

asbof

Annual Report 2021–2022

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A word from Mark Lund OBE, Chair



Following the pandemic created upheaval of 2020 and 2021, the year 2021/22 has seen a period of welcome recovery and forward motion for the self-regulation system, with a recovery of income, rebuilding of reserves and further balancing of representation in both funding and governance. Nonetheless we remain highly vigilant to the future threat of both an advertising recession and the imposition of overly onerous government regulation.

2020/21 was characterised by preparation for and reaction to the effects of the pandemic shutdowns on commercial activity and advertising spend. In 2021/22 the UK advertising market demonstrated great resilience and its underlying strength as a valued and trusted commercial tool by getting back to growth, reaching record levels of £30bn. The recovery we were seeing in H1 2021 continued into the second half of the year and the first quarter of 2022 in a very encouraging way.

These changing market fortunes are borne out by the recovery in the Asbof levy income for the year to March 2022, showing an annual increase of 32%.

This allowed the Board to do three things to bolster the ongoing health of the self-regulation system; to facilitate a longer-term strategic view of the ASA's financial planning, to invest in the ASA's longer-term evolution as a digitally enabled, proactive regulator, and to allocate modest funds towards the overhaul and modernisation of the accounting and information systems that underpin Asbof's efficiency, all without endangering a prudent level of financial reserves.

Moving the ASA's budget planning to a three-year cycle to correspond to their longer-term strategic planning process has allowed the management team, so ably led by Guy Parker and David Currie, to plan more proactively as to how the digital transformation of the ASA's regulation will be achieved and in turn this has created a more detailed and co-ordinated view of how AI will be used to cope with the ever-proliferating numbers of channels and messages.

This shift to a more automated and proactive regulation is vital in an advertising world where more and more activity happens at digital speed.

On an internal basis Robin Price, our new COO/CFO, has initiated a very thorough review and overhaul of all information and processing systems to make them more accessible, faster and efficient. This process will have completed its first key stage by the middle of 2022 making us a still very lean, but even more productive organisation.

“ During the last three years the proportion of the overall annual revenue derived from digital channels has risen from 35% to more than 50% and the amount derived from direct relationships has doubled.

We have also sought to continue with our progressive modernisation of governance to reflect the current media and marketing world. As a result, our board structure has been updated to reflect the much greater number of digital players and to simplify our decision-making processes.

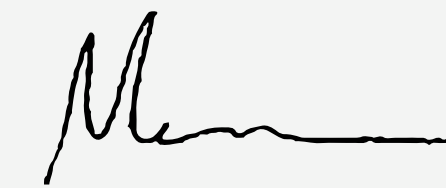
The continuing move to a digital dominated advertising world underlines the great importance of the direct relationships that Asbof forms with digital advertisers and platforms, to counteract the move towards direct commercial relationships between brands and platforms and the bypassing thereby of the traditional levy collection point — the media agencies.

During the last three years the proportion of the overall annual revenue derived from digital channels has risen from 35% to more than 50% and the amount derived from direct relationships has doubled. This is encouraging but given the trend of spend in the market we will continue to pursue this activity with all our energy.

A significant development that could aid this greatly is the creation and implementation of the IPP (Internet Platform Protocol) Pilot, the initiative of CAP and ASA that has been led by Shahriar Coupal and supported strongly by CAP Chair James Best. This highly creative and world leading initiative is now an important part of the government's Online Advertising Programme consultation and may help to shape the inevitable legislative reform of the online ad regulatory framework in a way that is more conducive to the interests of the self-regulatory system.

So, despite the economic and political uncertainty of the next years, we can look ahead not only with caution but a degree of positive hope and optimism. As ever this and the successful functioning and funding of self-regulation depends on the efforts of many talented and hardworking people and bodies. The ASA and CAP have had a highly innovative and productive year, Hayden Phillips as Independent Reviewer continues to hit the highest standards and the Asbof secretariat have worked tirelessly and well.

I personally would like to give thanks for the continuing efforts and support of the Board without whose sage counsel and advocacy none of this would be possible.



Mark Lund OBE
Chairman



Advertising Standards Authority



2021 saw us picking up the pace in delivering year three of our More Impact Online strategy, despite the ongoing pandemic. The environmental factors remained similar to 2020: pressure for tighter HFSS¹ restrictions; political interest in regulating online; industry interest in turning around low trust in advertising and putting ASA system funding on a more sustainable basis; and the impact of Brexit, albeit that masked somewhat by the unexpectedly positive rebound in the UK economy.

We continued to use prioritisation and partnership—working to drive efficiencies, delivering reductions in website claim cases. We made big strides using data science in a number of projects, on top of our continued investment in third-party technology. And we successfully recruited our first Head of Data Science, who is building our in-house data science capability.

Rulings were lower than we would have liked, we were not able to repeat 2020's case turnaround performance and we missed our NAICD² customer satisfaction target, but our performance against our other quality, customer satisfaction and productivity targets was good.

And crucially, we made excellent progress on our regulatory projects, including: Racial and ethnic stereotyping in ads; Climate change and the environment; Tech4Good online ad targeting; Influencer compliance; Body image; Finance ad-related issues; and Scam ads. We improved the balance between reactive and proactive casework, spending 27% of our direct service resource on proactive regulatory project work (target: $\geq 20\%$) and 50% on reactive complaint casework (target: $\leq 55\%$).

We continued to invest substantial time on both HFSS ad and gambling regulation, particularly the former following the Government's decision to introduce TV and online ad restrictions, which, following Ofcom's anticipated designation of the ASA, we will look to weave into ASA system regulation as seamlessly as we can.

Our Intermediary and Platform Principles (IPP) initiative was a key priority, and an important plank in both our representations to DCMS that the ASA system should remain the frontline ad regulator of legitimate businesses and in our campaign to raise awareness of our online ad regulation to parliamentarians. We were appointed by Ofcom to co-regulate video sharing platform ads. And our post-Scottish ad campaign research made a sufficiently compelling case for rolling-out our ad campaign to the rest of the UK.

Our performance on our two priority KPIs was good: we secured the amendment or withdrawal of 20,456 ads, the second highest ever; and we exceeded our target of

¹ Foods and drinks high in fat, salt or sugar

² NAICD = No Additional Investigation after Council Decision

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750,000 pieces of advice and training, delivering 866,161. We continued largely to work from home and planned well for a post-pandemic hybrid working future. And most importantly, we kept our staff safe and secure.

Our good performance should not over-shadow the risks we face. There are strategic, reputational and, now, operational risks in the government's HFSS interventions, which we will likely need to mitigate, including by integrating those interventions, some aspects of which are still opaque, into the Codes as seamlessly as possible. Although ASA system funding is secure in the short- to mid-term, securing long-term funding security remains a key objective for us and (B)asbof. The scale and design of the online environment makes effective enforcement a challenge for all regulators, us included; continued investment in data science and our IPP initiative are key mitigations. And last but not least, the risk of more legislation affecting online advertising via the Online Advertising Programme is a growing one.

Making a success of the IPP pilot and following it up with a more comprehensive, enhanced programme is a key objective. As are working with the CMA and Ofcom to tackle influencer ad labelling, continuing to develop our online ad targeting regulation and tackling financial ad related issues like cryptoasset advertising. Those will be key to demonstrating that the ASA system should be strengthened, not undermined, by any statutory regulation of online advertising, whether from legislation coming out of the Online Advertising Programme, modifications to the Online Safety Bill to capture scam ads or enhanced powers for the CMA/Digital Markets Unit or FCA.

Our Climate change and the environment, Racial and ethnic stereotyping and Body image projects are high on the public policy agenda. And our regulatory policy work on gambling is vital, as DCMS progresses its Gambling Act review.

We will continue to use our rolling three-year financial planning to secure appropriate investment in technology as well as people. With the fundamental nature of online advertising regulation currently up for debate, the ASA system must demonstrate that it is able to adapt rapidly and deliver more effective online regulation, with data science at its heart. Weathering the difficult economic climate and delivering significantly above-inflation investment in the ASA will put the ASA system on a sustainable path to being a more effective online ad regulator and show stakeholders that the advertising industry is committed to paying for effective ad regulation. It will require digital players to contribute more to the cost of the ASA system regulating them, closing the 'online funding gap'. And it will likely also involve the ASA system moving to more of a hybrid funding model, with increasing income from Ofcom to support our anticipated role administering the new HFSS ad restrictions.



Guy Parker

Chief Executive – Advertising Standards Authority



Committee of Advertising Practice



As the UK economy emerged blinking into the sunshine of the post-lockdown spring of 2021, the advertising industry was quick to recover and, indeed, roar ahead again. Its regulators moved fast, too. CAP's work, which had not much diminished in 2020 despite constrained resources and unfamiliar working methods, accelerated as commercial and political activity revived.

Responding to Government initiatives was a theme of the year. A great deal of executive time and effort was spent responding to the Government's evolving plans for further HFSS advertising restriction. CAP's close working with — and between — both Whitehall and industry has followed to enable the resulting Health & Care Bill's intentions to be realised, but despite a delayed timetable and widespread industry anxiety over crucial detail, at the time of writing we still await the secondary legislation necessary for implementation.

The Online Safety Bill similarly moved gradually towards fruition, with lengthy consideration of its (relatively modest) advertising-related clauses and, more recently, the Online Advertising Programme has engaged CAP's members and executives in considerable debate and consultation. Both promise more to come.

What all these initiatives have in common, of course, is society's grappling with the consequences of the now-established dominance of online advertising formats and the global platforms supplying them. National governments

across the world have struggled to contain what they see as the harms arising from aspects of social media, influencer marketing, online video platforms and the like, especially in the light of their young audience profiles, their speed of movement, their impact on other media and their pervasiveness in fields like gambling and financial services.

Some legislative intervention may be necessary, but for the vast bulk of online advertising our self- and co-regulatory system works really effectively. Our rules cover the entire legitimate advertising waterfront and advertisers' and media owners' commitment to them enables the ASA to provide swift justice. Vanishingly few abuses of the privilege to advertise last long and, in the context of a vast and diverse advertising ecosystem, remarkably few even surface through complaints to the ASA or through its own monitoring.

The development of the new Intermediary and Platform Principles with the UK Internet Advertising Bureau and its members is a great example of how CAP can bring all parties to the table to ensure that the ASA has the tools to do its job of consumer protection successfully. Piloting the IPP this

“ Piloting the IPP this year with the full co-operation of the biggest online players should demonstrate to government and industry alike that a practitioner-provided solution to concerns about online advertising can provide practical, speedy, cost-efficient and comprehensive ways of securing overwhelming adherence to our Codes.

year with the full co-operation of the biggest online players should demonstrate to government and industry alike that a practitioner-provided solution to concerns about online advertising can provide practical, speedy, cost-efficient and comprehensive ways of securing overwhelming adherence to our Codes.

Extensive work on body image, greenwashing, in-game purchasing, delayed payment providers and many more aspects of the wide world of marketing and communications accompanied the projects described above. Again, and as ever, I must thank CAP’s (growing, I am glad to say) executive team for the quality and quantity of their output across advice, compliance and policy; always so impressive!



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





Mailing preference service



The Masbof Levy is collected by the industry to support the costs of industry self-regulation such as the Mailing Preference Service, the Advertising Standards Authority and the Data and Marketing Commission (DMC). 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), particularly during the pandemic.

Mailing volumes have begun to grow again with the Masbof levy expected to increase in 2022 despite headwinds created by supply chain inflation, particularly the cost of paper. However, volumes are not expected to return to pre-pandemic levels in the next few years.

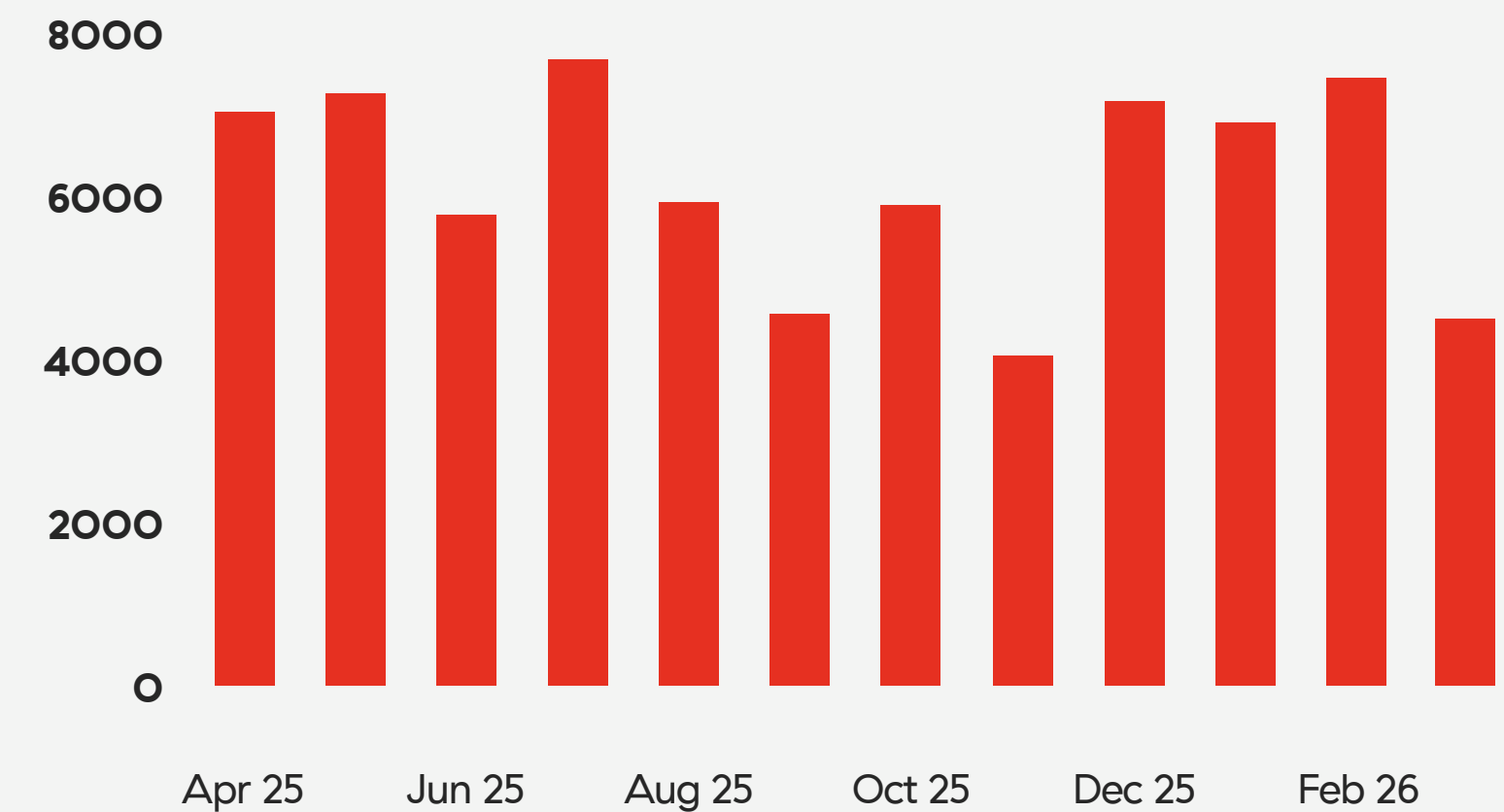
File Size

The size of the MPS file continues to increase, but at a slightly lower rate than previous years. At the end of March 2022 there were 6.9 million names and addresses registered on the file. This represents a 1% increase on the previous year. The monthly increase in registrations was uneven throughout the year with an average of 6,200 registrations per month. The number of people registered with MPS is still modest compared with the Telephone Preference Service (18 million).

Legislation and Public Relations

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.

MPS Registrations 2021/22



“ Implementation of data protection legislation will need to take into account the impact on growth, innovation and competition to find the right balance between data protection and innovation.

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.

A significant milestone will be the UK Data Protection and Digital Information Bill that will begin Parliamentary approval on 5 September 2022 and is expected to pass scrutiny by both houses.

Several changes will give the industry greater confidence around use of LI, particularly the important changes to the role and remit of the ICO. Implementation of data protection legislation will need to take into account the impact on growth, innovation and competition to find the right balance between data protection and innovation.

The DMA represented the views of the data and marketing sector to DCMS throughout the consultation period, and hosted round table discussions with members with DCMS officials in attendance. This allowed us to make the case once again for the effective use of Legitimate Interests which is central to the collection and use of data for direct marketing, reducing uncertainty and concern for use of data by overly cautious brands and ultimately increasing mailing volumes.

The DMA is also working closely with the ICO on a GDPR Industry Code of Conduct which will establish co-regulation of data protection legislation for the first time. A key component of the Code of Conduct will make adherence to MPS mandatory for Code Signatories.

It is anticipated that the ICO will not only approve the Code of Conduct but will also approve the Data and Marketing Commission as the Industry Monitoring Body giving it authority to investigate and adjudicate complaints with delegated authority from the ICO. This will be an important milestone for co-regulation and self-regulation in the UK. There were 31 items of press coverage relating to MPS in the last 12 months, including sources like Daily Mail, Mirror Online, and BBC Radio.

JICMAIL continues to provide rich insight into mail journeys as well as audience measurement metrics such as reach, frequency and commercial actions. Jicmail is increasingly used by media planners to understand its impact on a multi-channel media plan. Having Reach and Frequency data for mail allows planner to demonstrate that adding advertising mail to a media plan increases reach and reduces excessive frequency.

Complaints

186 complaints were received in FY2022, a small increase from 172 in the previous year which was due to the COVID-19 pandemic and its effect on mailing volumes. Of these only 27 or 15.7% needed to be passed to the Advertising Standards Authority. Early trends for FY2023 suggest that we will see a similar number of complaints and referrals.

Chris Combemale

Group CEO

A word from Hayden Phillips



I received 18 requests for Review of rulings or decisions by the ASA Council on non-broadcast cases between March 2021 and March 2022. I returned 6 of these to the Council for its reconsideration which is a relatively high percentage which I hope underlines the value of the independent review process to both advertisers and complainants. I will comment on two cases one of which I asked Council to re-consider and one in which I confirmed that the Council’s judgement was reasonable and defensible.

The first concerned ads by Arsenal Football Club plc for fan tokens obtained through a crypto-asset site, Socios. This was part of a push by the ASA to deal with the risks to consumers of ads for cryptocurrencies. I decided that a revised ruling needed to clarify that Arsenal had both paid for and non-paid for fan tokens and what the differences between them were. For example the free fan tokens, albeit they had to be obtained through a crypto-asset app, was a way to influence the song played when Arsenal won a match. They were about the culture of the Club but there was a risk that this trivialised an investment in cryptocurrency.


However, I decided this risk could be avoided if the words “in the absence of a suitably prominent risk warning” were included. The result protected Arsenal’s use of free fan tokens while protecting consumers from the risks in purchasing cryptocurrencies as an investment. Arsenal accepted that this was a fair result.

The second case concerned a complaint by PETA (People for the Ethical Treatment of Animals) who were campaigning against the treatment of hens on sites operated by the Happy Egg Company. They had sent me video evidence which contrasted sharply with The Happy Egg Co’s photos on their website. The PETA video showed a very crowded henhouse, distressed birds, some of which were dead, and shots of a pretty desolate outdoor space compared to the more cheerful bucolic scenes of happy hens in green pastures on the company’s website.

I noted that the RSPCA and the Happy Egg Co had taken action straight away in the light of this evidence and only reinstated the three farms concerned as approved suppliers once they were satisfied that their standards had been met.

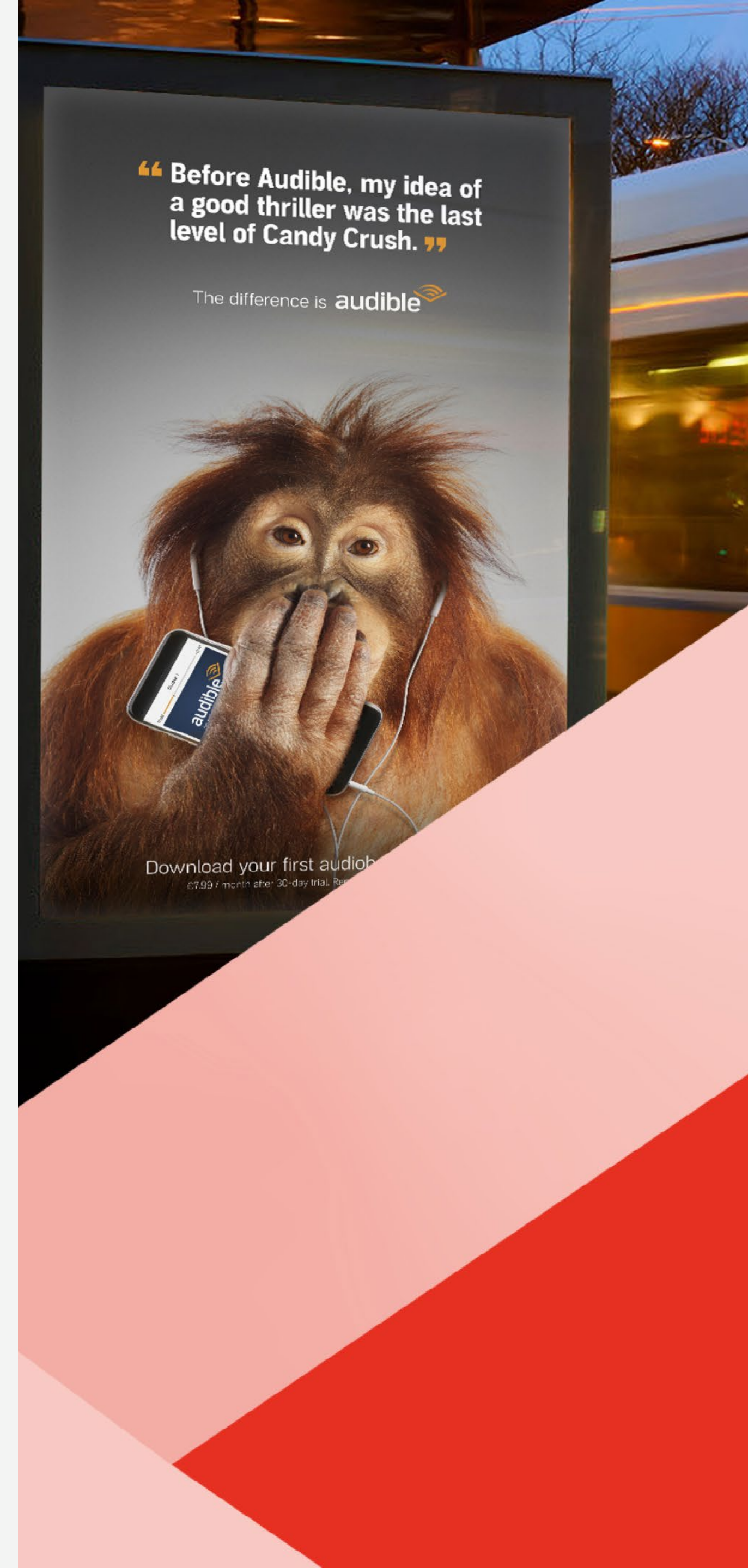
“ When I wrote to PETA I said that while their investigation had dented the Happy Egg Co’s reputation (which, in keeping them up to the mark might not be a bad thing) the ASA Council was satisfied that there was no evidence of a more widespread failure to maintain standards sufficient to make the ad a misleading one.

Despite PETA’s scepticism about the role and performance of the RSPCA, the ASA was not in a position to question the robustness of the RSPCA’s processes but only had to come to a view about whether the website claims and images were likely to mislead. When I wrote to PETA I said that while their investigation had dented the Happy Egg Co’s reputation (which, in keeping them up to the mark might not be a bad thing) the ASA Council was satisfied that there was no evidence of a more widespread failure to maintain standards sufficient to make the ad a misleading one. I was not persuaded that that conclusion was either irrational or indefensible.



Hayden Phillips

The Independent Reviewer of the Rulings of the ASA Council





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.

Robin Price

Secretary & Treasurer

Balance Sheet at 31 March 2022

	2022	2021
	£000s	£000s
Tangible Fixed Assets	1	2
Current Assets		
Debtors & Prepayments	165	117
Cash at bank and in hand	432	386
	<u>597</u>	<u>503</u>
Less Current Liabilities	88	38
Net Current Assets	<u>509</u>	<u>465</u>
Total Assets	<u>510</u>	<u>467</u>
Accumulated Reserves	<u>510</u>	<u>467</u>

Profit and loss account

For the year ended 31 March 2022



	2022	2021
	£000s	£000s
Income:		
Advertising Levy	6,761	5,017
Mailing Standards Levy	756	692
Interest	–	–
Total Income	7,517	5,709
Payments to Self-Regulatory Bodies:		
The advertising standards authority	6,685	4,930
Mailing preference service	300	313
Data & marketing association	83	70
Independent reviewer	49	45
Committee of advertising practice	36	28
Other	82	94
Total Self-Regulatory Payment	7,235	5,480
Administrative Costs:		
Staff costs	165	131
Other operating costs	63	56
Depreciation	1	1
Total Admin Costs	229	188
Total Costs	7,464	5,668
Profit (Loss) before Tax	53	41
Corporation Tax	10	8
Profit (Loss) after Tax	43	33

The Board of Directors of the Advertising Standards Board of Finance Limited

Directors as at 31 March 2022

Mark Lund OBE
Chair

Chris Combemale
DMA

Owen Meredith
NMA

Duncan Tickell
PPA

Paul Bainsfair
IPA

Mark Howe
IAB

Philip Milton
IAB

Stephen Woodford
AA

James Best
CAP

Paul Hunter
NMA

Charles Ping
DMA

Lord Guy Black
NMA

Kathryn Jacob
CAA

Robin Price
asbof

Tim Cable
RM

John McLellan
SNS

Phil Smith
ISBA/EASA

Justin Cochrane
Outsmart

Jane McNeill
IAB

Martin Telling
IPA

The thirteen 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 2022 are:



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

Registered office:

12 Henrietta Street
London WC2E 8LH

Email: info@asbof.co.uk

Website: advertisinglevy.co.uk

Registered in England No. 1195756



asbof

Supporting Trust in Advertising