



EASA Cross-Border Complaints

Quarterly Report N° 61 **(July- September 2013)**



July - September 2013

This report contains the details of 25 cross-border complaints about 25 advertisements coordinated by EASA's cross-border complaints system and closed during the period July to September 2013.

19 complaints concerned allegedly misleading advertising, 2 complaints concerned unsolicited mail and other 2 animal welfare, one concerned bad imagery and one the portrayal of children¹. The media involved are the Internet-website (14 complaints), direct mail (3 complaints), email (5 complaints), TV (2 complaints) and print (1 complaint). The Dutch self-regulatory organisation (SRC) processed 6 complaints; the British self-regulatory organisation (ASA) processed 5 complaints; the Irish SRO (ASAI) 4 complaints; the German, Turkish and French SROs (WBZ, RÖK and ARPP) each processed 2 complaints and the SROs from Spain, Portugal, Canada and Belgium each processed one complaint. With regards to the different sectors complained about, the transport and the tourism sector received the higher number of cross-border complaints, 5 for each sector.

Allegedly misleading advertising

2688 METEM TEKNOLOJI SISTEMLERI

Complaint from a British consumer to the British SRO, ASA, concerning the additional costs of a delivery on the website of a Turkish company, Metem Teknoloji Sistemleri. The complainant believed the advertisement to be misleading because on the website it stated the fact that the shipping was free all over the world, but when receiving the order, the complainant was obliged to pay a shipping fee. As the advertiser was based in Turkey, the British SRO, ASA, transferred the complaint to the Turkish SRO, RÖK, under the cross-border procedure. After investigation, the web page has been found misleading for the customers and in violation of the ICC Code Article 5 about "Truthfulness". Complaint upheld, case closed.

2685 FLESHLIGHT INTERNATIONAL SL

Complaint from a British consumer to the British SRO, ASA, concerning a promotion on the website of a Spanish company, Fleshlight International. The claim stated "Soon we will no longer offer..." and "Last chance! Stock up while supplies last!". The complainant found the advertisement to be misleading because the product mentioned in the promotion was afterwards reinstated. 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 investigation, the advertisement was found to be misleading because it was falsely promoting the product as available only for a limited period of time when in fact, it was available for an unlimited time. Complaint upheld, case closed.

2606 BOOKING.COM BV

Complaint from a British consumer to the British SRO, ASA, against the content of a Dutch website for hotel reservations, Booking.com. The website advertised rooms with a discount

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.

of 50%, resulting in the price of £50 per night per room. The complainant objected that the prices on the website were misleading as £50 was the regular price of a room on the Hotel's own website. The complainant therefore challenged whether the discount was genuine. 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 the jury's first decision, in favour of the complainant, the advertiser appealed. After further investigation, the Board of Appeal agreed with the Advertising Code committee, who considered that the way the price was shown in the ad combined with the price-system followed by Booking.com was insufficiently clear. Complaint upheld, case closed.

2662 TRAVELJIGSAW LTD / EAUTOHUUR.NL

Complaint from a Dutch consumer to the Dutch SRO, SRC, regarding a website from a British car rental company, Traveljigsaw Ltd. The advertisement claimed that the car insurance and the possibility of an additional driver were included in the total price. However, upon arriving in Spain, the complainant discovered that he had to pay (€189) for the insurance and the additional driver. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the UK, SRC transferred the complaint to the British SRO, ASA, under the cross-border procedure. Because the complainant was not able to provide a copy of the original advertisement nor a complete copy of the booking receipt, the complaint was not pursued. Complaint not pursued, case closed.

2680 HOTELS.COM

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding a British booking website for hotel rooms, Hotels.com. The advertisement claimed that for the booking of a room for three people the breakfast was included. However, after arriving at the hotel, the complainant found out that the breakfast was included for only 2 people and not for the 3rd person who booked the room. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the UK, the Irish SRO, ASAI, referred the complaint to the British SRO, ASA, under the cross-border procedure. After investigation the advertiser confirmed that the breakfast was included for only 2 people in a room and assured to amend the advertisement to make that clear. Complaint resolved informally, case closed.

2593 CARREFOUR

Complaint from a Belgian consumer to the Belgian SRO, JEP, regarding an email from a Dutch retail company, Carrefour. The advertisement claimed "We pay for your shopping. We selected you to be able to do your shopping for free this month. Answer the question and we pay for your shopping." After answering the question, the complainant was requested to give a cell phone number as the email appeared to be related to a ringtone subscription service. The complainant, therefore, considered the email to be misleading. 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. After investigation, it was established that the advertisement involved 4 different affiliates and the SRO found out that two of there were responsible for the ad. According to the Advertising Code committee, the advertisement was found to be aggressive and in breach of the code. Complaint upheld, case closed.

2639 AER LINGUS

Complaint from a British consumer to the British SRO, ASA, regarding an e-mail from an Irish airline company, Aer Lingus. The airline offered tickets to the US from £229. However, when the complainant looked for this offer on the website, it was nowhere to be found and flights to the US proved to be more expensive. The complainant therefore found this advertisement to be misleading. As the advertiser was based in Ireland, ASA transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. During the

investigation, the advertiser was asked to explain the terms of the offer. The advertisement came with several terms and conditions which had to be fulfilled in order to benefit from the special tariff of £229 per flight (one way), which meant that the claim “from £229” was true. The complainant did not give an exact destination of the period of travel; therefore the ASA’s Complaints committee decided that the case should not go for further investigation under the Code. Complaint not pursued, case closed.

2694 AER LINGUS

Complaint from a British consumer to the British SRO, ASA, concerning misleading information on the website of an Irish airline company, Aer Lingus. The complainant believed the information found on the website to be misleading because the claim “25% off every flight” applied to the fare before taxes & changes so the actual discount was overall around 2%. As the advertiser was based in Ireland the British SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. After investigation, the advertisement was found not to be misleading as the footnote explained that the discount was off the fare excluding taxes and charges. Complaint not upheld, case closed.

2692 BOOKING.COM

Complaint from a British consumer to the British SRO, ASA, concerning misleading information on a Dutch travel website, Booking.com. The complainant believed that the claim: “The display amount (in GBP) is indicative and based on the exchange rate at the time of booking” was misleading, because the website did not use the correct rate at the time of booking, meaning that consumers paid more than stated. 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 advertisement was found not to be misleading, because an average consumer was supposed to know that the exchange rate was subject to fluctuations due to several external factors (such as exchange rates, bank commissions, etc). This made it impossible for the advertiser to mention the exact price. Complaint not upheld, case closed.

2696 EXPEERTEER GMBH

Complaint from a British consumer to the British SRO, ASA, concerning an email from a German headhunting company, Experteer. The subject heading of the email and the content claimed that a headhunter was interested in the profile of the complainant to make an exclusive proposal through the website. The complainant found the advertisement to be misleading because after signing up to the service, none of the headhunters had actually been trying to contact him or had left any message. As the advertiser was based in Germany the British SRO, ASA, transferred the complaint to the German SRO, WBZ, under the cross-border procedure. After investigation, the advertisement was found to be misleading because the complainant was left with the impression that he had to sign up to a premium membership in order to read the alleged message from the headhunters when actually there were no messages. Complaint upheld, case closed.

2679 DATALINK EUROPE LTD UK

Complaint from a South African consumer to the South African SRO, ASASA, regarding an advertisement on the website of a British company, Datalink Europe. After having ordered a product, the complainant discovered he was being charged more than the price indicated on the website. The complainant therefore found the advertisement to be misleading. As the advertiser was based in the UK, ASASA transferred the complaint to the British SRO, ASA, under the cross-border procedure. After investigation, the advertiser amended the website and provided the complainant with a refund. Complaint resolved informally, case closed.

2668 DEUTSCHE LUFTHANSA

Complaint from a British consumer to the British SRO, ASA, regarding the website of a German airline company, Deutsche Lufthansa. The complainant challenged whether the advertiser's online loyalty scheme was misleading, because he found that the amount charged for 'taxes and fees' was higher when the consumer paid with miles than if he booked the flight as a 'cash' purchase on the company's website. Therefore, the complainant found the offer to be misleading. As the advertiser was based in Germany, ASA transferred the complaint to the German SRO, Wettbewerbszentrale, under the cross-border procedure. During the investigation, the advertisers explained that when buying a ticket with 'miles', the consumer had to pay the full amount of the taxes and charges because the offers and promotions were available only when the tickets were paid by cash. These conditions were stipulated in the section 'Taxes, fees and carrier charges' of the website. Therefore, the advertisement was not considered to be misleading. Complaint not upheld, case closed.

2693 BOOKING.COM

Complaint from a British consumer to the British SRO, ASA, concerning misleading information on a Dutch travel website, Booking.com. The complainant believed the information found on the website to be misleading because the room did not have tea and coffee making facilities and breakfast was not provided. Moreover, the complainant believed that the advertisement did not make clear that the bathroom facilities were only for men. 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 the investigation of the complaint, the advertisement was found to be misleading and the advertiser had to remove the misleading information from the website. Complaint upheld, case closed.

2700 AMMEDI MEDICAL DIRECTORY

Complaint from a Canadian consumer to the Canadian SRO, ASC, concerning misleading information in a direct mail from a Portuguese company, Ammedi Medical Directory. The consumer received a form that had to be signed and appeared to be a paper directory associated with a well known medical association, rather than an online directory for a Portuguese company. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Portugal the Canadian SRO, ASC, transferred the complaint to the Portuguese SRO, ICAP, under the cross-border procedure. The activities of this company had already been considered misleading by the competent authorities. Complaint transferred to appropriate authorities, case closed.

2637 ETRAWLER LTD

Complaint from a British consumer to the British SRO, ASA, regarding an Irish website, Etrawler. The website claimed that customers had to return the car full in order to only pay for their real consumption. However, when the complainant went to pick up the car, he discovered he had to pay an additional fee for car's full tank and had to return it empty. Therefore, the complainant found therefore, the advertisement to be misleading. As the company was based in Ireland, ASA transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. After investigation, the SRO noted that the price included in the website did not include the cost of the fuel which was an inescapable cost. Therefore, the advertisement was found to be misleading. Complaint upheld, case closed.

2708 METEM TEKNOLOJI SISTEMLERI

Complaint from a British consumer to the British SRO, ASA, concerning the additional costs of a delivery that supposed to be for free from the website of a Turkish company, Metem Teknoloji Sistemleri. The complainant believed the advertisement to be misleading because

on the websites it stated the fact that the shipping was free all over the world, but when receiving the order, he was obliged to pay the shipping fee. As the advertiser was based in Turkey, the British SRO, ASA, transferred the complaint to the Turkish SRO, RÖK, under the cross-border procedure. After investigation, the Turkish SRO decided that the 'Terms and Conditions' of the website were comprehensive for all the customers as they clearly stated that there might be additional costs depending on the regulation in place on the countries of destination. Complaint not upheld, case closed

2698 BIOTONIC

Complaint from a British consumer to the British SRO, ASA, concerning misleading information in the direct mail from a French company, Biotonic. The complainant believed the information found in the advertisement to be misleading, because it implied that the recipient had already been chosen to be the winner of £15,500, whereas it was actually just a prize drawn entry. As the advertiser was based in France the British SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. After having sent two letters informing the advertiser of the complaint and inviting him to formulate a reply, the advertiser never replied. Therefore, ARPP transferred the complaint to the Direction générale de la concurrence, de la consommation et de la répression des fraudes DGCCRF - the French governmental authority against fraud and rogue traders. Complaint transferred to appropriate authorities, case closed.

2644 ACCOR SA

Complaint from a British consumer to the British SRO, ASA, concerning a website from a French company, Accor, offering hotel reservations. The website featured a "Price Match Guarantee", meaning that, if within 24 hours after booking a room through their website, the client found a lower rate for an equivalent offer on another website, he would be confirmed his reservation at the lowest stated rate and receive a further reduction of 10%. However, when the complainant informed the advertiser he had indeed found the same room at a lower rate, he was told this case was not eligible for any refund under the "Price Match Guarantee" as the two offers were not comparable. The advertiser claimed that his offer included extra loyalty points to loyalty card customers and the competing offer did not. The complainant claimed that he was only able to verify the validity of the guarantee after already having booked. Moreover, he believed the goal of the loyalty points was to create an artificial difference between the advertiser's offer and competing offers, in order to avoid price match claims. The complainant therefore found this to be misleading. As the advertiser was based in France, ASA transferred the complaint to the French SRO, ARPP, under the cross-border procedure. After reviewing the complaint the advertiser decided to reimburse the complainant with a cheque covering the full price, as per the online guarantee. Complaint resolved informally, case closed.

2703 UNIVERSAL LABORATORIES

Complaint from a British consumer to the British SRO, ASA, concerning misleading claims in a direct mail from a Dutch company, Universal Laboratories. The complainant believed the claim "Enjoy your free 30-day trial today!" on the back page of the advertisement to be misleading, because after contacting the advertisers the consumer was told that the money for the trial would have been taken first and refunded later in case he was unsatisfied. 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 advertisement was found to be misleading because despite the fact it claimed a free trial, the product had first to be bought in order to get a refund, and therefore the offer was not for free. Complaint upheld, case closed.

Unsolicited mail

2686 ALDANTI

Complaint from a French consumer to the French SRO, ARPP, concerning unsolicited mail from a French company, Aldanti. The consumer received the advertisement by mail several times and wished to be deleted from the delivery list. Despite sending several requests to the advertiser, nothing had been done. As the advertiser was based in the UK the French SRO, ARPP, transferred the complaint to the British SRO, ASA, under the cross-border procedure. After investigating the complaint, the advertiser agreed on removing the complainant's email from their database. Complaint upheld, case closed.

2691 CANADIAN PHARMACY

Complaint from a British consumer to the British SRO, ASA, concerning unsolicited mail from a Canadian company, Canadian Pharmacy. The consumer received the advertisement by mail several times and wished to be deleted from the delivery list. Despite sending several requests to the advertiser, nothing has been done. As the advertiser was based in Canada the British SRO, ASA, transferred the complaint to the Canadian SRO, ASC, under the cross-border procedure. As the advertiser was proved to be situated in Russia, the Canadian SRO, ASC, decided not to pursue this matter any further. The complainant was advised by the British SRO, ASA, to contact a specific organization from Russia, which deals with advertising legislation. Complaint not pursued, case closed.

Animal welfare

2699 PADDY POWER

Complaint from a British consumer to the British SRO, ASA, concerning an online advertisement from an Irish company, Paddy Power. The complainant found the advertisement to be offensive, since it suggested (from the image and the slogan) a reference to anal sex between two animals. As the advertiser was based in Ireland the British SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. After investigation, it was established that the lack of complaints about the advertisement would suggest that the advertisement was not causing serious or widespread offence. Moreover, the advertisers replied that the advertising depicted an unrealistic situation which could have been interpreted innocently or as containing an element of adult humour. Therefore, the advertisement was found not to be in breach of the Code. Complaint not upheld, case closed.

2704 PEUGEOT

Complaint from a French consumer to the French SRO, ARPP, concerning animal welfare in a printed advertisement from a Belgian company, Peugeot. The complainant believes that the advertisement did not respect the social responsibility principles with regards to the environment and animals, because it presented a wild animal kept on a leash. As the advertiser was based in Belgium, the French SRO, ARPP, transferred the complaint to the Belgian SRO, JEP, under the cross-border procedure. After investigation, the advertisement was found not to incite disrespectful behaviour towards animals and not to be in breach of the general principle of social responsibility. Moreover, the context of the advertisement was clearly surreal and fictional. In addition the advertiser assured that the animals used for the advertisement were treated in accordance with the existing regulations. Complaint not upheld, case closed.

Bad imagery

2687 BET VICTOR

Complaint from an Irish consumer to the Irish SRO, ASAI, concerning the portrayal of transgender people by a British company, Bet Victor. The complainant believed that the advertisement placed on television was discriminating against transgender people and thus it had the potential to cause real and substantial harm (either physical or psychological). As the advertiser were based in the UK the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. After investigation, the advertisement was found not to be offensive. It has been established that the advertisement did not refer to the transgender people but to the WAG culture in an ironical way. The main character was dressed as a woman and was trying to gain access to the VIP area pretending to be a 'WAG'². The line 'before they clock I'm a geezer'³ (which was considered to be very offensive by the complainant) refers in fact to the main character's wish not to be ejected from the VIP area to which he had illegitimately obtained entry, rather than to any reference to his gender identity. Complaint not upheld, case closed.

2 WAG= "Wives and Girlfriends" an acronym used to describe the wives and girlfriends of the England National football team.

3 Geezer= guy, male person

Portrayal of children

2690 LE PETIT TOM

Complaint from a British consumer to the British SRO, ASA, concerning a printed advertisement from a Dutch company, Le Petite Tom, which allegedly contained inappropriate images of young children. The complainant believed that the advertisement contained a sexualised image of a child, since it showed a young girl wearing heavy make-up and an adult hairstyle. 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 advertisement was found not to be an inappropriate portrayal as the current limits of the permissible had not been exceeded. The Dutch SRO, SRC found that, although a mature look has been given to the girl shown in the catalogue by make-up, hairstyle and attitude, this was not considered to be as a non permissible sexualized image of a child. Complaint not upheld, case closed.