the last 10 years.

On the proactive side, we broadly maintained the balance between our reactive complaints casework and our proactive regulatory project work, although the balance tilted a little back to the reactive as a consequence of us tackling a 2016 backlog in our Complaints department and increasing our staffing to tackle significantly higher incoming complaint case workloads (up 10% on 2016).

We addressed the root causes of high staff turnover in Complaints, including by implementing a permanent move to a new structure, providing the additional resource mentioned above and resolving long standing concerns about Complaints staff pay through our 2017 Pay Review. Our productivity performance was good but tackling the backlog and high complaint case receipts meant many of our speed turnaround targets were unachievable (although our speed picked up markedly in the second half of the year) and also showed up in particular in a missed complainant satisfaction score.

(On the subject of higher workloads, at the time of writing complaint case receipts are up a further 33% on 2017, which we are responding to through temporary process changes and a further increase in staffing. On the subject of complainant satisfaction, we have reviewed our targets, including setting different targets for our different case-types, and at the time of writing are meeting them.)

Online 'advertiser owned' cases held steady with 2016 (42% of all cases), but Formal Investigations increased (56% compared to 54% in 2016). Cases continued to be more focused on misleading issues (89% compared to 73% for all cases), more likely to be investigated (28%, compared to 20%) and Formal Investigations were back to being more likely to be Upheld (68% compared to 65%).

The *Gender Stereotyping* and *Broadband Speed* projects were important, high quality and successful. The former contributed to the international focus on gender equality, attracted plenty of praise (and some criticism from more socially conservative media commentators) and we handled the communication well, stressing that our concern was with harmful stereotyping and we were not about to ban ads showing women doing the family shop. The latter was equally successful, delivering a tightening up of standards from May 2018 that received near universal support. We announced it at the same time as our decision to maintain our policy of allowing part-fibre broadband providers to use the word “fibre” in their ads; that decision is currently subject to judicial review by a full-fibre provider, a legal challenge we are defending robustly.

There were lots of smaller, but important, regulatory projects (including compliance-related ones) which we progressed or concluded, including: *Reference Pricing*; *Homeopaths’ Ads*; *Chiropractors’ Ads*; *Online Labelling of Ads*; *Subscription Models*; and *Children and Social Media*.

CAP/BCAP published new rules on sexualised depictions of 16-17s, as well as guidance touching in particular on online ads. A DCMS review provided the backdrop to a year where gambling was rarely out of the spotlight; we tackled irresponsible ads by gambling affiliates, misleading ‘free bet’ promotions and gaming ads on operators’ websites that appealed to children; CAP/BCAP worked on guidance on problem gambling, which it launched in February 2017.

We published Janet Paraskeva’s audit of our performance against our Commitment to Good Regulation, responding positively to almost all of her recommendations, as well as making progress on complying with the Public Sector Equality Duty and engaging with the Office for Product Safety and Standards’ Business Reference Panel.

We successfully launched our new combined website in March 2017, launched our new ad campaign, achieved £17.8m of media coverage (our second highest on record, after 2016) and extended our engagement in the nations and regions, particularly Wales. Prompted awareness of the ASA was 60%, our highest yet.

Employee turnover was fairly high, albeit spread across departments. We made solid progress on our new case/contact management system, which moved towards its 2018 launch.

Expenditure (excluding extraordinary capital expenditure and legal fees) was 97.8%, within our budget target (97.5-100%).



Guy Parker
Chief Executive
Advertising Standards Authority



Committee of Advertising Practice

The CAP Executive, headed by Shahriar Coupal, has three distinct functions: Regulatory Policy, the team responsible for Code matters, especially the evolution of the Codes and Guidance; Compliance, ensuring that ASA rulings land effectively and that the system can be seen to work well; and Advice & Training, running the programme of education and information that enables advertisers, agencies and media owners to understand and apply the Codes every day.

That we have this expert group of some 25 people who commit their energies and intellect to the roles I describe is something to be grateful for; I am always glad to hear that recognised by CAP members and other industry colleagues when I talk to them.

In the year under review all three elements of the Exec were as busy as ever – maybe more so.

Regulatory Policy were engaged in new work on topics as varied as broadband speeds, gender stereotyping, e-cigarettes, social media targeting, gambling advertising, GDPR and HFSS foods. Most of those involved exhaustive public and industry consultations, resulting in significant new rules and guidance for advertisers to follow.

Compliance undertook monitoring and enforcement projects across a range of sectors such as gambling, property and parcel delivery charges, to maintain a fair and level playing field for the benefit of consumers and responsible businesses. In total, their work resulted in a record 12,244 ads being amended or withdrawn, many as a result of the proactive approach being taken by the organisation.

Advice & Training not only achieved a record 329,000 contacts with their industry-wide audience online but ran seminars and bespoke training sessions in person and via e-learning for advertisers, agencies and media owners alike. Their Insight newsletters were read over 40,000 times and more than 5,000 individual advertiser queries were answered.

All this good work depends upon the ad industry's involvement, input and support. Our Working Groups, usually drawn from CAP member organisations, but often going beyond them to bring in broader business interests, do much of the detailed scrutiny of Code and Guidance development. Our Industry Advisory Panel, chaired by Tim Duffy of M&C Saatchi, gives high-level practitioner advice to the ASA Council and our Executive, especially on precedent-setting matters such as the exact extent of the Codes' online remit in a fast-changing media market. The Promotional Marketing and Direct Response Panel does the same for that sector, chaired by Catherine Shuttleworth of Savvy Marketing.

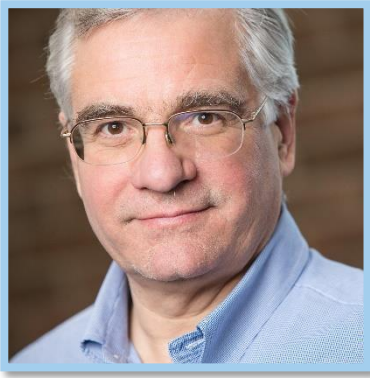
Leading companies readily meet with us to discuss issues and respond to our consultations. And day in, day out, executives throughout the whole 'advertising industry' (really a network of thousands of complementary and competing businesses across a multitude of ad-related sectors) put the ASA's rulings and CAP's rules and guidance into effect in creating and placing their campaigns.

The result is the most admired and effective advertising regulation in the world.

My thanks go to you all.

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

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 2018 there were 6.44 million names and addresses registered on the file. This represents a 2.3% increase on the previous year. The growth was steady throughout the year, with an average of 12,000 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 2017 saw preparation for the implementation of the General Data Protection Regulation (GDPR). The DMA undertook a large programme 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.

Complaints

605 complaints were received in 2017, slightly down from 610 in 2016. Of these only 46 or 7.6% needed to be passed to the Advertising Standards Authority. Early trends for 2018 show a very 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 2018 I dealt with 35 requests for reviews of the rulings of the ASA Council in relation to non-broadcast advertising, compared to 40 in the previous year. Eight 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 26, I invited the Council to reconsider its ruling in 9 cases, over twice the number compared to the previous year. Of the cases returned to the Council it was decided that the investigation should be re-opened in four of them, in three the wording of the ruling was changed, in one the applicable advertising Code rule had to be changed, and one ruling was actually deleted – a very rare event. Two re-investigations from the first quarter of 2018 are still ongoing. In one further case I made minor wording changes on my own authority which, since the abolition of the role of the Assessors (recorded in last year's Report) I am now able to do.

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 two cases: one in which the investigation was re-opened and one which I refused to review in order to protect the integrity of the ASA's investigation process and of the process of review itself.

The first was a website ad by The Law Society for its Conveyancing Quality Scheme. This stated "All Law Society Conveyancing Quality Scheme firms go through rigorous examination and testing to demonstrate that they have a high level of knowledge, skills, experience and practice". The complainant challenged whether the claim was misleading and could be substantiated. The ASA Council decided to not uphold the complaint and the complainant requested that I review the ruling.

Having read the file it seemed to be that the Law Society accreditation process was more bureaucratic and perfunctory than the ad implied so I decided that it should be re-investigated so that the ASA could ask more searching and detailed questions. At the same time I wrote to the advertiser saying: *"My present judgement is that the contested claim in the ad creates an expectation that an 'in-depth' assessment of a firm would be conducted so as to ensure that it had a high level of knowledge, skills and experience related to residential conveyancing before accreditation was granted. In the light of the points that the complainant has made I have decided that the ASA needs to ask more probing questions of the Law Society to bottom out whether the claims can be substantiated in the light of the expectation which, in my view, the ad creates"*.

The ASA conducted the re-investigation most thoroughly and recommended, with my agreement, that the Council should be invited to reverse its original ruling. It agreed that the original ruling was substantially flawed and the complaint was then upheld.

The second case concerned one of a series of ads for Rosemary Water, namely a video on the advertiser's Instagram page. It was a very compelling ad which began with a photoshoot scenario in which the characters wore modern clothing. The subject of the shoot was a woman, shown from behind with long silver hair. She picked up a glass of Rosemary Water before turning around to face the camera, when it became apparent that she was in her eighties or nineties. She took a sip of the water and over the next 30 seconds her appearance gradually became younger, until she looked as if she were in her twenties. She took another sip and the camera panned out to show that she and other characters were wearing clothing from the 1950s. The woman walked away, stroking the leaves of a rosemary plant. On-screen text then stated, "A DRINK TO REMEMBER". The visuals were accompanied by the song "it was a very good year".

Complainants challenged the implied claim that the product had a beneficial effect on ageing, which was a general health claim which must be accompanied by a specific authorised health claim. The ASA Council upheld the complaint and the advertiser requested a review. I initially accepted it but then, when I read the ASA file on the case I found that, during the investigation, the advertiser had agreed with the ASA that the claim was neither authorised nor acceptable. Uniquely in my experience the advertiser did not refer, in their letter to me, of their earlier acceptance of the ASA's position. I was therefore bound to tell the advertiser that I could not after all accept their request if I was to preserve the integrity both of the review process and of the ASA's investigation. In other words, an advertiser cannot just change tack and decide that they had wished they had put a different case to the ASA and then expect me to re-investigate the case. That is not my role.

As usual, the last reporting year presented me with an enormous variety of interesting review requests and I hope my responses to them 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 2018

	<u>2018</u> £000s	<u>2017</u> £000s
Tangible Fixed Assets	<u>2</u>	<u>-</u>
Current Assets		
Debtors - Prepayments	19	14
Cash at bank and in hand	<u>441</u>	<u>402</u>
	460	416
Less Current Liabilities	<u>71</u>	<u>39</u>
Net Current Assets	<u>389</u>	<u>377</u>
TOTAL ASSETS	<u>391</u>	<u>377</u>
ACCUMULATED RESERVES	<u>391</u>	<u>377</u>

PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 31 MARCH 2018

	<u>2018</u> £000s	<u>2017</u> £000s
Income:		
Advertising Levy	5,183	5,134
Mailing Standards Levy	1,330	1,402
Interest	<u>7</u>	<u>13</u>
Total Income	<u>6,520</u>	<u>6,549</u>
 Payments to Self-Regulatory Bodies:		
The Advertising Standards Authority	5,590	5,605
Mailing Preference Service	525	525
Independent Reviewer	50	50
Committee of Advertising Practice	34	32
Advertising Association	32	32
ASA Chairman Recruitment	-	25
Other	<u>64</u>	<u>56</u>
Total Self-Regulatory Payment	<u>6,295</u>	<u>6,325</u>
 Administrative Costs:		
Staff costs	157	159
Other Operating costs	50	49
Depreciation	<u>1</u>	<u>-</u>
Total Admin Costs	<u>208</u>	<u>208</u>
 Total Costs	 <u>6,503</u>	 <u>6,533</u>
 Profit (Loss) before Tax	 17	 16
Corporation Tax	(3)	(4)
 Profit (Loss) after Tax	 <u>14</u>	 <u>12</u>

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

DIRECTORS AND MEMBERS OF COUNCIL as at 31 March 2018

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
Kathryn Jacob	CAA
Andrew McCarthy	ISBA
John McLellan	SNS
Owen Meredith	PPA
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 2018

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 2018 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