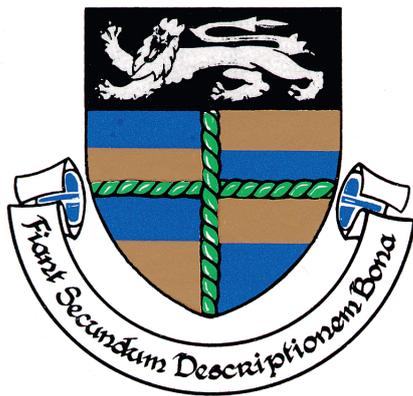




Advertising Standards Authority for Ireland

Annual Report

37th Annual Report 2017



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



Sean O'Meara, Chairman

Once again, I am honoured to present the Annual Report for 2017, which was another outstanding year for the ASAI.

During 2017, the ASAI continued reaching out to practitioners in the advertising industry to build awareness of the ASAI and our Code. Furthermore, the Authority continued its endeavours to ensure that those involved in the creation and production of advertising see and recognise the ASAI as a trusted advisor in the creation of Code-compliant advertising, rather than solely as a complaints resolution organisation.

It is evident that there is an increased awareness of the ASAI and its role amongst the general public and media, and it is gratifying to note that the views of the ASAI are frequently sought by media outlets on advertising regulatory matters.

In addition to these outreach activities, the ASAI contributed in the process of the development of voluntary codes of practice for food marketing and advertising and in a review of telecommunications advertising with government Departments, industry and interested parties.

This Annual Report demonstrates the extensive remit

of the ASAI Code, particularly in relation to digital and online media. There is, I'm sure, no need for me to remind anyone of the continuing pace and breadth of the development of new digital communications platforms. We possess, and sometimes live by, hand-held devices that we regard as highly personal, even intimate. Addiction to Internet services and apps is now arguably a reality rather than an imagined risk.

We now encounter, as everyday phrases, such terms as 'overwhelming information overload', 'hacking', 'cyber bullying', 'fake news', 'personal data stolen and compromised'. We are told we are enjoying a time of rapid development in 'artificial intelligence', and must prepare for the 'convergence between technologies and humanity'. In public discourse, concerns surrounding the end-game capabilities of these apps and platforms and their consequential influence on future social structures, relationships and interactions are often expressed. Advertising is placed in this fast-changing environment, though not exclusively: Traditional media play a pivotal role and will certainly continue to do so into the future.

Yes, things are changing before our eyes. However, while creative advertising approaches can be admired for their sheer inventiveness, and while consumer expectations can rocket sky-high and become ever-more impatient for innovation, we must always come back to the moral responsibilities of marketing and advertising, namely, we must never lose sight of the absolute requirement to be legal, decent, honest and truthful.

What impresses me most about the ASAI is that our Board, our Executive and the various sub-committees have their fingers on today's pulse. As our CEO, Orla Twomey, said during a radio interview, the ASAI follows advertising and goes where it leads.

Regardless of traditional or digital media choices, advertisers will gain immensely by adhering to some

fundamental marketing rules. First, keep chat with consumers creative and interesting; second, never underestimate the intelligence of customers; third, never disappoint by failing to deliver on a promise.

Fourth, and equally as important, always adhere to the fundamental premise of the ASAI Code – never, ever be anything other than legal, decent, honest and truthful.

This is where we come in.

The Advertising Standards Authority for Ireland has, since 1981, been guiding, helping and protecting Irish business and society, working to an agreed and robust Code of conduct that is of the very highest standard. We particularly understand, and willingly help with, the communication challenges surrounding advertising of food, alcohol, gambling, advertising to children and other sensitive societal categories.

The ASAI is financially supported by the advertising industry in Ireland through a modest levy of 0.2% on media spend. While the majority of major advertisers contribute, not all do so. In order that we can continue to maintain the highest standards in advertising, to provide support to the industry and resolve complaints, this financial support is vital. I earnestly ask all marketeers, advertisers and media organisations to ensure that their financial obligations to the ASAI are carried out fully.

In conclusion, I thank profoundly, all my colleagues in the Executive, on the Board and on various sub-committees for their continued and valued dedication to the ASAI.

Thank you,

Sean O'Meara,
Chairman

Advertising Standards Authority for Ireland.

HIGHLIGHTS SUMMARY

HIGHLIGHTS SUMMARY

Partly in tandem with the ASAI continuing progress of general awareness campaigns of its range of services to all stakeholders, ASAI experienced a 58% surge in complaints year-on-year (2016:1,329; 2017:2,101). This trend is likely to continue.

With the increasing development of digital media and influencer marketing, the ASAI heavily engaged with key stakeholders in the area of advertising related to blogging and influencers. The ASAI anticipates this area to be one of ongoing focus and interest.

The ASAI worked with a Mobile Phone and Broadband

Taskforce which was underpinned by a Governmental national initiative over access to high quality mobile and broadband services. The ASAI submitted a comprehensive Report whilst undertaking further work by way of additional guidance as a positive intervention for telecoms operators. Historically, the ASAI had received the highest levels of complaints being related to the telecoms sector.

In 2017, the ASAI continued its outreach to industry practitioners, presenting on the ASAI and the Code. This important activity is aligned to the organisational strategy on stakeholder awareness of the Code and related services.

Complaints Resolution

In 2017, the ASAI received 2,101 written complaints concerning 1,066 advertisements. This represents an increase of 772 complaints compared to 2016. The number of individual advertisements that attracted complaints increased on the number of advertisements complained about in 2016 (1,066 compared to 1,011).

A feature of the significant increase in the number of complaints received in 2017 is that at year end we carried more complaints into 2018 than we had brought into 2017. 221 complaints were carried forward from 2016 and the ASAI dealt with 1,802 in 2017, leaving 520 in respect of 308 advertisements to be carried forward to 2018.

Grounds of Complaint

Misleading
General Rules
Offence
Other

61%
22%
12%
5%



Top Three

Complaints by Sector



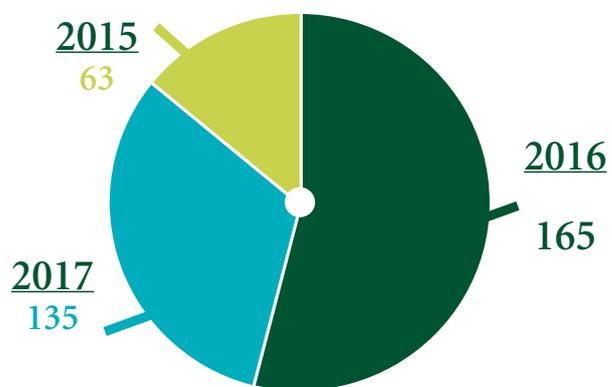
Complaints by Media



Copy Advice

In 2017, 135 copy advice requests were received, slightly lower than that received in 2016 but significantly higher than the number of requests in 2015. The launch of the 7th Edition of the Code had no doubt an effect on the number of requests in 2016.

As a key service for the advertising industry, the ASAI is pleased at the continued high level of engagement with this free, confidential and non-binding service.



OVERVIEW

OF THE ASAI

AN OVERVIEW OF THE ASAI

This is the 37th Annual Report of the Advertising Standards Authority for Ireland (ASAI), for the year 2017.

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. The ASAI is supported by 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. The ASAI recognises the importance of continually reviewing our remit to ensure that the Code applies to all commercial marketing communications, including those in developing media. At its most basic, the Code's remit follows where marketing communications go.

Paid-for advertising on third-party sites and email marketing was within remit prior to 2009 and, since then, we have been expanding the jurisdiction of the ASAI. The first extension was to marketing communications on advertisers' own websites. From 2012, the remit was again expanded to include marketing communications on third-party non-paid-for space online, such as advertisers' own posts (and those of their brand ambassadors) on their social media platforms.

In 2013, the ASAI's remit was extended further to encompass Online Behavioural Advertising (OBA). These rules provide for a high level of consumer transparency and choice regarding OBA.

A significant part of the ASAI's work is the resolution of complaints from consumers, competitors and interested parties. Such complaints help to keep the Authority

informed of the current concerns regarding advertising. Information and statistics on how complaints are resolved by the ASAI are given on page 19.

The identity of individual complainants remains confidential. Anonymous complaints are not pursued and all complaints must be in writing (by post or by using the online complaints form).

In the case of competitive and interested party complaints, the complainant must agree to their identity being disclosed in order for the ASAI to investigate the complaint. Competitive complaints are investigated where the interests of consumers are involved, however the ASAI is not an arbitration service for disputes between commercially interested parties. Interested party complainants are not competitive complainants, but neither are they acting as a consumer. For example, a lobbying organisation with a particular interest, or a non-governmental organisation, would both be classed as an 'interested party'. The ASAI believes that, in the interest of transparency, all interested parties should be identified as the complainant.

In carrying out its function of enforcing the highest standards in advertising, the ASAI also carries out scheduled and structured monitoring and an overview can be found later in this Report. We also provide free, confidential and non-binding copy advice on the compliance of proposed advertising.

We engage with various agencies, in the conduct of our regulatory tasks. These agencies include the Competition and Consumer Protection Commission (CCPC) the Commission for Communications Regulation (ComReg) and the Food Safety Authority of Ireland (FSAI). This is reflective of our strong relationships with many key stakeholders.

THE ASAI'S SERVICES AND SUPPORTS

COMPLAINTS INVESTIGATION AND ADJUDICATION

The ASAI accepts complaints from any person or body who considers that a marketing communication may be in breach of the Code and such complaints are investigated free of charge. The ASAI Executive initially assesses complaints against the provisions of the Code and, where an investigation is warranted, will invite comments from the advertisers. Where a potential breach of the Code is identified or where a precedent case is involved, the matter is referred to the Independent Complaints Committee for adjudication.

COPY ADVICE

ASAI provides a valuable pre-publication copy advice service on proposed marketing communications' compliance with the Code. This service is available to all those involved with advertising – advertisers, their agencies and the media.

Copy advice is free and given on a confidential basis. The advice is non-binding on both the requester and on the ASAI; while the requester does not have to accept the advice of the ASAI Executive, neither does the Independent Complaints Committee, should the marketing communication subsequently come before them for adjudication. However, where the service has been utilised, marketing communications are less likely to contravene the Code in any substantial way.

MONITORING

The ASAI regularly conducts monitoring exercises of individual marketing communications to assess compliance with the Code requirements. Such exercises can be conducted on specific media or a mix thereof. They can also be focussed on a particular industry or area of economic activity. Initially, this is carried out on an informal basis with the advertiser/promoter being asked for comments within a specific time frame. Failure to respond to the Compliance Monitor's request for information may result in the matter being escalated to a formal investigation.

The ASAI Monitoring Service also monitors compliance with the adjudications of the Complaints Committee.

EDUCATION

In order to ensure that there is a high level of awareness of the role of and importance of standards in advertising, the ASAI Executive is available to present to advertisers, agencies and media on the provisions of the ASAI Code and how they are applied.

ADVISORY SERVICES

The ASAI periodically participates on external projects and contributes to developing and reviewing advertising standards in various sectors.

CODE OF STANDARDS FOR ADVERTISING AND MARKETING COMMUNICATIONS

The ASAI Code is based on the principles established by the International Chamber of Commerce (ICC), which asserts that all advertising and promotions must be legal, decent, honest and truthful and must be undertaken with a sense of social responsibility. 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 European Advertising Standards Alliance (EASA).

The ASAI Code's primary objective is to regulate commercial marketing communications in the interest of consumers ensuring, so far as possible, that all marketing communications are prepared with a sense of responsibility both to the consumer and to society.

Knowledge of the Code amongst industry practitioners is a key element in maintaining the compliance levels with the Code and, during the year, the ASAI presented to advertisers, agencies and media on the provisions of the Code.

In order to assist in the interpretation of the Code, the ASAI has developed Guidance Notes on

- Alcohol Advertising
- Food and Non-Alcoholic Beverages Advertising
- Recognisability in Advertising

These Guidance Notes are published on the ASAI website.

The FSAI Guidance Note on the Use of Food Marketing Terms, which supports Section 8 of the ASAI Code, is also published on the ASAI Website. This guidance was published by the FSAI following extensive food industry engagement and ASAI collaborated with the FSAI in its introduction.

The collaboration with the FSAI is consistent with the ASAI's approach to work with other regulatory bodies to achieve the best outcomes for the public and the advertising industry, ensuring that marketing communications do not mislead, for the benefit of all.

STAKEHOLDER ENGAGEMENT AND 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 recognises the importance of ensuring that all of those employed in the relevant agencies and the media are aware of the ASAI and the Code. In considering the role self-regulation might play in the future regulation of advertising, a high level of public awareness is also considered by the EU Commission to be of great importance. The ASAI will therefore continue to seek actively opportunities to present on the Code to interested parties, particularly those involved in the advertising industry to ensure the widest awareness of the Code and its provisions.

The ASAI Code stipulates 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.

The ASAI wishes to continuously 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.

The ASAI regularly posts on Twitter and is increasingly using LinkedIn, both platforms offering an opportunity to reach out and communicate with a wider audience.

FOOD AND NON-ALCOHOLIC BEVERAGE ADVERTISING

In 2015, the Minister for Health set up a working group to develop codes of practice for food advertising and marketing for non-broadcast media, for sponsorships by the food industry, and for food and beverage product placement in the retail sector. The focus of the Codes was to be on high fat, salt and sugar foods. The ASAI was invited to be a member of the Working Group, which met a number of times during 2016 and completed their work in 2017.

The voluntary Codes of Practice for the advertising and marketing of food and non-alcoholic drinks were launched in February 2018 by Minister of State for Health Promotion, Catherine Byrne TD.

The Codes set out Principles for Governance. At the time of the launch of the Codes, the implementation and monitoring procedures had not yet been developed.

MOBILE AND BROADBAND ADVERTISING

The Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs and the Department of Communications, Climate Action and Environment established a Mobile Phone and Broadband Taskforce to identify measures that could deliver significant improvements in access to high quality mobile and broadband services throughout Ireland. The Taskforce reported in December 2016¹ and made 40 recommendations across a number of areas.

Recommendation No. 32 related to the ASAI.

It stated:



The Taskforce recommends that the Advertising Standards Authority review advertising in this area. The Taskforce also recommends that operators review their own advertising to ensure they are not creating a false or misleading impression, and also that any consumer who feels they have been misled contact Advertising Standards Authority to enable them to investigate.

The ASAI willingly engaged with the Taskforce to carry out the Review; consistent with our approach to engage with stakeholders in the interests of consumers and society.

During 2017, at the request of the ASAI, the telecoms operators provided circa 450 marketing communications that had been published between October 2016 and March 2017 across a range of media. These marketing communications were reviewed against the ASAI Code with a particular focus on speed, availability and fibre claims.

Meetings with a range of telecoms operators were held where the operators presented on the technologies they used and their capabilities and limitations, and on consumer expectation and knowledge.

The ASAI submitted a Report to the Taskforce in January 2018 and the Conclusions of that Report are set on the next page. The Report recognised that guidance for the telecoms operators in a number of key areas would be helpful and that work will be undertaken in 2018.

1. <https://www.dcaae.gov.ie/en-ie/communications/publications/Documents/66/Taskforce%20Report.pdf>

EXTRACT FROM ASAI'S REPORT ON A REVIEW OF ADVERTISING OF TELECOMMUNICATIONS SERVICES TO THE MOBILE PHONE AND BROADBAND TASKFORCE

CONCLUSIONS

The following conclusions are reached based on the contents of the report and ASAI's overall knowledge of the telecommunications advertising landscape.

1. While the ASAI always judges each case on its own merits against the provisions of the Code, they made the following observations in relation to the advertising material reviewed.
2. Broadband availability: The ASAI found that in some cases while offers were referenced as being 'subject to availability' this was not always clearly evident from the advertising. The main headline offer may not always be asterisked to the terms and conditions.
3. Technical Factors and their impact: There are technical factors that impact on consumer experience and it is not feasible to list all such factors in advertisements. Nevertheless, operators should refer to the existence of factors which may impact on consumer experience and direct consumers to a source of information on such factors.
4. Consumer equipment and physical environment: The provision of services may be impacted by the individual consumer's device and physical environs.
5. Advertising Media²: The majority of advertisements reviewed appeared in online media . There is no indication that consumers are disadvantaged by this situation.
6. Information Transparency: Some of the advertisements reviewed indicated that the operators could be more transparent in identifying the terms and conditions attached to their offers.
7. Consumer Understanding: It was noted that while most consumers may understand the terms used in relation to broadband, there are still some who may not have the same depth of knowledge.
8. Education: The Operators consider that education of consumers is an issue and the ASAI would concur with this view. If an awareness programme was to be developed, consideration should be given to targeting the consumer cohorts who would most benefit from the further information.
9. Industry Guidance: The Operators are open to Guidance being developed, which acknowledges the impact of different technologies, provided that a level playing field is maintained.
10. Compliance: Having reviewed the body of evidence, the ASAI noted that while individual advertisements may give rise to complaint, there was broad compliance with the advertising rules.

2. ASAI's remit extends to both paid-for and non-paid-for online advertising.

BLOGGERS AND '#DISCLOSURE'

The Code states:

Recognisability

- 3.31 A marketing communication should be designed and presented in such a way that it is clear that it is a marketing communication.
- 3.32 Marketing communications should not misrepresent their true purpose. Marketing communications should not be presented as, for example, market research, consumer surveys, user-generated content, private blogs, or independent reviews if their purpose is marketing, i.e. the promotion of a product.
- 3.33 Advertorials should be clearly identified, should be distinguished from editorial matter and should comply with the Code.

The principle of disclosure is a long standing one – each edition of the Code has had recognisability requirements and, while the wording has evolved over time, the basic concepts involved, that of being transparent and honest, have remained the same.

The advertising eco-system is a dynamic one, with new media and new participants continually evolving and engaging in the industry. Advertisers are co-creating content with individuals – people who have their own blogs, their own digital presence and their own social media followings. Where the advertisers have direction over the content and where they provide compensation (either by payment or in kind), that content is, for the purposes of the Code, a marketing communication. It must therefore comply with all the Code rules, including the rules for recognisability. Consumers should know when they are being advertised to.

Aware that bloggers and reviewers, not being part of the traditional advertising eco-system, would not have an in-depth knowledge of the Code, the ASAI has in the last two years been focusing on providing information and guidance in this area. The ASAI Guidance Note on Recognisability in Marketing Communications which was launched in 2016, was promoted in 2017 through our social media activity and has been shared and discussed with the Irish Bloggers

Facebook Community. There has been widespread media coverage of the Guidance Note. In addition, the ASAI has engaged with bloggers, advertisers, advertising agencies, blogger agencies and blogger management companies.

The ASAI will continue to engage with and support these interest groups to ensure the highest possible standards of advertising in Ireland, regardless of the medium involved.

DIGITAL ADVERTISING

Concerns are expressed from time to time in media commentary about whether the standards that apply in traditional media apply to marketing communications carried in digital media. The remit of the ASAI is very broad in this area and the ASAI can 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 ASAI Executive in relation to their digital marketing communications, including those on social media platforms.

Online Behavioural Advertising

Online Behavioural Advertising (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.

The ASAI introduced new rules for OBA in September 2013, based on an EASA Best Practice Recommendation on Online Behavioural Advertising. This document incorporates the IAB Europe's framework on the same issue. This industry-wide self-regulatory standard ensures consumer privacy in Europe. This is based on the use of an icon and allows consumers to exercise choice as to whether or not they want to receive OBA. The OBA Programme is administered by the European Interactive Digital Advertising Alliance (EDAA) and they have drawn up principles on how the Programme applies to the mobile environment.

While a number of queries have been received by the ASAI about Online Behavioural Advertising since 2013, none as yet have been actionable complaints and no great volume is expected.

The OBA Programme, while providing transparency and choice for consumers, is not a compliance solution for the requirements that will come into effect in May 2018 arising out of the implementation of the General Data Protection Regulation (GDPR) in EU Member States.

ALCOHOL ADVERTISING

The framework for the regulation of alcohol advertising in Ireland is one of the most robust in Europe. The ASAI Code provisions ensure that marketing communications for alcohol products do not glamorise them, do not encourage over-consumption or immoderate consumption, and, very importantly, ensure that they do not appeal to children. The number of marketing communications found in breach of the Code by the independent Complaints Committee is very low, and has been so since the introduction in 2003 of CopyClear, a service which pre-vets all marketing communications in Ireland against the ASAI Code. Further details are available on page 23.

In addition to the provisions of the ASAI Code, alcohol marketing communications must comply with the rules set down in the Alcohol Marketing, Communications, and Sponsorship Codes of Practice. The aim of these Codes is to limit the exposure of young people to advertising and include provisions on where and when alcohol marketing communications can appear. The ASAI provides secretarial and executive services to the Alcohol Marketing Communications Monitoring Body, which was set up by the Department of Health in 2006 to oversee compliance with the Codes.

In December 2015, the Government published The Public Health (Alcohol) Bill, which sets out a number of proposals for restrictions on marketing communications for alcohol products. Once the legislation is finalised, the ASAI will examine its impact on marketing communications, which will inform whether any changes are required to the alcohol rules in the ASAI Code.

EUROPEAN CONNECTIONS



Set up in 1992 by the ASAI and 15 other European advertising self-regulatory organisations, the European Advertising Standards Alliance (EASA) promotes responsible advertising through best practice in self-regulation, for the benefit of consumers and business. Following restructuring in 2001, industry associations active in Europe became members. There are now 27 advertising self-regulatory organisations and 14 industry associations in membership of EASA, which is the unified voice for advertising self-regulation in Europe.

In practical terms, the EASA supports the development of the system of advertising self-regulation through the drafting of best practice guidelines for all aspects of the work of advertising self-regulators. Its work is vital to the development and continuation of advertising self-regulation.

Membership of the EASA also serves to ensure that the ASAI is informed both on industry developments and, equally, the developments in 26 other European SROs on the regulation of advertising. These relationships are particularly relevant at the present time when experience continues to be developed on the handling of complaints in digital media and in relation to Online Behavioural Advertising (OBA). The EASA has a close working relationship with DG SANTE, the directorate responsible for policy on food safety and health, DG JUST responsible for 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, to have an input into – legislative and policy developments in these critical areas.

Under the Cross Border Complaints system operated by

the EASA, 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.

While the numbers of cross-border complaints across Europe are low, being circa 150 per year, it is a valuable resource for members of the public in any European country to have their complaints dealt with, regardless of where the advertising appeared.

ASAI plays an active role in the EASA with its Chief Executive a member of both the Board of Directors and its Executive Committee. The Executive Committee is responsible for the EASA's day-to-day management and policy decisions during the periods between meetings of the Board.

EASA celebrated its 25th Anniversary in 2017, and to mark that, hosted a conference in October 2017, in Brussels titled 'Advertising and the Consumer Experience of Tomorrow: Self-Regulation Ensuring Responsible Advertising in the Digital Age.'

The event was held at the European Economic and Social Committee (EESC) in Brussels with over 100 participants in attendance, including representatives from the advertising industry, other trade associations, companies and digital platforms, NGOs, civil society as well as EU and national officials. Attendees engaged in a lively discussion on the challenges the advertising industry is currently facing in this digital age and how self-regulation responds and adapts to these challenges.

Keynote speaker Claire Bury, Deputy Director-General, DG CONNECT, highlighted in her speech that the European Commission appreciates the value of self-regulation and stressed the need for self-regulation and regulation to work together to ensure a swift responsiveness to the rapidly changing digital marketing landscape: "*The digital*



Martin Arvebro, YouTube creator and partner manager at United Screens and Orla Twomey, Chief Executive, ASAI.

revolution brings substantial changes to the advertising industry. In this dynamic landscape, we must proactively seize new opportunities and tackle emerging challenges. I believe that the Digital Single Market Strategy and the strands of work that I outlined including, where appropriate, self and co-regulation, will help in this process by making the regulatory framework fit for the digital age, and maintaining sufficient flexibility to stimulate innovation while preserving core European values."

During the conference, the following themes were debated:

- the advertising and consumer experience of tomorrow,
- whether or not self-regulation is responding to these challenges and
- to what extent responsibility to uphold social and ethical norms in advertising is preventing or fostering innovation and creativity.

ASAI's Chief Executive, Orla Twomey participated in the Panel Debate: "Is advertising self-regulation responding to the challenges of tomorrow?" A key area for discussion was ensuring that well established principles, such as transparency and recognisability, of advertising were respected and adopted by new participants in the advertising eco-system, such as bloggers and influencers. This has been a key area of work for the ASAI and is covered elsewhere in this Report.



In 2016, the EASA's existing network of international Self-regulatory Organisations was developed into an International Council on Ad Self-Regulation (ICAS) – an international platform to promote effective advertising self-regulation worldwide.

The aim of the ICAS is to unite global Self-Regulatory Organisations (SROs) and international industry associations to form a powerful Council that will facilitate the establishment of new SROs in emerging markets, help empower them, and provide a platform to discuss and work on solutions regarding the global challenges faced by the advertising industry.



ICAS Members at the First Annual General meeting, Athens, Greece, April 2017

There are now 29 members in ICAS, including SROs from Europe, Asia Pacific, North America, South America and South Africa, along with the World Federation of Advertisers and other industry bodies. The ASAI is delighted to also support and be part of the initiative.



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

The EDAA is 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, and is available in 35 languages.

In 2014, the EASA organised a number of webinars on OBA self-regulation in Europe and they are also available on the EDAA's website, www.edaa.eu.

CODE IMPLEMENTATION

Complaints Resolution

In 2017, the ASAI received 2,101 written complaints concerning 1,066 advertisements. This represents an increase of 772 complaints compared to 2016. The number of individual advertisements that attracted complaints increased on the number of advertisements complained about in 2016 (1,066 compared to 1,011).

At 1,066, the number of advertisements that received complaints is a very small proportion of the thousands of

advertisements that were published during the year in all Irish media – TV, radio, online newspapers, magazines, outdoor, brochures, leaflets and cinema.

A feature of the significant increase in the number of complaints received in 2017 is that at year end we carried more complaints into 2018 than we had brought into 2017. 221 complaints were carried forward from 2016 and the ASAI dealt with 1,802 in 2017, leaving 520 in respect of 308 advertisements to be carried forward to 2018.

	2017		2016		2015	
	Complaints	Ads	Complaints	Ads	Complaints	Ads
Carried forward from previous period	221*	204	266*	232	226*	128
Received during period	2,101	1,066	1,329	1,011	1,221	924
Resolved in Period	1,802	962	1,376	1,041	1,182	820
Brought forward to next period	520	308	219	202	265	232

*Complaints recorded in the previous period as closed were subsequently re-opened.

Complaint levels rose significantly in 2017. While most cases are single complaint cases, there are always multiple complaint cases in each year. In 2017, there were four marketing communications which were the subject of a combined 593 complaints. When a significant number of complaints is received about one advertisement on the same grounds, for example, that the advertising is misleading or offensive, the ASAI Executive will assess

whether further complaints on the same basis can inform the decision making process. If it considers that further complaints on the same basis are not necessary, an information notice to that effect is posted on the ASAI website. The ASAI is aware of the need to balance the understandable desire of consumers to have their individual complaint heard with the need for the effective use of available resources.

How Complaints Are Dealt With

After an initial evaluation, and investigation where appropriate, complaints are either dealt with informally by the ASAI Executive 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 marketing communications in question are likely to be in breach of the provisions

of the Code. Most complaints are suitable for dealing with informally, using well-established and recognised procedures. The Complaints Committee reviews a sample of complaints dealt with informally by the Executive at each Committee meeting. Further details on the complaints dealt with by the independent Complaints Committee are set out in the section of this report on the Complaints Committee.

Resolution of Complaints

	2017		2016		2015	
	<i>Complaints</i>	<i>Advertisements</i>	<i>Complaints</i>	<i>Advertisements</i>	<i>Complaints</i>	<i>Advertisements</i>
Additional information requested but not provided	232	214	218	214	205	203
<u>Out of Remit</u>						
Media/matter out of remit	284	79	59	48	37	25
Cross-border complaint	269	33	15	13	12	12
	553	112	74	61	49	37
<u>Preliminary Assessment of Marketing communication</u>						
Complaint withdrawn	22	22	22	22	10	8
More appropriate for another Body	18	15	19	18	38	35
No basis under Code	272	255	282	248	273	205
No evidence of offence	59	38	100	78	75	42
Previously adjudicated	101	32	29	19	73	15
	472	362	452	385	469	305
<u>Investigation by Executive</u>						
Formal - Referred to Complaints Committee	190	86	234	127	193	103
Informal - Resolution by Executive	355	319	398	350	266	230
	545	405	632	477	459	333
TOTAL	1,802	1,093	1,376	1,137	1,182	878

One of the features of the ASAI system is that an advertisement can be the subject of different categories of complaint.

For example, in the case of one advertisement, forty-seven complaints were submitted to the Complaints Committee and were upheld, while a further forty-three complaints

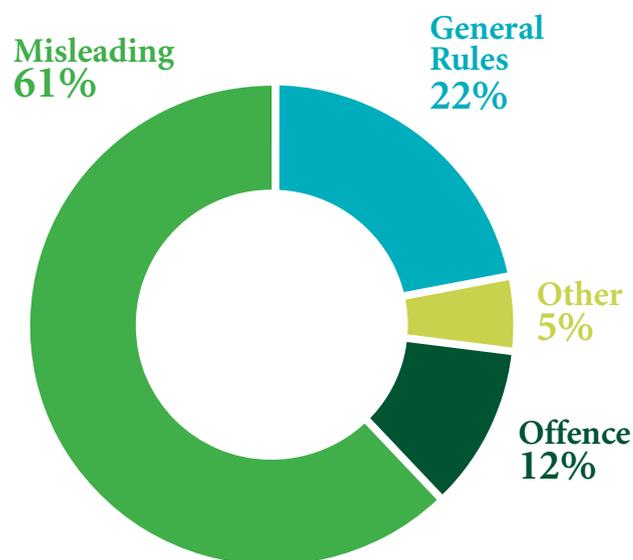
about the same advertisement were received after the Committee adjudicated on the advertisement and the complainants were advised that the Committee had found the advertisement to be in breach of the Code. In this case, the advertisement was recorded in, 'Preliminary assessment of advertisement – Previously adjudicated'; and 'Formal – referred to the Complaints Committee'.

Grounds of Complaint

In 2017, the main area of complaint related to advertising being misleading: 61% of the Code sections raised were those with a provision relating to misleading advertising.

The general rules of the Code which relate to areas such as responsibility, portrayal of persons in advertising, recognisability of advertising, depictions of unsafe practices and anti-social behaviour, gave rise to 22% of complaints with those relating to offence at 12%.

However, there is a wide range of other issues covered by the Code provisions that were raised by members of the public; including concerns about alcohol advertising, children, food and non-alcoholic beverages, gambling, health and beauty claims, online behavioural advertising, promotional marketing practices and e-cigarettes.



Complaints by Sector

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

SECTOR	2017	2016	2015
Health & Beauty	365	110	80
Non-Commercial	205	40	94
Telecommunications	189	248	240
Leisure	131	159	150
Food & Beverages	115	126	72
Financial	101	67	55
Household	95	125	101
Motoring	87	99	66
Travel/Holidays	79	78	77
Business	36	20	24
Clothing / Footwear	33	33	14
Property	30	22	9
Alcohol	25	27	34
Computers	19	19	12
TV / Audio / Video	17	27	15
Publishing	16	27	14
Education	12	15	9
Employment / Business Opportunities	10	10	13
Agriculture	8	1	5
Miscellaneous	229	123	98
	1,802	1,376	1,182

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 4.34 of the ASAI Code states that: “Marketing communications should not unfairly attack, discredit or denigrate other businesses or their products, trademarks, trade names or other distinguishing marks.”

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 2017,

- 18* complaints were carried forward from 2016
- 65 complaints were received
- 68 complaints were resolved and
- 15 complaints were brought forward to 2018

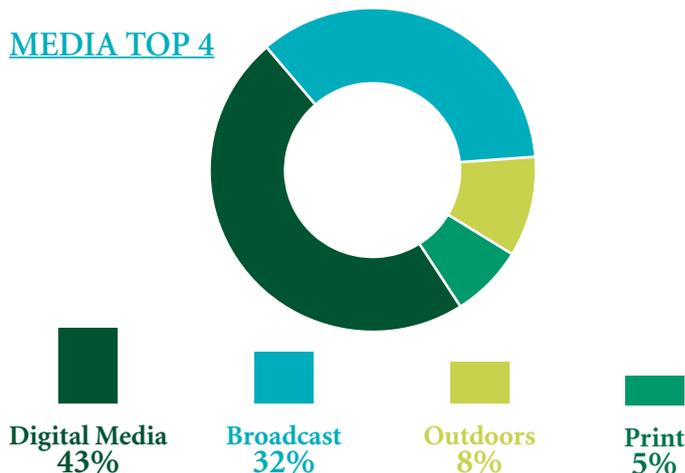
*Two complaints which had been closed in 2016 were subsequently reopened.

The Complaints Committee formally adjudicated upon 17 complaints relating to 15 advertisements, 11 of which were found to have breached the Code rules.

Complaints by Media

MEDIA	2017	2016	2015
Digital Media	777	586	449
Broadcast	567	354	356
Outdoor	138	118	169
Print	94	71	87
Brochures / Leaflets	72	74	45
Cinema	18	14	5
Direct Marketing	14	10	8
Other	122	57	78
	1,802	1,284	1,197
BROADCAST	567	354	356
Radio	147	127	118
Television	420	227	238

In 2016, following the trend evident in earlier years, digital media gave rise to the largest block of complaints. As a proportion of all complaints it has been increasing steadily; in 2010, it represented 22 per cent of total complaints compared to 43% in 2017.



Alcohol Advertising

Since 2003, all alcohol advertisements are pre-vetted by Central Copy Clearance Ireland, trading as CopyClear, 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 CopyClear. The ASAI Executive and the CopyClear managers meet on a regular basis to discuss the provisions of the Code to ensure that the application of the Code by CopyClear is in line with the ASAI interpretation. Such meetings help to ensure that content of alcohol advertising in Ireland continues to operate to the highest standards set out by the ASAI Code.

Of the 1802 complaints resolved in 2017, about 21 advertisements related to some aspect of alcohol advertising – be it alcohol brand advertising, venue advertising or retail advertising. Complaints about nine of the 21 advertisements related to the specific alcohol provisions of the Code.

One advertisement, for a hotel which promoted a ‘free pour wine night’ was referred to the Complaints Committee for adjudication and was found to be in breach of the alcohol rules of the Code.

Monitoring and Compliance

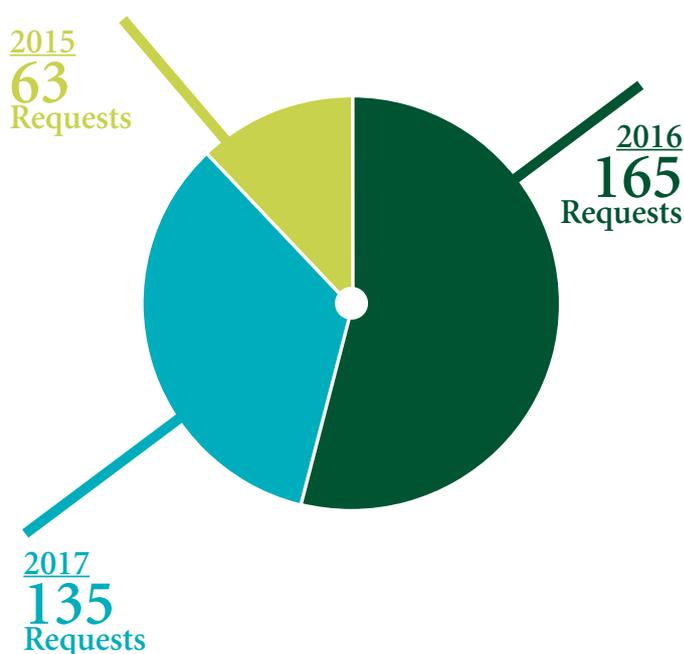
Since 2007, the ASAI has conducted ongoing monitoring of advertising across all media, and in that time has examined over 27,000 advertisements with an overall compliance rate of over 98%. The extent of the monitoring conducted in any one year will be influenced by a combination of the concerns arising in particular areas of economic activity, as evidenced from the outcome of individual complaints, and the resources available to the ASAI.

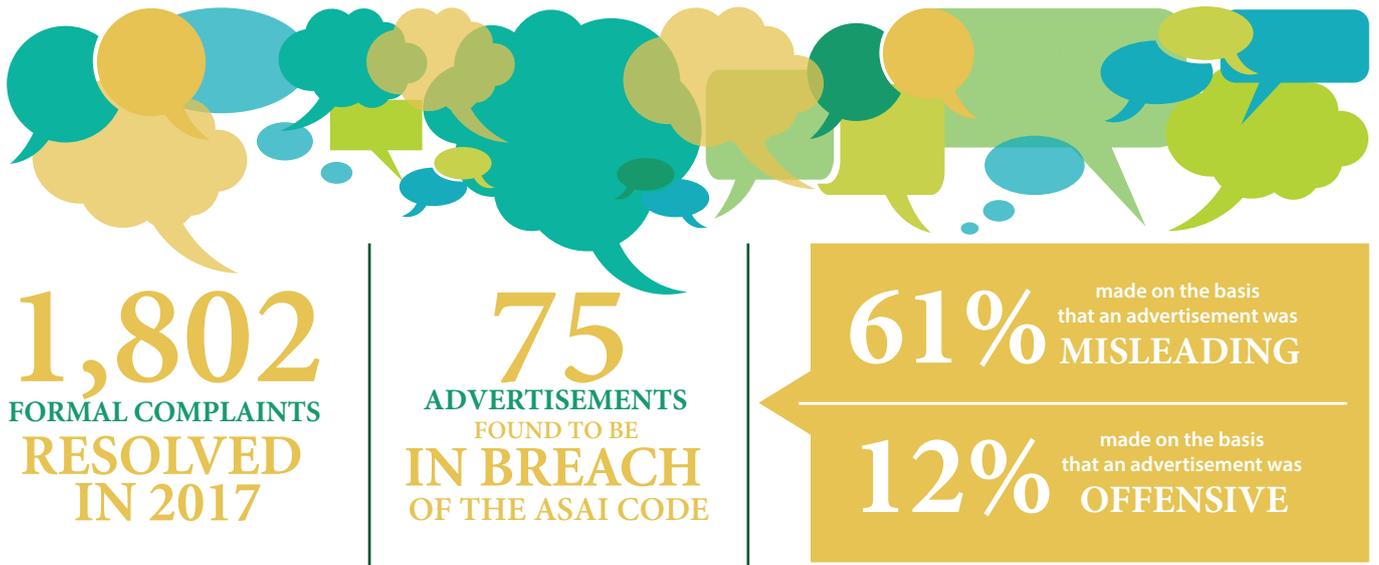
In 2017, as reported earlier, we carried out an extensive review of telecommunications advertising, in order to report to the Mobile and Broadband Taskforce (see page 13).

The Executive also manages an ongoing exercise in ensuring compliance with new and existing adjudications of the Complaints Committee. This ensures that, where the Complaints Committee have found a marketing communication to be in breach of the Code, we make sure that it is amended or withdrawn. The vast majority of advertisers proactively comply with adjudications but, where they do not, we follow up with them and, where necessary, with media to ensure compliance.

Copy Advice

During 2017, 135 copy advice requests were submitted to the Executive. The number of requests, although lower than those received in 2016 were significantly higher than those received in previous years. The ASAI has continued to promote the service to industry throughout the year as it is seen as an essential service that the ASAI can offer. A dedicated email address, copyadvice@asai.ie, was introduced for this service.

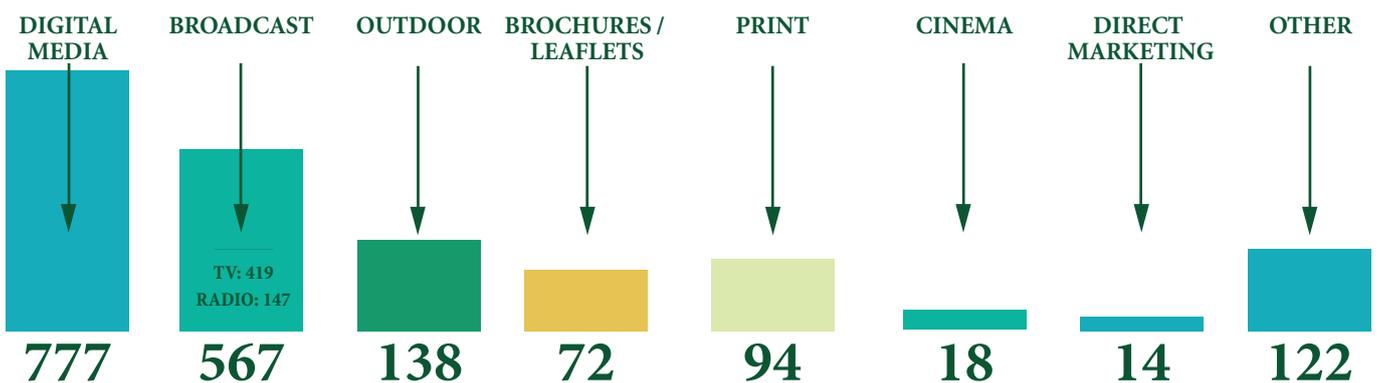




TOP 5 AREAS of advertising which raised concerns for the public



COMPLAINTS BY MEDIA



THE STRUCTURE OF THE ASAI



The work of the ASAI is centred on the ASAI Code.

There are four constituent parts; the **Board of Directors**, the independent **Complaints Committee**, the independent **Review Panel** and the **Executive**. Each has clearly defined responsibilities and duties.

The **Board**, as well as being responsible for the governance and finances of the Authority, own the Code of Standards on behalf of the industry; they are responsible for ensuring that it is up-to-date and relevant. They do not have any role, however, in deciding on whether a breach of the Code has occurred. That is the role of the independent Complaints Committee who assess compliance with the Code and adjudicate on complaints submitted to it by the Executive of the ASAI.

The **Complaints Committee** comprises a blend of persons with and without a background in the industry. The structure of the Committee ensures that the majority of members are not employed in, nor have a background in, the advertising industry. These non-industry members have an interest and expertise in relevant areas such as consumer protection, child and adolescent welfare, the sciences, and community issues. The Committee at present

comprises an independent Chairperson and thirteen members. The composition of the Complaints Committee and the participation of the independent members ensures the objectivity of the complaints investigation procedure and provides assurance that the system is operated with special regard to the interests of consumers. The members of the Complaints Committee, each acting in an individual capacity, consider each case on its merits taking account of the characteristics of the likely audience, the media by means of which the marketing communication is communicated, the location and context of the marketing communication, the nature of the advertised product, and the nature, content and form of any associated material made available or action recommended to consumers.

The current Complaints Committee includes academics, social workers, public servants and representatives from the advertising industry. The majority of Committee members are independent of the advertising industry. The Committee is chaired by Professor Bairbre Redmond, Provost of Universitas 21.

The 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



ASAI Staff, December 2017

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 **Review Panel** can, on request by one of the parties to a complaint, review a decision of the Complaints Committee where they consider whether the application for review meets one of the following three grounds:

- New, fresh or additional relevant evidence has become available, which could have a significant bearing on the Decision concerned (in such cases, an explanation as to why such evidence was not previously available and/or provided, will be required),
- The Decision concerned was clearly and manifestly in error having regard to the provisions of the Code, was wholly irrational, or clearly made against the weight of the evidence before the Complaints

Committee at the time of the making of the Decision,

- There was a substantial flaw in the process by which the Decision was reached.

The Review Panel can refer the case back to the Complaints Committee for reconsideration by the Committee. The Committee have the final decision as to whether an advertisement is in breach of the Code or not.

The **Executive** and the staff of the ASAI service the Board, the Complaints Committee and the Review panel. They are responsible for assessing complaints to determine whether a case for investigation exists and where it does, seek comments from the advertisers and, where appropriate, bring cases to the Complaints Committee for formal adjudication. The Executive also provides copy advice on proposed advertising and carries out the ASAI's monitoring programme to ensure compliance with the Code.



COMPLAINTS COMMITTEE

CHAIRPERSON'S STATEMENT



Bairbre Redmond, Chairperson, Complaints Committee

I have great pleasure in presenting my report as the independent Chairperson of the Complaints Committee.

The number of advertisements submitted to the Committee in 2017 for adjudication was lower than that in the previous year. However, each case is assessed on its own merits, and the number of advertisements sent to the Committee by the Executive is determined by the requirement for adjudication rather than achieving a particular target.

The Committee formally considered 86 advertisements during 2017. In addition, 75 complaints dealt with by the Executive were reviewed by the Committee. The actual number of advertisements assessed by the ASAI in 2017 was 962.

As always, I am sincerely grateful to the members of the

Complaints Committee who not only carry out their work in a considered and objective manner, they also 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 clinical psychology, child and adolescent health and mental health, engineering and science, consumer affairs, and national and international policy making. These skills are complemented by the considerable experience provided by the industry members. The Committee members all give their time voluntarily in order to uphold high standards in Irish advertising.

A number of the members of the Complaints Committee stood down in 2017. We will miss their expertise and insights into the possible impact of advertising from a range of professional and disciplinary standpoints. Three new members have joined the Committee and have undertaken training to familiarise themselves with the ASAI Code and the important and transparent decision-making processes expected to be followed by all members of the Committee.

Finally, I would also like to thank the Executive 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. 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 ASAI Code.

While the Executive 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 six times during 2017. The Committee's adjudications are published regularly in the media and are posted on the ASAI website.



ASAI Complaints Committee meeting, December 2017

Analysis of Adjudications by the Complaints Committee

Of the 86 advertisements considered by the Committee, complaints in relation to 75 were upheld and nine 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 the case of the two remaining advertisements, 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.

Resolution of Complaints by Complaints Committee

	<u>2017</u>		<u>2016</u>		<u>2015</u>	
	<i>Complaints</i>	<i>Advertisements</i>	<i>Complaints</i>	<i>Advertisements</i>	<i>Complaints</i>	<i>Advertisements</i>
Submitted to the Committee	190	86	234	129	193	103
Upheld / In Breach	138	75	189	102	148	72
Not Upheld / Not in Breach	50	9	42	24	44	30
Statement	2	2	3	3	1	1



REVIEW PANEL

REVIEW PANEL



The ASAI Review Panel comprises a Chairman and two ordinary members. The Chairman of the panel is independent of the advertising industry and the

ASAI. One ordinary member has a background in the advertising industry and the second ordinary member has a consumer background.

The current membership of the Review panel is:

Mr. Pat Whelan,
Chairman

Ms. Mary Rose Tobin,
**Ordinary Member –
consumer background.**

Mr. Terry Leonard,
**Ordinary Member –
advertising industry background.**

The grounds on which a review can be requested and the procedures involved are fully set out in Appendix IV of the Code.

In 2017, there were no requests for review, compared to three received in 2016.

Advertising Standards Authority for Ireland

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Or visit our website at www.asai.ie