asbof

Supporting Trust in Advertising

Annual Report 2019/20

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A word from Mark Lund

Asbof Chairman

This year promises to be like no other for very many reasons with societal and economic turmoil being reflected in the advertising world and thus the Asbof levy.

Throughout the upheaval the Asbof team has sought to keep the continuity of funding that is vital for the preservation of the self-regulation system that underpins the trust and thus the health of the overall market.

The fact that the levy collected trails the movements of the market by three months means that little or none of the Covid crisis can be seen in the accounts but much of our year has been spent preparing for the oncoming drop in income that will affect the accounts for year ending March 2021.

The 2019/20 year saw Asbof levy income fall by 2%, with the Masbof levy falling more sharply by 8% reflecting the continued decline of mail as a medium.

The Basbof levy remained static to the previous year, reflecting the resilience of television as a medium and the high proportion of spend coming through media agencies.

Our direct income from major digital advertisers continued to grow 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 25 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. Encouraging though this is the fact remains that direct digital advertisers bypassing the media agency collection point constitute the long-term funding issue that the levy system faces, and though Covid has accelerated the issue the problem is a structural one.

To address this the Asbof and Basbof boards commissioned a report in autumn 2019 from PWC to examine the long-term issues and propose ways forward.

The report was published in November 2019 and has generated productive work in both funding and governance areas, with some new ideas in self certification in research at the moment and a new level of dialogue on funding with many of the key stakeholders.

In all of this we are fitting our narrative within that of the AA's Trust agenda that has been taken forward so strongly by Keith Weed and Stephen Woodford.

The ASA under the leadership of David Curry and Guy Parker had a highly dynamic and effective year, reflecting their five-year strategy of More Impact Online, with a continued move to more proactive regulation and a greater use of prioritisation of resource. All this while also moving offices (with both financial and quality improvements) and continuing their moves towards the greater use of advanced technology within their processes. At the end of the year, in anticipation of the effect of Covid, they also engaged in some very rapid and thorough financial scenario planning to mitigate wherever possible the effects of a downturn.

CAP, stewarded sagely by James Best, also had a highly productive year. The new gender stereotyping rules were perhaps predictably criticised when they came in but some months later are being increasingly seen as being presciently ahead of the industry curve. There was also a great deal of good work on the government's HFSS consultation and the continuing issue of the codes for gambling advertising.

I would also like to thank Hayden Phillips, whose independent reviews combine acuity and elegance in equal measure and the Asbof and Basbof secretariat whose work under difficult circumstances continues at the highest level.

As I look to the year ahead, I am more clear than ever that the self-regulation system has future relevance and real value for the market as a whole. It is also clear that stakeholders from all across the advertising and marketing ecosystem will need to work together to ensure that what has served the UK ad market so well continues to thrive.

Mark Lund
Chairman

ASA

Advertising Standards Authority

The environmental context in 2019 was similar to 2018: Brexit paralysis (albeit relieved in December by Boris Johnson's convincing general election win); continued socio-political pressure for tighter restrictions on HFSS and gambling ads; a burgeoning ad industry response to low trust in advertising; substantial and steadily rising societal concerns around online harms; and continued uncertainty over the sustainability of our funding.

The prognosis is by no means gloomy, however. The ASA system's reputation is generally high; the ad industry is committed to a "best in class" ASA; we are well positioned to play a key role in continuing to regulate online advertising, with our Avatar Monitoring regarded as world-leading; and Asbof and Basbof are pursuing a review of our funding model with vigour.

We made good progress implementing our new 2019-23 strategy, More Impact Online, benefitting from ad industry support and participation, including from senior Google and Facebooks execs. Our Strategy Working Group focused on 'troubleshooting' issues, a Scam Ad Alert system and Online Gatekeeper Standards. We established and made progress on our Effectiveness Project to oversee our prioritisation, partnership-working and process improvement work. And our Machine Learning Project explored use-cases for that and other technology.

We are already using prioritisation and partnership-working to deliver big efficiencies, but there is more we can do, and our investment in data science (including machine learning) is key to improving our regulation.

In terms of our performance on our two priority KPIs, we secured the amendment or withdrawal of 8,881 ads (down 18% on 2018) and we delivered 550,442 pieces of advice and training (up 2.7% on 2018).

Complaint receipts were at an all-time high, up almost 10% on 2018; we resolved more complaints than ever before, exceeding 10,000 in Q4. Case receipts were up 1.3% on 2018; case closures were down 1.6%. We met or exceeded 4 of our 6 case-type turnaround KPIs, short of the 5 out of 6 we targeted at half-year.

Despite valid reasons — high staff turnover, our new case management system and the distraction of our office move in September 2019 — we were disappointed not to do better. However, we met our Complaints casework productivity targets.

Website claims increased as a share of all complaints cases resolved, but our prioritisation work (see below) arrested the eight year rise in Formal Investigation cases. Website claim cases continued to be more focused on misleading issues (86% v 70%), more likely to be investigated (31% v 22%) and marginally more likely to be Upheld (67% v 65%).

We increased our complaints casework focus on prioritisation and partnership-working, reducing rulings overall (and in particular on 'non-hot-topic' website advertising by SMEs), piloting a systematic approach to tackling pricing issues by a big online retailer and emphasising an 'education first' approach to resolving various cases. We achieved that without compromising quality and it also freed-up resource (albeit we 'spent' most of it covering higher than usual turnover, preparing for and accommodating the launch of our new case management system and managing the disruption of our office move). We were pleased to win the CityFibre and Actegy judicial reviews.

The ASA Council helped us to deliver high impact rulings, including relating to gambling and gender stereotyping. The former contributed to our work protecting children, alongside our Avatar Monitoring. Other completed and ongoing projects spoke to our focus on protecting children and the vulnerable, including ads in children's apps and our work tackling online scam ads. Our research-led project on labelling influencer ads continued our focus in that important area.

We continued to engage heavily with officials and politicians to demonstrate the effectiveness of the ASA system online, given the wider societal concerns, the Government's Online Harms White Paper and its Online Advertising Review. Much of that engagement was in the nations and regions, where we continued to make very good progress. Public affairs and regulatory policy work on sensitive sector issues continued to be vital, if time-consuming, work. We continued to do well on media coverage.

We successfully launched our new case management system. It came in under budget, but we had work to do to deliver all the benefits we had targeted. Our office move was a huge success, providing us with a better office for significantly less money. Those projects contributed to us significantly underspending our overall budget, by 5.43%.

Guy Parker
Chief Executive, Advertising Standards Authority (Broadcast)

Committee of Advertising Practice

When CAP launched its new Gender Stereotyping rule and guidance in July 2019, we got a predictably rough ride from elements of the conservative commentariat. We also received a stream of supportive coverage, albeit with several regrets that we had not gone further.

That advertising's rules, created to protect the freedom of companies to promote their wares by ensuring that they do so responsibly, should seek to protect people from perceived harm arising from the use of gender stereotypes was decried by some as meddling, humourless, nanny-statism, trampling on creativity and free speech. To others, it was an overdue response to an obvious abuse, which still fell short of the promotion of gender equality required in an unjust society.

In a nutshell, this piece of work and its reception illustrate CAP's regulatory role and position.

Advertising, and the self-regulatory core of its rule-making process, exists only by the permission, tacit or explicit, of society. People may enjoy advertising and appreciate its usefulness, but they may not. They do not have to like or welcome all the ads they see, but they have at least to tolerate them on the grounds that they are a legitimate expression of the advertiser's business. That tolerance can wear thin if ads appear to abuse it by exploiting people, misleading them, needlessly offending them, or causing harm.

So the rules have to be in harmony with social mores and expectations. These, of course, are neither universal nor perennial: different sectors of society hold different views, and views change over time. Our rules must respect those differences, and also reflect such change by adapting and evolving.

The new Gender Stereotyping rule and its accompanying guidance was a high profile example of this, requiring rigorous research, consultation and drafting to develop. During the year, our response to the Government's HFSS consultation demanded much the same, as did our continuing work on gambling.

Supported by our diverse industry, advised to good effect by our consumer and practitioner panels, guided by the research, evidence-gathering and expertise of our Executive, the CAP and BCAP Committees have, I hope, been able to keep the UK's advertising codes up-to-date and effective, protecting consumers and responsible advertisers alike.

My thanks go to all those involved during the year, not just in devising policy, but in securing compliance to the Codes from the vast majority of advertisers in the UK, big and small, and in educating and training the thousands of practitioners who take advantage of our comprehensive services. I think ASBOF's funders have received excellent value!

James Best
Chairman of the Committee of Advertising Practice (BCAP)

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 2021 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 2020 there were 6.7 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, with lower numbers in the first three months of 2020. 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.

Following the implementation of the GDPR the DMA undertook a large program of work to create industry guidance, and general awareness highlighting the significance of Legitimate Interest as a legal ground for direct marketing, particularly postal communications. This is an ongoing piece of work as several regulators in the EU have challenged the use of LI for marketing. Even the ICO in the UK, in its draft DM Code (January 2020), recommended that best practice would be to use Consent for all marketing communications. The DMA challenged this in its response to the draft and continues to publish articles, speak at webinars and events as well as work with members, FEDMA and the ICO to preserve this vital option for traditional marketers.

There were 45 items of press coverage relating to MPS in the last 12 months ranging from Mumsnet, BBC TV and Radio, The Mail on Sunday and Moneysupermarket.com.

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

323 complaints were received in 2019, a reduction from 446 in the previous year. Of these only 31 or 9.5% needed to be passed to the Advertising Standards Authority. Early trends for 2020 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

In the year to the end of March 2020 I dealt with 25 requests for reviews of the rulings of the ASA Council in relation to non-broadcast advertising. This was a sharp drop from the 41 I received the year before. Five were ineligible for review. Of the remaining 20, I invited the Council to reconsider its ruling in 3 cases. In one case I recommended the wording of the Ruling be changed, and Council agreed. In the other two cases I instructed that the investigations should be reopened under my supervision to enable the ASA executives to re-examine some questionable issues which might turn out to be serious flaws. Because of the impact of Covid-19, both of these cases have yet to be completed.

Below I describe two cases, one which I instructed should be re-opened and the other in which the Council agreed to amend the wording of its Ruling.

The first review was of a Ruling on a complaint by Dyson about advertising by Gtech for its AirRam Mk 2 and its AirRam. The Ruling covered a number of claims in the ad but the review request covered one in particular, about the runtime for the vacuum cleaner, which was not in the Ruling because it had been resolved informally. Informal resolution is a decision by the ASA Executive not by the Council, so my role is not normally engaged. However, Dyson had argued that the informal resolution of the runtime point had occurred so late in the investigation that they had been denied a reasonable expectation that the Council would rule on the runtime point and that they could therefore continue to press their arguments. It seemed to me that a decision by the Executive to abandon or informally resolve an issue at the 11th hour without good reason could amount to a substantial flaw in the process by which the ruling was made. The papers I had read on the file had not, to my mind, made it clear that the Executive had good reasons to make the informal resolution decision. There are other aspects too but this is the central issue on which the ASA will report to the Council when it will have my advice as well. Depending on what is decided the result may be of importance in the way in which informal resolutions are decided.

The second case concerned an ad in the local press in Hertfordshire for a Pro-Longevity service offered by Manor Pharmacy. One problem with the ad was that while it was straightforward to substantiate that weight loss and better control on sugar intake helped to tackle obesity, the Pharmacy could not substantiate that the service could reduce the risks of a number of specific diseases mentioned in the ad — diabetes, cancer, heart disease, hypertension and dementia. There needed to be specific studies directed to each of those. The ad also made the mistake of saying that the service was "NOT a diet" but emphasising three times that it would help people lose weight and quoting a research paper which described the type of service the Pharmacy provided as a "personalized diet". Upholding the complainant was therefore right but in the Ruling that ASA went too far in saying the ad suggested the Pro-Longevity service would always be effective in reducing the risk of developing the specific conditions mentioned. Council agreed to amend the Ruling accordingly so as not to exaggerate the nature of the claims. The advertiser had been offered the chance of an informal resolution if he amended his claims. He turned that down which I think was a great mistake.

As usual the last year has thrown up a wide variety of advertising subjects beyond vacuum cleaners and health claims. These have included gender issues, ads for silk pillowcases, rubbish removal services, razor blades, training programmes and lotteries. I hope that both in dealing with the cases in which I support the Council's rulings and those in which I do not, I have added the value to advertiser and consumer alike of independent scrutiny.

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 2020

	2020	2019
	£000s	£000s
Tangible Fixed Assets	1	1
Current Assets		
Debtors & Prepayments	27	17
Cash at bank an in hand	444	476
	471	493
Less Current Liabilities	38	79
Net Current Assets	433	414
TOTAL ASSETS	434	415
ACCUMULATED RESERVES	434	415

PROFIT AND LOSS ACCOUNT

FOR THE YEAR ENDED 31 MARCH 2020

	2020	2019
	£000s	£000s
Income:		
Advertising Levy	5375	5488
Mailing Standards Levy	1098	1197
SHOPs distribution	0	1100
Interest	9	6
Total Income	**6482**	**7791**
Payments to Self-Regulatory Bodies:		
The Advertising Standards Authority	5483	6890
Mailing Preference Service	420	430
Direct Marketing Authority	92	65
Independent Reviewer	50	50
Committee of Advertising Practice	34	35
Advertising Association	8	32
Other	145	50
Total Self-Regulatory Payment	**6232**	**7552**
Administrative Costs:		
Staff costs	161	163
Other Operating costs	64	44
Depreciation	0	1
Total Admin Costs	**225**	**208**
Total Costs	**6457**	**7760**
Profit (Loss) before Tax	**25**	**31**
Corporation Tax	6	7
Profit (Loss) after Tax	**19**	**24**

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

DIRECTORS AND MEMBERS OF COUNCIL as at 31 March 2020

Mark Lund	Chairman
Paul Bainsfair	IPA
James Best	CAP
Lord Guy Black	NMA
Tim Cable	RM
Justin Cochrane	Outsmart
Chris Combemale	DMA
Richard Eyre	IAB
Elizabeth Fagan	ISBA
Stephen Hemsted	asbof
Mark Howe	IAB
Paul Hunter	NMA
Kathryn Jacob	CAA
John McLellan	SNS
Owen Meredith	IPA
David Newell	NMA
Charles Ping	DMA
Phil Smith	ISBA/EASA
Martin Telling	IPA
Duncan Tickell	PPA
Stephen Woodford	AA

Secretary & Treasurer: Stephen Hemsted

The fourteen 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 at 31 March 2020 are:

The Advertising Association	AA
Committee of Advertising Practice	CAP
Cinema Advertising Association	CAA
Direct Marketing Association	DMA
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

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

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