

THE ADVERTISING STANDARDS AUTHORITY
FOR
IRELAND

DIGITAL MARKETING COMMUNICATIONS

ONLINE REMIT EXTENSION

CONSULTATION DOCUMENT

JUNE 2012



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Content

Introduction.....	4
1. Background to DMC.....	5
2. Online Remit Extension.....	7
2.1. Current remit in brief.....	7
2.2. Proposal I.....	9
2.3. Proposal I Question	9
2.4. Proposal II.....	10
2.5. Proposal II Question.....	10
3. Consultation Questions.....	11



Introduction

ASAI

The Advertising Standards Authority for Ireland (ASAI) is the independent self-regulatory body set up and financed by the advertising industry and committed to promoting and enforcing the highest standards of marketing communications that is, advertising, promotional marketing and direct marketing, in the public interest.

Primary responsibility for observing the Code rests with advertisers, promoters and direct marketers. Others involved in the preparation and publication of marketing communications also have an obligation to adhere to the Code. All advertisers should avoid publishing or broadcasting marketing communications that do not comply with the Code.

The ASAI is concerned with the content of commercial marketing communications in the media and with the design and execution of sales promotions.

The Code is administered primarily in the interests of consumers.

EASA

The ASAI is a founder member of the European Advertising Standards Alliance (EASA). EASA is a non-profit organisation based in Brussels which brings together 34 national European and non-European advertising self-regulatory organisations (SROs) and 16 organisations representing the advertising industry in Europe – advertisers, agencies and various forms of media, including television, radio, press and outdoor poster advertising.

EASA is the single authoritative voice of advertising self-regulation whose mission is to promote responsible advertising through best practice in self-regulation across the European Union for the benefit of consumers and business.



1. Background to Digital Marketing Communications and ASAI Code

Prior to 2009

The ASAI Code covered display advertising on third party websites/publisher websites as well as keywords in paid for search advertising, sponsored ads on search engine websites, sms and email.

In 2008 the EASA published their Best Practice Recommendation (BPR) in response to the increase in online ad-spend across Europe. At the time most digital marketing communications fell outside the remit of the Self-Regulatory bodies but consumers expected a level of service for online ads similar to that for ads carried in traditional media.

The BPR was produced by EASA with direct input from the self-regulatory organisations throughout Europe, advertisers, agencies, media companies and NGOs based in Brussels.

2009

In Ireland, the Advertising Association of Ireland (AAI), the Institute of Advertising Practitioners in Ireland (IAPI) and the media interests represented on the Board strongly supported the extension of the remit. The fundamental change involved bringing the marketing communications on advertisers' own websites into the remit of the ASAI. The extension of remit was strongly supported by the World Federation of Advertisers (WFA).

2011

Following on from the aforementioned developments, and due to a further increase in on-line ad-spend, the ASAI began an investigation into the further extension of its digital remit.

The primary areas being reviewed and investigated are social media incorporating paid-for marketing communications on all such platforms as well as non-paid for marketing communications under the advertisers' control directly connected with the supply or rendering of goods and services. The exercise has involved a discussion around jurisdiction, examining marketing communications, taking account of public relations editorial material as they apply to digital media.



In order to ensure that any revised remit introduced by the ASAI is informed by all viewpoints, the ASAI invites you to make a submission to the proposed online remit extension including the questions following in section two.

We welcome your views on any or all of the questions included in this document. All responses will be considered by the ASAI and will inform the decision-making process.

Responses to the consultation should be provided on or before close of business on Monday 9th July 2012.

Responses should be sent to: - Digital@asai.ie.

Postal responses should be sent to:-

Orna Curry,
DMC – Online Remit Extension,
Advertising Standards Authority for Ireland,
Ferry House,
48 Lower Mount Street,
Dublin 2.



2. Online Remit Extension

2.1. *Current Remit in Brief*

The current remit of the ASAI as set out in the Code of Standards for Advertising, Promotional and Direct Marketing in Ireland (6th Edition) section 1.3 states the following:

1.3(b) A marketing communication includes but is not limited to advertising, as well as other techniques such as promotions, sponsorships and direct marketing, and should be interpreted broadly to mean any form of communication produced directly by or on behalf of advertisers intended primarily to promote products, to influence the behaviour of and/or to inform those to whom it is addressed.

1.3(c) Advertising or an advertisement includes but is not limited to a form of marketing communication carried by the media, usually in return for payment or other valuable consideration.

1.3(i) Promotional marketing practices, including sales promotions, are those marketing techniques which involve the provision of direct or indirect additional benefits, usually on a temporary basis, designed to make goods or services more attractive to purchasers.

Section 1.4 states that the Code applies to:

- (a) marketing communications in newspapers, magazines and other printed publications, including “free sheets”;
- (b) marketing communications in posters and other promotional media in public places, including moving images;
- (c) marketing communications in brochures, leaflets, circulars, mailings, fax transmissions, e-mails and text transmissions;
- (d) marketing communications broadcast on television or radio or screened in cinemas;
- (e) marketing communications carried on electronic storage materials and all other electronic media and computer systems;
- (f) promotional marketing and sales promotions;
- (g) advertisement features.



Section 1.5 states that the Code does not apply to:

2. statutory, public, Garda and other official notices;
3. material published as a matter of record only;
4. flyposting;
5. packages, wrappers, labels, tickets, timetables and menus, unless they advertise another product or a sales promotion or are recognisable in a marketing communication;
6. point-of-sale displays, except those covered by the promotional marketing rules or when part of a wider advertising campaign;
7. marketing communications whose principal purpose is to express the advertiser's position on a political, religious, industrial relations, social or aesthetic matter or on an issue of public interest or concern;
8. classified private advertisements, including those on-line;
9. press releases and other public relations material;
10. the content of books and editorial material in media;
11. oral communications, including telephone calls;
12. works of art;
13. specialised marketing communications addressed to the medical, veterinary and allied professions;
14. the content of premium rate services;
15. marketing communications in foreign media (complaints are normally dealt with by the self-regulatory authority in the country of origin of the media);
16. ~~website content, other than sales promotions and marketing communications in paid-for space*~~;
17. sponsorship (marketing communications that refer to a sponsorship are covered by the Code.

*Section 1.5(o) has been deleted because the Board of the ASAI amended the remit of the Code to include marketing communications on advertisers own website. This includes Irish registered companies (regardless of domain) and websites that have a ".ie" domain including Irish comparison and search sites.



2.2. Proposal I

The Working Group of the Board has proposed the inclusion of the following by way of extending the ASAI online remit:

In remit:

1. Areas within websites that serve geo-targeted ads, regardless of the top level domain, or the country of registration of the website owner;
2. Marketing Communications on advertisers' own profile pages in social media;
3. All marketing communications on social media platforms, including:
 - 3.1. Marketing communications uploaded to social media platforms by an advertiser or their agents on their clients' behalf;
 - 3.2. Non-paid for marketing communications under the advertiser's control that are directly associated with the transfer of goods or rendering of services;
 - 3.3. Heritage advertising where it is used in current promotional activity;
4. Advergimes that feature display ads;
5. In-game ads;
6. Ads distributed through web widgets;
7. Virals (if created or endorsed by the advertiser);
8. Search Engine Optimisation Meta Tags & Title Tags

2.3. Proposal Question

Are there any additional areas that you consider should be included at this time?

Please give reasons for any additional areas that you are proposing for inclusion.



2.4. Proposal II

The Working Group of the Board has proposed excluding the following in relation to the ASAI digital remit:

Not in remit:

1. Independent review websites (i.e. the review content itself);
2. Blogs (editorial content on a blog);
3. Third-party UGC and/or viral marketing that has not been distributed or endorsed by the marketer;
4. Content that constitutes the product itself (e.g. a virtual product);
5. Heritage advertising, where that advertising is not part of their current promotional strategy and is published in an appropriate context. In the event that an advertisement or marketing communication is subject of a recent Complaints Committee adjudication, then section 2.4² of the Code may be invoked to bring such heritage advertising or marketing communications within remit.

2.5. Question

Do you consider that any of the areas proposed for exclusion, at this time, should in fact be included in the remit?

Please give reasons for any areas that you are proposing for inclusion.

² Section 2.4 states "The Code is applied in the spirit as well as in the letter".



3. Consultation Questions

The below features Proposal I Question 1 and Proposal II Question 2, and additional questions that relate to the interpretation of Digital Marketing Communications in Ireland today.

Proposal I Question

1. Are there any additional areas that you consider should be included at this time? Please give reasons for any additional areas that you are proposing for inclusion.

Proposal II Question

2. Do you consider that any of the areas proposed for exclusion, at this time, should in fact be included in the remit? Please give reasons for any areas that you are proposing for inclusion.

Additional Questions

3. Do you think that the current definition of a marketing communication is appropriate for social media platforms? Please give reasons in support of your answer.
4. To what extent would you consider material posted by an advertiser or agent on a social media platform to be a marketing communication e.g. photos, comments or videos? Please give examples and reasons in support of your answer.
5. Please describe and give examples of your interpretation of the nature and type of marketing communications on social media platforms that should be included within remit.
6. To what extent should “heritage” advertising posted on advertisers’ websites, agencies’ websites or on social media platforms, be subject to the Code. Note that such advertising may no longer conform to the Code rules arising from amendments to the Code.
7. In determining jurisdiction of company profile pages on social media platforms, what criteria should be taken into account for multinational companies?



END

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