

2015

Cross-Border Complaints
Quarterly Report no. 67
January - March

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.

EASA Editorial Team

Greg Mroczkowski
Compliance and Digital Issues Officer

Oliver Gray
Director General

Copyright

The complete or partial reproduction of this publication is forbidden without the prior express written permission from EASA. Please contact Greg Mroczkowski for further information.

EASA Contact Information

Greg Mroczkowski
0032 (0)2 513 78 06
greg.mroczkowski@easa-alliance.org

Table of Contents

1 Key Findings 2

2 Complaints Resolved January – March 2015..... 3

 2.1 Misleading Advertising 5

 2.2 Social Responsibility 15

 2.3 Privacy and Data Protection..... 16

 2.4 Taste and Decency 19

Annex A: How the EASA Cross-Border Complaints System Works.....20

List of Tables

Table 1: Complaints resolved per issue between January and March 20153

1 Key Findings

Scope

This report contains the details of 39 cross-border complaints about 38 advertisements coordinated by EASA's cross-border complaints system, adjudicated by local Self-Regulatory Organisations (SROs) and closed during the period from January to March 2015.

Issues

The issues complained about were misleading advertising (28 complaints), social responsibility (seven complaints), privacy and data protection (two complaint) and taste and decency (two complaints).

Media

The media involved were Digital Marketing Communications (28 complaints), Direct Marketing (six complaint) and Audio-Visual Media Services (five complaints).

Sectors

With regards to the different sectors complained about, the leisure services sector received the most cross-border complaints (11 complaints), followed by the telecommunications sector (seven complaints).

Countries concerned

The French SRO (ARPP) handled nine complaints; the UK SRO (ASA) eight complaints; the Luxembourgish (CLEP) and Spanish (AUTOCONTROL) SROs five complaints each; the Dutch (SRC) and Irish (ASAI) SROs three complaints each; the German SRO (WBZ) two complaints, whereas SROs from Cyprus, Greece, Italy and Poland each handled one complaint¹.

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.

2 Complaints Resolved January – March 2015

Table 1: Complaints resolved per issue between January and March 2015

Issue	Advertiser complained about	Complaint N°	Page
Misleading Advertising	iTunes S.a.r.l.	2681	p. 5
	iTunes S.a.r.l.	2682	p. 5
	Premier Media S.a.r.l.	2768	p. 5
	Symantec Software	2816	p. 6
	DuoDecad IT Services Luxembourg S.a.r.l.	2837	p. 6
	Garcinium	2840	p. 6
	Phyderma Paris	2845	p. 7
	Louvre Hotels	2853	p. 7
	Linden-Methode Deutschland	2862	p. 7
	Aigle International	2873	p. 8
	Bakker	2875	p. 8
	Tom Tom International BV	2876	p. 9
	Ricoh Imaging Europe S.A.S	2889	p. 9
	Venere Net S.r.l.	2890	p. 9
	Eurosport SAS	2895	p. 10
	Aer Lingus Ltd.	2898	p. 10
	Camping Sanguli, S.A.U.	2902	p. 10
	Deutsche Lufthansa AG	2905	p. 11
	Melia Hotels International SA	2906	p. 11
	Mango On-Line SA	2908	p. 11
	BGL Direct Life Ltd - Beagle Street Insurance	2909	p. 12
	Doyouspain Internet Holidays SL	2910	p. 12
	Private Media Group Ltd	2911	p. 12
	Net Company SC	2912	p. 13
	Emm.Kokologiannis and Sons SA	2930	p. 13
	Afibel SAS	2934	p. 13
Santrinico Enterprises	2942	p. 14	
Booking.com BV	2948	p. 14	
Privacy and Data Protection	AdServerPub	2924-5	p. 15
Social Responsibility	Yapp Media LLC	2844	p. 16
	Missguided Ltd	2907	p. 16

	VIP Cigarette	2928	p. 16
	St John Ambulance	2936	p. 17
	Zatori Results Ltd	2944	p. 17
	Akamon Entertainment Millenium SL	2945	p. 17
	Guernsey Information Centre	2986	p. 18
Taste and Decency	Novartis Pharmaceuticals UK Limited	2935	p. 19
	Vision Direct	2938	p. 19

Source: EASA Cross-Border Complaints Report No. 67 - January - March 2015

2.1 Misleading Advertising

2681 iTunes S.A.R.L.

Complaint from a UK consumer to the UK SRO, ASA, an online advertisement on Apple iTunes, owned by iTunes S.a.r.l., a Luxembourg-based counterpart of an online music and multimedia store. The complainant had purchased a bundle consisting of three movies in HD, but when he received the movies, they were all in SD. The complainant, therefore, found the advertisement to be misleading. As the advertiser was based in Luxemburg, ASA transferred the complaint to the Luxembourgish SRO, CLEP, under the cross-border procedure. Following contacts with CLEP, the advertiser explained that the offer was limited in time and that it was not valid anymore. The advertiser also advised that the online platform provides a tool for consumers to contact the support team directly. Due to the fact that the offer was not valid anymore, CLEP decided not to pursue the complaint. **Complaint not pursued, case closed.**

2682 iTunes S.A.R.L.

Complaint from a UK consumer to the UK SRO, ASA, an online advertisement on Apple iTunes, owned by iTunes S.a.r.l., a Luxembourg-based counterpart of an online music and multimedia store. The website claimed to offer “Comedy and Drama Series in HD from £9.99”. The complainant found the advertisement to be misleading, because the only TV series available out of 21 listed for £9.99 were only in SD quality. All the other 20 TV series were in HD versions and cost much more. As the advertiser was based in Luxemburg, ASA transferred the complaint to the Luxembourgish SRO, CLEP, under the cross-border procedure. Following communication with CLEP, the advertiser explained that the offer was limited in time and that it was not valid anymore. The advertiser also advised that the online platform provides a tool for consumers to contact the support team directly. Due to the fact that the offer was not valid anymore, CLEP decided not to pursue the complaint. **Complaint not pursued, case closed.**

2768 Premier Media S.A.R.L.

Complaint from a UK consumer to the UK SRO, ASA, regarding an online display advertisement by Premier Media S.a.r.l., a Luxembourgish operator of sports-oriented television channels. The advertisement stated: “WATCH CELTIC LIVE FOR ONLY £1 ... GET A MONTH’S SUBSCRIPTION TO PREMIER SPORTS FOR ONLY £1”. The advertisement did not make clear that it did not include online streaming which was usually included with a TV subscription. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Luxembourg, the UK SRO, ASA, transferred the complaint to the Luxembourgish SRO, CLEP, under the cross-border procedure. It was established that the UK office of the advertiser was responsible for the marketing decision on this occasion, which made ASA continue the investigation. Having made contact with ASA, the advertiser explained that in the terms and conditions which the advertisement referred to, there was an additional line on the end which stated “Please note that promo code offers are only available to SKY Platform subscribers”. The advertiser also assured ASA that in future they would highlight on all of their offer advertisements, when the offer is only available to customers via a particular platform. **Complaint not pursued, case closed.**

2816 Symantec Software

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement of Norton Internet Security, a computer programme developed by Symantec Software, headquartered in Luxembourg. The advertisement offered a 'Loyalty Offer' for Norton Internet Security for £19.99. The complainant tried to accept the offer on that day, but the product showed a price of £44. Subsequently, the complainant contacted the company via online chat room and was told the product price was £34.99. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Luxembourg, the UK SRO, ASA, transferred the complaint to the Luxembourgish SRO, CLEP, under the cross-border procedure. After initial assessment, it was decided that the advertiser's marketing office was in the UK. Therefore, ASA contacted the advertiser. Following contacts with ASA, the advertiser explained that the issue was the result of a technical error. The advertiser contacted the complainant directly to resolve the issue and honour the advertised price. The advertiser also took the necessary steps to ensure that this issue does not re-occur in the future. **Complaint resolved informally, case closed.**

2837 Duodecad It Services Luxembourg S.A.R.L.

Complaint from a UK consumer to the UK SRO, ASA, regarding Oranum.com, an online psychic community operated by a Luxembourgish company DuoDecad IT Services Luxembourg S.a.r.l. The complainant challenged whether testimonials featured on the website were genuine. The complainant believed that the advertiser had received a number of negative reviews which they would not publish. Therefore, the complainant found the advertisement to be misleading and harmful. As the advertiser was based in Luxembourg, the UK SRO, ASA, transferred the complaint to the Luxembourgish SRO, CLEP, under the cross-border procedure. Following contacts with CLEP, the advertiser explained that testimonials were introduced due to the fact that in the past the forum was continuously misused which included non-related and indecent comments. In practice, the advertiser distinguished testimonials from comments. Moreover, the advertiser referred to the Terms and Conditions which had to be accepted by the users of the community before signing up. Article 6.1 of the Terms and Conditions advises any dissatisfied customers to contact the advertiser which in practice means that any negative feedback is addressed to the advertiser directly. CLEP accepted the advertiser's explanation and found no breach of rules stipulated by the Luxembourgish Code of Practice in Advertising. **Complaint not upheld, case closed.**

2840 Garcinium

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement by Garcinium, a Dutch company selling garcinia cambogia dietary supplements. The website allegedly featured a "Free Trial" claim even though there was a £4.95 shipping fee. Moreover, the advertisement did not make it clear that customers would be charged £69.95 a month unless they stopped their subscription. 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. After investigation, the Chairman made two observations. Firstly, the claim 'Free Trial' read in full "Risk Free Trial" and therefore did not promise a product for "free". However, consumers should be informed about any shipping costs and there was no evidence to suggest that the advertiser provided this piece of information. Secondly, the Chairman was of the opinion that an average consumer would understand "Risk Free Trial" in a way that there were no further obligations corresponding to the offer. Whereas the

advertiser had not further explained what “Risk Free Trial” included, and in particular, information was lacking about the fact that by paying a fee one entered into a contract until further notice, this was found to be an omission. The Chairman of the Jury was of the opinion that the average consumer might be led to take a transactional decision that he otherwise would not have taken. Therefore, the advertisement was found to be misleading and unfair and in breach of Article 7 of the Dutch Advertising Code. The Chairman recommended the advertiser not to advertise in such a way anymore. **Complaint upheld, case closed.**

2845 Phyderma Paris

Complaint from a UK consumer to the UK SRO, ASA, regarding a direct mail of Phyderma Paris, a French producer of health and beauty products. The advertisement featured a claim: ‘Grand Game Euro Prize. Important Matter. £133,683.64 to be released to the unique winner... This is not a mistake Mrs K., you are indeed the Winner of the Prize of £133,683.64! A cheque for this sum will be sent to your address.’ The complainant found the advertisement to be misleading, because she was not in fact entitled to the quoted sum of money. 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 contacts with ARPP, the advertiser pointed out that there were several clear indications that a person had to have the winning number and return it in a specific timeframe. Taking into account the position of the advertiser, the Secretary of the Jury did not consider there were sufficient grounds to pursue the complaint. **Complaint not pursued, case closed.**

2853 Louvre Hotels

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement by Louvre Hotels, a French hotel group. The website Campanile.com featured a special offer of a room at Campanile Hotel for £29 per night including breakfast and £35 for a double room, valid between 15 July 2014 and 8 September 2015. The complainant intended to book the stay between 29 September and 4 October 2014, but having tried to make the reservation online the price changed to £52.38 per room per night without breakfast. Therefore, 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. Following communications with ARPP, the advertiser stressed that the terms and conditions of the offer as well as the rooms’ availability were clearly indicated. After review, the Secretary of the Jury considered the advertisement to be compliant due to the fact that the terms and conditions were present and legible. **Complaint not pursued, case closed.**

2862 Linden-Methode Deutschland

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement for Linden-Methode Deutschland, a German company developing and delivering products and services for mental health care. The websites linden-methode-deutschland.com and angst-panikattacken.com featured a number of claims pertaining to The Linden Method. The complainant purchased The Linden Method in the past, but stopped using it after finding it ineffective. Having gone back to the advertisement, the complainant considered that many of the claims were biased, exaggerated, false, misleading and unsubstantiated as well as putting forward accusations against the medical community and setting unreasonable expectations. The complainant also challenged whether the terms and conditions were unclear. 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. WBZ attempted to contact the advertiser several times, but it was not possible to reach the advertiser. In the circumstances, WBZ was unable to pursue the investigation. **Complaint not pursued, case closed.**

2873 Aigle International

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Aigle International, a French clothing company. The UK version of the website featured a claim 'Free delivery over 90 euros'. The complainant then discovered that this was only for when the delivery address was in France, and free delivery did not apply to orders to the UK. Therefore, 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. Following communication with ARPP, the advertiser admitted that the offer was misleading, but explained that it had been a technical error. The advertiser assured ARPP that the mistake had been corrected and offered 20% discount to the complainant. **Complaint resolved informally, case closed.**

2875 Bakker

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding a direct mail for Bakker, a Dutch company specialising in garden products. The advertisement mentioned LED alongside TV which led the complainant to believe that he was given a 60" LED television and not an LED light as he later discovered. Therefore, the complainant found the advertisement to be misleading. As the advertiser appeared to be based in the Netherlands, the Irish SRO, ASAI, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. Following communication with SRC, the Dutch counterpart of the advertiser explained that it was the UK marketing department that was responsible for the advertisement. Therefore, the complaint was transferred to the UK SRO, ASA. After investigation, ASA understood that all customers placing an order were eligible for a free mystery LED gift, and that these would be up to 60" in size. ASA noted that 'LED' was indeed a generic term and considered that, as we understood the mystery gift was an LED light, it was not misleading to refer to the gift as an LED appliance as long as the focus on this detail did not in itself mislead consumers about the nature of the gift. ASA further understood that these customers would also be placed into a prize draw to win one of four LED TVs, the largest of which was 60". ASA noted that references to the TV were often differentiated from mentions of the LED gift in some way, usually by explicit references to it as a 'prize' or to the LED gift as a 'mega package gift'. However, ASA noted that the CAP Code required the distinction between gifts and prizes to be made clear and that in instances where both were offered particularly care should be taken to avoid confusing the two, such as by implying that consumers have qualified for a prize as well as a gift. ASA noted that although they were sometimes delineated, references to the gift and to the prize were mixed throughout several of the enclosures and considered that this, as well as other elements of both ads, significantly blurred the distinction between what consumers would reasonably expect to receive as gift or as a prize, and specifically considered that the references to the gift as a 'mega package' only were unlikely to make clear to consumers that it was the gift being described rather than the prize. ASA also noted that the advertisement featured several labels describing the gift aspect of the offer. Although ASA acknowledged that the use of these labels was factually accurate, it was considered that their

specific use in this context highlighted the similar elements of the gift and the prize in a way that served to imply the mystery gift was the same as the prize. In light of elements such as these, ASA considered that despite clarifying this difference on some occasions, many elements of the mailing obscured the distinction between the LED appliance 'gift' and the LED TV 'prize' and made the mechanic of the promotion ambiguous, which we considered would lead some consumers to believe that they were being awarded an LED TV as a gift. Therefore, it was concluded that the advertisement breached rules 3.1 and 3.3 on misleading advertising, 8.2 on sales promotions and 18.19 on prize promotions of the CAP Code. It was advised that the advertisement must not appear again in their current form. The advertiser was also asked to ensure that future promotional material made clear to consumers the difference between gifts and prizes being offered. **Complaint upheld, case closed.**

2876 Tom Tom International BV

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement for Tom Tom International BV, a Dutch manufacturer of automotive navigation systems. The complainant explained that when his TomTom LIVE service expired, he was prompted to renew this for a price of €49.95. The complainant then received an email which quoted the price of £47.50 which was higher than the equivalent price in €. 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. Having made contacts with SRC, the advertiser investigated the matter and identified the cause of the problem. The advertiser declared that discrepancy between the prices of the advertisement of LIVE Services on your device and the TomTom website would be dealt with by the relevant departments and teams within TomTom. The complainant was notified about this and also he was offered one additional year of LIVE Services to his TomTom account as compensation. The complainant accepted the advertiser's explanation. **Complaint resolved informally, case closed.**

2889 Ricoh Imaging Europe S.A.S

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Ricoh Imaging Europe S.A.S, a French counterpart of an imaging and electronics company. The website featured an advertisement of a Pentax K-3 Camera which did not make it clear that the product and price displayed did not include the lens or the stand and was only for the body of the camera. Therefore, 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. After review, the Secretary of the Jury decided that the advertisement featured an image showing only a camera, without any stand or lenses. Therefore, the Secretary did not consider the advertisement to be misleading and decided that the complaint would not be assessed by the Jury. **Complaint not pursued, case closed.**

2890 Venere Net S.r.l.

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Venere Net S.r.l., an Italian online hotel reservations company. Having arrived at the hotel, the complainant was told that the room reserved was not at the price offered by the advertiser which had been indicated upon reserving the room online. Therefore, the complainant found it to be unjustifiable that the advertiser described themselves as a 'booking service'. Moreover, even though the advertiser called themselves 'the online hotel reservation specialist', they do not

accept responsibility for any claim. Therefore, the complainant found the advertisement 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. Following contacts with IAP, the advertiser explained that the Terms of Service clearly state that 'the hotel is solely responsible for responding to and/or fulfilling the booking request'. Venere.com function is only to establish a direct link between hotels and users. IAP Complaint Committee accepted this explanation and noted that the claim 'the online hotel reservation specialist' was thus not misleading. Moreover, as a gesture of goodwill, the advertiser offered the complainant 20% off the booking fee. **Complaint not upheld, case closed.**

2895 Eurosport SAS

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Eurosport SAS, a French TV sport channel. The website featured claims: 'Select the offer that suits your needs and enjoy access to the channels British Eurosport and British Eurosport 2 LIVE and On Demand on all your screens.' and 'Eurosport Player: a multi-screen offer'. The complainant understood, however, that he could only watch Eurosport on one TV at a time. Therefore, 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. Following communication with ARPP, the advertiser provided evidence that the website clearly stated that it was not possible to watch Eurosport on different screens at a time. ARPP accepted the advertiser's explanation. **Complaint not pursued, case closed.**

2898 Aer Lingus Ltd.

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Aer Lingus Ltd, an Irish airline company. The website featured a claim: '20% off Ireland. Book by midnight Monday 17 November and get 20% off flights to Ireland- every seat, every flight, every day. Available for travel from 26 November to 30 April.' The complainant understood, however, that the discount is applied to the basic flight, rather than the entire flight cost. 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 receipt of the complaint, ASAI attempted to contact the complainant requesting a copy of the email they received from the advertiser, but the complainant did not reply to any enquiry. Under the circumstances, ASAI was not able to further investigate the complaint. **Complaint not pursued, case closed.**

2902 Camping Sanguli, S.A.U.

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an online advertisement for Camping Sanguli, S.A.U., a Spanish camping resort. The complainant made a provisional reservation of 1,400 Euro for a ten night stay at Sanguli camping resort. Based on the booking, the complainant further bought flights for the dates of her stay at the resort. However, when the complainant phoned the advertiser to pay a booking deposit, he was told the price on the Internet was wrong and that the accommodation would cost over 2,000 Euro. The complainant requested the advertiser to honour the original price as it was advertised on the website and furthermore stated how it had been the basis for her booking flights, but the advertiser refused to do so. Therefore, the complainant found the advertisement to be misleading. As the advertiser was

based in Spain, the Irish SRO, ASAI, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. The Jury of AUTOCONTROL analysed the advertisement taking into account both Rule 14 on misleading advertising of the Code of Conduct of AUTOCONTROL and Article 3 of the Ethical Code of Confianza Online. The Jury of AUTOCONTROL issued a non-binding decision due to the fact that the advertiser was not a member of AUTOCONTROL and thus had the right to refuse to participate in the case proceedings. The non-binding decision stated that if the advertiser failed to substantiate the claim, it would be considered to be in breach of Rule 14 of the Code of Conduct of AUTOCONTROL and Article 3 of the Ethical Code of Confianza Online. **Complaint upheld, case closed.**

2905 Deutsche Lufthansa AG

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an online advertisement for Deutsche Lufthansa AG, a German airline company. The website featured information about transportation of pets into Ireland accompanied by their owners according to which transportation of pets was allowed. However, when the complainant contacted the advertiser to be advised on this matter, he was told that the website gave the wrong information and no pets could be flown into Ireland. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Germany, ASAI transferred the complaint to the German SRO, WBZ, under the cross-border procedure. After requesting more information from the complainant, WBZ established that the complainant did not actually book a flight with the advertiser. After review, WBZ decided that it was not possible to verify rules for pet carriage without a flight number. Therefore, the complaint could not be further investigation. **Complaint not pursued, case closed.**

2906 Melia Hotels International SA

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Melia Hotels International SA, a Spanish hotel chain. The website featured claims: “Best online rate guaranteed’ and ‘If you find a lower price, we will refund the difference plus a 10% discount”. However, when the complainant compared the advertiser’s hotel through the comparison site Trivago, he was redirected to a different hotel which offered cheaper rates. Moreover, the complainant noted that the website did not make it clear that if a consumer made a booking, he would be required to pay at the time of an online transaction. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. Following communication with AUTOCONTROL, the advertiser contacted the complainant to explain the advertisement as well as to offer a discount. The complainant did not inform AUTOCONTROL whether he accepted either the explanation or the discount, but he decided to withdraw the complaint. **Complaint not pursued, case closed.**

2908 Mango On-Line SA

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement for Mango On-Line SA, a Spanish clothing company. The website featured a claim: ‘30% OFF EVERYTHING’. However, since not all items were discounted, the use of ‘everything’ was incorrect. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. Having examined the complaint, the Jury

concluded that the advertisement was not misleading because it was clearly stated that the discount only applied to those clothes marked with an asterisk or “o”. **Complaint not upheld, case closed.**

2909 BGL Direct Life Ltd – Beagle Street Insurance

Complaint from an Irish consumer to the Irish SRO, ASA, regarding TV advertisement for BGL Direct Life Ltd – Beagle Street Insurance, life insurance company, broadcast on Channel 4, a TV channel which is licensed in the UK. The advertisement featured a man who was reading a newspaper in the bath. A monster appeared beside him and threw a rubber duck at his face. The voice-over stated ‘Life insurance can be a bit of a nightmare’. The man jumped out of the bath and turned to face the monster that was later shown to explode. The monster turned into a smaller, less menacing creature with large eyes, who went on to offer the man a back rub. This was referred to as the rebirth of the life insurance offer. The complainant’s son saw the advertisement and it distressed him. The complainant objected to the advertisement as it was unsuitable for broadcast at a time when children might be watching. Therefore, the complainant found the advertisement to be socially irresponsible. As the medium was based in UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. Following the receipt of the complaint, ASA contacted the complainant to communicate that the advertisement had already been subject to a number of complaints and further ASA investigation. The complaints filed were not upheld because while it was acknowledged in the investigation that some younger children would have found the ad unsettling, it was noted that the ad had an ex-kids restriction, that would prevent it from being shown during or around programmes likely to be of particular appeal to children; it was targeted towards programmes aimed at those in their late 20’s or early 30’s. **Complaint not upheld, case closed.**

2910 Doyouspain Internet Holidays SL

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement for DoYouSpain Internet Holidays SL, a Spanish car hire company. The advertisement failed to state that a mandatory charge of €24 for refuelling was required. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. Following contacts with AUTOCONTROL, the advertiser contacted the complainant explaining the situation. The advertiser refunded the hire cost to the complainant as well as indicating that in the future it would be made clearer at the outset if there were extra fixed charges for fuelling in their hire advertisements. The complainant was satisfied with this outcome and on this basis decided he did not want to pursue the complaint. **Complaint resolved informally, case closed.**

2911 Private Media Group Ltd

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement for Private Media Group Ltd, an Irish production and distribution company of adult entertainment. The website private.com stated that a 1 month subscription to the service was £24.95, and showed a list of sites on offer. Having then looked around the website and clicking ‘join now’ on the Private Classics page, the complainant found that he was charged £29.95 and only allowed access to the Private Classics website. 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. After review, ASAI decided that the advertisement was not likely to mislead consumers. The Code requires that an advertisement be assessed in the light of its probable effects and when taken as a whole. ASAI noted from the home page of private.com that there were a number of different offers and that the section for Private Classics had a different appearance, through the use of colour. When a visited clicked into this section, it was clearly titled "Private Classics". On selecting "Join Now", three membership options were given and the pricing for each is clearly stated. Therefore, ASAI did not consider that there was a case for investigation under the Code. **Complaint not pursued, case closed.**

2912 Net Company SC

Complaint from a UK company to the UK SRO, ASA, regarding a direct mail from Net Company SC, a Polish direct marketing company. The advertisement looked like an official document and made claims such as "in accordance with the current ERTNaC rules" which implied that registration was a requirement. The complainant believed that the advertisement was attempting to scam new businesses into paying for a company listing. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Poland, the UK SRO, ASA, transferred the complaint to the Polish SRO, RR, under the cross-border procedure. After review, RR noted that it was a business-to-business case and in order to proceed the complainant would need to pay a fee to the SRO for handling the complaint. The complainant declined to make the payment. **Complaint not pursued, case closed.**

2930 Emm.Kokologiannis and Sons SA

Complaint from a Malaysian consumer to EASA, regarding an online advertisement for Economycarrentals.com, a Greek-based car rental website operated by Emm.Kokologiannis and Sons SA. The complainant made a booking for a car which was not provided to him afterwards. At the time of the booking, the website displayed information that there were "3 cars left". Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Greece, EASA transferred the complaint to the Greek SRO, SEE, under the cross-border procedure. Following contacts with SEE, the advertiser explained that the issue was caused by the fact that a specific car type was not available during the requested period. Therefore, SEE considered it not to be related to advertising. Moreover, the advertisement was not found in breach of the Greek Advertising Code. **Complaint not upheld, case closed.**

2934 Afibel SAS

Complaint from a UK consumer to the UK SRO, ASA, regarding a direct mail by Afibel SAS, a French company specialising in mail order selling of women's clothing. Having received several direct mails from the advertiser, the complainant wanted to have his personal data removed from the advertiser's mailing list. However, the complainant continued to receive mailings. Therefore, the complainant found the advertisement to be against privacy and data protection principles. As the advertiser was based in France, ASA transferred the complaint to the French SRO, ARPP, under the cross-border procedure. Following communication with ARPP, the advertiser took the complainant off their mailing list. **Complaint resolved informally, case closed.**

2942 Santrinico Enterprises

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement on Zetaclear.com, managed by Santrinico Enterprises, a Cypriot company. The complainant was offered a free gift card for purchasing a fungal treatment from the website. However, the complainant was unaware that ticking to submit meant that the complainant had automatically enrolled into their monthly membership with a fee. The complainant had written to cancel this membership, but did not receive an answer. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Cyprus, the UK SRO, ASA, transferred the complaint to the Cypriot SRO, CARO, under the cross-border procedure. Following contacts with CARO, the legal representatives of the advertiser explained that the advertiser made every effort to ensure to follow the US's Fair and Accurate Credit Transactions Act rules and regulations. Moreover, the legal representatives explained that the terms and conditions and cancellation number were placed directly under the offer and had to be acknowledged when placing the order. The advertiser acknowledged the potential conflict of European and American laws and decided to remove the gift card as a purchase option for Europe. As a gesture of goodwill, the advertiser offered the complainant a full refund. CARO confirmed that the complainant received the refund and that purchase of gift cards is no longer an option for European consumers. **Complaint resolved informally, case closed.**

2948 Booking.com BV

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement on Booking.com BV, a Dutch website for hotel reservations. The advertisement quoted a room rate at the Jury's Inn in Derby for £61.21. However, when the complainant proceeded to reserve the room, the price increased to £79.20. 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. After filing the complaint, the complainant was contacted by the advertiser. The advertiser took responsibility for the error and offered the complainant a full refund of the reservation made on that occasion. Therefore, the complainant did not wish to pursue the complaint. **Complaint withdrawn, case closed.**

2.2 Privacy and Data Protection

2924-5 AdServerPub

Complaint from a German consumer to the German SRO responsible for OBA, DDOW, 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 Rubicon Project. The complainant stated that opt-outs had been attempted via Your Online Choices (YOC). As the OBA provider had declared their competent decision making location for OBA as France with the European Interactive Digital Advertising Alliance, the German SRO, DDOW, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. Following communication with ARPP, the advertiser explained that the problem appeared to be of a technical nature. The issue was further discussed between the advertiser and the European Interactive Digital Advertising Alliance. The advertiser communicated that the opt-out was working again, which concluded the investigation. **Complaint resolved informally, case closed.**

2.3 Social Responsibility

2844 Yapp Media LLC

Complaint from a UK consumer to the UK SRO, ASA, regarding TV advertisement for Yapp Media LLC, a US mobile apps provider, broadcast on Eurosport, a TV channel which is licensed in France. The advertisement was about mobile app Sports Yapper which chat feature was partly aimed at 13-17 year-olds. The complainant found the advertisement to be against social responsibility principles, because it featured alcohol and was broadcast early in the morning when children could see it. As the medium was based in France, the UK SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. After review, the Secretary of the Jury noted that the alcohol advertising on TV is regulated by law and not by self-regulatory rules. Therefore, the complaint fell outside the remit of ARPP. Moreover, the Secretary remarked that the advertisement clearly targeted a UK audience and the advertisement in the UK was cleared for viewing by Clearcast. Therefore, the Secretary decided that the complaint could not be assessed by the ARPP' Jury. **Complaint not pursued, case closed.**

2907 Misguided Ltd

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding a TV advertisement for Misguided Ltd, a UK-based women's online clothing store, broadcast on Sky Living, a TV channel which is licensed in the UK. The advertisement featured three women showcasing a fashion collection at what seemed to be a private party. Towards the end of the advertisement one of the women cuddles a pony whose mane was dyed pink. The complainant found the advertisement to be socially irresponsible as he felt it involved cruelty to animals that he found upsetting. As the medium was based in the UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. ASA contacted Clearcast, the UK SRO which pre-clears TV advertisements. Clearcast provided ASA with a copy of the vet's letter certifying that the pony suffered no harm or displayed any signs of distress or anxiety during filming and was well looked after throughout the shoot. Following this, ASA carefully reviewed the advertisement and considered how it was likely to be interpreted by viewers in general. ASA regarded that the advertiser had adopted a highly stylised approach to displaying their clothing range and that the models were not shown mistreating or otherwise interacting with the pony in a manner that may cause it harm or distress. While ASA acknowledged that some viewers may find the depiction of the pony with a dyed mane to be distasteful, it was considered to be unlikely for the advertisement to cause serious or widespread offence in the manner suggested. **Complaint resolved informally, case closed.**

2928 VIP Cigarette

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding a TV advertisement for VIP Electronic Cigarette, e-cigarette, broadcast on ITV1, a TV channel which is licensed in the UK. The advertisement featured a woman using an e-cigarette and exhaling vapour. A voice-over stated: "Find out why 89% of our consumers said they preferred VIP over other brands. VIP e-cigarettes and e-liquids. Quality assured since 2009. VIP." The complainant found the advertisement to be against social responsibility principles due to the fact that the advertisement glamorised tobacco smoking even though there was limited evidence that e-cigarettes were safe.

As the medium was based in UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. Following the receipt of the complaint, ASA contacted the complainant to communicate that the advertisement had already been subject to a number of complaints and further ASA investigation. The complaints filed were upheld because the advertisement created a strong association with traditional tobacco smoking and presented it, as its central focus, in a sultry and glamorous way. Due to the indirect promotion of the use of tobacco products, the advertisement was found to be in breach of BCAP Code rules 33.1 and 33.3 on electronic cigarettes. ASA advised the advertiser that the advertisement must not appear again in its current form. **Complaint upheld, case closed.**

2936 St John Ambulance

Complaint from an Irish consumer to the Irish SRO, ASA, regarding a TV advertisement for St John Ambulance, a UK first aid charity, broadcast on True Movies 1, a TV channel which is licensed in the UK. The advertisement informed viewers how to save a choking baby. The complainant considered that the conduct promoted in the advertisement was unsafe, with reference to the potential for injury to a child and to delay in summoning emergency services. The complainant notes that the advertisement was particularly dangerous for those that have no prior knowledge of what to do in such situations. Therefore, the complainant found the advertisement to be socially irresponsible. As the medium was based in UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. After review, ASA noted that served to give parents a basic education on what to do in an emergency situation in the absence of medical professionals. The advice given in the advertisement appeared to be in line with the most widely accepted guidance generally. There was no reliable evidence to suggest that this was incorrect or likely risk causing significant harm and therefore ASA did not consider the advertisement to breach UK Codes. **Complaint not pursued, case closed.**

2944 Zatori Results Ltd.

Complaint from a UK competitor to the UK SRO, ASA, regarding an online advertisement for TheCosumeShop.ie, a website operated by Zatori Results Ltd., an Irish company. The advertisement presented Skitzo Costume which included orange jumpsuit with black vinyl accents and a barcode on the chest. The outfit also contained a set of black vinyl shackles and belt, and a restraining face mask to complete the look. Therefore, the complainant found the advertisement to be in breach of social responsibility principles. As the advertiser was based in Ireland, the UK SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. ASAI contacted the complainant to advise on the ASAI's competitive complaints procedures. The complainant did not wish to pursue the complaint. **Complaint not pursued, case closed.**

2945 Akamon Entertainment Millenium SL

Complaint (an own-initiative monitoring) from the Italian SRO, IAP, regarding an online advertisement for MundiGiochi.it, a website operated by Akamon Entertainment Millenium SL, a Spanish developer and operator of online and mobile social games. The banner advertisement included a link to an online community for game players. The advertisement as well as some of the website pages made direct use of drawings, fictitious characters and colours that might generate a direct appeal on minors. Therefore, the IAP's Review Board found the advertisement to be in breach of Article 11 (Children and young people) and Article 28 ter (Gaming and

gambling). As the advertiser was based in Spanish, the Italian SRO, IAP, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. After review, the AUTOCONTROL's Jury stated that gambling advertising should not be intended for children. The Jury found the MundiGiochi.it website to be clearly appealing to children. Therefore, the Jury found the advertisement to be in breach of Rule 28 of AUTOCONTROL's Code of Advertising Practice on protection of children and Article 3.1 of Ethical Code "Confianza Online" on Internet advertising. **Complaint upheld, case closed.**

2986 Guernsey Information Centre

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding a TV advertisement for Guernsey Information Centre broadcast on SKY News, a TV channel which is licensed in the UK. The advertisement encouraged viewers to visit Guernsey. Among others, the advertisement showed a live lobster being dropped into a pan of boiling water. The complainant found it shocking and offensive to see such an image, and therefore, found the advertisement to be against social responsibility principles. As the medium was based in the UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. After review, ASA noted that the cooking of lobsters in the manner presented is a widely recognised and generally accepted practice, and that the scene in question was shown in the context of food preparation rather than a display of gratuitous violence against animals. ASA explained that while it was recognised that some viewers may find the advertisement distasteful, ASA considered it unlikely to cause serious or widespread offence, harm or distress. Therefore, ASA did not propose any further action. **Complaint not pursued, case closed.**

2.4 Taste and Decency

2935 Novartis Pharmaceuticals UK Limited

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an online video advertisement for Otrivine, a product of Novartis Pharmaceuticals UK Limited, a UK counterpart of the Swiss multinational pharmaceutical company. The advertisement for nasal sprays and drops was played on 4 on demand, a video on demand platform of Channel 4, a UK TV channel. The advertisement was set in an office environment and featured a man who had a runny nose. The man was spinning in his chair and by rubbing his chest he was applying the product. This in turn led him to his recovery. The complainant found the advertisement to be against taste and decency principles due to the fact that it was very graphic. 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. After review, ASA considered that there were insufficient grounds for intervention. Whilst ASA appreciated the complainant's personal views and acknowledged that the intended humour employed in the advertisement would not appeal to all viewers, ASA did not consider that the advertisement was likely to cause serious or widespread offence or generally be seen as unsuitable. The themes used in advertising were a decision taken by advertisers themselves and, while ASA appreciated that this advertising might be distasteful to some, ASA did not consider that a formal investigation would be justified or appropriate in this instance. **Complaint not pursued, case closed.**

2938 Vision Direct

Complaint from an Irish consumer to the Irish SRO, ASA, regarding a TV advertisement for Vision Direct, a retail company offering contact lenses and eye care products, broadcast on Sky 1, a TV channel which is licensed in the UK. The advertisement showed a woman sleeping in a bed with a voice-over that described how the woman would run out of her contact lenses, in which case the immediate next day delivery service provided by the advertiser would become useful. Towards the end of the advertisement, conventional glasses were referred to as "plastic monsters". The complainant felt that describing glasses in the aforementioned way could upset a person wearing glasses as well as be regarded as a form of bullying. The complainant was particularly concerned about the impact the advertisement might have on children who had to wear glasses. Therefore, the complainant found the advertisement to be in breach of taste and decency principles. As the medium was based in UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. After review, ASA explained that while the ASA Council recognised that some viewers had found the advertisement distasteful, it considered it was likely to be seen by both adult and child viewers as representing the view of the woman concerned about her own pair of glasses, which were clearly unflattering, and not as making a wider claim about all glasses. In the Council's view, there was nothing in the advertisement that was likely to be seen as encouraging or condoning bullying of spectacle wearers and, in the context of an ad promoting a contact lens service, the approach was unlikely to cause serious or widespread offence or cause a risk of harm to adults or children. The Council considered that the exaggerated movie trailer style voice-over contributed to the light-hearted approach. Therefore, the Council did not find the advertisement to be in breach of the BCAP Code. **Complaint not upheld, case closed.**

Annex A: How the EASA Cross-Border Complaints System Works

EASA Cross-Border Complaints System

EASA 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 Complaint from a UK company to the UK SRO, ASA, regarding a direct mail from Net Company 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.

Basic Principles of 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 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.

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 Cross-Border Complaints

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.

Outcomes of 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 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.

2015

European Advertising Standards Alliance

Rue des Deux Églises 26

1000 Brussels, Belgium

info@easa-alliance.org

www.easa-alliance.org

[@advertisingEASA](https://twitter.com/advertisingEASA)

