

EASA Cross-Border Complaints

Quarterly Report N° 55 (January - March 2012)



January - March 2012

This report contains the details of 26 cross-border complaints¹ about 25 ads coordinated by EASA's cross-border complaints system and closed during the period January to March 2012. 22 complaints concerned allegedly misleading advertising and four complaints concerned possibly offensive advertising. The media involved are internet (21 complaints), television (4 complaints) and direct marketing (1 complaint). In this same period, the Dutch self-regulatory organisation (SRO) handled seven cross-border complaints, the Irish SRO six, the Spanish SRO dealt with four complaints and the British SRO handled three cross-border complaints. The Belgian and Slovakian SROs dealt with two complaints each while the Portuguese and Canadian SROs handled one complaint each. The majority of cross-border complaints, 5 in total, concerned advertisements about transport services with four advertisements coming from Ireland and one from Spain. More in specific two of the complaints refer to care hire services and three to airlines promoting cheap fares and offers.

Allegedly misleading advertising

2404 BEST2SERVE B.V.

Complaint from a British consumer to the British SRO, ASA, about a Dutch online store featuring internet protection software. The complainant believed the claim "Protection for up to 3 home PCs" to be misleading because the service was only downloadable to one computer. As the advertiser was based in the Netherlands the British SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. After investigation the Dutch SRO found that the advertiser had sent a wrong code to the complainant which was why the complainant could not run the programme on his computer. The Dutch SRO considered it plausible that this had been an occasional error resulting in the complainant being sent the incorrect product; it could not conclude that the advertisement as such was misleading. **Complaint not upheld, case closed.**

2409 LOOK-O-LOOK INTERNATIONAL B.V.

Complaint from a British consumer to the British SRO, ASA, regarding a competition from a Dutch company to win a video game. After entering the competition and being the winner the complainant expected to have won the prize. However, he later received an email stating that he had only won some sweets. The complainant therefore believed that the competition has been run unfairly and no one actually won the prize as advertised. As the advertiser was based in the Netherlands the British SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. The complaint was withdrawn as the complainant received the prize. **Complaint not pursued, case closed.**

¹ In cases involving EU member states, advertisements are required to comply with the rules in the country of origin of the media in which the advertisement appears or, in the case of direct mail, email or Internet advertising, the country where the advertiser is based. Switzerland, as a non-member of the EU, requires advertisements addressed by Swiss-based advertisers to consumers in other countries to comply with the rules in those countries (country of destination). Consequently, in such cases, the self-regulatory organisation (SRO) in the complainant's country assesses the complaint on the basis of its own national rules before passing it to the Swiss SRO, which communicates the decision to the advertiser.

2425 TIGER CAR RENTAL

Complaint from a Canadian consumer to the British SRO, ASA, about an ad for car rental on an Irish website. The website claimed that there were no hidden fees and that all the vehicles would come with unlimited mileage. However, the complainant found that this was not the case and that they would be charged over a certain mileage. As the advertiser was based in Ireland, the British SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. ASAI contacted the advertiser who said they have over 254 locations in Canada and many of these have different terms and conditions depending on the car group. However, the advertiser decided to revise that specific website to make it easier for customers to see all the conditions applicable to each car group. **Complaint resolved informally, case closed.**

2447 VISTAPRINT

Complaint from a British consumer to the British SRO, ASA, about an email sent by a Spanish company that promoted an offer for business cards. The complainant challenged whether the description of the business cards as "Get 250 Business Cards for £2.50" was misleading because he was charged for admin and postage which he felt was not clearly stated in the email. As the advertiser was based in Spain, the British SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL under the cross-border procedure. After investigating the case, Autocontrol concluded that the ad was indeed misleading, as the price mentioned in the ad was not the total price of the offer. **Complaint upheld, case closed.**

2448 APPLYEHIC.COM

Complaint from a British consumer to the British SRO, ASA, about the website of a Belgian company which claimed to help consumers apply for the European Health Insurance Card by sending over their details to the National Health Service. The complainant stated that the website was misleading as it appeared to be an official site offering EHIC cards to consumers for £14.99 and failed to make it clear that the card can be obtained directly free of charge by the National Health Service. As the advertiser was based in Belgium the British SRO, ASA, transferred the complaint to the Belgian SRO, JEP, under the cross-border procedure. The Belgian SRO considered that the scope of the advertiser was clearly stated several times on the website and, therefore, the ad was not considered likely to mislead the average consumer. **Complaint not upheld, case closed.**

2432 IRIS GROUP

Complaint from a British consumer to the British SRO, ASA, regarding a direct email from a Belgian company promoting a digital pen. The complainant challenged whether the savings claim of £34 was misleading as the actual saving appeared to be £25.56 (the difference between the original price of £84.35 and the reduced price of £58.79). . Therefore he found the ad to be misleading. As the advertiser was based in Belgium the British SRO, ASA, transferred the complaint to the Belgian SRO, JEP, under the cross-border procedure. After thorough investigation JEP found that the ad publicized two different types of digital pens and the price reduction for the more advanced one amounted to £34.09. Therefore, the SRO did not consider the ad likely to mislead consumers. **Complaint not upheld, case closed.**

2437 ZINGTONES .TV

Complaint from a British consumer to the British SRO, ASA, about a pop-up on a Canadian web page stating "CONGRATULATIONS! You are today iPhone 4s winner! Click YES button below

to claim before time runs out". The complainant found out that not only the prize was not real but that, after clicking on the link, the web page asked for a mobile phone number and automatically subscribed the consumer to a weekly download of ringtones for 6 euro. Therefore the complainant found the ad to be misleading. As the advertiser was based in Canada the British SRO, ASA, transferred the complaint to the Canadian SRO, ASC, under the cross-border procedure. After thorough investigation, ASC contacted the advertiser for clarification and it immediately removed the advertisement from its rotating banner. **Complaint upheld, case closed.**

2436 GESTMARKET SL

Complaint from a British consumer to the British SRO, ASA, about a sponsored Google ad for car rental services. The complainant challenged that the ad claim "No fuel rip off - All inclusive" because he found out that the promotion refers only to car hire for three days or less which was not stated neither in the ad nor the web page. He, therefore, found the ad to be misleading. As the advertiser was based in Spain the British SRO, ASA, transferred the complaint to the Spanish SRO, Autocontrol, under the cross-border procedure. However, after being contacted by the SRO the advertiser replied that they did not accept the competence of the jury as they were not members of Autocontrol. **Complaint not pursued, case closed.**

2434 SMYTHS TOYS UK LTD

Complaint from a British consumer to the British SRO, ASA, about the product listing description of an Irish web page. The complainant challenged the accuracy of the ad because after purchasing two of the items described as "Food and Juice refill for your Baby Alive Doll" she only received two drink refills. After enquiring directly with the advertiser the consumer was informed that the product was either a food or a drink refill and not a food and drink refill. Therefore, the complainant found the ad to be misleading. As the company was based in Ireland the British SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. The advertiser, contacted by ASAI, found out that a mistake had been made by their supplier and immediately removed the item from the webpage. The advertiser also decided to supply two food and drink packs free of charge to the complainant as a reimbursement. **Complaints resolved informally, case closed.**

2441 AER LINGUS

Complaint for a British consumer to the British SRO, ASA, about an e-mail received from an Irish flight company stating "from £24.99 one way including taxes and charges". The complainant considered the ad to be misleading because when trying to book a flight he has been charged an extra handling fee of £12 per person. Therefore, he found the ad to be misleading. As the company was based in Ireland the British SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross border procedure. After thorough investigation the SRO, ASAI, noticed that the footnote at the bottom of the email in question stated "Handling fee per passenger per one-way flight of £6 per credit or debit card transaction may apply". Therefore they considered the ad not to be misleading. **Complaint not upheld, case closed.**

2446 AER LINGUS

Complaint from a British consumer to the British SRO, ASA, about a website of an Irish flight company stating "New: all prices below include taxes and charges". The complainant considered the ad to be misleading because when trying to book a flight he has been charged a handling fee of £12 per person. Therefore, he found the ad to be misleading. As the company was based in Ireland the British SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the

cross border procedure. After thorough investigation ASAI noticed that the handling fee charged by the company arose due to the method of payment that could be avoided by using a different credit card. Therefore, they considered the ad not to be misleading. **Complaint not upheld, case closed.**

2433 FARHO

Complaint from a British consumer to the British SRO, ASA, about a Spanish brochure promoting an electric radiator. The complainant challenged the accuracy of the brochure regarding the guarantee of the product, the data provided about the energy consumption and the scare tactics about other heating systems. Throughout the brochure the +AAA symbol was used, however after some research the complainant found that no such rating existed. Therefore, the complainant found the brochure to be misleading. As the company was based in Spain the British SRO, ASA, transferred the complaint to the Spanish SRO, Autocontrol, under the cross-border procedure. After thorough investigation Autocontrol considered the brochure to be partly misleading. The jury concluded that the scare tactics and the symbols +AAA used by the advertiser breached the Code. **Complaint upheld, case closed.**

2428 THE AMBER CENTER LTD

Complaint from a British consumer to the British SRO, ASA about an ad for amber necklaces for babies on a Portuguese website. The ad stated that the necklaces help to soothe the distressing symptoms of teething. The complainant challenged the efficacy of the product because they understood that there was no evidence that amber can affect teething pains or anything similar. Furthermore, they challenged the safety of the product because the complainant believed that it would be unsafe for a child of teething age to wear any form of necklace especially one with beads that could be a choking hazard. As the advertiser was based in Portugal the British SRO, ASA, transferred the complaint to the Portuguese SRP, ICAP, under the cross-border procedure. The Portuguese SRO tried to contact the advertiser by all means but it was not possible to locate them and inform them of the complainant's concerns. For this reason ICAP could not pursue the complaint and closed the case. However, ASA decided to follow with the investigation and adjudicated against the advertisers as the SRO considered the claims of the ad to be misleading and encouraging babies to wear a necklace as an unsafe practice. As the advertiser refused to amend the ad ASA added them to the official list of non-compliant advertisers. **Complaint upheld, case closed.**

2423 PACKARD BELL

Complaint from a British consumer to the British SRO, ASA, about an ad for free delivery shipments on an Irish website that stated "Free Delivery on standard shipments". The complainant, who purchased a backpack, found that the "standard shipment" applied only to fairly small low value items and not to many of the most popular items of the website. Therefore, he considered the ad to be misleading. As the advertiser was based in Ireland, the British SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. The Irish SRO contacted the advertiser who acknowledged the ambiguity of the ad. They ensured that they removed the sentence "Free delivery on standard shipment" and that they will amend the information in the website so that it does not mislead the consumers. **Complaint resolved informally, case closed.**

2452, 2465 CONSTRUCT DATA PUBLISHERS A.S.

Complaint to EASA from a legal representative of an Israeli company and an American company concerning a direct mail offering a free updating of data on a “fair guide”. The mailings invited the companies to confirm the information the guide already had about the companies by filling out and returning a printed form. However, the complainants found out that by signing the form, the companies automatically requested a payable insertion in the guide, without being sufficiently informed of this. Therefore the complainants found the advertisement to be misleading. EASA transferred the complaint to the Slovakian SRO, SRPR, under the cross-border procedure. SRPR noted that the advertiser has persistently disregarded decisions against its advertising by the SRPR, and therefore transferred the case to the appropriate authorities. **Complaint transferred to appropriate authorities, case closed.**

2453 OBSIDIAN RETREAT

Complaint from a British consumer to the British SRO, ASA, about a Spanish webpage promoting a health retreat. The complainant found the page to be misleading and potentially harmful because of the claims that just by changing the diet and spending time at the retreat it would be possible to “stop or reduce diabetic medications”, “eliminate high blood pressure” and make “dramatic improvements against fibromyalgia, severe acne, arthritis and other conditions”. The complainant also challenged whether the comments of the experts he found on the webpage had any medical foundation. Therefore, the complainant found the webpage to be misleading. As the company was based in Spain the British SRO, ASA, transferred the complaint to the Spanish SRO, Autocontrol, under the cross-border procedure. The Spanish SRO contacted the advertiser who confirmed that in his opinion the content of the webpage was truthful but he could not provide any medical evidence. Therefore, the jury concluded that the health claims in the ad were misleading. **Complaint upheld, case close.**

2415 NET66 WEB SERVICES LTD/THE SOCIAL MEDIA

Complaint from a British consumer to the British SRO, ASA, against a company who create websites and offer solutions to businesses. The advertiser mentioned on its website a list of its clients and used their logos. The complainant challenged whether the advertisers could substantiate that they had worked with these companies. As the advertiser operated from the Netherlands the British SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under to cross-border procedure. The Dutch SRO asked the complainant to provide more details and documentation concerning the complaint in order to be able to proceed. The complainant did not reply to SRC’s request so the complaint could not be pursued. **Complaint not pursued, case closed.**

2416 CROSMO

Complaint from a Belgian consumer to the Belgian SRO, JEP, about an online ad created by a Dutch company. The ad featured a competition to win a gift certificate of 500 Euros from a supermarket. The logo of the supermarket was featured everywhere on the website, however, the complainant noted that in the small print it was mentioned that the supermarket had no affiliation with the advertiser. Therefore, the complainant challenged whether the competition was valid. As the advertiser was based in the Netherlands, the Belgian SRO, JEP, transferred the complaint to the Dutch SRO, SRC under the cross-border procedure. The Dutch SRO asked the complainant to provide more details about the complaint in order to handle it. The complainant did not reply to SRC’s request so the complaint could not be pursued. **Complaint not pursued, case closed.**

2440 IBOOD.COM

Complaint from a Belgian consumer to the Belgian SRO, JEP, about an advertisement for a watch published on a Dutch website. The complainant found the advertisement misleading because the final price of the product was not clear, given that the advertisement mentioned a price of 9,95 euro due to a -50% discount on the product but after clicking forward the consumer discovered that the final cost was actually 109,90 euro. As the company was based in the Netherlands the Belgian SRO, JEP, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. After thorough investigation SRC considered the way in which the prices were advertised to be misleading for consumers. **Complaint upheld, case closed.**

2439 NATIONAL GEOGRAPHIC SOCIETY

Complaint from a Belgian consumer to the Belgian SRO, JEP, about a TV advertisement for an online Casino transmitted on National Geographic TV. The complainant questioned whether the advertisement was legal given the fact that free money was offered to gamble and, therefore, gambling was encouraged. As the company was based in the Netherlands the Belgian SRO, JEP, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. The Dutch SRO asked the complainant to provide more details and documentation concerning the complaint in order to be able to proceed. The complainant did not reply to SRC's request so the complaint could not be pursued. **Complaint not pursued, case closed.**

2445 TOM TOM INTERNATIONAL

Complaint from a British consumer to the British SRO, ASA, about an email from a Dutch webpage offering an annual map update service for a GPS device. The complainant considered the ad to be misleading because it showed the cost of £33.75 as a "special personalised offer" when instead after checking the footnote the consumer found that that price was only an example and it could vary. Therefore, the complainant found the ad to be misleading. As the company was based in the Netherlands the British SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. After investigation the Dutch SRO discovered that the advertisement clearly showed that the price stated "only applies if the Update Service was bought for a map of the United Kingdom and Ireland" and therefore did not consider the ad to be misleading. **Complaint not upheld, case closed.**

Possible offensive advertising

2429 UNILEVER - LYNX

Complaint from an Irish consumer to the Irish SRO, ASAI, about an ad for deodorant on British television. The ad featured the product and stated "Get your final edition for the end of the world in 2012". The complainant found the ad offensive and likely to cause distress and widespread offence. As the media was based in the UK the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA under the cross-border procedure. After careful consideration the British SRO found that even though the ad referred to the end of the world, given the tone of the ad and what it was promoting, neither its content nor scheduling was likely to cause harm or distress to children or viewers in general. **Complaint not upheld, case closed.**

2422 RYANAIR

Complaint from a Belgian consumer to the Belgian SRO, JEP, about an ad for plane tickets on an Irish website. The ad featured women wearing bikini promoting cheap flights to locations

where it is warm during Christmas holidays. The complainant objected to the advertisement on the basis that it was sexist, overly sexual and that it objectified women. As the advertiser was based in Ireland, the Belgian SRO, JEP, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. After further investigation ASAI considered the image was provocative and had been used merely to attract attention. They stated that the advertisement had contravened section 2.19 of the Code as it was not acceptable to use provocative images to sell unrelated products as airline seats. **Complaint upheld, case closed.**

2455 VAX

Complaint from an Irish consumer to the Irish SRO, ASAI, about an ad for a bare floor steam cleaner on British television. The ad showed a woman cleaning the floor and stated “the mop cleans up after kids, pets and even husbands” and this assumed that wives in the family are always the ones in charge of the cleaning. The complainant considered that the ad promoted gender inequality and that it is socially regressive in its portrayal of women in the home. As the media was based in the UK the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. The ASA Council considered the scene and concluded that the ad was light-hearted and wasn't condoning harmful or prejudicial behaviour towards women. Therefore the ad was unlikely to cause or widespread offence. **Complaint not upheld, case closed.**

2466 AA HOME COVER

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding a television advertisement for home insurance services. The complainant considered the ad to be offensive to small businesses as in the spot the advertiser called small repairers “cowboys”. As the company was based in the UK the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. ASA considered the ad was likely to be interpreted as a demonstration of the ease of the advertiser in case of emergency and unlikely to suggest that all other repairers were disreputable. Therefore they did not consider the ad to be offensive. **Complaint not upheld, case closed.**