asbof

Annual Report 2023–2024

advertisinglevy.co.uk

Jackie Coomber

1956–2024

Jackie was at the heart of the Asbof team for 18 years, it has been a great privilege for us to know and work alongside her as a dear colleague and trusted friend. Her warmth and good humour will be much missed. We send our love and best wishes to her husband Simon and all of their family.

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A word from Mark Lund OBE, Asbof Chairman

2023/24 has been another buoyant year for the UK ad market with spend rising towards £40bn at a time when growth in overall GDP has been difficult. Objectively, this is due to two things. Firstly, the fact that bigger businesses continue to see advertising as an efficient and desirable way of building brand value, increasing pricing power and contesting market share. Secondly, that new businesses (and the UK continues to produce SMEs at a world beating rate – +60% since 2012) want to use it to build their revenues. Both these factors have been aided by the UK consumer's desire to embrace a digital economy.

From an Asbof point of view, the reason that advertising is valued by all these businesses is where the real interest lies. Advertising is valuable in the UK because it is engaging (continually in the world top 2 for creative awards) and it is trusted. We believe both these factors are greatly assisted by the UK's world leading system of self-regulation which Asbof helps fund. Self-regulation governed by CAP and imposed by the ASA is light touch and agile. It allows creativity to breathe but keeps the industry closely allied to public taste and concerns. And because the industry is closely involved in writing the governing codes via CAP the industry is more complicit in observing the rules than it would be if they were externally imposed.

Because of both these factors, levels of trust in UK advertising are again rising (against a trend of declining trust in many institutions). We would therefore argue that the way advertising is regulated in the UK is an inherent part of its atypical success. And this means that preserving the funding security of the system (the responsibility of Asbof) is paramount. As the dynamic and rapidly changing market alters how and where advertising money is spent, we are constantly concerned to ensure that we are keeping up with it to capture the requisite funding.

During 2023/24, the work that Asbof does to develop dialogue with those who are new to paying the levy, or who are being missed by it, has continued apace.

We have contacted the breed of new, sizeable media agencies who are not currently signed up to collect the levy from their clients. Many of these agencies have grown out of a pure digital performance or search background and have not historically been part of the ASA system. As their clients and business have grown, they are now handling work that is definitely part of the self-regulation system. We are working hard on bringing them, and thus their clients, into the levy paying system.

We have also begun dialogue with the important and rapidly growing Influencer marketing sector, through their trade body, IMTB. Influencer marketing is already worth more than £1bn in the UK and some projections see it as high as £5bn in four years' time. With so much advertiser and consumer interest it is vital that we spread awareness within, and attract levy funding from, this channel.

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And thirdly, aided by our valuable partners at ISBA, we have been in touch with all the major UK advertisers who advertise significantly both via media agencies but also direct. We are seeking to raise levy income on their direct spend as well as their agency spend. Early results are positive and encouraging, and the UK's major advertisers remain strong and committed supporters of the self-regulation system.

The ASA continues to be recognised as a world class regulator and we were delighted to have fed into the ASA's new five-year strategy, AI-Assisted Collective Ad Regulation, which sets out a clear and visionary direction for ASA to continue its journey towards larger scale, proactive regulation. Alongside the very talented executive team, the Chair, Lord Currie, has been vital to this strategic evolution. As he steps down after 7 years at the end of 2024, the industry overall, and the ASA System, owe him a great debt of gratitude for his inspiring and future focussed time as Chair. We are delighted too, to welcome a new Chair in November, Baroness Nicky Morgan, chosen after a highly competitive process managed by Saxton Bampfylde on behalf of the Asbof board.

I would also like to extend thanks to Guy Parker and Shahriar Coupal at the ASA and to James Best who continues as an exceptional chair of CAP. In the independent reviewer role Hayden Phillips' judgements continue to be exemplars of concise thoroughness.

I would also like to extend my thanks to Asbof's high quality staff and to the Board who continue to offer challenge and support in excellent proportions.

Mark Lund OBE
Chairman

Advertising Standards Authority

2023 was a watershed year for our digital transformation, with an exponential increase in our use of our AI-based Active Ad Monitoring system (AAMs), to capture online ads at scale for intelligence-gathering and, particularly, monitoring and enforcement purposes. In December 2022, we ran approximately 20k ads through what we now call AAMs. By December 2023, it was over 600k, a thirty-fold increase. In 2023, we ran c3m ads through AAMs. In 2024, we forecast we will run over 20m ads through AAMs.

Access to ads was a priority throughout the year. We made progress on a number of fronts, helped by platforms rolling out ad libraries to meet EU Digital Services Act requirements (we are able to make use of those, although in many cases our access is not optimal) and a deal we signed with a third-party ad provider in December. Gaps remain and we will focus in 2024 on getting better access to ad libraries and improving access to organic and influencer posts.

Data science supported work on ad-related topics including climate change and the environment, gambling, prescription-only medicines, influencer disclosure, finance, cosmetic tourism and mini-heaters. Our use of data science helped identify the cases behind 23 published rulings in 2023 (7%). It also played a role in c70% of ads amended and withdrawn.

Following the publication of an interim report in July, our final report on the Intermediary and Platform Principles (IPP) Pilot concluded it had been a success. In November, we agreed terms of reference for the evaluation of the Pilot that will look back on lessons learned and look forward to the bases on which we aspire to develop IPP into a permanent regulatory framework of the ASA system. That happened against the backdrop of the Online Safety Act becoming law and the Online Advertising Programme (OAP).

Government consulted us extensively ahead of its response to its OAP consultation and the Taskforce that emerged from it. I am on the Taskforce, which is looking to co-ordinate non-legislative solutions to the in-scope harms, and lead its group reporting on IPP. We are also represented on the other Taskforce working groups covering research, age-assurance, influencer marketing, information-sharing and scam ads. Officials continue to consult us on the technicalities of new OAP legislation, but there was no legislation before the 2024 General Election.

Throughout the year, we worked with DCMS, DHSC and Ofcom to prepare for implementation of the Government's new legal restrictions on advertising for Less Healthy Foods on TV, in on-demand programme services and online. In July, Ofcom officially designated us for that purpose and in December, CAP published a consultation on the restrictions.

We made good progress on multiple regulatory projects, many involving working closely with other regulators. One project worth singling out is our Climate change and the environment project, where we made significant progress across all our priority areas, including claims in the energy/heating, transport, green disposal and food sectors. With high priority rulings in 2023, particularly in the energy, water and airline sectors, our regulatory leadership on green claims is very much established, but it came at the cost of advertiser concern that we are providing insufficient clarity and encouraging 'greenhushing'. Our well run and very well attended November 'Greenspeaking with confidence' event, at which we also launched our new strategy, was but one of our efforts to reassure industry on that front, but we have more work to do in 2024.

In 2023, we invested 34% of our direct service resource in regulatory projects, our highest ever. Add in preventative activities and the preventative/proactive total was 52% versus 45% on reactive complaints casework, again the best ever. We have, therefore, already met our end of 2028 target of investing more in the former than the latter and we are now exploring how much further we can go, recognising of course that we must do enough reactive complaints casework, given the benefits that work and particularly our rulings deliver. That thinking is part of a 'whole systems' project approach review, which will also explore the structural changes, cultural changes, process changes and trade-offs we need to continue our rebalancing.

We managed our finances to make budget available to pay a 7% cost-of-living award which, like the one-off cost-of-living bonus in 2022, was welcomed by staff at a financially challenging time for many. We made some changes following our Hybrid Working review, including introducing four Castle House days that have so far proved popular, but the main finding of the review was a positive one: most staff are happy with our 40:60 policy. Our People Strategy remains work-in-progress, but the delay is not holding up activities; in fact, it was useful in allowing us to reflect in the People Strategy our new five-year strategy.

In November, we launched that new strategy: AI-Assisted, Collective Ad Regulation. It landed well both internally and externally. And there is already serious thinking being done on the (continued) organisational transformation we need to deliver, against the backdrop of mid-/long-term funding uncertainty, given the digital funding gap and our current budgetary growth phase.

The combined outputs of our tech-assisted monitoring and enforcement, other compliance activity and complaints-based activity led to 27,378 ads being amended or withdrawn in 2023. That was down 12.3% on 2022. We delivered 1,369,887 advice and training Touchpoints, an increase of 32% on last year and above target. Complaints and Investigations performed well against its targets: 331 rulings (v 280 in 2022); 4/6 case-types meeting or exceeding our turnaround targets (4/6 in 2022); and good performance against our quality and productivity targets.

With fewer 'big ticket' projects or announcements to publicise in 2023, a focus of our media relations activity was on rulings coverage. Highlights included: our first in a series of rulings involving ads for cosmetic surgery abroad; highly positive coverage of our upheld environment rulings involving Lufthansa, Etihad, Repsol, Shell, Petronas and Anglian Water; and heavily promoting multiple gambling rulings following the introduction of CAP's more restrictive 'strong appeal' rule.

Our IT was robust and we attained Cyber Essentials Plus. We have work to do getting the best out of MS365 and looking for other efficiencies from our non-data science tech.

In Q1, we updated our Three-Year Forecast to cover the period 2024 to 2026. We underspent our budget significantly, missing our 98.5-101.5% target. But that proved helpful given the current discussions with Asbof about the broader funding challenge.

Guy Parker
Chief Executive – Advertising Standards Authority

CAP

Committee of Advertising Practice

Every week, the ASA publishes its latest rulings: the ‘bad ads’ it has identified, investigated and ruled on — usually against, resulting in bans or enforced changes. Like the police revealing their high-profile arrests, this shows an effective system in action.

But perhaps the ASA system’s most far-reaching actions are less visible. The CAP Executive’s three disciplines — Regulatory Policy, Advice & Training and Compliance — are constantly at work with large and small advertisers, media owners and agencies to prevent or forestall the ‘bad ads’ ever running. Education and prevention first, punishment where necessary.

That work was as intense in 2023/24 as ever. Regulatory Policy (RegPol in the jargon) considered the evolution of our rules and guidance in response to new legislation, innovative technologies, consumer research, societal concern or industry interest. Their projects covered environmental claims, Less Healthy Foods, advertising in podcasts and in computer games, vaping, the role of advertising in harms arising from people’s body image anxieties, post-Brexit legal developments and the first stirrings of Generative AI in our industry, while age-restricted categories such as alcohol and gambling remained the subject of continual watching briefs.

Advice & Training is a crucial CAP service to the ad industry. Underpinned by a searchable online database of our advice articles, a programme of interactive e-learning, online webinars, face-to-face training sessions and regular newsletters reached tens of thousands of people working in marketing and advertising during the year. In an industry prone to the rapid turnover of individuals and the roles they play, education in keeping their ads ‘legal, decent, honest and truthful’ is always a priority.

For those who stray over the line in their advertising, Compliance acts to ensure their work is corrected in line with ASA adjudications and our Codes, and in the very few cases of continued non-compliance, to censure or apply sanctions to them. With the massive proliferation of small advertisers online, including influencers and SMEs, many not readily familiar with the regulatory system, breaches of the rules, whether deliberate or inadvertent, are inevitable, but the quiet diplomacy of our Compliance team, aided by the ASA’s data science monitoring resource, is increasingly impactful in resolving the issues.

So, generally out of sight of the public or politicians, the CAP Executive and our industry work together to keep UK advertising responsible as well as effective, year in, year out, for which I am thoroughly grateful.

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

Mailing preference service

The Mailing Preference Service is funded by the MASBOF levy. 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, particularly during the pandemic but continuing through the current cost of living crisis. In 2024 the declines have stabilised with some small growth expected by the end of the year.

Funding and channel performance

Although volumes are under pressure, advertising mail as a channel is demonstrating very powerful levels of effectiveness.

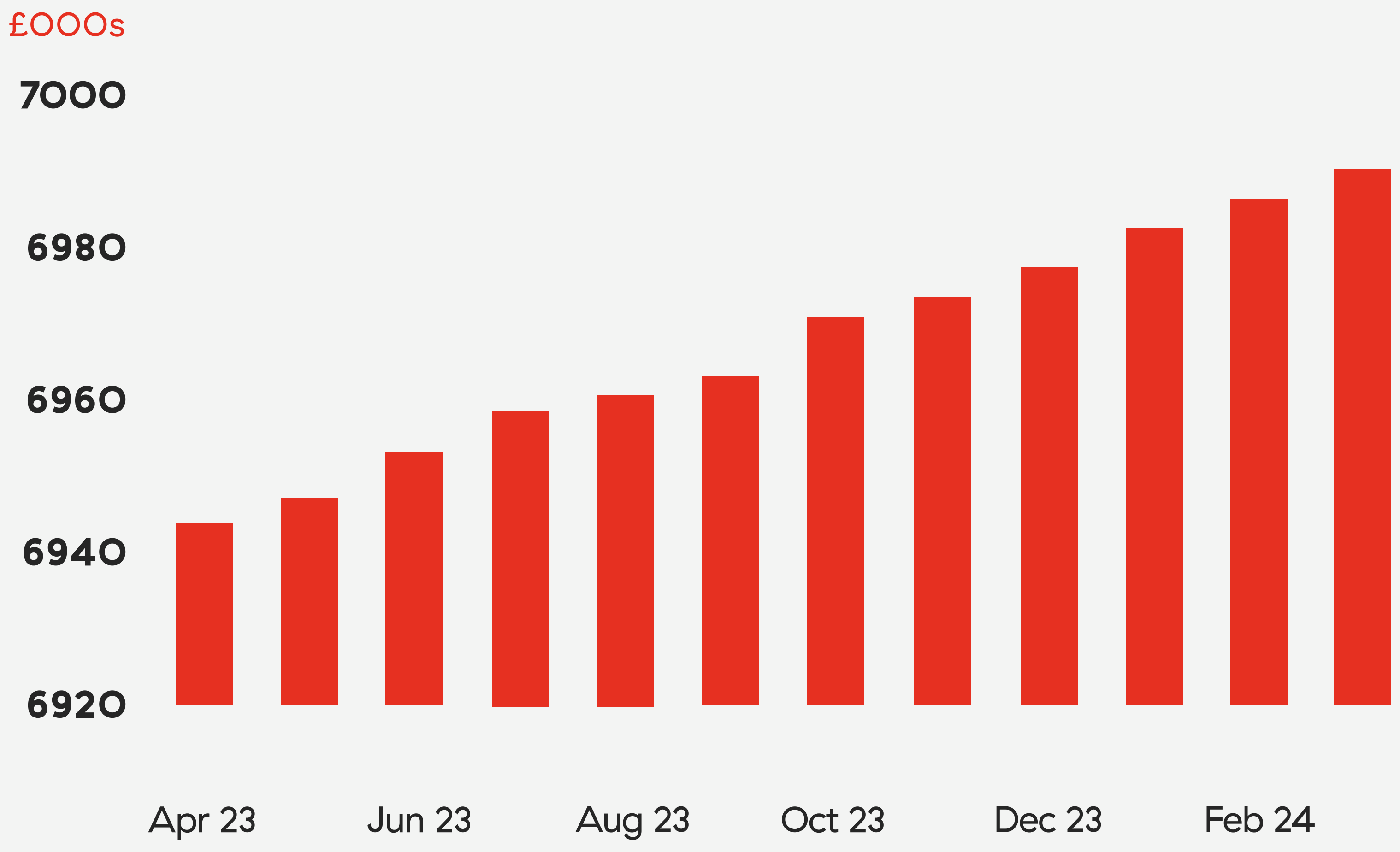
The latest data released by Jicmail shows mail delivers very powerful business outcomes: 6% of mail prompted a purchase in Q1 2024 – up from 4.2% in Q1 2023. These purchases relate to truly omni-channel customer behaviour with 46% of them fulfilled online and 32% in store. In total, 38% of the visits to advertiser websites prompted by mail converted into online purchases.

Mail Attention continues to be a vital upper funnel planning KPI and is more important than ever in an era of heightened digital ad fraud. With the average piece of Direct Mail generating 134 seconds of attention across all household members in a 28-day period, and the average Door Drop 55 seconds, mail is a highly attention efficient channel.

MPS File Size

The size of the MPS file has been increasing slightly compared to previous years. At the end of March 2024, there were 6.9 million names and addresses registered on the file. This represents a 1% increase from the previous year. The number of people registered with MPS is still modest compared with the Telephone Preference Service (16.5 million).

MPS Registrations 2023/24



> “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.

Complaints

152 complaints were received in FY2023, a decrease from 153 in the previous year. Of these only 33 or 20.2% needed to be passed to the Advertising Standards Authority. Early trends for FY2024 suggest that we will see a similar number of complaints and referrals.

Legislation and Public Relations

MPS plays a critical role in preserving self-regulation for the channel and provides essential consumer protection for people who do not wish to receive advertising and marketing through the letterbox. This ensures the right balance in legislation between privacy, innovation and growth.
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.

General satisfaction with the system and the channel was reflected in a lower level of media activity — down 28% from the previous year. There were 8 items of press coverage relating to MPS throughout 2023, including sources like Hansard-Online Parliament, Herald Wales, Law Donut, and The Register.

Awareness of MPS was also raised in the recent Guardian article featuring our Director of Preference Services — Russell Roach - https://www.theguardian.com/money/2024/feb/17/junk-mail-how-one-click-can-lead-to-a-deluge

A significant milestone will be the UK Digital Information and Smart Data Bill which is expected to be tabled in Parliament in Autumn 2024. The DMA is actively working with the new government to ensure that changes to GDPR which will give the industry greater confidence around the use of Legitimate Interests as a lawful basis for direct marketing are included in the Bill. The DMA, which runs MPS, has played an active role, hosting industry round tables for DSIT officials and Chairing a Business Advisory Group for the Secretary of State of the previous government which had hoped to pass the Data Protection and Digital Information Bill in the previous Parliament.

The DMA is also working closely with the ICO on an Industry Code of Conduct for direct marketing which will establish collaborative regulation of data protection for the first time ever. 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.

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 2024 I received 23 requests for review of non-broadcast rulings or decisions by the ASA Council. I returned 6 to the Council for reconsideration, 5 of which had to be based on reopened investigations. 11 cases were reviews of rulings after the conduct of a formal investigation, which is quite a high number historically. Most review requests were made by advertisers but 4 were made by the ASA itself under powers it has to correct errors or flaws it has noticed. This is an extremely useful self-critical part of the armoury to help with the quality of decision-making.

As illustrations of the work I do I will report this year on two cases. One was advertising by Sony Interactive Entertainment; the other was by Flutter UK and Ireland, trading as Sky Bet. Both concerned tweets.

The complaint in the Sony case was that a tweet by Ozzy Osbourne was not obviously identifiable as an ad. The advertiser argued that the word “spot” (used in an accompanying video) was well established as a synonym of “advert”. The tweet itself was entirely unlabelled but because it was a consequence of a commercial relationship between Sony and Ozzy Osbourne it was therefore an ad. In relation to the accompanying video the Council concluded that the commercial relationship between Ozzy Osbourne and Sony was ambiguous, and that without the video being clearly labelled as an ad it breached the Code.

A lot turned on the issue of the interpretation of the word “spot”. Sony provided me with a Thesaurus entry showing “spot” as a synonym of “advert”. However, I concluded that this could not have a direct bearing on the average consumer’s interpretation of the word. I told Sony that the average consumer was not looking at ads with a Thesaurus under his/her arm. “Spot” may be a term that was understood by some consumers, particularly by those who had worked in the media, but not by others whom I judged were the vast majority. So I decided that the Council’s ruling was both rational and defensible.

> “As illustrations of the work I do I will report this year on two cases. One was advertising by Sony Interactive Entertainment; the other was by Flutter UK and Ireland, trading as Sky Bet. Both concerned tweets.

The second “tweet” problem concerned one featuring the former football star, Gary Neville, and the issue was whether, in the context of a gambling ad, it held strong appeal for under 18s. It seemed to me that the Council’s ruling was inherently contradictory. On the one hand it said that Gary Neville “would be unlikely to hold strong appeal for under–18s” and, on the other, that “he was of inherent strong appeal to under–18s”. As these were challenges to ads by the ASA itself and the main objective of doing so was to provide guidance to the industry on how the new guidance on “strong appeal” would be interpreted, I decided to instruct the ASA to reopen the investigation to resolve the conflict of interpretation between the two tests being applied, one qualitative and one quantitative.

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 2024

	2024	2023
	£000s	£000s
Tangible Fixed Assets	6	7
Current Assets		
Debtors & Prepayments	131	131
Cash at bank and in hand	488	521
	619	652
Less Current Liabilities	58	119
Net Current Assets	561	533
Total Assets	**567**	**540**
Accumulated Reserves	**567**	**540**

Profit and loss account

For the year ended 31 March 2024

	2024 £000s	2023 £000s
Income:		
Advertising Levy	7,261	6,592
Mailing Standards Levy	688	790
Interest	73	14
Total Income	**8,022**	**7,396**
Payments to Self-Regulatory Bodies:		
The advertising standards authority	7,110	6,490
Mailing preference service	330	354
Data & marketing association	93	85
Independent reviewer	45	45
Committee of advertising practice	38	36
Other	93	75
Total Self-Regulatory Payment	**7,709**	**7,085**
Administrative Costs:		
Staff costs	198	190
Other operating costs	78	84
Depreciation	3	2
Total Admin Costs	**279**	**276**
Total Costs	**7,988**	**7,361**
Profit (Loss) before Tax	**34**	**35**
Corporation Tax	7	5
Profit (Loss) after Tax	**27**	**30**

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

Directors as at 31 March 2024

Mark Lund OBE
Chair

Paul Bainsfair
IPA

James Best
CAP

Lord Guy Black
NMA

Tim Cable
RM

Justin Cochrane
Outsmart

Chris Combemale
DMA

Paul Hunter
NMA

Kathryn Jacob
CAA

John McLellan
SNS

Jane McNeill
IAB

Sajeeda Merali
PPA

Owen Meredith
NMA

Philip Milton
IAB

Charles Ping
DMA

Robin Price
asbof

Phil Smith
ISBA

Martin Telling
IPA

Duncan Tickell
PPA

Michael Todd
IAB

Stephen Woodford
AA

Secretary & Treasurer:
Robin Price

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 2024 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

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asbof Supporting Trust in Advertising