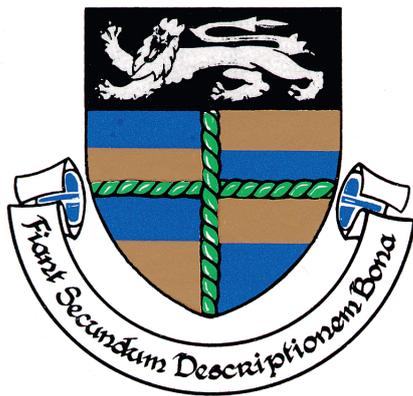




Advertising Standards Authority for Ireland

Annual Report

32nd Annual Report 2012



THE OFFICIAL HERALDIC ACHIEVEMENT OF ASAI

The coat of arms or official heraldic achievement of the Advertising Standards Authority for Ireland was granted by the Chief Herald of Ireland and registered in his Office in April, 1983.

The design and composition of the arms graphically symbolise the sphere of influence as well as the function of ASAI.

The heraldic arrangement of the national tinctures enhanced by the wreathed cross is designed to suggest the packaging of goods on a nationwide basis, while the lion, traditional symbol of active vigilance, signifies the role of ASAI as overseer in relation to the advertising of those goods.

The shield, historically an emblem of defence, is symbolic of the protection afforded the consumer public by the ASAI, which seeks to establish and maintain principled advertising in Ireland.

All these items are encapsulated in the slogan or motto of the ASAI, 'FIANT SECUNDUM DESCRIPTIONEM BONA' - let the product accord with its description - which bespeaks the ideal of the Advertising Standards Authority for Ireland.



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CHAIRMAN'S STATEMENT



Edward McCumiskey, Chairman

I have pleasure in presenting the 32nd Annual Report of the Advertising Standards Authority for Ireland, which covers the activities and the financial statements for the year 2012.

Many of those working in the advertising industry may not always fully realise the sheer volume of activities of the ASAI, a volume that has been growing steadily

over the years. I strongly recommend a thorough reading of this year's Report to anyone with an interest, either professionally or otherwise, in advertising self-regulation. Not only does the Report enumerate the salient features of the ASAI's activities in 2012 but it also sets out its modus operandi, in general terms, more details of which are to be found in the ASAI Code.

The Report also gives an outline of the ever-growing range of the ASAI's responsibilities. With the recent extensions to its digital remit, including advertisers' pages on social media, the aim of the ASAI is to give as complete a protection as possible to consumers in relation to most marketing communication in practically all media. The section on complaints at page 12 provides some detail of how the 2,275 complaints received in 2012 were dealt with.

The period of my Chairmanship of the ASAI began in 2004 and my first Report showed a measured increase in both the level of the Authority's activities and in the level of public awareness of the ASAI and its work. A period of mixed fortunes for the advertising industry began and has continued ever since, with particularly tough conditions in more recent years. This, of course, was immediately reflected in the ASAI's income, which is directly related to advertising spend, resulting in the ASAI now having to operate with diminishing resources within very tight budgetary constraints.

On a more positive note, the years since 2004 have seen many significant developments to advertising self-

regulation, both abroad and here at home, which have served to highlight the international context of the service. The work of the European Advertising Standards Alliance (EASA) has led to considerable acceptance and encouragement of advertising self-regulation among the institutions of the European Community and its recognition in legislation. It can sometimes be forgotten that its growth and status is not confined to Ireland alone but is firmly entrenched and respected in most European countries, and further afield, with operations similar to the ASAI also to be found in countries such as New Zealand, Australia, Canada and India. Most recently, officials from the EASA were involved in making presentations on the subject to a group of countries from Asia.

However, the future of advertising self-regulation in any jurisdiction depends primarily on a firmly-held belief by all sectors of the advertising industry that it is vital for maintaining consumer confidence and, hence, for the well-being of the industry, while also being beneficial for consumers and thereby for society at large. Without this strong self-belief and the concomitant support required to sustain it, self-regulation cannot continue in a healthy state and, in fact, would cease to have any real meaning.

The growing interaction of self-regulation with certain statutory functions in various forms, in what nowadays is loosely called co-regulation, does not diminish the strength of the industry's own self-regulation but rather tends to enhance its effectiveness and its acceptance. While aspects of co-regulation have been with us almost from the beginning of the ASAI, its significance should not be allowed to distract from the industry's own resolve to maintain its own independent system of self-regulation to ensure high ethical standards in its marketing communications.

In this regard it has always been a disappointment to me that, while the Irish authorities have been willing to work with the ASAI, they have failed, so far, to give it the statutory recognition which is a feature of many other countries and, to a certain extent, of the European Community itself. While advertising self-regulation can function very well if not impeded, a broader statutory recognition of the legitimacy of its role, accompanied by a

back-stop to support its decisions, would strengthen its role and effectiveness and, hence, its usefulness to society as a whole.

Maintaining an effective system of self-regulation requires that the various elements of the industry take a pride in the system while acting together with an ongoing commitment to its success. This commitment involves abiding by the Codes and supporting the ASAI. In this regard, the Report notes that despite considerable efforts progress has been slow in improving the level of compliance with payment of the voluntary levy. I regret having to point out that this will hardly go unnoticed by those who cast doubt on the value of self-regulation, and, unless remedied, will prejudice the ability of the ASAI to adequately fulfil its role which could ultimately jeopardise its future. It is my sincere hope that the ongoing programme of visits to heads of media purchasing agencies will result in an immediate improvement of the situation.

This will be the last Report I present to members as my period as Chairman will be coming to a close shortly. I would like to express my gratitude to the various wonderful people who have given of their valuable time to serve on the Board, on the Complaints Committee and the Review Panel, and for the dedicated and business-like way in which they have helped to support and develop the ASAI. It has been an honour and, indeed, a pleasure to serve with them.

In particular, I would like to acknowledge the tremendous contribution over the years of each and every member of the Secretariat team, under the leadership of Frank Goodman and Orla Twomey, the Chief Executive and Assistant Chief Executive. I would like to particularly express my thanks and admiration for their forbearance in facing into an ever increasing and more complex working environment, with reduced resources, while always showing the highest degree of courtesy – for which they are justly well-known – to the public, to colleagues and to members of the Board and Committees alike. Their professional standards have always been of the highest order. Their hard work and enthusiasm and their loyalty to the ASAI and to the cause of advertising self-regulation have been the bedrock on which the ASAI has developed to be the vibrant organisation of which we can all be justly proud.

Edward McCumiskey
Chairman

REVIEW OF THE YEAR

REVIEW OF THE YEAR

This is the 32nd Annual Report of the Advertising Standards Authority for Ireland (ASAI) for the year 2012.

The ASAI is the independent self-regulatory body set up and financed by the advertising industry (advertisers, advertising agencies and media) and is committed to promoting the highest standards of advertising and sales promotion in the public interest. Membership of the ASAI embraces all major advertisers and agencies and all major media, including broadcast, outdoor, digital and the print media.

The ASAI, since its foundation in 1981, has built up an extensive body of expertise in the regulation of commercial advertising in all Irish media. In 2009, we began expanding the jurisdiction of the ASAI in the area of digital media and since then we regulate commercial communications on advertisers' own websites, in addition to those on third-party sites. As first indicated in the Report for 2010, the ASAI will have a role in the regulation of Online Behavioural Advertising (OBA) in relation to consumer opt-in/opt-out preferences. The preparatory work has been undertaken by the European Advertising Standards Alliance (EASA) and the Interactive Advertising Bureau (IAB) in Brussels and, as planned, the ASAI will commence work in this area of regulation during 2013.

An independent Complaints Committee adjudicates on the content of advertisements. These adjudications are enforced through the co-operation of the Media Members of the ASAI, whom we regard as the 'gatekeepers' for the Code. Media Members should not carry advertisements that are in breach of the ASAI Code. Details of the adjudications are regularly carried in the media and on our website (www.asai.ie). The Complaints Committee of the ASAI still includes among its members nominees of the Director of Consumer Affairs. The practice of the Director of Consumer Affairs making nominations to the Complaints Committee and other bodies has, however, now been discontinued. The current Committee also includes academics, social workers, public servants and a minority of representatives from the advertising industry.

The ASAI Code of Standards for Advertising, Promotional and Direct Marketing is based on the principles established by the International Chamber of Commerce (ICC), which

are that all advertising and promotions must be legal, decent, honest and truthful and must be undertaken with a sense of social responsibility. The Code requires advertisers to market and promote their goods and services in a responsible manner. On an ongoing basis, the work of implementing the provisions of self-regulatory codes is being enhanced and supported by the development of Best Practice Guidelines, in all areas of complaints examination, by the EASA. The ASAI will announce the commencement of a general review of the Code in 2013. In developing our new Code, the ASAI will be able to build on the work completed by the ICC on a new Code in 2011. An extensive consultative process will again be put in place and, for the second time, will include inviting comments from members of the public.

In past years the ASAI operated primarily by inviting and resolving consumer and industry complaints which help to keep the Authority informed of the public's current concerns regarding advertising. Information and statistics on how complaints are resolved by the ASAI are given on page 14. The identity of individual complainants remains confidential unless a commercial or other interest is involved. Even then, the identity of a complainant will only be disclosed with their permission. Anonymous complaints are not pursued and all complaints must be in writing (by post, fax or by using the online complaints form). In certain circumstances, where the interests of consumers are involved, intra-industry complaints will be investigated. The ASAI is not, however, an arbitration service for disputes between commercially interested parties.

Prior to 2006, the ASAI only monitored advertising in particular industries or media when issues identified from complaints indicated the existence of an underlying problem with a category of advertising. In late 2006, however, a new monitoring programme was introduced. An overview of the monitoring carried out since 2007 can be found on page 9.

The ASAI also operates a pre-publication advice service for the advertising industry. Advertisers, agencies and media can obtain advice on whether a proposed advertisement or sales promotion conforms to Code requirements. This advice is given on behalf of the Secretariat and does

not bind the ASAI Complaints Committee if they were to subsequently consider a complaint in relation to the advertising.

We have a good, ongoing working relationship with the National Consumer Agency and they plan to develop a Memorandum of Understanding with the ASAI to underpin this relationship.

The ASAI is a founder and member of the EASA, which brings together national advertising self-regulatory organisations (SROs) and organisations representing the advertising industry in Europe. The EASA also supervises the operation of the Cross-Border Complaints system (CBC).

The ASAI was also part of the European Extra Judicial-Net (EEJ-Net), which was set up by the European Commission and launched by Commissioner David Byrne in October 2001. To belong to this network it was necessary to satisfy the Department of Enterprise, Trade and Employment and the EU Commission that the ASAI complied with the recommended principles established in Commission Recommendation on the Principles Applicable for Out-of-Court Settlement of Consumer Disputes (98/257/CE). These principles relate to independence, transparency, adversarial process, effectiveness, legality, liberty and representation. This is now part of the ECC-Net.

ONGOING DEVELOPMENTS

1. In a special publication issued in 2012 to mark 30 years of advertising self-regulation in Ireland we referred to a workshop on “Responsibility in Marketing Communications” to be held in late 2012. Unfortunately, due to difficulties in scheduling the headline speakers, this had to be deferred to January 2013. In January, the successful workshop was organised with a large attendance of industry executives.
2. The ASAI is mid-way through a strategic review of the organisation. The remaining work involving qualitative research with selected industry professionals will be undertaken this year.
3. In early 2012, the ASAI signed up to access the Nielsen system for advertising spend. In May 2012, we commenced a review process with the main media purchasing agencies to improve the level of compliance with payment of the voluntary levy on advertising spend. Despite support from the full range of industry groups

represented on the Board, responses from individual companies have been slow and incomplete. At the present time, a programme of visits to the heads of the agencies involved is underway.

PUBLIC AWARENESS OF THE ASAI

The ASAI’s effectiveness as a regulatory body depends on the practical and active support of advertisers, agencies and the media.

The ASAI Code specifies that it should be implemented primarily in the interests of consumers. Indeed, the main area of work of the ASAI – the examination of complaints – depends on the public being aware not only of the Authority’s existence but also of its role. Consequently, public awareness of the ASAI is a vital element of its successful operation. In December 1998, the ASAI began commissioning independent research to objectively measure such awareness. The research is conducted by means of an omnibus survey by an independent market research organisation.

The ASAI wishes to increase levels of awareness of the organisation and, in particular, of the services offered. This is done partly through the publication of the adjudications of the independent Complaints Committee, which are regularly carried in the media, in trade publications and on the ASAI website. In addition, media members in a range of areas will, when requested, carry advertising which will promote the services of the ASAI. The most recent campaign involved online media and was organised by IAB Ireland on our behalf.

The most recent research, conducted in 2012, showed a drop in the level of awareness amongst some groups and we expect to address this issue with the assistance of the industry in 2013.

COPY ADVICE

The ASAI’s principal activities are resolving consumer complaints and actively monitoring advertising. However, it also provides a valuable pre-publication copy advice service which is available to all those involved with advertising – advertisers, their agencies and the media. During 2012, 59 advertisements were submitted to the ASAI Secretariat in this way. Informal advice was also given in respect of a further 45 proposed advertisements. This advice is free and given on a confidential basis but does not bind the independent Complaints Committee, should the

advertisement subsequently come before them. However, it is the case that, where the service has been availed of, advertisements are less likely to contravene the Code in any substantial way.

MONITORING AND COMPLIANCE

2007 was the first full year in which the ASAI conducted continuous monitoring of commercial communications in the media. In 2007, 11,400 advertisements were examined and, as indicated in Reports for earlier years, the overall compliance rate was 98 per cent, with 100 per cent compliance in some business sectors. During 2008, the number of advertisements monitored was reduced to 4,000. In 2009, just 1,000 advertisements in the print media, direct mail and the broadcast media were monitored. We are glad to say that the compliance rate has remained reassuringly high at 98 per cent across all media. In 2010 and 2011, our programme of monitoring was increased across all media and just over 3,500 advertisements were reviewed in each year. Because of the increased pressure on resources created by the high level of complaints received, just short of 1,700 advertisements were monitored in 2012.

The overall results extracted, however, again demonstrated a compliance rate in excess of 98 per cent. In the small number of cases where it was necessary to contact advertisers for non-compliance, agreement was obtained to withdraw or alter the advertising.

The Secretariat also manages an ongoing exercise in ensuring compliance with new and existing adjudications of the Complaints Committee. This work is carried out in addition to the monitoring by reference to particular industries or media.

REVIEW PANEL

In January 2007, in line with commitments given in conjunction with the EASA to the EU Commission, the Board of the Authority appointed a three-person Review Panel for a five-year term of office. The Panel comprises a Chairman and two ordinary members. The Chairman of the Panel is independent of the advertising industry and the Authority. One ordinary member has a background in the advertising industry and the second ordinary member has a consumer background.

The members of the Panel are Dr Miriam Hederman-O'Brien (Chairman), Ms Josephine Garry (consumer) and Mr Tom McGowan (advertising industry) and they

were reappointed during 2012 for one, two and three years respectively.

The grounds on which a review can be requested and the procedures involved are fully set out in Appendix 1 of the Code. During 2012, there were no requests for a review.

ALCOHOL ADVERTISING

Since 2003, all alcohol advertisements are pre-vetted by Central Copy Clearance Ireland (CCCI), which was set up under the auspices of the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI), facilitated by the Drinks Industry Group. No advertisement can appear in the Irish media without pre-vetting and clearance from CCCI. The ASAI Secretariat and the copy clearance managers from CCCI meet on a regular basis to discuss the provisions of the Code and their interpretation. Such meetings help to ensure that alcohol advertising in Ireland continues to operate to the highest standards. In line with the extension of the ASAI remit into new areas of digital media, CCCI have been developing their services to meet new demands from industry.

Of the 2,275 complaints received in 2012, just 53 related to alcohol. This was a marked increase over the number received in 2011 (22 complaints). Many of the issues raised by the complainants, however, related to the availability of promotions in stores or, in some cases, to areas of the media not covered by the Code. It was also noted that, in 2012, 13 of the complaints were submitted by a single complainant.

Only four cases were referred to the Complaints Committee for a decision and no complaints were upheld under the specific alcohol provisions of the Code. A selection of cases dealt with by the Secretariat informally were also reviewed by the Committee, in line with normal practice.

THE ALCOHOL MARKETING COMMUNICATIONS MONITORING BODY

The Alcohol Marketing Communications Monitoring Body (AMCMB) was established at the end of 2005 to monitor industry compliance with Voluntary Codes of Practice in relation to the possible exposure of young people to alcohol. This initiative was launched in December 2005 by the then Minister for Health and Children, Mary Harney, TD.

The Monitoring Body, with an independent chairman, Mr Peter Cassells, oversees adherence to the Voluntary Codes of Practice agreed between the Department of Health and Children and representatives of the advertising, drinks and media communications industries.

Secretarial and executive services for the Body are provided by the ASAI. The ASAI also examines complaints arising under the Voluntary Codes. The Voluntary Codes were reviewed and extended during 2008 and the extended Codes, which now also cover the print and digital media, are still in use. The system is awaiting a review but will continue in place and operational pending the outcome of the review.

The AMCMB submitted its 6th Report, for the year 2011, to the Minister for Health in mid-2012. In the Report, Mr Cassells has stated that: "As this 6th Annual Report shows, there was overall compliance in 2011 by television, radio, cinema and outdoor advertisers with the obligation set down in the Codes".

THE EUROPEAN ADVERTISING STANDARDS ALLIANCE

Set up in 1992, the European Advertising Standards Alliance (EASA) promotes responsible advertising through best practice in self-regulation for the benefit of consumers and business. Its work is vital to the development and continuation of advertising self-regulation.

The EASA is the unified voice for advertising self-regulation in Europe and, increasingly, it also represents self-regulatory organisations with similar missions in locations such as Australia, Brazil, Canada, Chile, Columbia, India, Mexico, New Zealand, Peru and South Africa. In fact, the EASA brings together 37 self-regulatory bodies and 16 bodies representing the advertising industry.

Membership of the EASA also serves to ensure that the ASAI is informed both on industry developments and, equally, the developments in 25 other European SROs on the regulation of advertising. These relationships are particularly relevant at the present time when experience is being developed on the handling of complaints in digital media, including the entirely new role in relation to OBA. The EASA has a close working relationship with DG SANCO, the directorate responsible for health and

consumer matters, and with DG Connect, the Directorate General for Communications Networks, Content and Technology. This allows the staff of the EASA to keep self-regulatory and industry members informed on – and, where appropriate, have an input into – legislative and policy developments in these critical areas.

The EASA promotes advertising self-regulation for the benefit of the general public and business. In practical terms, the EASA supports the development of the system of advertising self-regulation through the development of best practice guidelines for all aspects of the work. For consumers, their only likely direct contact with the EASA will be in relation to its function in overseeing the management of the system for cross-border complaints.

Under the CBC system, a complaint received by the ASAI, or other national advertising self-regulatory body, concerning an advertisement published in another member country is referred to the appropriate national regulatory body for consideration under their Code. This ensures that a consumer can have redress in the case of misleading or offensive advertising originating anywhere in Europe. In 2012, 414 complaints were received under the CBC system. The figure showed a marked increase on the 73 complaints received in 2011, or even the 200 received in 2010. The figures for 2010 and 2012 are influenced by the large number of complaints received in relation to particular advertisements. The increase in 2012 arises from complaints received by the ASAI from the ASA in the UK and, at the time, the majority of these complaints were outside the remit of the ASAI. This position has since changed with the extension of our digital remit referred to elsewhere in the Report.

EDAA

The European Interactive Digital Advertising Alliance (EDAA) was launched in Brussels in October 2012 by the key stakeholders in the European digital advertising community, including the EASA and IAB Europe.

The EDAA will be responsible for the administration and granting of licences for the use of an interactive icon to businesses operating in the delivery of Online Behavioural Advertising (OBA). Through use of the icon consumers can obtain information on data collection and how it can be controlled. This service includes linking to a 'one-stop shop' website www.youronlinechoices.eu, now available in 24 languages.

At the launch in Brussels, Robert Madelin, Director General of DG Connect, said

"I am impressed with the way in which the advertising industry has succeeded, in a short time, in putting in place a new, effective self-regulatory framework. The principles, procedures and tools help to manage Online Behavioural Advertising and to raise citizens' awareness. Together, these efforts will contribute significantly to empowering internet users in the management of their privacy across Europe. The launch of EDAA today actively demonstrates this progress and the Commission will be following uptake closely."

The EDAA is planning a complementary pan-European education campaign for mid-2013 aimed at increasing awareness of the icon and informing European citizens in relation to online advertising.

DIGITAL ADVERTISING

The Authority's remit in the area of digital advertising was extended to advertisers' own websites in 2009. We are glad to report that, with the exception of a small number of individual advertisers, all others are fully compliant when accepting the adjudications of the Complaints Committee or, indeed, advice from the Secretariat in relation to their websites.

During 2012, the ASAI finalised plans for the extension of its digital remit to new areas of digital media including advertisers' pages on social media. An extensive consultative exercise was carried out with consumers, NGO's and Government departments/agencies in advance of the changes. In late 2012 and early 2013, a range of

presentations were made by the Secretariat to industry groups in advance of the introduction of the new remit, which came into effect on 2nd January, 2013.

A separate area of digital advertising that is currently attracting attention is OBA. OBA involves the use of internet 'cookies' based on a web user's browsing experiences, thus presenting recipients with advertising that is likely to be of most interest to them.

In 2011, the EASA produced a Best Practice Recommendation on Online Behavioural Advertising. This document incorporates IAB Europe's framework on the same issue. This industry-wide self-regulatory standard ensures consumer privacy in Europe. This will be based on the use of an icon referred to earlier and will allow consumers to exercise choice as to whether or not they want to receive OBA advertising.

Finally, for consumers who have complaints which cannot be settled through industry based complaints systems, there will be a complaints system available from the ASAI in Ireland and the other self-regulatory organisations throughout Europe. The design of this system was completed in 2012 by the EASA, IAB and a number of self-regulatory bodies in Europe. As already indicated, there was a formal launch in Brussels in October. The system is currently being adopted for use in Ireland by an industry committee operating in the ASAI with support from the Secretariat.

Proposals for an amendment to the Code to accommodate the new system will shortly be submitted to the ASAI Board. Funding for this complaints system will be provided direct from the EDAA.

COMPLAINTS

In 2012, the ASAI received 2,275 written complaints concerning 880 advertisements. This level of complaint shows a significant increase on the figure of 1,400 complaints received in 2011. The principal reason for the increase is the high level of complaints received about a small number of campaigns as detailed below.

- 260 complaints were received about a nightclub’s post on their own social media page. At the time, social media was not within the remit of the ASAI Code, so we were unable to investigate the complaints. As detailed earlier in this Report, such complaints would now be within our remit following the extension of the Code’s remit in January 2013.
- Another advertisement attracted nearly 500 complaints from complainants in Ireland and the UK. The advertisement appeared in various media. It was also re-published in editorial coverage on third-party websites. Ultimately, only 27 of the complaints related to media within the remit of the Code.
- Another advertisement was the subject of 157 complaints, and while the media involved was within the remit of the Code the advertisement content was

not; it related to a non-commercial advertisement expressing the advertiser’s views on a matter of public interest. The Code is concerned with the regulation of commercial advertising and, at section 1.5(f), expressly states that it does not apply to: “... 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.”

Deducting these complaints from the total leaves 1,385 complaints which is in line with the number of complaints received in 2011 (1,402). In addition, the number of advertisements complained about has remained steady at 880, compared to 867 in 2011.

At 880, the number of advertisements complained about is a very small proportion of the thousands of advertisements that were published during the year in all Irish media – TV, radio, newspapers, magazines, outdoor, brochures, leaflets and the internet.

There were 132 complaints carried forward from 2011, and the ASAI dealt with 2,265 complaints in 2012, leaving 142 in respect of 112 advertisements to be carried forward to 2013.

	2012		2011	
	Complaints	Advertisements	Complaints	Advertisements
Carried Forward from Previous Period	132	96	265	184
Received in Period	2,275	880	1,402	867
Resolved in Period	2,265	864	1,535	955
Brought Forward to Next Period	142	112	132	96

How complaints are dealt with

After an initial evaluation, and investigation where appropriate, complaints are either dealt with informally by the Secretariat or submitted to the independent Complaints Committee for formal adjudication. The decision on how the complaint will be processed depends on whether or not the advertisement in question is likely to be in breach of the provisions of the Code. Most complaints are suitable for dealing with informally, using well-established procedures. A sample of complaints dealt with by the Secretariat are reviewed by the Complaints Committee at each meeting. Further details on the complaints dealt with by the independent Complaints Committee are set out in the section of this Report devoted to the Complaints Committee.

Grounds of complaint

In general, the two main areas of complaint relate to advertising being misleading or offensive. In 2012, twice as many complaints were made on the basis that an advertisement was offensive as were made on the basis that an advertisement was misleading. There are, however, a wide range of other issues covered by the Code provisions that are raised by members of the public. These include issues concerning children, health and safety, causing fear and distress, health claims and environmental claims.

Intra-industry complaints

Advertisements must not only be legal, decent, honest and truthful, but must also respect the principles of fair competition generally accepted in business. Section 2.50 of the ASAI Code states that, "Advertisers should not unfairly attack or discredit other businesses or their product".

While comparisons are allowed (for example, between an advertiser's goods or services and those of competitors) they must be fair and the consumer must not be misled.

Generally, competitor complaints are made under the Code rules relating to substantiation, truthfulness, prices, comparisons and denigration. In 2012, 90 competitor complaints were received which was an increase on the 75 complaints received in 2011. In all, 82 of the complaints were dealt with in 2012, with 18 being formally adjudicated upon by the Complaints Committee. Nine advertisements were found to have breached the Code rules.

Complaints by Sector

The main sectoral areas attracting complaints are set out in this table.

	2012
Leisure	842
Non-commercial	251
Telecommunications	235
Food & Beverages	146
Health & Beauty	104
Travel/Holidays	103
Household	81
Motoring	78

Complaints by Media

	2012	2011
Digital Media	1,179	561
Broadcast*	605	541
Outdoor	290	171
Print	166	241
Brochures/Leaflets	63	120
Cinema	21	37
*Television	408	353
Radio	197	188

Following the trend evident in earlier years, in 2012, digital media gave rise to the largest block of complaints.

Resolution of Complaints

	<u>2012</u>		<u>2011</u>	
	<u>Complaints</u>	<u>Advertisements</u>	<u>Complaints</u>	<u>Advertisements</u>
<u>Additional Information</u>				
Requested but Not Provided	149	141	199	178
<u>Out of Remit</u>				
Media/Matter Out of Remit	911	77	96	67
Cross-Border Complaint	55	10	14	13
	966	87	110	80
<u>Preliminary Assessment of Advertisement</u>				
Complaint Withdrawn	18	18	27	19
More Appropriate for Another Body	33	32	66	52
No Basis under Code	270	240	319	262
No Evidence of Offence	51	41	141	83
Previously Adjudicated	104	31	60	13
	476	362	613	429
<u>Investigation by Secretariat</u>				
Formal - Referral to Complaints Committee	289	111	326	127
Informal Resolution by Secretariat	385	266	287	241
	674	377	613	368
TOTAL	2,265	967	1,535	1,055

One of the features of the ASAI system is that an advertisement can be the subject of different categories of complaints. In 2012, one example was the advertisement which led to nearly 500 complaints, referred to earlier in this Report. Complaints about this advertisement when it appeared in media not in remit are included in *Media/Matter Out of Remit*, whereas complaints about it when it appeared in media in remit are included in *Formal – Referral to Complaints Committee*. In 87 of 880 advertisements that were subject of complaints there was more than one outcome involved.

Analysis of Adjudications by the Complaints Committee

Of the 111 advertisements considered by the Committee, complaints in relation to 83 were upheld and 27 were found not to be in breach of the provisions of the Code. As in previous years, the principal reason advertisements were found to be in breach of the Code was because they were considered to be misleading. In addition, in the case of one advertisement the Committee decided that it was more appropriate to make a statement providing advice/guidance or indeed warnings for advertisers in relation to future campaigns.

COMPLAINTS COMMITTEE



Bairbre Redmond, Chairperson,
Complaints Committee

CHAIRPERSON'S STATEMENT

I have great pleasure in presenting my 8th Report as the independent Chairperson of the Complaints Committee. The number of advertisements considered by the Committee in 2012 was 111. In addition, a further 243 advertisements, where complaints were dealt with by the Secretariat, were reviewed by the Committee.

While the total number of complaints brought to the Authority's attention by members of the public still remains high, the actual number of advertisements complained about has only increased from 867 in 2011 to 880 in 2012.

The significant feature of the work undertaken in 2012 reflects the growing impact of digital media in Irish society. This not only includes complaints about advertisements for digital products such as telephone and internet providers, it also includes a growing number of advertisements that are broadcast online. I have been struck by the complexity of some of these cases that come before the Committee and the amount of detailed, background work that is done by the Secretariat in preparing draft reports for the Committee.

I was delighted to be able to speak on the role of independent

non-industry individuals in self-regulation at the ASAI workshop in January 2013, and to share the views and the experiences of the Complaints Committee in working within a self-regulatory system. At that event I stressed the strengths of this approach to regulating the industry and the importance of different areas of the industry working together to protect the high esteem in which the ASAI is held by the general public.

I want to pay particular thanks to the members of the Complaints Committee who bring a range of important professional skills to the adjudication process. The majority of the Committee is comprised of non-industry members and, as Chair, I am fortunate to be able to draw on expertise in areas such as child and adolescent development, education, consumer affairs and national and international policy making. Combined with the experience provided by the industry members, the Committee members all give their time voluntarily to uphold high standards in Irish advertising.

Finally, I would also like to thank the Secretariat and the Board of the ASAI for their work and support in the last year.

Bairbre Redmond
Chairperson, Complaints Committee

COMPLAINTS COMMITTEE

The role of the independent Complaints Committee is:

- (a) To consider and adjudicate on complaints submitted by the public, by a member of the ASAI, by a government department or by any other person, or body of persons, in the light of the ASAI Code;
- (b) To initiate corrective action where necessary and to issue appropriate directives;
- (c) To notify the Board of the ASAI when the corrective action or directive is not complied with or is ignored.

The Complaints Committee may vary in size from 11 to 15 members, including the independent Chairperson. It comprises people with a background in advertising and others with no connection with the industry. Currently, among the latter are nominees of the Director of Consumer Affairs. The composition of the Complaints Committee is designed to ensure the objectivity of the

complaints investigation procedure and to provide assurances that the system is operated with special regard for the interests of consumers. The members of the Committee act in an individual capacity and consider each case put before them on its particular merits in the light of the requirements of the Code of Standards for Advertising, Promotional and Direct Marketing in Ireland.

While the Secretariat of the ASAI may resolve cases informally when the circumstances do not justify or require referral to the Complaints Committee, the Committee retains the right to review any of these cases and to request that they be put before them for adjudication.

The Complaints Committee met formally seven times during 2012. The Committee's adjudications are published regularly in the media and are posted on the ASAI website.

Resolution of complaints by Complaints Committee in 2012

	Complaints	Advertisements
Submitted to Complaints Committee	289	111
Upheld/In Breach	223	83
Not Upheld/Not In Breach	65	27
Statements	1	1

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