

basbof

Annual Report 2018/19

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

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*a small levy
that makes a
big difference*

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

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A word from Mark Lund

Basbof Chairman

As the incoming Chair of Asbof and Basbof I can take no responsibility for the successes of the year and indeed owe a great debt of gratitude to my distinguished predecessor Sir Chris Powell, who stepped down after nine years in June of 2019. I am very honoured to be succeeding him and, alongside the ASA, CAP and many others, to have the task of ensuring the health of a system of self-regulation that I feel is a vital part of the UK's long term success as an excellent, dynamic and responsible producer of marketing communications.

The year to June 2019 saw levy income on broadcast spend fall by 7% to £3.7m as more spend shifted within the market towards the digital channels. Indeed, the levy income rise on non-broadcast rose by 6% to £5.5m 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 20 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.

This growth is very encouraging, but it does not yet come close to matching the growth in spend in digital search and display which grew to more than half of all spend (56%) during the year and are forecast to continue to expand. We therefore still need to generate a bigger take from these areas to guarantee both the future of self-regulation and its equitability.

In respect of these long-term changes to what remains a buoyant and dynamic UK ad market, my feeling is that Asbof needs to look at longer term as well as shorter term solutions. So as well as working with the major digital players in areas like those above, and with the IPA in the field of measuring and improving agency compliance, I have also commissioned with PWC a review into the funding, governance and operations of Asbof to identify how best to reform the system for the new era.

The Masbof levy fell this year by 10% to £1.2m, a result of long-term changes in the postal market, but this was also matched by a corresponding fall in the ASA's casework in the area. This structural change was offset this year by a very welcome one-off distribution of £1.1m from the closure of the SHOPS scheme, a fund set up by the Newspaper industry to cover compensation to consumers buying directly by mail from advertisers, facilitated by Chris Combemale of the DMA and David Newell of the Newspaper Marketing Association.

Under the leadership of David Currie and Guy Parker the ASA had a highly productive year with both handling of complaints and the delivery of proactive training and advice to the industry, up significantly and delivered from a largely unaltered resource level. The ASA are embracing the new world of digital delivery and data capability in their new strategy and I believe will benefit not only from this but their move to great new premises in the last quarter of 2019.

CAP remains the nexus of the industry's direct contribution to establishing the rules by which self-regulation works and is brilliantly chaired by James Best, who I am delighted to say has extended his term to 2022.

I would also like to thank Hayden Phillips whose independent reviews are of great quality and the Asbof secretariat who power the system with great resilience and skill.

A handwritten signature in black ink, appearing to read 'Mark Lund', written over a light grey dotted background.

Mark Lund
Chairman



Advertising Standards Authority (Broadcast)

The final year of our 2014-2018 strategy was dominated by Brexit, increasing political pressure for tighter restrictions on HFSS and gambling ads, an emerging ad industry response to low trust in advertising, a growing 'techlash' against US tech companies for contributing to social (more than advertising) harms and tightening financial circumstances for the ASA system. We achieved excellent performance on our two priority KPIs: we secured the amendment or withdrawal of 10,850 ads, up 53% on 2017 (itself a record year); and we delivered 535,483 pieces of advice and training, up 37% on 2017 (again, a record year).

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 11,748 complaints (up 6% on 2017) and 6,442 cases (up 23%), 42% of which related to misleading issues (46% in 2017). We met or exceeded all three of our new broadcast case turnaround KPIs (four out of six in 2017). The 23% increase in broadcast complaints was notable, and broadly reflected the 26% increase in overall complaints, but it was an unusually quiet year for multi-complaint TV ads, with Photobox's 'Boy sitting on a dog' ad attracting just 212 (we did not uphold them).

The total number of TV ad rulings increased to 107 in 2018 (80 in 2017). The number of times we overturned Clearcast advice increased to 52 (45 in 2017), but was a smaller proportion of our TV rulings (49% v 56%). Those 52 represent 0.08% of the total number of TV ads seen by Clearcast in 2018. The figures in 2017 and 2016 were 0.07% and 0.08%. 'Misleading impression' remained the main problem area, as has been the case in all previous years except 2015. The ASA publicly supported Clearcast by Not Upholding on 55 occasions (31 in 2017); proportionally that 51% Not Upheld rate is higher than previous years.

There were 15 rulings on radio ads, up from 11 in 2017 and 12 in 2016. In eight, we overturned Radiocentre advice, up from seven in 2017. All were cases in which our opinion differed from that of Radiocentre.

In pursuit of our objective to continue to protect the vulnerable, particularly children, from inappropriate, offensive, harmful or misleading advertising: BCAP published an open call for evidence to assist in its regulation of TV ads for HFSS products; CAP/BCAP published guidance on responsibility and problem gambling; CAP/BCAP published their consultation on gender stereotyping, proposing a rule and guidance to prevent harmful stereotypes in advertising, and, following that, confirmed their decision to regulate gender stereotyping in advertising through a

rule and guidance; BCAP published revisions to its guidance on superimposed text following an ASA research report on how consumers received and understood qualifying text on-screen in TV ads; and BCAP launched a call for evidence on audio description in TV advertising (for blind and visually impaired members of the TV audience), to address concerns about how qualifying information is provided in audio description tracks, particularly in circumstances where ads have a mixture of voiceover and superimposed text that needs to be accommodated in a limited time.

A handwritten signature in black ink, appearing to read 'Guy Parker', written over a light grey rectangular background.

Guy Parker
Chief Executive
Advertising Standards Authority (Broadcast)



Broadcast Committee of Advertising Practice

I don't know who thought it up, but 'The Committees of Advertising Practice' is a dull-sounding name. Deceptively so in light of CAP and BCAP's actual work.

First, because as the industry's rule-making 'legislature' – as opposed to the ASA's role as the judiciary – the Committees and their Executive are at the sharp end of advertising regulation.

Evolving the Codes by which clients, agencies and media platform owners alike behave means bringing a diverse 'industry' to agreement on restrictions to their freedom to act, in the name of consumer protection and fair competition. It means gaining collective consent to moving advertising behaviour in line with fast-developing communication techniques and social attitudes.

Our policy team's important work on HFSS foods, on-screen text, gambling harms and gender stereotypes in ads are examples of such change during the past year. Research, careful thought, wide consultation and collective decision-making resulted in new and effective Code and guidance development to keep advertising standards high.

It's the same with the B/CAP team's other key functions: securing compliance with ASA rulings and keeping practitioners informed and up-to-date with their responsibilities as new rules and guidance emerge.

Both roles are seeing record levels of activity. Over 500,000 pieces of B/CAP advice and training were served to businesses in 2018, twice 2015's total. CAP guidance was read over 450,000 times in our e-newsletters or on our website. 67,000 people attended, watched or listened to training events, webcasts and podcasts. Copy Advice answered some 6,250 individual questions about the acceptability of new advertising ideas or approaches.

Meanwhile Compliance succeeded in ensuring that 98% of the ASA's formal rulings were enforced, securing responsible behaviour from advertisers large and small.

The name may be dull, but BCAP's work is anything but. The industry's thanks are due to our expert and committed Executive; and mine go to all those across the industry who give their time and thought to our work and so to the successful future of advertising in the UK.

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



A word from Hayden Phillips

The Independent Reviewer of the Rulings of the ASA

In the year to the end of June 2019 I dealt with 16 requests for reviews of rulings of the ASA Council in relation to broadcast advertising, which is about the historic average. Two proved to be ineligible and of the remaining 14 I returned 6 to the Council for re-consideration. That is quite a high proportion. Of those, the Council agreed to reverse its ruling in 2 cases, to change the wording of the rationale in 1, to withdraw the rulings altogether in 2 (which is rare), and I required the ASA to conduct a formal investigation in the last case after the Council had decided against one.

Below, I describe two cases which I reviewed: in both the Council decided to reverse its original ruling but in each case part of the reason for returning the ruling to the Council was because substantial procedural flaws had occurred. In each case I explained that I could not say that the original Upheld decisions were irrational and offered alternative drafts for the Council to consider.

The first case concerned an ad for Kellogg's Coco Pops non-HFSS Granola, shown during a children's programme, 'Mr Bean'.

The procedural flaw which had to be corrected was that when the Council initially considered the case it was not informed that Ofcom was making a Not in Breach finding on two TV credits for the same product as the TV ad on which the Council had decided that the complaint from the Obesity Health Alliance (which had argued that the ad contained more of the traditional branding of Coco Pops than the non-HFSS Granola message) should be Upheld. I told the Council that the first issue they had to judge was whether the programme credits were sufficiently similar in content to the TV ad to cause it to question whether the original ruling was soundly based. It seemed to me undesirable to have on record two apparently conflicting decisions from the two principal regulators. The second issue was whether the advertiser's review request had, despite their reliance in part on the Ofcom decision, made out a persuasive enough substantive case that the TV ad was predominately about the non-HFSS Granola product. I said that I thought the advertiser had done enough to persuade me that a Not Upheld finding would be the more reasonable conclusion but I could not say that the original ruling was indefensible or irrational.

Kellogg's had argued that: "Granola" was a core feature throughout the ad; animal characters other than Coco significantly featured in the ad and were encouraged by Coco to try the product; the Granola product was visually different, as promoted with a close up shot of the cereal; there were no stand-alone references to "Coco Pops" or that product range; and there were additional shots, comprising about 75% of the ad, of the bowl with the word "Granola" clearly legible on the screen. In addition, there was small on-screen text shown throughout most of the ad which stated, "Enjoy as part of a healthy diet and active lifestyle, 45g of Coco Pops Granola = 9% RI for sugar".

It seemed to me a fine judgement as to which of the parties had the better points. It was common ground that the ad was for a non-HFSS product. The issue was whether the presentation gave too great a prominence to Coco the Monkey with an implied emphasis on the old HFSS branding, flavoured by the reference in the ad to "chocolatey" as the taste. After a detailed discussion the

Council judged that Kellogg's had done enough for it to reverse its original decision and Not Uphold the complaint.

The second case concerned an ad for Sky Bet promoting their "Request a Bet" service. In the ad *"The football presenter, Jeff Stelling, said "forget 'anything can happen', in sport anything does happen. But could it be better? With Request a Bet it could. Spark your sports brain and roll all the possibilities into one bet. Three red cards, seven corners, five goals; let's price that up. Or browse hundreds of request a bets on our app. The possibilities are humungous. How big is your sports noggin? "* A large screen behind the presenter featured various odds and statistics as well as a graphic of brain waves emanating from his head. Two complainants, who believed the ad implied that those with a good knowledge of sports were likely to experience gambling success, challenged whether the ad was irresponsible. The ASA Council decided that it was.

I asked the Council to reconsider the case for two reasons. The first set was procedural. The Council was not made aware of a contemporaneous ruling on a Betfair ad which said *"my gut says that horse is something special, and my smarts say to back it on the Betfair Exchange where I get bigger returns than if I bet with one of these other bookies"*. The common issue in each of the ads is whether they would be interpreted as making an irresponsible "skill and knowledge message". In the Betfair case the Council decided it did not; in the Skybet case it decided it did. The Council were also not made aware of the comments which a betting specialist at the Gambling Commission had made to the ASA when he was consulted on the Draft Recommendation in the Skybet case. He said " he doesn't feel that the language used directly suggests that by using knowledge and 'Request a Bet' a consumer is 'more likely to experience success'; and he concluded "we would be concerned about setting a precedent that prohibits the responsible promotion of skill/knowledge whilst simultaneously allowing for gambling based on chance".

Apart from these concerns over the process I did not feel that the ruling interpreted the import of the ad in the most rational way. I gave the Council two examples. First, the ruling said "the ad placed strong emphasis on the role of sports knowledge in determining betting success" but there was no reference to betting success in the ad. It seemed to me that the ad underlined the importance of sports knowledge in putting together a complex bet with no particular implication about the outcome. Second, the law acknowledges that some people will have more skill and knowledge than others in some forms of gambling so I said it was difficult, in my view, to see how an ad which referred to "your sports brain" and "your sports noggin" in relation to placing a complex bet could be deemed irresponsible.

The Council agreed to change its original Upheld decision to Not Upheld.

I hope these cases illustrate how the process of independent review offers an effective way of questioning whether the decisions of the ASA Council are fair and reasonable.



Hayden Phillips



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 2019

	<u>2019</u> £000s	<u>2018</u> £000s
Fixed Assets	<u>1</u>	<u>2</u>
Current Assets		
Prepayments	8	9
Cash at bank and in hand	<u>199</u>	<u>155</u>
	207	164
Less Current Liabilities	<u>(68)</u>	<u>(49)</u>
Net Current Assets	<u>139</u>	<u>115</u>
TOTAL ASSETS	<u>140</u>	<u>117</u>
RESERVES		
Profit & Loss Account	<u>140</u>	<u>117</u>

PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 30 JUNE 2019

	<u>2019</u> £000s	<u>2018</u> £000s
Income:		
Basbof Levy	3,312	3,666
Interest	<u>14</u>	<u>10</u>
Total Income	<u>3,326</u>	<u>3,676</u>
Payments to Self-Regulatory Bodies:		
The Advertising Standards Authority	2,970	3,350
Independent Reviewer	35	35
Broadcast Committee of Advertising Practice	35	34
Advertising Association	32	32
Other Self-Regulation costs	<u>7</u>	<u>7</u>
Total Self-Regulatory Payment	<u>3,079</u>	<u>3,458</u>
Administrative Costs:		
Staff costs	175	154
Other operating costs	<u>43</u>	<u>51</u>
Total Admin Costs	<u>218</u>	<u>215</u>
Total Costs	<u>3,297</u>	<u>3,673</u>
Profit (Loss) before Tax	29	3
Corporation Tax	(6)	(1)
Profit (Loss) after Tax	<u>23</u>	<u>2</u>

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

DIRECTORS AND MEMBERS OF COUNCIL as at 30 June 2019

Sir Chris Powell	Chairman
Paul Bainsfair	IPA
James Best	BCAP
Magnus Brooke	Clearcast
Stephen Hemsted	Secretary
Yvonne Kintoff	RC
Andrew McCarthy	ISBA
Niamh McGuinness	Clearcast
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 2019 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