

EASA Cross Border Complaints

Quarterly Report N° 62
October - December 2013

EASA

The European Advertising Standards Alliance (EASA) is the single authoritative voice of advertising self-regulation. EASA promotes high ethical standards in commercial communications by means of effective self-regulation, for the benefit of consumers and business in Europe and beyond.

As well as coordinating the cross-border complaint mechanism (which you can find further information about at the end of this publication), EASA also collects and analyses top line statistical data on received and resolved complaints, as well as on copy advice requests and pre-clearance from its SRO members each year.

EASA was set up in 1992 and in 2002 developed into a partnership between national advertising self-regulatory organisations (SROs) and organisations representing the advertising industry. Today, EASA's network brings together 37 SROs (27 European SRO members and 10 International SRO members) and 16 Industry members (from advertisers, agencies and the media). EASA is a not-for-profit organisation with a Brussels-based Secretariat.

For further information please visit www.easa-alliance.org.

EASA editorial team

Chiara Odelli
Project and EU Affairs Officer

Greg Mroczkowski
Project Assistant

Jennifer Pearson
Promotion and Communications Officer

Oliver Gray
EASA Director General

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EASA contact information

Chiara Odelli
+32 (0)2 513 78 06
chiara.odelli@easa-alliance.org

October - December 2013

This report contains the details of 32 cross-border complaints about 32 advertisements coordinated by EASA's cross-border complaints system, adjudicated by local Self-Regulatory Organisations (SROs) and closed during the period October to December 2013.

24 complaints concerned misleading advertising, three complaints concerned bad imagery, and there were individual complaints on each of the following issues: OBA consumer choice, offensive advertising, other, pornography and unsolicited mail¹.

The media involved were the company websites (24 complaints), e-mail (four complaints), TV (two complaints), direct mail (one complaint) and print (one complaint).

The Irish SRO (ASAI) processed eight complaints; the British SRO (ASA) six complaints; the Dutch SRO (SRC) five complaints; the French SRO (ARPP) four complaints; the Canadian SRO (ASC) and Spanish SRO (AUTOCONTROL) each processed two complaints and the SROs from Australia, Belgium, Germany, Greece and Italy each processed one complaint.

With regards to the different sectors complained about, the tourism sector received the most cross-border complaints, six in total.

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, e-mail 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.

Summary of cross-border complaints resolved between October - December 2013

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Misleading advertising

2616 PADDY POWER

Complaint from a British consumer to the British SRO, ASA, regarding an e-mail advertisement by Paddy Power, an Irish online betting platform. The complainant received an e-mail offering a full reimbursement of losses: 'Get 100% back on your losses plus a share of £15000' and 'Get 100% back on your losses, up to £10'. However, the terms and conditions stated that a minimum of £50 needed to be wagered in order for the consumer to be qualified for this deal. The complainant found these claims to be contradicting each other and therefore, found the advertisement 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. Following discussions between ASAI and the advertiser, the advertiser agreed to not run future promotions in that manner again. **Complaint resolved informally, case closed.**

2649 EVERNEO / PLAY 'N' WIN

Complaint from a British consumer to the British SRO, ASA, regarding an online advertisement by Everneo, an Irish mobile services company. The advertisement offered a chance to enter in a competition to win a smartphone. To compete, the complainant was asked to enter his telephone number, but after doing so, he discovered that he unwillingly signed up to a monthly paid sms subscription service. Therefore, the complainant found the advertisement 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. After investigation, the complaint could not be pursued as being an online display advertisement at the time of investigation it was found to be out of remit of ASAI. However, following contacts with ASAI, the advertiser decided to introduce a set of new procedures to avoid such situations in the future. **Complaint not pursued, case closed.**

2656 INEEDHITS.COM

Complaint from a British consumer to the British SRO, ASA, regarding Ineedhits.com website, an Australian company offering online promotion for websites. On the website, the company made following claims: 'Attract more visitors to your website with over 5,000 banner displays on the Ineedhits banner network', and 'We'll customize it to include your business name, your logo and even some custom text'. Having commissioned the service, despite making numerous requests, the complainant had not been shown a banner which contained his business' name and logo or a proof that a banner was being displayed online. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Australia, the British SRO, ASA, transferred the complaint to the Australian SRO, ASB, under the cross-border procedure. The complaint was transferred to the Australian Competition and Consumer Commission, ACCC, which having taken into account ACCC's Compliance and Enforcement Policy advised that this matter was, pre suited to private action by the individual complainant and therefore referred the complainant to the Western Australian Department of Commerce. **Complaint transferred to appropriate authorities, case closed.**

2683 NAVTEQ EUROPE B.V.

Complaint from a British consumer to the British SRO, ASA, regarding a satellite navigation system advertisement by Navteq Europe B.V., a Dutch company. The system claimed to offer 'map updates' which 'include new roads, junctions, by-passes and motor way exits and millions of other changes'. The complainant found the advertisement to be misleading as the maps included on the satellite were neither accurate nor up-to-date. 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. Having been informed about the complaint, the advertiser explained how there was indeed a problem with the updates of the navigation system. The advertiser, therefore, changed the incorrect information on the website and offered compensation to the complainant, who accepted the proposal. **Complaint resolved informally, case closed.**

2689 ACCOR SA

Complaint from a British consumer to the British SRO, ASA, regarding the price guarantee of Accor SA, a French hotel booking website. The website claimed that 'accorhotels.com guarantees you the best price'. The complainant found the advertisement to be misleading because he had found an identical booking at a cheaper price. As the advertiser was based in France the British SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. Having been contacted, the advertiser agreed on giving the complainant a cheque for the full amount of the guarantee. **Complaint resolved informally, case closed.**

2702 MOSHE DANIEL

Complaint from a British consumer to the British SRO, ASA, regarding an online advertisement by Moshe Daniel, a Canadian company. The complainant challenged whether the advertiser could substantiate the claims that their product could cure Myasthenia Gravis through a combination of counselling and homeopathy. Moreover, the complainant believed that the advertisement dangerously advised patients not to seek medical intervention. As the advertiser was based in Canada, the British SRO, ASA, transferred the complaint to the Canadian SRO, ASC, under the cross-border procedure. The Canadian SRO, ASC, attempted to contact the advertiser several times without any response. The complainant was advised to address the complaint to the federal government agency responsible for misleading advertising, the Competition Bureau. **Complaint not pursued, case closed.**

2710 CLICK SALES

Complaint from a British consumer to the British SRO, ASA, regarding an online advertisement by Click Sales, an Irish company. The complainant challenged the claim '100% scientifically-proven way to erase your diabetes in 3 short weeks'. The complainant found the advertisement to be misleading as the claim could not be substantiated. 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 complaint was redirected to the Canadian SRO, ASC, as it was believed that the advertiser was based in Canada where, however, it was established that the advertiser was actually placed in the United States. Therefore, no actions were undertaken. **Complaint not pursued, case closed.**

2713 ENGRANDE SL

Complaint from a British consumer to the British SRO, ASA, regarding an online advertisement by Engrande SL, a Spanish company. The complainant challenged whether the apartment advertised on the website had rooms available from the price of €21.83 a night as, after searching in every month up until March next year, he could not find any rates available at that price. Instead, he found the average price per night to be at least 5 or 6 times higher than the advertised price. 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 complaint was found to be in breach of the Code, because the price advertised (from €21.38) was not achievable. **Complaint upheld, case closed.**

2714 DHI GLOBAL MEDICAL GROUP

Complaint from a British consumer to the British SRO, ASA, regarding an online advertisement by DHI Global Medical Group, a Greek company offering medical services. The complainant challenged the claims 'no scars' and 'no scarring' associated with the procedure of hair implantation. Since the claims could not be substantiated the complainant found the advertisement to be misleading. As the advertiser was based in Greece, the British SRO, ASA, transferred the complaint to the Greek SRO, SEE, under the cross-border procedure. Following contacts with SEE, the advertiser decided to withdraw the claims 'no scars' and 'no scarring' from the website. **Complaint resolved informally, case closed.**

2716 SMITTEN LINGERIE

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an online advertisement by Smitten Lingerie, a British lingerie company. The company offered a return policy but when the complainant tried to return a product the advertiser did not respond to the e-mails. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the UK, the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. The advertiser did not respond to ASA's enquiries and, after investigation, it was adjudicated that the advertisement breached CAP Code (Edition 12) rules 3.1, 3.3 (Misleading advertising) and 3.7 (Substantiation). The advertisement must not appear again in its current form and, in addition, ASA asked CAP to inform its members of the problem with the advertiser. **Complaint upheld, case closed.**

2717 ANCHOR GLOBAL LIMITED

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an online advertisement by Anchor Global Limited, a British company for health supplements products. The complainant found the advertisement to be misleading as it claimed that sample products were free but after ordering one the complainant had to pay for it. Moreover, the complainant was automatically signed up for a subscription service and found out that the company retrieved money from his account, without his permission. As the advertiser was based in the UK, the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. After contacting the advertiser several times and inviting them to formulate a reply, the advertiser refused to respond. Therefore, ASA suggested the complainant to contact the Citizens Advice Consumer Service in order to obtain a refund. It was also decided that the name of the advertiser would be referred to as a non-compliant advertiser on ASA website. **Complaint not adjudicated, case closed.**

2719 ASUS

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an advertisement by Asus, a British company offering 'fonepads'. The complainant found the advertisement to be misleading as it claimed that a product had handwriting recognition but it did not have in fact this feature. As the advertiser was based in the UK, the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. After investigation, it was discovered that the advertisement was withdrawn from the website. **Complaint not pursued, case closed.**

2722 TOM TOM INTERNATIONAL

Complaint from a British consumer to the British SRO, ASA, regarding e-mail advertisements by Tom Tom International, a Dutch company offering a GPS upgrade. The advertisement claimed to offer a 50% discount on a map update service if renewed until 23rd September. The complainant found the advertisement to be misleading as he already had a subscription entitling him to 12 months map updates. 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, it was proved that due to a system error, the complainant received an e-mail which suggested that his subscription would have ended already, while it should still last for another three months. His subscription was fully extended for the full duration and at the reduced rate, plus an offer for the inconvenience was given to the complainant. **Complaint resolved informally, case closed.**

2723 UBER BV

Complaint from a British consumer to the British SRO, ASA, regarding promotional messages by Uber BV, a Dutch company. The complainant found the tweets from three British TV personalities to be misleading, because they did not make it clear that they were sponsored promotions. As the complainant 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 Jury came to the conclusion that the advertising violated Article 11.1 of the Code according to which an advertisement must be recognisable as such by virtue of its lay-out, presentation, content or otherwise, whereas the tweets seemed to be personal messages from TV personalities. It was recommended to the advertiser to no longer make advertising in this manner. **Complaint upheld, case closed.**

2724 PADDY POWER

Complaint from a British consumer to the British SRO, ASA, regarding an advertisement by Paddy Power, an Irish online betting platform. The advertisement stated that customers would receive a matched free bet of up to £5. After betting the first time, the complainant wanted to use a £5 free bet on the same horse, however, he was not able to place a free bet of his choice. Therefore, the complainant found the advertisement 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 advertiser noted that an error occurred in this case and agreed to amend future marketing communications including a message that they reserved the right to exclude and/or limit the availability of the offer to certain customers. Furthermore, the complainant was offered a free €20 bet. **Complaint resolved informally, case closed.**

2726 CITY JET

Complaint from a British consumer to the British SRO, ASA, regarding the website of City Jet, an Irish airline company. The advertisement stated that with a ticket, one piece of baggage could be taken into the cabin. The complainant found the advertisement to be misleading, because his bag was taken at the boarding gate and put in the hold of the aircraft. As the advertiser was based in Ireland, the British SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. Having been contacted, the advertiser responded that the 'Terms and Conditions' section of the website specified that the cabin luggage allowance was always conditional and subject to restrictions. Therefore, the complaint was found not to be in breach of the Code. **Complaint not upheld, case closed.**

2729 ETRAWLER LTD

Complaint from a British consumer to the British SRO, ASA, regarding an online advertisement by Etrawler LTD, an Irish online car hire company. The complainant noted that the advertiser offered a quote for a Ford Taurus car. However, while picking up the car from the rental company he was informed that the car was two grades up in price from what was booked. In order to get the full size car advertised the complainant was required to pay an additional \$175 at the rental desk. Therefore, the complainant found the advertisement 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. Since the complaint was related to a specific booking, ASAI asked the complainant for his permission to be identified to the advertiser. The complainant did not respond to ASAI and therefore the case was not further investigated. **Complaint not pursued, case closed.**

2730 PROSOFT3D

Complaint from a British consumer to the British SRO, ASA, regarding the website of Prosoft3d.com, a Canadian software company. The advertisement claimed a reduced price of \$9.95 (£6.24) on a password recovery software. However, when checking the bank statement, the complainant found that they were charged £12.44 (\$21.7) plus extra charges of £1.34 (\$2.34) that were not mentioned in the offer. Therefore, the complainant found the advertisement 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. Having contacted the advertiser, ASC discovered that the advertised price of \$9.95 was for the use of the software on one computer only and the advertiser might recommend that a customer purchased an upgraded version of the software if it was to be used on multiple computers. For this reason, before completing the purchase, the consumer was shown a summary of the cost, including the \$10 fee for the upgraded software. ASC also found out that the advertiser had issued the complainant a full refund. **Complaint resolved informally, case closed.**

2732 BOOKING.COM BV

Complaint from a British consumer to the British SRO, ASA, regarding an advertisement on Booking.com BV, a Dutch website for hotel reservations. The advertisement showed a number of images purporting to be of the Villa Minerva which were not what the complainant found when staying at the property. The complainant also believed that a number of reviews stating 9.5 and 10 were incorrect, because they believed that these people had not stayed at the property on the stated dates. Therefore, the complainant found the advertisement to be misleading. 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 Chairman of the Advertising Code Committee ruled that the advertiser had provided satisfactory evidence that only visitors of Villa Minerva who booked this accommodation through Booking.com had the possibility to place reviews on the website. Moreover, the complaint that the photos posted on Booking.com did not correctly display the situation at Villa Minerva was rejected due to a lack of plausible evidence. **Complaint not upheld, case closed.**

2734 SKY

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding the website of Sky, a British TV channel. The advertisement claimed that 'you can watch Sky Go anywhere'. The complainant found the advertisement to be misleading as the TV channel was restricted to Ireland and the UK. As the advertiser was 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 unlikely to mislead consumers as it made no direct claims of being available abroad. **Complaint not upheld, case closed.**

2738 ACCOR SA

Complaint from a British consumer to the British SRO, ASA, regarding an advertisement on a French travel website, Accor SA. The advertisement claimed to offer half the price for the second room booked for the children, with breakfast free for children up to the age of 16. The advertisement also claimed that the offer was 'subject to availability'. When the complainant tried to book the second room, he discovered that he was charged the full price and when

enquiring about this the complainant was informed that the particular rate had sold out. The complainant found the advertisement to be misleading as it did not state that the offer was 'subject to availability of the rate'. 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 investigation, the advertiser found out that the issue was caused by a technical error and invited the complainant to a complimentary one night stay at their hotel in the UK. **Complaint resolved informally, case closed.**

2739 ACCOR SA

Complaint from a British consumer to the British SRO, ASA, regarding an advertisement by Accor SA, a French hotel booking website. The advertisement claimed the following: 'Book at least 30 days in advance and get 30% off'. However, when trying to book the hotel, the complainant was informed that the offer was not available for the requested dates. The complainant found the advertisement to be misleading, because it did not include limitations or conditions for the offer. 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 investigation, it was discovered that while the Terms and Conditions for the offer were detailed on the offer page under an asterisk, the asterisk symbol itself was not correctly displayed on the offer. The advertiser agreed to amend the website in order to avoid such situations occurring in the future. Moreover, the advertiser invited the complainant to a complimentary one night stay at their hotel in the UK. **Complaint resolved informally, case closed.**

2742 SAMSUNG

Complaint from an Irish consumer to the Irish SRO, regarding the website of Samsung, a British counterpart of a company producing and selling electronics. The advertisement claimed that the tablets had 16 GB of storage memory, when in fact the total reported memory was 9.78 GB. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the UK, the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. After investigation the British SRO, ASA, discovered that the global Samsung website to which the complaint referred to was based in Korea and therefore out of the remit of the SRO. For this reason, the complaint was not pursued. **Complaint not pursued, case closed.**

2748 SYLPHAR NV

Complaint from a British competitor to the British SRO, ASA, regarding the website of Sylphar NV, a Belgian manufacturer of teeth whitening products. The advertisement stated that consumers would get 'immediate whitening effect after the first application. Some patients had up to 8 shades improvement after one treatment'. The complainant found the advertisement to be misleading, because the claims exaggerated the effects of the products and could not be substantiated. 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 investigation, the Belgian SRO, JEP, communicated that the complaint could not be pursued as competitor's complaints were not in their remit. The complainant was advised to address the competent government body, SPF Economie - Service public fédéral Economie (FPS Economy - Federal Public Service Economy). **Complaint not pursued, case closed.**

Bad imagery

2727 SISLEY

Complaint from a British consumer to the British SRO, ASA, regarding images on the website of Sisley, an Italian clothing company. The complainant challenged whether the advertisements were offensive, because they portrayed child models in a sexualised manner. As the advertiser was based in Italy, the British SRO, ASA, transferred the complaint to the Italian SRO, IAP, under the cross-border procedure. Not being a member of UPA - Utenti Pubblicità Associati (Italian Advertisers Association), the advertiser was found not to be bound to the system of the Italian SRO, IAP. Therefore no action could be undertaken. **Complaint not pursued, case closed.**

2736 VOLKSWAGEN GROUP IRELAND LTD

Complaint from a British consumer to the British SRO, ASA, regarding a print advertisement by Volkswagen Group Ireland LTD, an Irish counterpart of an automotive company. The advertisement compared buying a car to marrying a woman suggesting it would be nice to have the option to 'return her to daddy' or 'trade her in for younger sister'. Therefore, the complainant found the advertisement to be offensive and demeaning to women. 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 found out that the advertiser withdrew the campaign within four days of its launch in the light of the high number of complaints received. As the campaign was no longer running, the Irish SRO, ASAI, decided not to pursue the matter further. **Complaint not pursued, case closed.**

2737 AMADEUS IT GROUP SA

Complaint from a South African competitor to the South African SRO, ASA SA, regarding the website of Amadeus IT Group, a Spanish travel website. The complainant believed that the advertiser placed misleading advertising on their website making use of the complainant's name and trademark without their permission. As the advertiser was based in Spain, the South African SRO, ASA SA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. After investigation, the Spanish SRO, AUTOCONTROL, found the complaint to be a competitor's complaint. Therefore, payment of a fee by the complainant was required to start processing the complaint. The complainant did not pay the fee, hence the complaint was not pursued. **Complaint not pursued, case closed.**

OBA consumer choice

2755 ADSERVERPUB

Complaint from a British consumer to the British SRO, ASA, regarding the opt-out mechanism from OBA advertisements by AdServerPub, a third party OBA provider based in France. The complainant raised concerns that they had continually been unable to opt out of OBA data collection and use by AdServerPub. The complainant stated that opt-outs had been attempted via Your Online Choices (YOC), and the complainant had arrived at YOC via the OBA Icon on AdServerPub's own website. As the OBA provider had declared their competent decision making location for OBA as France with the European Digital Advertising Alliance, the British SRO, ASA, transferred the complaint to the French SRO, under the cross-border procedure. Having been contacted, the OBA provider acknowledged the issue and explained that it was due to technical reasons. The OBA provider also confirmed that the issue had been fixed and the opt-out was again available, and fully functional, through YOC. Furthermore, the company confirmed that the OBA icon on the website provided the required 'third party notice' and the OBA icon when used 'in-ad' redirected appropriately to AdServerPub's opt-out page. **Complaint resolved informally, case closed.**

Offensive advertising

2718 RED BULL

Complaint from an Irish consumer, to the Irish SRO, ASAI, regarding a TV advertisement by Red Bull, a British beverages company. The complainant found the advertisement to be of bad taste as it presumed that if Red Bull had been on board, the Titanic would not have sunk. As the advertiser was based in the UK, the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. After investigation, it was decided that the advertisement was unlikely to cause widespread offence or to be generally seen as making light of the lives lost and therefore, it did not breach the Code. **Complaint not upheld, case closed.**

Other

2725 SANDERSMAN'S NEW EUROPE GMBH

Complaint from a British consumer to the British SRO, ASA, regarding the website of Sandersman's New Europe GmbH, a German pub. The complainant believed the advertisement encouraged irresponsible drinking by promoting free shots and other drink deals. Moreover, the advertisement showed people who appeared to be under 25. As the advertiser was based in Germany, the British SRO, ASA, transferred the complaint to the German SRO, DW, under the cross-border procedure. After investigation, it was established that the advertisement was not in breach of the German Alcohol Code since it was not an advertisement for alcohol but for a tourist tour which made it acceptable that there were young people in the advertisement. Moreover, the deals on drinks were not exclusively available for alcoholic beverages. **Complaint not upheld, case closed.**

Pornography

2709 QUIETLYNN BV

Complaint from a British consumer to the British SRO, ASA, regarding a direct mail from Quietlynn BV, a Dutch company. The complainant received an unsolicited DVD with pornographic material through the post and considered that, due to the content, it might be illegal. 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 Advertising Code Committee decided that the advertisement was contrary to good taste and decency and therefore, it was found in breach of Article 2 of the Code. It was recommended to the advertiser to no longer make advertising in this manner. **Complaint upheld, case closed.**

Unsolicited mail

2735 FACEBOOK

Complaint from a Dutch consumer to the Dutch SRO, SRC, regarding unsolicited mail from Facebook, an online social networking service headquartered in Ireland. The complainant believed that the proposed messages and pages on his Facebook timeline should be considered as unsolicited mail (spam) as he did not ask for these messages and had no possibility of blocking them. As the advertiser was based in Ireland, the Dutch SRO, SRC, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. As the complainant challenged the placement of an advertisement but the Code of the Irish SRO, ASAI, at the time only covered the content of an advertisement, the complaint could not be pursued. **Complaint not pursued, case closed.**

How the Cross-Border Complaints (CBC) system works

EASA's Cross-Border Complaints system:

EASA's Cross-Border Complaints (CBC) system has been in operation since 1992. With the increase of media travelling across borders, the CBC system was established to provide people who wished to make complaints against advertising featured in media or by advertisers originating from outside their home territory with the same redress available to consumers within the country of origin of the media or advertiser. Since 1992, EASA has coordinated 2.732 cross-border complaints.

The basic principles of the Cross-Border Complaints system:

The first principle is the 'country of origin', a concept enshrined in EU law to facilitate the growth of the Single Market. With regards to the Cross-Border Complaints system, an advertisement must abide by the rules of the country where the media is based that features the advertisement. In the case of direct marketing or online advertising, however, the advertisement will generally be expected to follow the rules of the country where the advertiser is based. The second principle is 'mutual recognition'. By this principle, EASA members agree to accept advertisements which comply with the self-regulatory rules in the country of origin of the media or advertiser, even if those rules are not identical to their own.

The competent body:

Once the advertisement's 'country of origin' has been established, the complaint will be assigned to the local self-regulatory organisation (SRO). It is not possible to assign a complaint to more than one SRO.

Dealing with a Cross-Border Complaint:

The complainant may not initially realise that his or her complaint lies outside the competence of his or her national SRO. Hence, the complainant's first point of contact may be the local SRO. Once the SRO ascertains that a complaint is in fact a cross-border issue, it will first inform the complainant of the Cross-Border Complaints system and the measures that will be taken to handle the complaint. The complaint, along with any other relevant details, is then passed on to the relevant self-regulatory organisation (SRO) present in the country of origin of the media or the advertiser under investigation. The EASA Secretariat is included in all correspondence related to the case and will closely monitor its progress. Further, EASA may become involved in the process by, for instance, recommending the SRO to take certain actions, involving industry bodies where appropriate, and reporting on the outcome of cases once they have been closed.

Ad-Alerts:

If an ad shows evidence of deliberate unethical, dishonest or criminal activity, the SRO will transfer the complaint to the relevant government authorities. In these circumstances, the EASA Secretariat may, after discussion with members involved, decide to issue an Ad-Alert, which notifies concerned parties of the advertisers' activities. Ad-Alerts are published on the EASA website: www.easa-alliance.org.

Publications:

Closed cross-border complaints are reported quarterly and annually in CBC Reports, published on the EASA website: www.easa-alliance.org.

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European Advertising Standards Alliance (EASA)
Rue de la Pépinière 10-10A | B-1000 Brussels
Tel: +32 (0)2 513 7806
Fax: +32 (0)2 513 2861
Email: info@easa-alliance.org
www.easa-alliance.org