

2017

Cross Border  
Complaints  
Report



## EASA

EASA – the European Advertising Standards Alliance is the single authoritative voice on advertising self-regulation in Europe. 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 53 organisations committed to making sure advertising is legal, decent, honest and truthful. EASA's membership is made up of 27 SROs from 25 European countries and 14 advertising industry associations, including advertisers, agencies and the media. EASA is also a member of ICAS (The International Council on Ad Self-Regulation) and through its membership additionally partners with 12 SROs worldwide.

EASA is a not-for-profit organisation with a Brussels-based Secretariat. For further information please visit [www.easa-alliance.org](http://www.easa-alliance.org).

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## Key Findings

This report clearly shows how the EASA's SRO (Self-Regulatory Organisation) network ensures that the Cross-Border Complaints (CBC) mechanism works. Cross-border complaints are complaints about advertisements originating in media or from advertisers based in another country to that of the complainant. The EASA Secretariat co-ordinates this type of complaints through the system that has been in operation since 1992, when it was set up in response to the creation of the Single Market and the resulting need to address problems whereby advertising circulating in one EU Member State was carried in media originating in another. Currently EASA's CBC system covers not only all 26 European SRO members which handle complaints but also the international network of SROs which are members of the International Council for Advertising Self-Regulation (ICAS).

- **In 2017, EASA's SRO network handled 135 cross-border complaints, 10% less than in 2016. In total 119 CBCs were resolved over the course of 2017**
- **Advertisements from the Netherlands and France generated the highest number of cross-border complaints (38% and 14% of all complaints respectively)**
- **Most cross-border complaints were lodged by UK complainants (76% of all complaints)**
- **11% of cross-border complaints were upheld or partially upheld while 24% of complaints were rejected as the ads complained about were not found in breach of SR codes; additionally, 12% complaints were resolved informally to the satisfaction of complainants**
- **Misleading advertising was the main issue complained about (82%)**
- **Digital Marketing Communications was the most complained about medium (81%)**
- **Leisure services (39%), clothing, footwear and accessories (10%) and health and beauty (9%) were the three most complained about industry sectors**
- **The majority of cross-border complaints were resolved within three months (77%)**

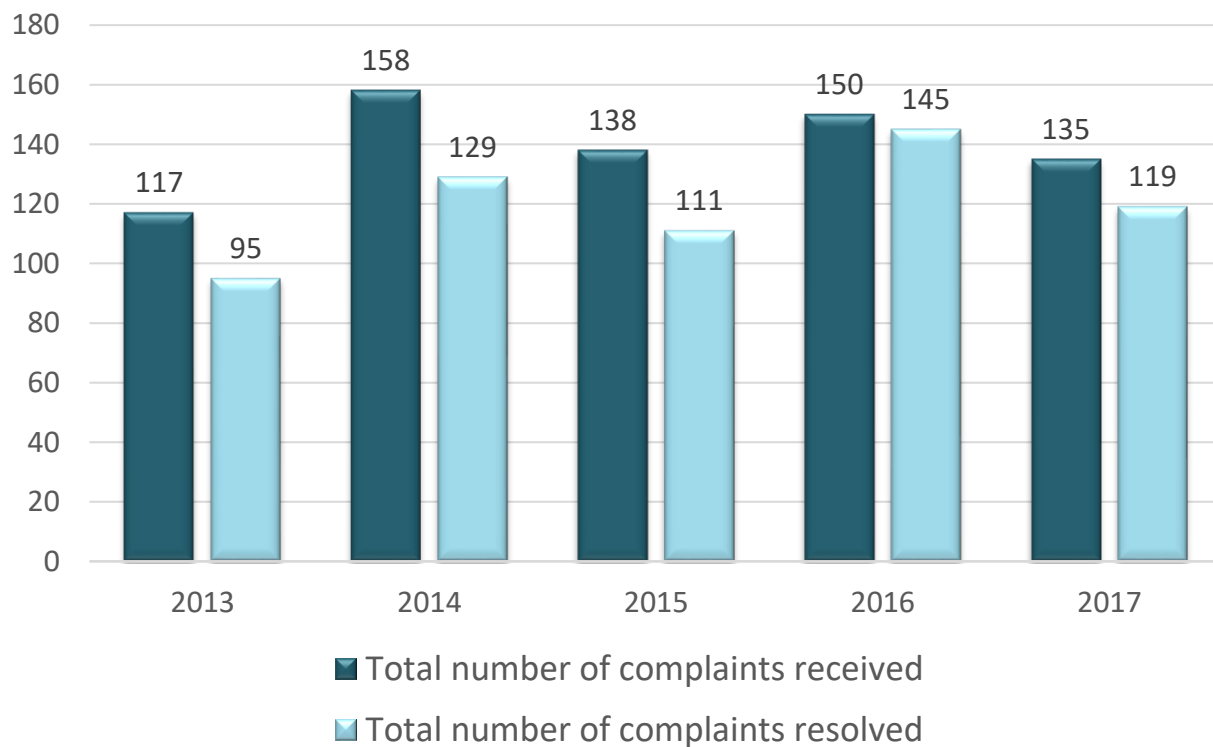
# 1 The Total Number of Cross-Border Complaints Received/Resolved

*In 2017 EASA's SROs received 135 cross-border complaints*

In the course of the year, EASA received a total of 135 cross-border complaints, which shows a 11% decrease in received cross-border complaints in comparison to 2016. Out of all received complaints, 104 were resolved in the course of 2017, whereas 31 complaints were still under investigation at the end of that year<sup>1</sup>. Additionally, 15 complaints lodged in 2016 were also closed in 2017, thus resulting in 119 resolved cross-border complaints in 2017.

The analysis of the annual statistics (depicted in Figure 1 below) suggests that over the past five years the number of cross-border complaints remained relatively stable at around 140 cross-border complaints received per year by EASA's network.

**Figure 1: Cross-border complaints received/ resolved between 2013 and 2017**



Source: Annual Cross-Border Complaints Report 2017

<sup>1</sup> Mainly due to relatively large share of complaints filed within the last trimester of 2017

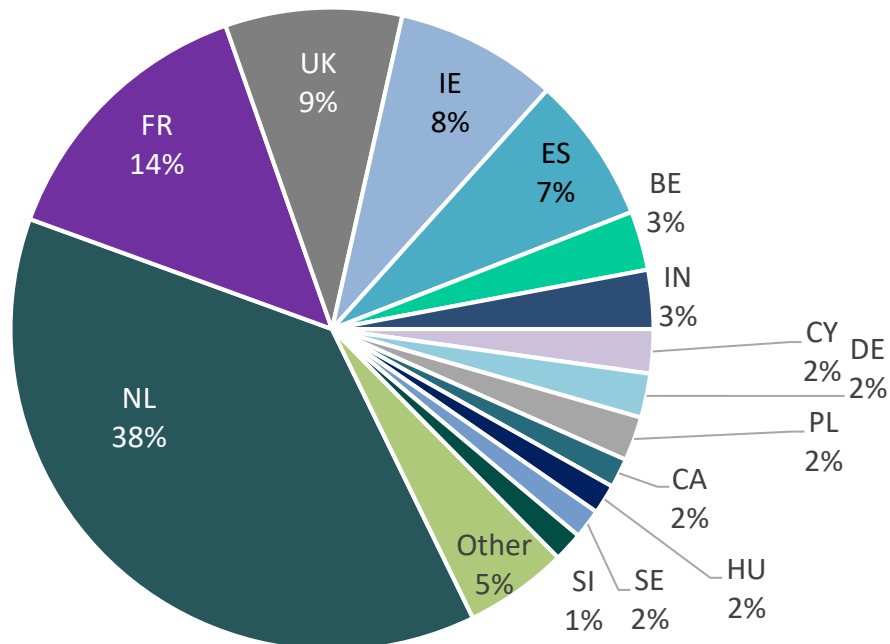
## 2 The Country of Origin

*Ads from the Netherlands and France generated the highest number of cross-border complaints in 2017*

The EASA Cross-Border Complaints System requires that all advertisements comply with the advertising laws and codes in the country in which the medium carrying the advertisement is based; in the case of direct mail and Digital Marketing Communications (DMC), the country of origin is the one in which the advertiser is based; and in the case of Online Behavioural Advertising (OBA), the country in which the principal decision-making presence is<sup>2</sup>.

In 2017 advertisements from the Netherlands and Ireland generated the highest number of cross-border complaints, 37,8% and 14,0% complaints respectively. Other most frequent countries or origin of lodged complaints were the UK (8,9%), Ireland (8.1%) and Spain (7.4%).

**Figure 2: Cross-border complaints per country of origin in 2017**



Source: Annual Cross-Border Complaints Report 2017

<sup>2</sup> 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.

Regarding the advertisements originating in the Netherlands, UK complainants lodged 84,3% of complaints about these ads. The majority of the complaints (92,2%) were provoked by misleading advertising. The highest share of complained about ads (76,5%) originating in the Netherlands concerned leisure services.

Regarding the advertisements originating in France, 94,7% of cross-border complaints were lodged by the British consumers and the remaining complaint from a German consumer. The vast majority (68,4%) of the complaints about ads originating in France, were provoked by misleading marketing communications with leisure services being also in France the sector most complained about (21,0% of consumer complaints).

Overall, the annual statistics shows (see an overview, presented in Table 1) that despite some fluctuations, on average, the most complained about ads for the past five years were originating in media or by advertisers based in the Netherlands, France, Ireland, the UK and Spain. It is also noticeable that the cross-border complaints network expands every year more outside European, involving SROs from countries like India (4 complaints in 2017), Canada (2 complaints), New Zealand and South Africa (1 complaint each).

**Table 1: Cross-border complaints per country of origin between 2013 and 2017**

Country	2017	2016	2015	2014	2013
<i>Netherlands</i>	51	33	21	18	15
<i>France</i>	19	13	11	35	8
<i>United Kingdom</i>	12	13	9	8	14
<i>Ireland</i>	11	25	23	33	14
<i>Spain</i>	10	10	11	6	8
<i>Belgium</i>	4	6	5	4	3
<i>India</i>	4	1	0	0	0
<i>Poland</i>	3	6	3	0	0
<i>Cyprus</i>	3	2	2	1	1
<i>Germany</i>	3	4	8	6	11
<i>Sweden</i>	2	6	2	1	0
<i>Canada</i>	2	2	2	2	3
<i>Hungary</i>	2	2	2	1	0
<i>Czech Republic</i>	1	3	0	0	0
<i>Luxembourg</i>	1	2	0	1	2
<i>Slovakia</i>	1	2	1	2	2
<i>Italy</i>	1	1	4	4	1
<i>Austria</i>	1	1	1	1	1
<i>Greece</i>	0	4	1	1	1

Country	2017	2016	2015	2014	2013
<b>Switzerland</b>	0	2	1	0	0
<b>Lithuania</b>	0	2	0	1	0
<b>Finland</b>	0	2	0	0	0
<b>Other</b>	2*	6	9	9	13

Key: category "Other" in 2017 include New Zealand and South Africa which handled one complaint each

Source: Annual Cross-Border Complaints Report 2017



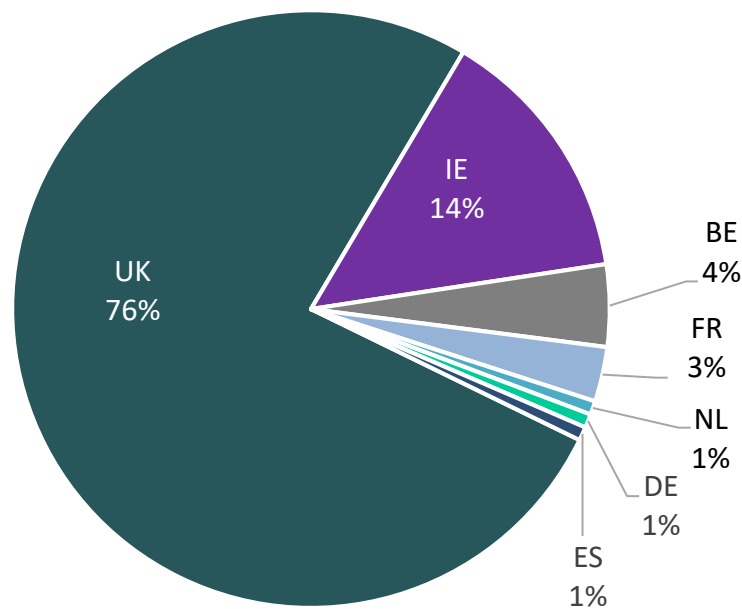
### 3 The Origin of Complainant

#### 76% of cross-border complaints were lodged by UK complainants

In 2017, UK complainants remained the most active in terms of lodging the complaints (76,3% of all complaints). Although, as reflected upon in the previous chapter, the advertisements from the Netherlands (41,7%) and France (17,5%) were amongst the most complained about by UK complainants, it is also important to note that the complainants from the UK challenged advertisements originating from 18 different countries (including ads from India, Canada, New Zealand and South Africa). As in the previous year, the vast majority of these cross-border complaints (88,3%) were about allegedly misleading advertising. Furthermore, the highest share of complaints was related to leisure services (44,7%), followed by health and beauty services (8,7%) and clothing, footwear and accessories (8,7%).

The remainder of the cross-border complaints (23,7%) were lodged by Irish, Belgian, French, German, Spanish, and Dutch consumers, as showed in Figure 3, below.

Figure 3: Advertisements complained about per country of origin of complainant in 2017



Source: Annual Cross-Border Complaints Report 2017

The annual statistics shows (see an overview, presented in Table 1) that over the years UK complainants have reported the greatest share of cross-border complains, three to five times more complaints compared to the all other complainants of other countries combined.

**Table 2: Cross-border complaints per country of origin of complainant between 2013 and 2017**

Country	2017	2016	2015	2014	2013
UK	103	121	85	108	66
Ireland	19	10	12	5	11
Germany	1	5	2	0	0
France	4	4	1	5	3
Netherlands	1	1	5	1	3
Belgium	6	1	1	3	6
Spain	1	1	1	2	0
Italy	0	1	1	0	0
Sweden	0	1	0	1	1
Other	0	0	3	4	5

Source: Annual Cross-Border Complaints Report 2017

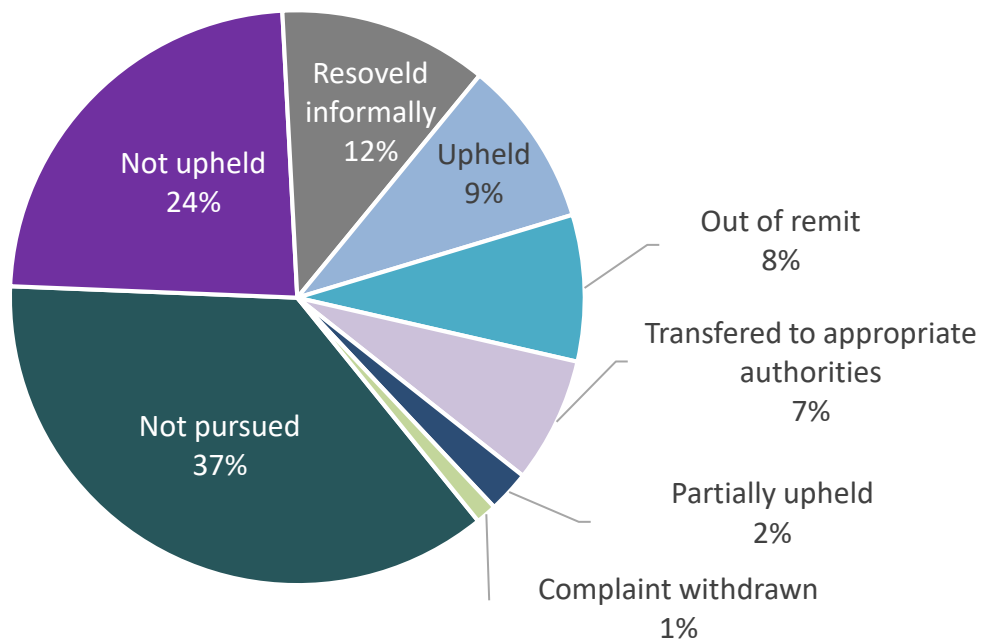
## 4 Outcome of Resolved Complaints

*12% of cross-border complaints were found to be in breach or partially in breach of the advertising codes, while 24% were not upheld*

In 2017, 23,5% of ads complained about were not found in breach of the SR codes, while 9,4% were considered non-complaint with the national SR codes and were thus upheld. Additionally, 2,4% of complaints were partially upheld (i.e. meaning that some elements of the investigated commercial communication were in breach of the SR codes). It is also important to note that in 11,8% of all CBC cases the agreement was reached informally to the satisfaction of complainant (i.e. meaning advising the advertiser to modify the ad or compensate the losses to the consumer due to misleading advertising).

Most of complaints overall (36,5%) fell into the “not pursued” category, which includes complaints that could not be investigated due to insufficient evidence, complainant’s decline to further communicate with the SRO or inability to reach the advertiser and cooperate with them in the complaint investigation process.

Figure 4: Cross-border complaints per outcome in 2017



Source: Annual Cross-Border Complaints Report 2017

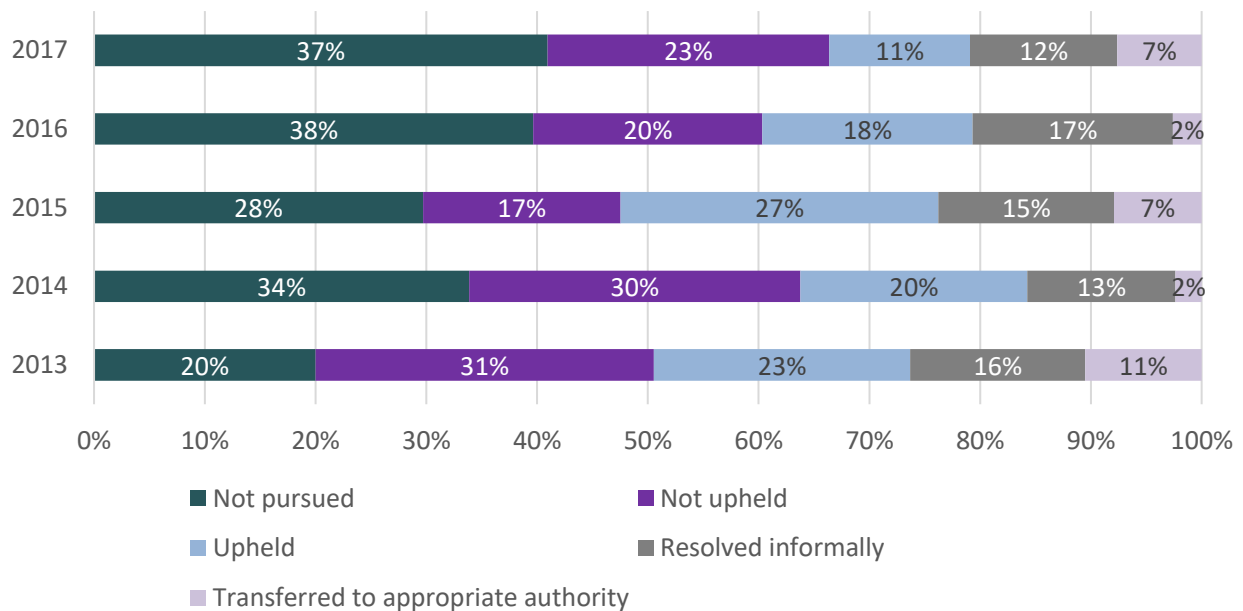
Additionally, 8,2% of CBC’s were found out of remit of the SRO in the country of origin. This means that the complaints were either about the issues not covered by the SRO (i.e. in many cases these complaints were directly about the products rather than the advertising) or the advertisers were not based in the

SRO the CBC was referred to. In the latter cases the SROs in the country of destination either tried to resolve the case in their country or transferred the complaint to other bodies.

Finally, in 7,1% of cases complaints were referred to the appropriate regulatory body and in 1,2% of cases complaints were withdrawn.

Looking at the data on the outcome of cross-border complaints between 2013 and 2017 (see Figure 5), it is noticeable that despite some annual fluctuations, the main categories and their percentage values remained similar with the number of upheld complaints slightly decreasing in 2017.

Figure 5: Cross-border complaints per outcome between 2012 and 2017<sup>3</sup>



Source: Annual Cross-Border Complaints Report 2017

<sup>3</sup> The figure includes complaints “Partially upheld” complaints into the category of “Upheld” complaints to make it comparable with the previous years. excludes the category “Out of remit” in order to avoid duplication

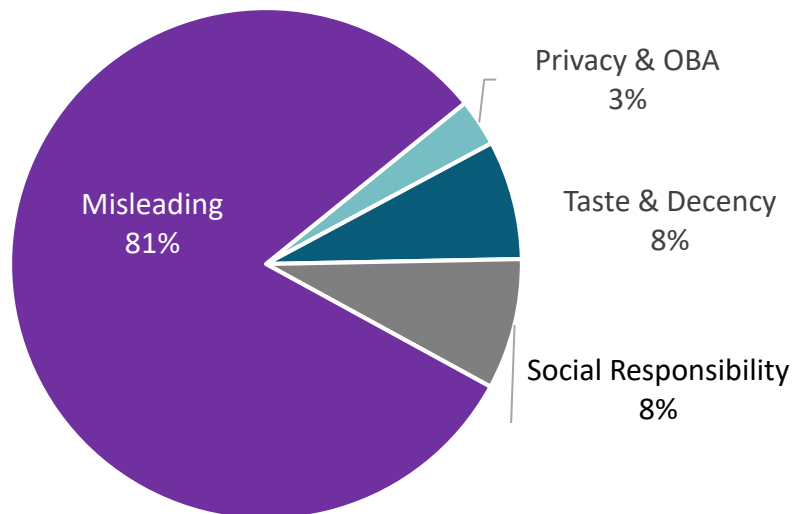
## 5 Issues Complained About

### *Misleading advertising continues to be the main issue complained about*

Following trends set in the previous year, in 2017, the largest share of cross-border complaints (81,5%) concerned misleading advertisements.

8,1% of complaints were related to social responsibility issues and 7,4% were triggered by taste and decency issues, including protection of children against harmful imagery, distress causing visuals, portrayal of gender and violence. Finally, privacy and data protection issues raised 3,0% of complaints.

**Figure 6: Cross-border complaints per issue in 2017**

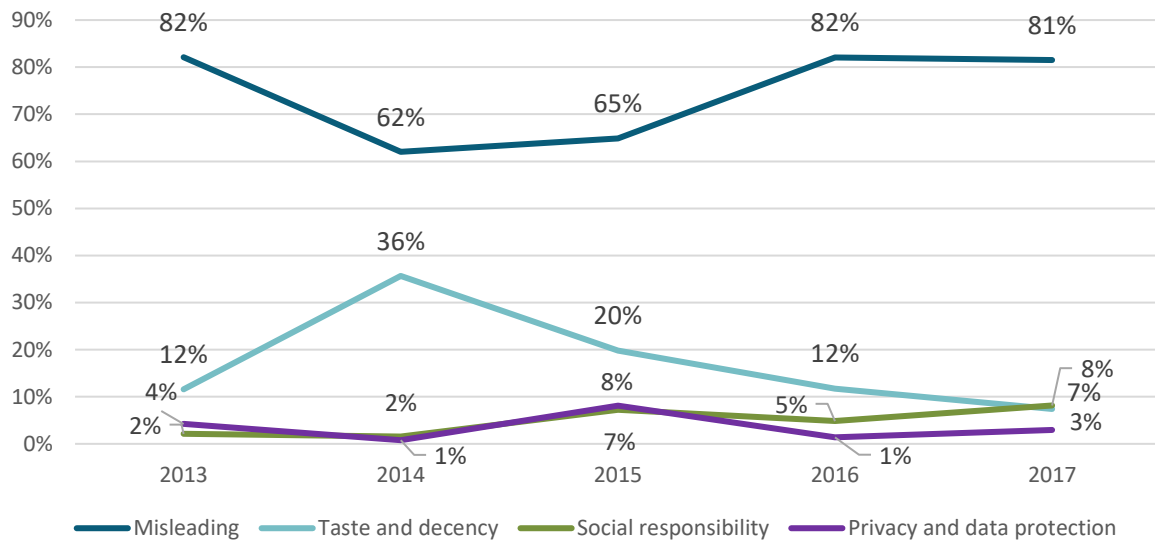


Source: Annual Cross-Border Complaints Report 2017

Figure 7 below illustrates that over the last five years misleading advertising continues to account for the highest share of complaints, with a multi-year average of 74,5%.

The complaints about alleged breaches of taste and decency ranked second highest over the five years with 17,2%. Social responsibility generated an average of 4,8%, while privacy issues raised on average 3,5% of complaints between 2012 and 2017.

**Figure 7: Cross-border complaints per issue between 2012 and 2017**



Source: Annual Cross-Border Complaints Report 2017

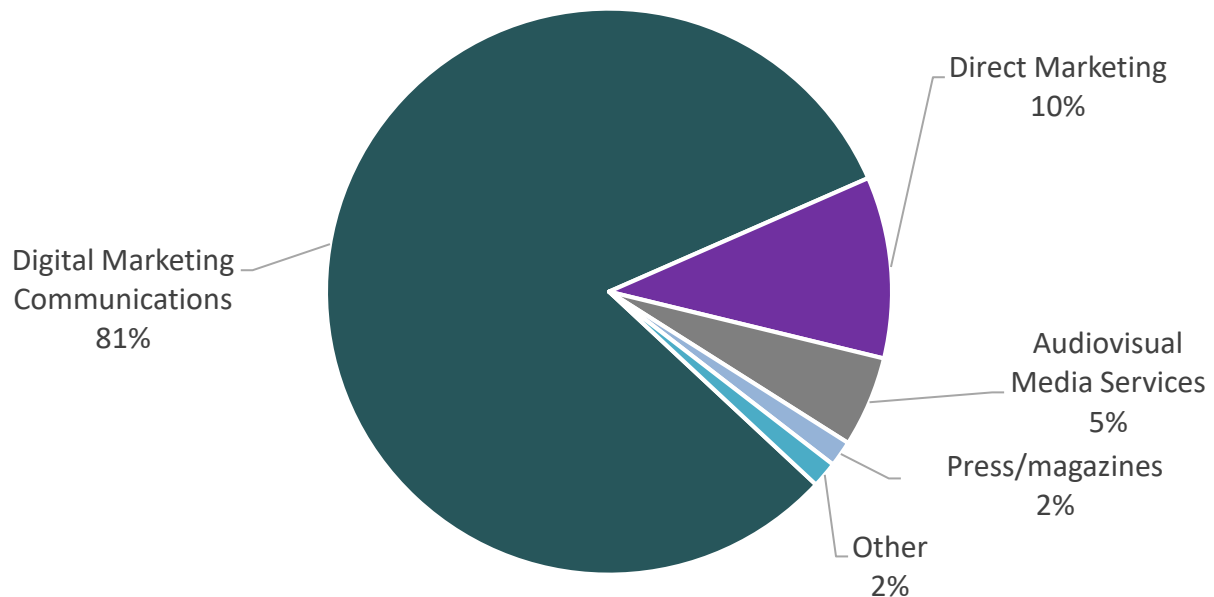
## 6 Media

### *Digital Marketing Communications were the most complained about media*

Digital Marketing Communications (DMC) accounted for 81,5% of cross-border complaints. Advertisements received as direct marketing triggered 10,4% of cross-border complaints.

Cross-border complaints against advertisements appearing on Audiovisual Media Services (AVMS) prompted 5,2% cross-border complaints, while press/magazine advertising provoked 1,5% of complaints.

**Figure 8: Cross-border complaints per medium in 2017**

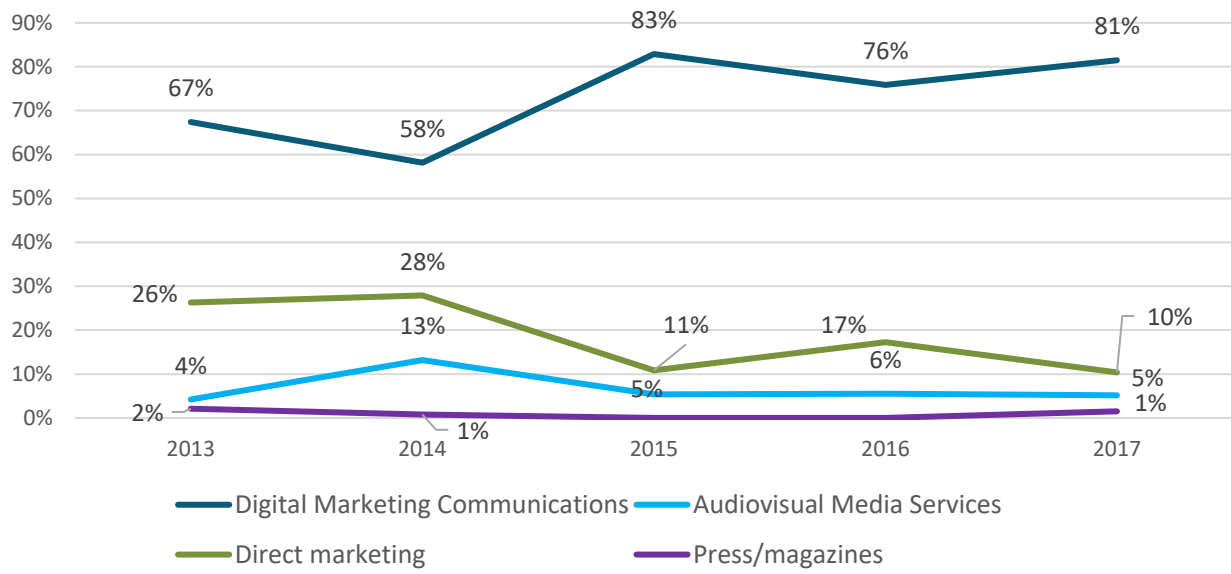


Source: Annual Cross-Border Complaints Report 2017

Annual statistics shows that since 2012 the main media generating complaints about advertisements were DMCs. In the period 2013-2017, an average of 73,1% of complaints regarded DMCs.

Advertisements received as direct marketing have ranked second in a multi-year comparison with an average of 18,5% of complaints between 2013 and 2017. Audiovisual media services ranked third with 6,7% of complaints on average. Ads in press/magazines did not provoke more than 1% of average number of complaints.

Figure 9: Cross-border complaints per medium from 2013 to 2017



Source: Annual Cross-Border Complaints Report 2017



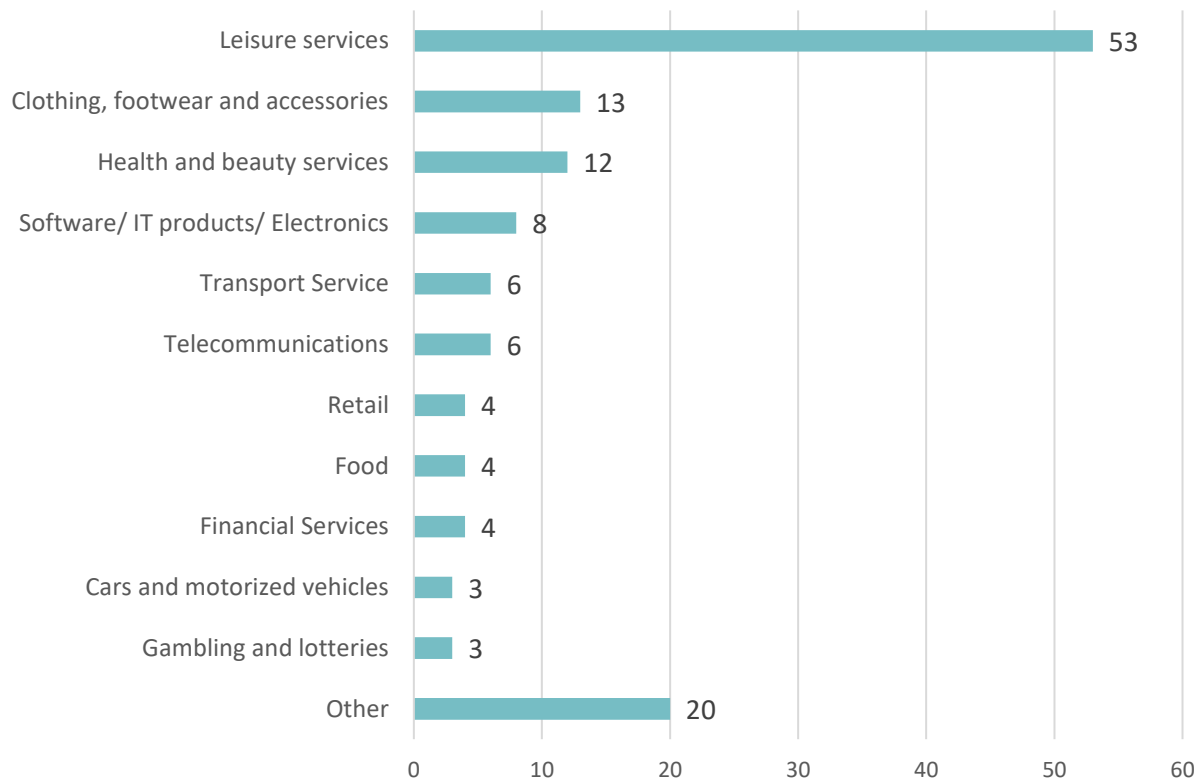
## 7 Complaints about Advertising for Products and Services

*Consumers continued to lodge most complaints regarding advertising of leisure services*

In 2017, the most complained about sector was leisure and tourism services with 39,3% of complaints. This category includes hotels and holiday accommodation, travel and renting services, entertainment, sports and leisure activities, and dating services.

Clothing, footwear and accessories (9,6% of total complaints) was the second most complained about sector, while health and beauty services came third (8,9%). Consumers around Europe also complained about alleged breaches of the SR codes regarding marketing communications for telecommunication and transport services (4,4%), as well as electronics, financial services, food, retail and software products (3,0%).

**Figure 10: Cross-border complaints in terms of products and services in 2017**



Source: Annual Cross-Border Complaints Report 2017

A more detailed breakdown of complaints per products and services which allows for comparison of complaints throughout the years can be found in Table 3 below.

The trend of rising numbers of complaints about advertising for leisure services was once again reinforced in 2017, with number of complaints rising by almost 42%, between 2016 and 2017. Categories of clothing, footwear and accessories as well as health and beauty services have also increased their share of

complaints (by 31% and 33% respectively), while complaints against transportation services ads decreased sharply by 82%, ads about electronic and software were 58% less complained about and internet/telecommunication services were 40% less complained about.

**Table 3: Cross-border complaints in terms of products and services between 2013 and 2017**

Products and services	2017	2016	2015	2014	2013
<b>Leisure service/ Tourism</b>	53	31	25	17	12
<b>Clothing/ Accessories</b>	13	9	14	15	6
<b>Health/ Beauty</b>	12	8	11	9	4
<b>Electronic equipment/ Software and other IT products</b>	8	19	5	8	9
<b>Internet services/ Telecommunication</b>	6	10	12	7	7
<b>Transport</b>	5	28	12	8	14
<b>Financial/ Business services</b>	4	4	4	16	1
<b>Food/ Alcohol</b>	4	2	1	4	0
<b>Retail</b>	4	-	-	-	-
<b>Motorised vehicles</b>	3	4	2	4	1
<b>Gambling/ Lotteries</b>	3	13	16	27	4
<b>Other (products/services)</b>	19 <sup>4</sup>	21	9	14	37

Source: Annual Cross-Border Complaints Report 2017

<sup>4</sup> For 2017 the category includes sectors that received not more than one complaint per sector, which include among other complaints on books, magazines, newspapers, business directories, employment services, furnishing and household goods and real estate services.

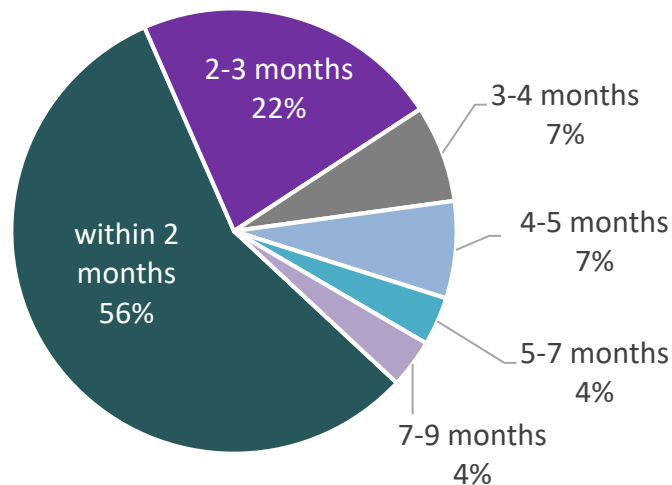
## 8 Speed of the Resolution of Complaints

*The majority of complaints were handled within less than three months*

The speed of complaint resolution varies depending on the complexity of a case. Simple cases can be resolved in as little as two days, whereas more complex cases may take longer. If scientific substantiation of advertising claims is required, complaints may lead to a prolonged investigation. As cross-border complaints are handled by two SROs translation of the necessary information and documents may be required which might considerably extend the complaint handling.

In 2017, SROs resolved 56,5% cross-border complaints received in less than two months and additional 22,4% within 2 and 3 months. Additionally, 14,2% more complaints were resolved within half a year. Overall 7,0% required an investigation period of six months or longer.

**Figure 11: Speed of cross-border complaint resolution in 2017**



Source: Annual Cross-Border Complaints Report 2017

## Annex A: 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 nearly 3.000 cross-border complaints.

### The Basic Principles of the EASA 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 CBC 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 Digital Marketing Communications, however, the advertisement will generally be expected to follow the rules of the country where the advertiser is based, whereas in the case of Online Behavioural Advertising, the country of origin of the company will be based on the principal decision-making presence (office). 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](http://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](http://www.easa-alliance.org).

Notes



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# 2017

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