

basbof

Annual Report 2016/17

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

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**The Broadcast Advertising Standards
Board of Finance Limited**

*a small levy
that makes a
big difference*

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basbof:

CHAIRMAN'S REPORT

The most important single task of the Basbof Board is the appointment of the (part time, but Executive) chair of the ASA. The Chair sets the tone, is key to the main decisions and is responsible for the appointment of the Council and the Chief Executive. We are fortunate that Lord (Chris) Smith has fulfilled this role brilliantly over the past ten years, but he steps down this summer.

This past year we set about, with the head-hunter Odgers, finding a new Chair. After an exhaustive process with many excellent candidates we have been lucky enough to be able to appoint Lord (David) Currie. David, an economist, has been the founding Chair of both Ofcom and the Competition and Markets Authority - both of which roles touch on the work of the ASA. His reputation and his knowledge of regulatory matters are immense.

The ASA has been so well led for so long it would be easy to become complacent about its future, but we will always be vulnerable to those who would rather see regulation taken out of our hands. Only a short while ago there was a Lords debate questioning the appropriateness of the self-regulation of advertising. While there was little support for state intervention, we were reminded that few economic sectors are allowed to regulate themselves, self-regulation has become a minority habit!

It is our view that all benefit from regulation that keeps advertising "legal, decent, honest and truthful". The balance of the dominant lay membership of the ASA Council and the expertise of those involved in advertising provides both a sensitivity to the public interest and a practical knowledge of what is achievable. The ASA can be supple and speedy in a way that would be difficult for a statutory body. Council, with the co-operation of the media, can be quick to take down advertising that offends against the rules without mistaking the occasional miscreant for advertising as a whole.

We face twin threats.

The first is that the quality of the ASA's service and decisions declines, losing public and political support. More than anyone else's, it is the task of the Chair to maintain the high standard.

The second is inadequate finance. For many decades the work of the ASA has been supported by a 0.1% levy on all spend. Advertisers, Agencies and the Media have all understood the importance of this and payment and collection have run smoothly. However the arrival and growing dominance of the web have brought into the advertising world companies that are new to this world, often US based (where there is no established self-regulation) and with a suspicion of outside 'rules'.

The UK management of the Search and social media companies are sympathetic and helpful but have to work, especially in the case of Search, within the constraints of what their owners will allow. We are jointly making progress but have still not achieved widespread collection of the levy from direct advertisers on the web. It is vital that we manage to institute opt out collection of the levy (as is the case in all other media) if we are to continue to be able to properly fund the ASA. For now our finances are secure despite Basbof levy income falling by 2% in 2016/7 to £3.7m.


Of the two major web media: Facebook is seeking to add opt out levy payments to their direct invoices. Google UK have put in place an opt in system that has so far attracted fifteen major direct spenders producing the relatively minor sum of £190k pa (in all fields opt in only produces a small fraction of the return of opt out. Opt out is the lifeblood of UK self-regulation).

You will see in the ASA report that they have supplemented their complaint handling with reviews of fields of advertising which are known to be problematic, heading off problems before they become complaints. Not only is this better for consumers but it should lighten to load of complaints to the ASA.

2016/7 also saw a return to advertising by the ASA to keep the service it provides in front of the public and politicians.

Basbof is well served by its Board. All members give their time voluntarily. In the past year two stalwarts have moved on - Mike Hughes of ISBA and Tim Lefroy of the AA after many years of great support of the cause. Phil Smith and Stephen Woodford have joined the Board in their place.

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



Sir Chris Powell
Chairman

19 October 2017



ADVERTISING STANDARDS AUTHORITY (BROADCAST) REPORT

2016 marked the year where we achieved the desired re-balancing of our work from reactive Complaints casework – still a crucial activity for us – to more proactive, intelligence-led, project-based work, with 22% of our direct service activity devoted to regulatory projects compared to 8% in the year before the launch of our strategy (2013).

Please see the Advertising Standards Authority report for a fuller summary of the ASA's combined non-broadcast and broadcast activities; the following paragraphs predominantly refer to broadcast activities.

In terms of broadcast complaints and cases, we resolved 13,943 complaints (down 8% on 2015) and 4,885 cases (up 15%), 48% of which related to misleading issues (46% in 2015). We met or exceeded five out of six of our broadcast case turnaround KPIs.

The total number of TV ad rulings increased in 2016 (95, compared to 84 in 2015), but that number is well down on 2014 and 2013 (155 and 221, respectively). The number of times we overturned Clearcast advice increased to 53 from 39 (but the 39 in 2015 was a record low). Those 53 represent 0.08% of the total number of TV ads seen by Clearcast in 2016 (66,606). The figures in 2015 and 2014 were 0.06% and 0.1%. 'Misleading impression' returned as the main problem area (36% of rulings), as has been the case in all previous years except 2015. A significant proportion of cases (30%) were Upheld because the ads were considered unsuitable. The number of TV Informal Investigations increased significantly to 106, from 60 in 2015. The ASA publicly supported Clearcast by Not Upholding on 36 occasions (37 in 2015); proportionally that 40% Not Upheld rate is broadly in line with the previous three years (40% - 47%).

There were 12 rulings on radio ads, up from nine in 2015 but down from 20 in 2014 and 35 in 2013. Five cases were Upheld against Radiocentre advice (four in 2015). Five cases were Not Upheld in line with Radiocentre advice, the same as in 2015.

In pursuit of our objective to continue to protect the vulnerable, particularly children, from inappropriate, offensive, harmful or misleading advertising, we published important rulings on gambling ads, which were the focus of a DCMS review begun in the last quarter of 2016. We worked closely with the Department of Health to prepare for the transposition of the Tobacco Products Directive into UK law, which saw e-cigarette advertising banned on TV and radio, amongst other media. BCAP concluded its review of payday loan TV ad scheduling, finding there was insufficient evidence to support the case for scheduling restrictions but accepting AAC advice that further consideration of the content of loan advertising was merited through a Content Review. BCAP also published changes to its direct exhortation rule to ensure consistency with the law. BCAP also joined CAP in publishing a consultation on the sexualised depiction of 16-17s.

Guy Parker

Chief Executive
Advertising Standards Authority



BROADCAST COMMITTEE OF ADVERTISING PRACTICE REPORT

The UK Broadcast Code of Advertising and its accompanying host of online guidance notes that help advertisers and agencies comply with it are living things. BCAP keeps them under constant review in the light of changes in law, advertising approaches and techniques, social attitudes and public concerns, or of new evidence suggesting they could be better. They evolve accordingly.

In the year under review this was apparent on several fronts. Consumer research into broadband speed advertising indicated that our guidance was no longer adequate, and a process of industry discussion and review began, culminating in a public consultation on proposed new standards, which concludes this year.

Concern over the scheduling of payday loan advertising similarly led to a thorough review and public consultation, but in this case our conclusion was that a rule change was not proportionate. A further tightening-up of guidance on aspects of the content of some payday loan ads was, on the other hand, introduced.

E-cigarettes became subject to the EU Tobacco Products Directive during the year, effectively bringing their advertising on TV to an end by way of a direction through Ofcom from the Secretary of State for Health, an unusual event in itself.

Gambling advertising on TV remains a sensitive topic, with pressure to restrict it further and its inclusion in a DCMS Review of Gaming machines and Social Responsibility Measures prompting us to look carefully at new research emerging this year, in case there is any evidence of advertising-related harm as yet unseen.

Increasing societal concern over the sexualised portrayal of young people and its potential harmful effects on them led us to consult widely on the issue and announce an amendment to the existing BCAP rule that raised the minimum age at which such depictions are allowed from 16 to 18.

Membership of BCAP was enhanced in 2016 by both STV and BT TV joining the Committee, ensuring a comprehensive level of participation on the part of UK broadcasters.

The Advertising Advisory Committee, our independent advice-giving panel chaired by Stephen Locke, also welcomed new members during the year from academic, regulatory and political backgrounds. This panel's consumer-focused advice is recognised as extremely valuable by BCAP and we are grateful for its members' diligence and commitment.

I would also like to thank the members of our Industry Advisory Panel, chaired by Tim Duffy of M&C Saatchi, who contribute their good advice as 'frontline' marketers and advertisers to considerable effect.

Finally, my thanks go as ever to the expert, hard-working and patient executives of BCAP and the ASA, led in our case by the Director of the Committees, Shahriar Coupal, for all their guidance to the Committee over the year.

James Best



THE INDEPENDENT REVIEWER OF THE RULINGS OF THE ASA COUNCIL REPORT

In the year to the end of June 2017 I dealt with only 6 requests for reviews of the rulings of the ASA Council in relation to broadcast advertising; much less than the 13 in the previous year. I don't know why the customary pattern has been broken but I would like to feel it was due to the quality of the work first of Clearcast and then of the ASA.

Of the 6, three of them proved to be ineligible, because the decisions complained had been made by ASA executives and not by the Council. In one other case I decided that my investigation was not justified.

Independent review of the rulings of the ASA Council enables consumers and advertisers to question whether their decisions are fair and reasonable. Below I describe the two cases which I asked the Council to reconsider. They illustrate different aspects of this point.

The first was a TV ad by Omega Pharma for Urestemol Men (a medication to alleviate the problem of frequent need to urinate in the night). There had been fifteen complaints including some that said the ad was irresponsible because it could discourage viewers from seeking medical advice, for a symptom that might reflect a serious underlying condition, rather than just buying the product over the counter. The review was actually requested by the ASA itself, which is a useful albeit rarely used procedure, when it comes to light that a mistake may have been made. In this case, at the time of the original ruling, the ASA was unaware that the MHRA had decided that the product was suitable for general sale without the intervention of a healthcare professional. The investigation was re-opened for consultation with the MHRA and, in the light of that and my further advice, the Council decided to reverse its ruling so the complaint was not upheld. The review underlined the value of the ASA being able to decide to have its own decisions reviewed; which produces, in my view, a very transparent and accountable process of self-criticism.

The second was a series of ads by Oak Furniture Land (OFL), of which the TV ad was the most important. The key claims in the ad were the statement "no veneer in 'ere" and "100% solid hardwood" and the issue before the Council was how the average consumer would be likely to interpret the claims. The complainant argued that OFL's 'oak wrap' technique would be understood as a veneer and that as OFL wrapped a thin layer of oak around pieces of oak glued together it was misleading to describe it as "100% solid". The Council agreed with that view and Upheld the complaint. The advertiser requested a review on a variety of grounds all of which I cannot easily summarise here. Inter alia the advertiser argued that the Council had not adopted the commonly understood meaning of a veneer which was a layer of good quality wood covering a core of less good quality material and it seemed to me from the outset that the Council had not adopted the 'mainstream' view of how the ads would be interpreted. My legal advice was that the original ruling might be defensible on the grounds that a significant minority of consumers would interpret the ad in the way the Council had.

However, as the review progressed it became clear that while the ad had applied to the whole range of OFL's furniture the technique at issue only applied to the company's dining table legs. They supplied an example of their legs (which looked and felt entirely solid) and a competitor dining table leg which was clearly a veneer covering a lesser quality core. It also emerged that the percentage of stock that dining table legs constituted was only 2.77% of the total stock of furniture and that accounted for only 5.58% of sales (by value). It seemed to me therefore that it would be a mistake for the Council to adopt the "significant minority" of consumers

interpretation based on a tiny minority only of the stock and sales of the advertiser's company. I therefore offered the Council two draft rulings to decide between: one to continue to Uphold, and the other to Not Uphold. After discussion the Council decided to reverse its ruling and to Not Uphold the complaint.

I should conclude by mentioning one important change in the process of independent review. Since its inception, the advertising Codes have required the Reviewer to consult two Assessors – the Chairman of the ASA and the Chairman of ASBOF/BASBOF – before promulgating his conclusions in any case. A review of the workings of the ASA recommended that this practice should cease. While the report on the results of the review said that no evidence of interference or bias had been found on the part of the Assessors the very process of consulting them gave the impression that there might be a perceived conflict of interest because of their central role in the management and funding of the regulatory system. The Council agreed. So, in future, any Determinations I make on review requests will not be so mediated in any way.

Hayden Phillips



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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 30 JUNE 2017

	<u>2017</u> £000s	<u>2016</u> £000s
Fixed Assets	<u>-</u>	<u>-</u>
Current Assets		
Prepayments	27	9
Cash at bank and in hand	<u>132</u>	<u>128</u>
	159	137
Less Current Liabilities	<u>(44)</u>	<u>(62)</u>
Net Current Assets	<u>115</u>	<u>75</u>
TOTAL ASSETS	<u>115</u>	<u>75</u>
RESERVES		
Profit & Loss Account	<u>115</u>	<u>75</u>

PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 30 JUNE 2017

	<u>2017</u> £000s	<u>2016</u> £000s
Income:		
Basbof Levy	3,731	3,820
Interest	8	16
	<hr/>	<hr/>
Total Income	<u>3,739</u>	<u>3,836</u>
 Payments to Self-Regulatory Bodies:		
The Advertising Standards Authority	3,357	3,505
Independent Reviewer	35	35
Broadcast Committee of Advertising Practice	33	35
Advertising Association	32	32
Other Self-Regulation costs	27	17
	<hr/>	<hr/>
Total Self-Regulatory Payment	<u>3,484</u>	<u>3,624</u>
 Administrative Costs:		
Staff costs	157	149
Other Operating costs	47	44
	<hr/>	<hr/>
Total Admin Costs	<u>204</u>	<u>193</u>
	<hr/>	<hr/>
Total Costs	<u>3,688</u>	<u>3,817</u>
	<hr/>	<hr/>
Profit (Loss) before Tax	51	19
Corporation Tax	(11)	(4)
	<hr/>	<hr/>
Profit (Loss) after Tax	<u>40</u>	<u>15</u>

THE BOARD OF DIRECTORS OF THE BROADCAST ADVERTISING STANDARDS BOARD OF FINANCE LIMITED

DIRECTORS AND MEMBERS OF COUNCIL as at 30 June 2017

Sir Chris Powell	Chairman
Paul Bainsfair	IPA
James Best	BCAP
Magnus Brooke	Clearcast
Phil Georgiadis	IPA
Kristoffer Hammer	Clearcast
Stephen Hemsted	Secretary
Yvonne Kintoff	RC
Andrew McCarthy	ISBA
Adam Minns	COBA
Phil Smith	ISBA/EASA
Stephen Woodford	AA

Secretary & Treasurer: Stephen Hemsted

The eight associations represented are shown above by their initials

basbof 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 30 June 2017 are:

The Advertising Association	AA
Broadcast Committee of Advertising Practice	BCAP
Clearcast	CLEARCAST
Commercial Broadcasters Association	COBA
European Advertising Standards Alliance	EASA
Incorporated Society of British Advertisers	ISBA
Institute of Practitioners in Advertising	IPA
Radio Centre	RC