

EASA Cross Border Complaints

Quarterly Report N° 63
January - March 2014

EASA

EASA - the European Advertising Standards Alliance is the single authoritative voice on 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.

Effective advertising self-regulation helps ensure responsible advertising, meeting consumers' demand for honesty and transparency, regulators' demand for responsibility and engagement and businesses' demand for freedom to operate responsibly. EASA and its members have developed a robust and coherent system of advertising self-regulation that can respond effectively to new challenges.

EASA is not a Self-Regulatory Organisation (SRO) in itself, but acts as a co-ordination point for best practice in the implementation of self-regulation, as well as operational standards for its national SRO members. Part of EASA's role involves coordinating the cross-border complaint mechanism, 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 to represent national self-regulatory organisations in Europe, in 2004 it developed into a partnership between national advertising SROs and organisations representing the advertising industry. Today, EASA is a network of 54 organisations committed to making sure advertising is legal, decent, honest and truthful. EASA's membership is made up of 38 SROs from Europe and beyond, and 16 advertising industry associations, including 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.

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January - March 2014

This report contains the details of 29 cross-border complaints about 29 advertisements coordinated by EASA's cross-border complaints system, adjudicated by local Self-Regulatory Organisations (SROs) and closed during the period January to March 2014.

The issues complained about were misleading advertising (28 complaints) and taste and decency (one complaint).

The media involved were Digital Marketing Communications (23 complaints), Direct Marketing (four complaints).

The UK SRO (ASA) handled six complaints; the Dutch SRO (SRC) five complaints; the French (ARPP) and the German (Wettbewerbszentrale) SROs four complaints each; the Spanish SRO (AUTOCONTROL) three complaints; the Irish SRO (ASAI) two complaints and the SROs from Australia, Belgium, Hungary, Italy and Slovakia each processed one complaint.

With regards to the different sectors complained about, the leisure services sector received the most cross-border complaints (nine in total).

Summary of cross-border complaints resolved between January - March 2014

Issue	Advertiser complained about	Complaint N°	Page
Misleading advertising	TVV Tele Verzeichnis Verlag GmbH	2695	p. 4
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	Booking.com BV	2769	p. 11
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Construct Data Publishers A.S.	2792	p. 12	
Taste and decency	Abasic SLU	2750	p. 13

Misleading advertising

2695 TVV TELE VERZEICHNIS VERLAG GMBH

Complaint from a UK consumer to the UK SRO, ASA, regarding a direct mail from TVV Tele Verzeichnis Verlag GmbH, a German company. The advertisement appeared to only request for information on VAT registration, when in fact it was a three year advertising contract costing £797 per year, plus extra if not cancelled. The information could only be found when reading the fine print. Therefore, the complainant found the advertisement to be misleading. Since it appeared that the advertiser was based in Austria, the UK SRO, ASA, transferred the complaint to the Austrian SRO, ÖWR. ÖWR, however, found out that the advertiser was in fact based in Germany. Therefore, the Austrian SRO, ÖWR, transferred the complaint to the German SRO, Wettbewerbszentrale, under the cross-border procedure. After investigation, Wettbewerbszentrale, came to the conclusion that according to the rules of international private law, German rules were not applicable. German courts claim that those laws of a country are relevant where the market-related business action takes place. Therefore, they consider that UK law would be applicable in this case, because the form was directed to a company in the United Kingdom. The case could therefore not be queried by German associations before German courts. ASA advised the complainant to pursue this matter through their local UK Trading Standards department. **Complaint not pursued, case closed.**

2712 JURYS INN GROUP

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Jurys Inn Group, an Irish hotel group. The website featured the following claims: 'Chelsea is one of central London's most upmarket places, and our hotel in Chelsea is located a walking distance from transport links all across the capital.' and 'Our hotel in Chelsea has 172 affordable bedrooms that are comfortable and stylish.' However, the complainant that the hotel referred to was not in Chelsea, but in Fulham. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Ireland, the UK SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. The ASAI Complaints Committee considered the detail of the complaint and the advertisers' response. The Committee noted the information provided by the advertisers in relation to their address, the GPS coordinates, directions and a map. It was also noted that the website gave information about local attractions and their distance from the hotel (e.g. Chelsea FC - a 15 minute walk). The Committee did not consider that consumers were likely to be misled about the location and did not uphold the complaint. **Complaint not upheld, case closed.**

2720 BOOKING.COM

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an advertisement on Booking.com, a Dutch website for hotel reservations. The website claimed that 75% of the price could be saved by booking via the website. The complainant found this claim to be fraudulent and false as the website agreed rate parity with all accommodation providers listed in its directory and therefore could not offer a hotel room at a rate that was different from the rates on the websites of the relevant accommodation providers. As the advertiser was based in the Netherlands, the Irish SRO, ASAI, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. After investigation, the Jury understood that what the complainant had in mind was the 'rate parity' as referred to in Article 2.2.2 of the General Conditions of Booking.com. According to the Article 'rate parity' meant that Booking.com might use equal rates for the same accommodations as well as higher rates than the ones used by the accommodation provider or by competitors. The agreed 'rate parity' did not prevent Booking.com to offer rates on the website that were lower than the

rates on the websites of the relevant accommodations. Therefore, the complaint was not upheld. **Complaint not upheld, case closed.**

2721 SOPHORA MEDIA

Complaint from a Belgian consumer to the Belgian SRO, JEP, regarding a website of a UK digital agency, Sophora Media. The page contained an article on how to save up money when buying an iPhone5 or iPad4. According to the complainant, it was a bogus article written by a self-declared consumer magazine which in fact did not exist. Moreover, the one day bonuses and the discounts were available each day. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the UK, the Belgian SRO, JEP, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. After investigation, it was adjudicated that the advertisements breached Committee of Advertising Practice (CAP) Code rules 2.1 and 2.4 (Recognition of marketing communications), 3.1. and 3.3 (Misleading advertising) as well as rules 8.17 and 8.17.4.e (Significant conditions for promotions). The advertisement must, therefore, not appear again in its current form. The advertiser was also instructed to ensure they held adequate substantiation for their claims, and to mark any advertorial clearly in future. The advertiser acknowledged that the advertisements were misleading and said they instructed the affiliate partners who drafted the advertisements to withdraw them. **Complaint upheld, case closed.**

2728 MAIL CONCEPT PLUS

Complaint from a UK consumer to the UK SRO, ASA, regarding a direct mail from Mail Concept Plus, a French company. The advertisement included several claims such as 'Award subject to conditions' and 'Free prize draw'. The complainant found the advertisement to be misleading. As the advertiser was based in France, the UK SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. Having received a reply from the advertiser, the French SRO, ARPP, considered the explanation provided reasonable. The advertiser confirmed that their advertisements are always reviewed by a UK legal team in order to ensure compliance with the Committee of Advertising Practice (CAP) Code. The advertiser also felt that the phrases 'Award subject to conditions' and 'Free prize draw' were sufficiently clear and informed the consumer that the gift might not be won, but that it was only a draw. Moreover, the complainant was unsubscribed from the advertiser's mailing list and would not receive any further advertising. **Complaint resolved informally, case closed.**

2731 KLM

Complaint from a UK consumer to the UK SRO, ASA, regarding an advertisement from KLM Royal Dutch Airline, a Dutch airline company. The pricing information on the website showed a price of £258 for an onwards flight and £144 for a return one. However, when choosing a different hour for the same onwards flight, the price of the same return flight jumped to £154. The complainant found this misleading and unfair to the consumers. As the advertiser was based in the Netherlands, the UK SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. Following the contacts with SRC, the advertiser referred the Jury to the information about the price rates available on the first page of the online booking system. Secondly, the advertiser disputed the complaint on the basis of the fact that the prices might vary depending on flight availability and the combination of rates. Thirdly, the lowest rates were only applicable to direct flights (operated by Delta or KLM). Based on the aforementioned, the Jury dismissed the complaint. However, taking into account inconvenience caused, the advertisers amended the website to avoid confusion in the future. **Complaint not upheld, case closed.**

2733 ASPIRE JEWELLERY

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding a website of a UK company, Aspire Jewellery. The advertiser claimed to offer a 'Black Agate, faceted crystal bead bracelet, with silver heart charm'. The complainant, however, believed that though the product was advertised as a gemstone crystal it was in fact faceted glass. 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 UK SRO, ASA, under the cross-border procedure. Before the formal investigation by the ASA Council, the case was closed informally as the advertiser agreed to remove references to 'agate' and instead included information in the description that the beads were glass. **Complaint resolved informally, case closed.**

2740 ZYLOSLIM

Complaint from a Belgian consumer to the Belgian SRO, JEP, regarding a website of ZyloSlim, a UK company offering slimming products. The advertisement created an impression of being objective editorial content when in fact it was an advertisement. Moreover, it contained references to health claims on weight loss, which are prohibited by the European legislation. Finally, consumers' testimonials remained the same, even though the name and the date would change with each visit on the website. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the UK, the Belgian SRO, JEP, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. After investigation, it was decided that the complaint would not be pursued since the Committee of Advertising Practice (CAP) Compliance team had decided to take industry-wide approach on 'free trial' advertisements rather than investigate each and every one of these advertisers given that the latter was not effective enough. However, the complainant was referred to the Citizens Advice Consumer Service in case they would like to receive advice on obtaining a refund, avoiding further charges or to complain about the advertiser's trading practices. **Complaint not pursued, case closed.**

2741 LOWCOSTHOLIDAYS

Complaint from a UK consumer to the UK SRO, ASA, regarding a website of a Spanish company offering tourism products, Lowcostonholidays. The advertisement claimed to have 'Fully Protected Package Holidays' and to be 'Fully Licensed & Bonded Package Holidays'. The complainant found these claims to be misleading because the company had moved to Spain and thus consumers were not ABTA (Association of British Travel Agents) or ATOL (Air Travel Organisers License) protected. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. After investigation, it was decided that the advertisement breached neither rule 14 of the Code of Advertising Practice nor Article 3.1 of Ethical Code of Confianza Online. The Jury concluded that the website could not be considered to be misleading since by providing a copy of the Travel Agency license and a telephone number for queries it reflected the transfer of operations to Spain. Moreover, no information on ABTA and ATOL protection was provided. **Complaint not upheld, case closed.**

2744 ETRAWLER LTD

Complaint from a UK consumer to the UK SRO, ASA, regarding Holiday Autos, the website of an online Irish car hire company, Etrawler Ltd. The advertisement on the website claimed 'Email Exclusive: Autumn Sale - up to 15% off*' and 'exclusive to Holiday Autos email customers, we're offering up to 15% off* pickups by 31 March 2014.'. When the complainant attempted to redeem the discount, they found out that the pre-discount prices had been inflated to cover the cost of the discount. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Ireland, the UK SRO, ASA, transferred the

complaint to the Irish SRO, ASAI, under the cross-border procedure. Following the contacts with ASAI, the advertiser admitted that due to an error in the reservation system, the pre-discount price had not been incorporated properly from vehicle rental suppliers. However, the advertiser confirmed that the discounted price quoted to the complainant was correct. In order to minimise the potential for future discrepancies between the live discounted price and the pre-discount price, the advertiser invested resources into developing an addition to their reservations system and pledged to implement the solution before the next big sale. **Complaint resolved informally, case closed.**

2745 ETRAWLER LTD

Complaint from a UK consumer to the UK SRO, ASA, regarding Cleverhire.com, the website of an online Irish car hire company, Etrawler Ltd. The advertisement on the website claimed 'No one-way rental fees' and 'No extra charges'. However, having booked a rental, the complainant then received a request for a further payment of £45.83. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Ireland, the UK SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. Following the contacts with the advertiser, ASAI found out that the complainant received a booking request from an email account belonging to carhire3000.com which in fact belongs to Travel Jigsaw LTD, a UK car hire broker. Therefore, the complaint was transferred back to ASA which pursued the case as a domestic complaint. **Complaint not pursued (as a cross-border complaint), case closed.**

2747 SCHOCK GMBH

Complaint from a UK consumer to the UK SRO, ASA, regarding a website of Schock GmbH, a German manufacturer of granite sinks. The advertisement claimed: 'They withstand daily use without a trace. All SCHOCK sinks are extremely durable and easy to clean - red wine, coffee and heavy pans leave absolutely no marks'. However, the complainant purchased a sink which stained. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Germany, the UK SRO, ASA, transferred the complaint to the German SRO, Wettbewerbszentrale, under the cross-border procedure. However, in the course of investigation the complainant decided to withdraw the complaint. The complainant's decision terminated the investigation. **Complaint not pursued, case closed.**

2749 TAMBORAN RESOURCES LTD.

Complaint from a UK consumer to the UK SRO, ASA, regarding a website of Tamboran Resources Ltd., an Australian explorer for hydrocarbons. The advertisement claimed 'Tamboran Resources commits to utilise absolutely no injected chemicals in our hydraulic fracturing operations'. The complainant found the advertisement to be misleading, because the claims were not substantiated. As the advertiser was based in Australia, the UK SRO, ASA, transferred the complaint to the Australian SRO, ASB, under the cross-border procedure. However, since in Australia complaints about misleading advertising are not within the ASB's remit, the complaint was transferred to the Australian Competition and Consumer Commission (ACCC) which investigates such complaints. **Complaint transferred to the appropriate authority, case closed.**

2751 ACCOR SA

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement from Accor SA, a French hotel booking website, The email advertisement claimed to offer '40% off Guaranteed + Free breakfast when you book on Accorhotels.com'. However, when the complainant tried to book a room with the discount they were told that two hotels had no availability of the discounted rooms. The complainant found the advertisement to be misleading as this condition was not stated in the advertisement. Moreover, the complainant

felt that the condition contradicted the 'guaranteed' claim. As the advertiser was based in France, the UK SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. Following the contacts with ARPP, the advertiser explained that the conditions of the offer had been clearly presented on the website by means of an asterisk and a reference note at the bottom of the website. While the advertiser found this practice sufficient, they also recognised concerns of the complainant and committed to putting the conditions right under the offer rather than at the bottom of the website in the case of future promotions. Moreover, the advertiser granted a 300 loyalty points bonus on the complainant's ACCOR client card. **Complaint resolved informally, case closed.**

2752 KW AUTOMOTIVE GMBH

Complaint from a UK consumer to the UK SRO, ASA, regarding DTM Experience.com, a website of a German company offering oriented suspension systems, KW Automotive GmbH. The advertisement on the website contained the claim 'Including DTM Experience 2013/14 Season Pass (Access to the coming DTM Experience 2014 and Online Multiplayer Mode for all buyers until the 31st of March, 2014)'. The complainant found the advertisement to be misleading as it implied that the 2014 Experience would be available to customers in March, when in fact it would not be available until Q3 of 2014. As the advertiser was based in Germany, the UK SRO, ASA, transferred the complaint to the German SRO, Wettbewerbszentrale, under the cross-border procedure. Following the contacts with Wettbewerbszentrale, the advertiser withdrew the advertisement and changed both the English and German versions of the website in order to make the advertisement clear for the consumer. **Complaint resolved informally, case closed.**

2753 VISTAPRINT LTD.

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement from VistaPrint Ltd., a Dutch company offering various marketing products and business services. The advertisement claimed to offer a £10 discount when spending over £30, with an additional 20% off items featured in the email. However, when the complainant tried to take advantage of the offers, they were advised that they could only use one of the offers, not both. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the Netherlands, the UK SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. Following the contacts with SRC, the advertiser calculated the complainant's orders which revealed that in fact the complainant was offered more than the 20% discount plus £10 voucher. Nevertheless, the advertiser admitted that the possibility of combining the discounts had been switched off and taken off the advertisement which occurred due to a manual human error. The advertiser apologised the complainant for the inconvenience and stated that they would do their best to avoid such errors in the future. The complainant accepted the reply and did not wish to pursue the matter further. **Complaint resolved informally, case closed.**

2754 ABASIC SLU

Complaint from a UK consumer to the UK SRO, ASA, regarding email and online advertisements from Desigual.com, a website of a Spanish clothing company, Abasic SLU. The complainant found the promotion 'Everything off -20%*', Amig@ card offer and the 'returns' page to be misleading. Firstly, the promotion 'Everything off -20%*' was misleading since the complainant could not purchase goods that were not from the excluded collections. Secondly, the webpage promoting the Amig@ card for a 10% discount on orders over £100 was misleading, because it did not make clear that the card could not be used with other discounts. Thirdly, the 'returns' page was misleading, because it did not make clear that an exchange service for faulty items was not offered, thus customers would need to return the faulty garment and then re-order a new dress. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the

cross-border procedure. After investigation, the Jury decided that being an online advertisement it did not infringe Article 3 of the Code of Ethics of Confianza Online. Referring specifically to the complainant's claims, the advertisement did not infringe Article 14 of the Code of Advertising Standards (Principle of Truthfulness) since the email containing mention of the 20% discount made it clear that the offer would not be valid for some items, exhaustively listed, and this offer could not be combined with other promotions. Secondly, the Jury did not consider the webpage promoting the Amig@ card for a 10% discount to be misleading since both 'Terms and Conditions' and 'Benefits' sections explained that promotions and special offers could not be combined with other offers. Thirdly, the Jury did not find the 'returns' page to be misleading either since the advertiser informed consumers that they would not exchange purchased items. Moreover, the advertiser explained the whole process of returning faulty goods on the website. **Complaint not upheld, case closed.**

2756 ADIDAS GROUP

Complaint from a UK consumer to the UK SRO, ASA, regarding an e-mail advertisement by Adidas Group, a sports clothing manufacturer headquartered in the Netherlands. The advertisement offered a 15% discount for online shopping on the advertiser's website. The complainant claimed that advertisement did not state that it excluded 'Mi Adidas' customised products which he was unable to purchase with the discount. Furthermore, even though the email claimed 'Free Delivery on all orders over £100' and the complainant's order amounted to £145, the complainant was charged £8.95 for the delivery. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the Netherlands, the UK SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. Regarding the first claim, after investigation the SRC Advertising Code Committee decided the advertiser made it sufficiently plausible that 'Mi Adidas' customised products had not been excluded from the discount offer and that in fact the complainant received his order with a 15% discount. Regarding the second claim, the SRC Advertising Code Committee decided that the advertisement contained misleading information which could entice consumers to purchase the product. Therefore, the claim violated Article 8.2 of the Dutch Advertising Code. The advertiser was recommended not to advertise in such a way any longer. **Complaint upheld, case closed.**

2757 AFIBEL SAS

Complaint from a UK consumer to the UK SRO, ASA, regarding a direct mail from Afibel SAS, a French company specialising in mail order selling of women's clothing. The advertisement offered a gift which was a large basket filled with 45 gourmet products: 'By way of thanks for your trust and in accordance with the attached conditions of allocation, you are going to receive a basket filled with gourmet products for Christmas! Delivered immediately and free with your order'. The complainant found the advertisement to be misleading since it was not sufficiently clear that only one basket was available for the consumer that placed the highest order. As the advertiser was based in France, the UK SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. After investigation, ARPP considered that the advertiser's Terms and Conditions were clear enough and explained sufficiently that the large basket filled with 45 gourmet products would have been delivered only to the clients who placed the highest order. Therefore, ARPP did not find the advertisement to be misleading. **Complaint not upheld, case closed.**

2758 SASMAR.COM

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement by Sasmар.com, a Belgian pharmaceutical manufacturer focused on the categories of fertility, family planning and female health. The advertisement claimed that 'Conceive Plus' was the only fertility personal lubricant that was proven to be safe for sperm motility, safe for sperm

viability and to contain both calcium and magnesium ions. The complainant found the advertisement to be misleading since the claim could not be substantiated as the complainant had seen the same claim made by another company. As the advertiser was based in Belgium, the UK SRO, ASA, transferred the complaint to the Belgian SRO, JEP, under the cross-border procedure. In the course of investigation, the advertiser explained that they aimed to convey the message that the advertised product is the only sperm-friendly lubricant with calcium and magnesium ions, rather than the only sperm-friendly lubricant. The Jury decided that claim as such was therefore sufficiently substantiated by the advertiser. However, the Jury believed that the concrete formulation of the claim could cause confusion as the claim did not make it sufficiently clear that the word 'only' referred merely to the presence of calcium and magnesium ions in the product. Therefore, after investigation it was decided that the advertisement was likely to mislead the average consumer regarding the exact scope of the claim. Based on the Article 5 of the ICC Code, the Jury requested the advertiser to modify the advertisement in this respect. **Complaint upheld, case closed.**

2762 ACCOR SA

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement from Accor SA, a French hotel booking website. The advertisement offered '40% off Guaranteed + Free breakfast when you book on Accorhotels.com'. Having made a booking with Accor SA, the complainant found out that Ibis and Ibis Budget hotels were excluded. The complainant found the advertisement to be misleading, because this condition was not stated in the advertisement. As the advertiser was based in France, the UK SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. Following the contacts with ARPP, the advertiser explained that the mention 'Find out full terms and conditions on our website' was indicated on the emails sent to the clients and that the terms and conditions on the advertiser's website excluded the Ibis and the Ibis Budget hotels from the offer. However, the advertiser also acknowledged the inconvenience caused to the complainant. Therefore, the advertiser decided to mention the exceptions to the offer either on the emails or marketing tools sent to the customers, or at least by displaying an asterisk symbol to bring the prospective guests' attention to the applicable terms and conditions. Moreover, the advertiser granted the complainant 300 loyalty points at LeClub Accorhotels. **Complaint resolved informally, case closed.**

2763 WIZZ AIR HUNGARY AIRLINES LTD

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement by Wizz Air Hungary Airlines Ltd., a Hungarian airline company. The advertisement claimed: 'Each passenger is permitted to carry one piece of Cabin baggage and Up to 6 pieces of checked-in hold baggage not exceeding 32 kilograms each'. According to the complainant, the baggage allowance was actually 15kg. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Hungary, the UK SRO, ASA, transferred the complaint to the Hungarian SRO, ORT, under the cross-border procedure. Following initial investigation and contacts with the advertiser, ORT found out that the baggage allowance was indeed 32 kilograms and no limit of 15 kilograms was introduced. Therefore, ORT considered the complaint to be based on a misunderstanding and on this premise decided not to launch a formal investigation process. **Complaint not pursued, case closed.**

2766 HOSTELWORLD.COM LTD.

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement by Hostelworld.com, an Irish hostel booking website. The advertisement listed an option stating 'Standard Flexible Booking Your deposit is protected so you can use it to make another booking if you cancel. Standard T&C's apply', which appeared when the complainant searched for a hostel for the following day. When the complainant cancelled their booking,

they found out that their deposit was not protected, because they were required to cancel up to 24 hours before. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Ireland, the UK SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. Following the review of the website, ASAI found out that the cancellation policy for the property involved was listed in the Terms and Conditions. Moreover, the cancellation policy was also referenced separately on the same webpage. As the relevant information was available at the time of the complainant's booking, ASAI did not consider that there was a case for investigation under the Code. **Complaint not pursued, case closed.**

2769 BOOKING.COM BV

Complaint from a UK consumer to the UK SRO, ASA, regarding an advertisement on Booking.com BV, a Dutch website for hotel reservations. The advertisement for The Kings Arms Hotel had three stars displayed, yet the complainant believed that the facilities had not been inspected for three years. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the Netherlands, the UK SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. Following the contacts with SRC, the advertiser explained that by making a reservation through their service, the guests accepted the Terms and Conditions which clearly stated that the accommodation was responsible for the information provided and uploaded on the website. Nonetheless, the advertiser contacted the hotel and requested amending the information displayed. After the change, no reference to a star rating pertaining to this particular accommodation was present. **Complaint resolved informally, case closed.**

2770 GROUPON UK

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an advertisement on Groupon UK, a UK a deal-of-the-day website. The advertisement for Marco Pierre White Steakhouse Bar Grill in Nottingham offered a meal deal on 6 February. The complainant purchased the offer on 9 February and at that stage there were two days left to purchase. However, when the complainant visited the website again on 10 February, the website stated that there were six days left to purchase. The complainant considered that they had been pressurised into purchasing the offer. 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 UK SRO, ASA, under the cross-border procedure. Following the contacts with ASA, the advertiser explained that at the time different offers for Marco Pierre White Steakhouse Bar Grill in Nottingham were available online. The first one began on 10 February and ran until 16 February, whereas the second one ran from 6 until 13 February. Therefore, it appeared that these were two separate offers which were confused. **Complaint not pursued, case closed.**

2775 HOTELSCCLICK SRL

Complaint from a UK consumer to the UK SRO, ASA, regarding the website HotelsClick.com, an Italian website for hotel reservations. The complainant challenged the website due to the fact that many of the hotels in Turkey had a restriction according to which the rate shown was not for UK residents, and she felt this was not made clear enough during the booking process. The hotel she booked charged her 50€ to cancel. Therefore, the complainant found the content on the advertiser's website to be misleading. As the advertiser was based in Italy, the UK SRO, ASA, transferred the complaint to the Italian SRO, IAP, under the cross-border procedure. After investigation, it was found out that the restriction for UK residents was clearly marked on the website. During the booking process, a highlighted warning immediately appeared with a heading 'REMARKS' stipulating that the rates were not intended for UK residents. The warning guaranteed that the consumer would understand the

offer. Therefore, the IAP Complaints Committee decided that the communication was not misleading. **Complaint not upheld, case closed.**

2790 O&O SOFTWARE GMBH

Complaint from a UK consumer to the UK SRO, ASA, regarding a website of O&O Software GmbH, a German company delivering tools for Windows Operating System. The website included the claim that a disk defragmenter could 'increase your computer speed by up to 100%'. It was not, however, substantiated. Moreover, the website contained the claim offering 'Manufacturer-independent optimization of Solid State Drives (SSDs)'. However, the complainant noted that since SSDs did not have moving parts, there was nothing to optimise. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Germany, the UK SRO, ASA, transferred the complaint to the German SRO, WBZ, under the cross-border procedure. After investigation, WBZ decided that a violation of competition law could not be clearly established since it could not be excluded that the advertising claims were true. In the WBZ's opinion, the claim 'increase your computer speed by up to 100%' meant that a performance increase of 100% may be achieved in the best-case scenario. Moreover, the statement was accentuated by the addition of the words 'up to' which made it clear that an increase of 100% could not be achieved in every single case. WBZ was also of the opinion that the claim 'Manufacturer-independent optimization for SSDs' was not misleading since the advertiser did not claim that a defragmentation of SSDs made sense and merely asserted that the advertised software could contribute to the optimization of SSD drives. In addition, WBZ found out that such optimization was possible with the usage of TRIM functionality. **Complaint not upheld, case closed.**

2792 CONSTRUCT DATA PUBLISHERS A.S.

Complaint from a legal representative of an Israeli consumer to EASA, regarding a direct mail from Construct Data Publishers A.S., a Slovakian company. The advertisement offered free update of data on a 'fair guide'. The mail invited the consumer to confirm the information the guide already had about his company by filling up and sending a printed form. However, the complainant found out that by signing the form, the advertiser automatically requested a payable insertion in the guide, without being sufficiently informed of this. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Slovakia, EASA transferred the complaint to the Slovakian SRO, SRPR, under the cross-border procedure. SRPR noted that the advertiser had persistently disregarded decision against its advertising by the SRPR, and therefore transferred the case to the appropriate authorities. **Complaint transferred to appropriate authorities, case closed.**

Portrayal of gender

2750 ABASIC SLU

Complaint from a UK consumer to the UK SRO, ASA, regarding Desigual.com, a website of a Spanish clothing company, Abasic SLU. The advertisement on Desigual website contained brochures advertising Desigual's winter clothing collections which depicted a naked woman and a clothed man. The complainant found the advertisement to be offensive as it was sexist and degrading to women. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. After investigation, the Jury decided that the woman's naked body was used as a mere object and it was completely disassociated from the promoted product which was men's clothing. Therefore, the advertisement violated Rule 10 of the Code of the Advertising Practice and was found in breach of the Code. The Jury urged the advertiser to withdraw the advertisement. **Complaint upheld, 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 2.785 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.

Outcomes of Cross-Border Complaints:

Upheld

Complaints that are investigated by the SRO and adjudicated by the SRO jury are upheld if the jury decides that the marketing communication does breach the advertising codes. Subsequently the advertiser is asked to withdraw or change the advertisement to ensure it complies with the rules.

Not upheld

Complaints that are investigated by the SRO and adjudicated by the SRO jury are not upheld if the jury decides that the marketing communication does not breach the advertising codes. No further action is taken.

Not pursued/not investigated

A complaint is not pursued if the SRO considers that there is no basis for investigation (e.g. the concern of the complainant would not be shared by most people) and subsequently dismisses the complaint; or where not enough information was provided by the complainant or the requirements of complaint submission were not met.

Resolved informally

When a minor or clear-cut breach of the self-regulatory codes has been made, the SRO may decide to resolve the complaint informally, i.e. the marketer agrees to change or withdraw its marketing communication straight away.

Transferred to the appropriate authority

For example, complaints that have been transferred to the appropriate legal backstop.

Out of remit

A complaint falls out of remit if either the complaint or the marketing communication falls outside the scope of the self-regulatory code (e.g. the complaint is about the product advertised and not the advertisement as such). However, the SRO might decide to forward the complaint to another complaint handling body for action.

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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