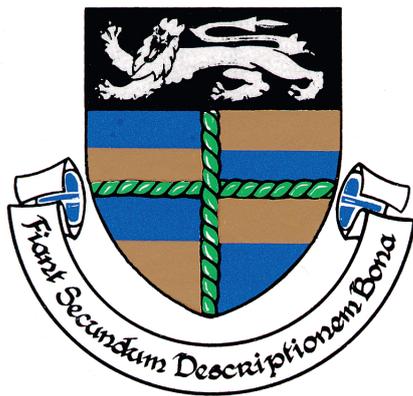




Advertising Standards Authority for Ireland

# Annual Report

————— 39th Annual Report 2019 —————



## THE OFFICIAL HERALDIC ACHIEVEMENT OF ASAI

The coat of arms or official heraldic achievement of the Advertising Standards Authority for Ireland was granted by the Chief Herald of Ireland and registered in his Office in April, 1983.

The design and composition of the arms graphically symbolise the sphere of influence as well as the function of ASAI.

The heraldic arrangement of the national tinctures enhanced by the wreathed cross is designed to suggest the packaging of goods on a nationwide basis, while the lion, traditional symbol of active vigilance, signifies the role of ASAI as overseer in relation to the advertising of those goods.

The shield, historically an emblem of defence, is symbolic of the protection afforded the consumer public by the ASAI, which seeks to establish and maintain principled advertising in Ireland.

All these items are encapsulated in the slogan or motto of the ASAI, 'FIANT SECUNDUM DESCRIPTIONEM BONA' - let the product accord with its description - which bespeaks the ideal of the Advertising Standards Authority for Ireland.

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SECTION 1

CHAIRMAN'S  
STATEMENT

## CHAIRMAN'S STATEMENT



Sean O'Meara, Chairman

One of the most impressive things about the Advertising Standards Authority for Ireland is its solidity.

For nearly 40 years, it has been ever-present, operating to the highest international standards of trusted advertising Self-Regulation as confirmed through our fruitful involvement with EASA, the European Advertising Standards Alliance, and within which our CEO, Orla Twomey, plays a senior and influential role.

During that time, we have moved through the gears from the predictable, traditional media landscapes to the exciting, innovative and challenging worlds of on-line communications, always making considered and intelligent progress. We have kept ourselves relevant by keeping ourselves in touch.

We have always benefited from the valued support, commitment and loyalty of our numerous Irish stakeholders across many and varied disciplines. We enjoy the very best advice and guidance from people who give generously of their experience, insight and time while voluntarily serving on our Board, Complaints Committee, Finance Committee and other Working Group projects. To these I offer my sincere gratitude.

However, as strong as the ASAI obviously is, we operate in

an environment that is highly fluid; constantly throwing up unexpected challenges.

During 2019, for instance, the controversial cloud of Brexit hung heavily upon our shoulders. Nervousness and caution abounded, leaving advertising activity and expenditure struggling for any sort of predictable stability, not to mention growth. The term 'the market is flat at best' became a kind of mantra.

Consequently, the ASAI's income was, and continues to be, under painful stress. Whilst adhering to the most thorough financial control disciplines, we have to husband very tight and scarce financial and personnel resources into concentrating on our primary disciplines of interrogating, managing and resolving ever increasing complaint volumes, issuing copy advice on code compliance for proposed advertising on request, re-examining the Code in the light of evolving trends in various sectors, for example, alcohol, food, etc, as well as liaising with Industry Representative Bodies and engaging with the public directly and through the media.

Daily, our Executive is charged with grasping all the challenges of the Digital Media revolution - as stimulating and rewarding as so many new platforms are - whilst also being challenged to find time and funding to expand our portfolio of critically desired extra services in the most beneficial directions identified by our Executive. Educational projects dominate our wish-list together with imaginative out-reach programmes, not only to individual advertisers and their agencies but to colleges and schools around the country.

Publishers are an important pillar of the advertising self-regulatory system, acting as gatekeepers, ensuring that non-compliant advertising is not published (or in the case of an ASAI adjudication, not re-published). We have strong support from all the traditional media in Ireland. We engage with and are building relationships with digital

platforms and while we can seek their assistance in having non-compliant advertising withdrawn, they are not fully engaged with the advertising self-regulatory system.

Additionally, these organisations, who carry vast amounts of commercial, paid-for communications as publishers, do not support the ASAI financially. The ASAI is continuing to work with the European Advertising Standards Alliance (EASA) to ensure that the digital platforms engage significantly with the advertising self-regulatory national systems, both from a compliance point of view as well as from a funding point of view.

Also, the continuing situation whereby much of the traditional, direct Irish advertising spend does not contribute to the advertising self-regulatory system is an area of concern for the ASAI.

The consequential, unfair and unfortunate anomaly here is that all of these organisations, benefit enormously from our proven, comprehensive and helpful regulatory services and advices. All ASAI support is given willingly and without quibble.

It is against this background that I earnestly ask you to make your rightful contribution to the ASAI if you are not already doing so.

What is at stake here is the very future of advertising

freedom. It needs to be cemented for the long-term commercial benefit and return of so many brands, services and companies whose commercial health is fundamental to the well-being of the Irish economy in general, if only in terms of expanding and sustaining employment rates, returns on investments and fulfilling current and new market requirements.

Let me say a sincere thanks to our Executive who continue to impress me through their courtesy, dedication, willingness and experience. They are people of the highest calibre who possess unique insights into advertising regulation that we, as Irish citizens, are fortunate to have in safeguarding our society as appropriate.

We at the ASAI encourage the very highest standards in advertising innovation, especially in its creativity from concept to execution. But let us never forget our basic responsibility is that all advertising should be legal, decent, honest and truthful. That will never change.

I cannot over-emphasise this enough in the sense that now, more than ever, the need for a strong, well-funded, experienced and innovative Self-Regulatory Advertising Body is profoundly essential.

**Sean O'Meara,  
Chairman**

Advertising Standards Authority for Ireland.

## SECTION 2

# HIGHLIGHTS SUMMARY

## HIGHLIGHTS SUMMARY

The ASAI saw complaints climb up to 1,858, an almost 10% (177) increase on the previous year (1,681). Similar to previous years, misleading complaints (65%) were found to dominate breach areas of the Code.

During the year, the ASAI rolled out its Guidance Note on Marketing Communications for mobile. This marks a key change in the way telecoms operators are required to deliver advertising content for mobile phone and broadband services, especially over the use of specific marketing terms to describe telecommunications.

The ASAI developed guidelines for advertising Non-alcohol Product Variants, reflecting the increase in the emergence of this product category. The guidelines reflect the ongoing ASAI’s interventions in the protection of children

concerning advertising.

Throughout 2019, the ASAI has worked closely with influencers and bloggers, through its copy advice and complaints services. Key supports and developments for these content creators centre around the importance of transparency for brand reputation of both influencers and companies when co-creating marketing communication content.

2019 again saw the ASAI continuing its outreach to Public and Private sectors, engaging with stakeholders on the sound effectiveness and ongoing development of its Code. This important activity is aligned to the organisational strategy on stakeholder awareness of the Code and related services.

### 2.1 | Complaints Resolution

In 2019, the ASAI received 1,858 written complaints concerning 1,360 advertisements. This represents an increase of just over 10% on the number of complaints received in 2018. The number of individual advertisements that attracted complaints increased by nearly 15% on the number of advertisements complained about in 2018

(1,360 compared to 1,185). Although an increase on the number of advertisements complained about in 2018, at 1,360, the number of advertisements that received complaints is a very small proportion of the thousands of advertisements that were published during the year in all Irish media – TV, radio, online newspapers, magazines, outdoor, brochures, leaflets and cinema.

### 2.2 | Grounds of Complaint

Misleading	65%	<span style="color: green;">■</span>
General Rules	15%	<span style="color: cyan;">■</span>
Offence	7%	<span style="color: darkgreen;">■</span>
Other	13%	<span style="color: yellowgreen;">■</span>





### 2.3 | Top Three Complaints

Complaints by Sector

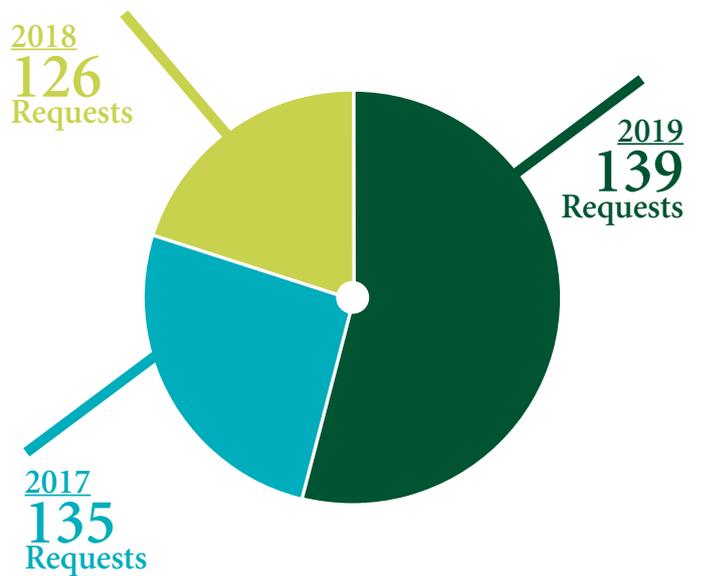


Complaints by Media



### 2.4 | Copy Advice

During 2019, 139 copy advice requests were submitted to the Executive, 10% more than submitted in 2018. The ASAI has continued to promote the service to industry throughout the year as it is seen as an essential service that the ASAI can offer. A dedicated email address, [copyadvice@asai.ie](mailto:copyadvice@asai.ie), was introduced for this service.



## SECTION 3

# O VERVIEW OF THE ASAI

## AN OVERVIEW OF THE ASAI

This is the 39th Annual Report of the Advertising Standards Authority for Ireland (ASAI), for the year 2019.

The ASAI is the independent self-regulatory body set up and financed by the advertising industry (advertisers, advertising agencies and media) and is committed to promoting the highest standards of advertising and sales promotion, in the public interest. The ASAI Code is supported by all major advertisers and agencies and all major media, including broadcast, outdoor, digital and the print media.

The ASAI, since its foundation in 1981, has built up an extensive body of expertise in the regulation of commercial advertising in all Irish media. The ASAI recognises the importance of continually ensuring that the remit of Code applies to all commercial marketing communications, including those in developing media. At its most basic, the Code's remit follows where marketing communications go.

In line with the continuous evolution of the form of marketing communications and the mediums in which they are placed, we have continuously and significantly expanded the jurisdiction of the ASAI. Apart from traditional media (cinema, out-of-home, print, radio and television) always having been in scope, over the years editions of the Code have been extended to include email marketing, marketing communications on advertisers' own websites, and paid-for and non-paid for advertising on third-party sites. The Code remit therefore includes marketing communications on third party non-paid-for space online, such as advertisers' own posts (and those of their brand ambassadors) on their social media platforms.

The 7th and current edition of the Code encompasses Online Behavioural Advertising (OBA). These rules provide

for a high level of consumer transparency and choice regarding OBA.

Reflective of the ASAI's key and central role as the regulator for the advertising industry, we pride ourselves on our strong relationships with many key stakeholders. We engage with a multiplicity of cross-sectoral stakeholders, representative of the depth and breadth of the Code. Key areas currently include matters concerning children, food and non-alcoholic beverages, alcoholic drinks and health and beauty.

A significant part of the ASAI's work in upholding advertising standards is the resolution of complaints from consumers, competitors and interested parties. Such complaints also help to keep the Authority informed of the current concerns and societal shifts and trends regarding advertising.

In carrying out its function of enforcing the highest standards in advertising, the ASAI also carries out scheduled and structured monitoring. The ASAI proactively supports advertisers and the advertising industry in publishing Code-compliant copy. We provide expert service through free, confidential and non-binding copy advice on the compliance of proposed advertising.

The ASAI proactively promotes its services, particularly to the industry and consumers, through prominent media channels. Such initiatives underpin a key objective in outreach activities in the pursuance of all marketing communications being legal, decent, honest and truthful.

This dedicated service is now provided at [copyadvice@asai.ie](mailto:copyadvice@asai.ie)

### 3.1 | ASAI Code

#### CODE OF STANDARDS FOR ADVERTISING AND MARKETING COMMUNICATIONS

The ASAI Code is based on the principles established by the International Chamber of Commerce (ICC), which promotes that all advertising and promotions must be legal, decent, honest and truthful and must be undertaken with a sense of social responsibility. On an ongoing basis, the work of implementing the provisions of self-regulatory codes is being enhanced and supported by the development of Best Practice Guidelines, in all areas of complaints examination, by the European Advertising Standards Alliance (see Section 4.4 European Connections for further information).

The ASAI Code’s primary objective is to regulate commercial marketing communications in the interest of consumers ensuring that, so far as possible, all marketing communications are prepared with a sense of responsibility both to consumers and to society.

Knowledge of the Code amongst industry practitioners is a key element in maintaining the compliance levels with the Code. Throughout the year, the ASAI presented to advertisers, agencies and media on the provisions of the Code.

In order to assist in the interpretation of the Code, the ASAI has developed Guidance Notes on:

- Alcohol Advertising
- Food and Non-Alcoholic Beverages Advertising
- Recognisability in Advertising
- Guidance Note on Non-Alcoholic Product Variants
- ASAI Guidance Note (Part 1) Mobile phone and broadband

These Guidance Notes are published on the ASAI website.

The FSAI Guidance Note on the Use of Food Marketing Terms, which supports Section 8 of the ASAI Code, is also published on the ASAI website. This guidance was published by the FSAI following extensive food industry engagement and the ASAI collaborated with the FSAI in its introduction.

The collaboration with the FSAI is consistent with the ASAI’s approach to work with other regulatory bodies to achieve the best outcomes for the public and the advertising industry, ensuring that marketing communications do not mislead or offend, for the benefit of all.

### 3.2 | Scope of the Code

It has always been the intention of the Code to follow where advertising goes. In recognition of continuously emerging innovations in the presentation of marketing communications, each Code review endeavours to set Code rules that are future proofed where possible. This ensures that all marketing communications, regardless of the platform, including industry innovation incorporating new technologies and digital marketing developments, are bound to comply with the standards set by the Code.

The Code summary extract below is indicative of the breath of media channels covered by the Code, designed in the interests of consumers in particular to promote high advertising standards being served in the broadest of contexts.

“The Code applies to marketing communications including the following:

Newspapers, magazines; posters in public places, digital screens; brochures, leaflets, emails texts.

Broadcast on television, radio, cinemas, DVD, Blu-ray.

Online advertisements in paid-for space (including banner or pop up advertisements and online video advertisements);

Paid-for search listings; preferential listings on price comparison sites; viral advertisements; in-game advertisements; commercial classified advertisements; advergames that feature in-display advertisements; advertisements distributed through web widgets and online sales promotions and prize promotions. Promotional marketing and sales promotions.

Advertorials.

Advertisers’ own websites, that are directly connected with the supply or transfer of goods, services, facilities, opportunities, prizes and gifts or which consist of direct solicitations for donations.”

## DIGITAL ADVERTISING

The standards that apply in traditional media apply to marketing communications carried in digital media. The remit of the ASAI is very broad in this area and the ASAI continues to report that, with the exception of a small number of individual advertisers, all others are fully compliant when accepting the adjudications of the Complaints Committee or, indeed, advice from the ASAI Executive in relation to their digital marketing communications, including those on social media platforms. In the past number of years, influencers have come to the fore in fronting campaigns on behalf of advertisers and have, themselves, become digital publishers. While advertisers are ultimately responsible for their marketing communications, influencers acting as agents must comply with the Code rules also. Consequently, content that influencers publish which meet the criteria for determining what is marketing communication, is subject to the Code.

### 3.3 | The ASAI's Remit, Services and Supports

#### POLICY

The ASAI works throughout the year on policy matters, most typically concerning interpretation and application of the Code towards emerging marketing communications and advertising content trends. Policy positions are grounded in standards, set out in the Code, underpinned by the aim that all marketing communications should be legal, decent, honest and truthful.

We engage with a broad spectrum of stakeholders, most particularly those in the media, representative bodies, Government Departments and State Agencies, in the conduct of our regulatory tasks. These agencies include the Broadcasting Authority of Ireland (BAI), the Competition and Consumer Protection Commission (CCPC), the Commission for Communications Regulation (ComReg), the Food Safety Authority of Ireland (FSAI) and the Health Products Regulatory Authority (HPRA).

Allied to the ongoing exponential growth in digital marketing, online marketing and social media marketing,

the ASAI increasingly seeks to deepen its strong relationships with global providers in this space.

#### ADVISORY CORPORATE SERVICES

The ASAI, whether proactively offering its expertise or on being approached, participates on external projects. The Authority periodically contributes to developing and reviewing specific advertising standards in various sectors.

#### COMPLAINTS INVESTIGATION AND ADJUDICATION

The ASAI accepts complaints from any person or body who considers that a marketing communication may be in breach of the Code. All complaints are investigated free of charge.

##### COMPLAINTS PROCESS: Individual complainants, competitive complainants and Interested Parties

The identity of individual complainants remains confidential. Anonymous complaints are not pursued, and all complaints must be in writing through the online complaints form or by post (although a flexible approach is adopted for those who have specific challenges, for example literacy issues or for those with particular disabilities).

In the case of competitive complaints, the complainant must agree to their identity being disclosed in order for the ASAI to investigate the complaint. Competitive complaints are investigated where the interests of consumers are involved, however the ASAI is not an arbitration service for disputes between commercially interested parties.

Interested party complainants are deemed to have a particular interest in the complaint, such as an advocacy group, as distinct from competitive complainants or those acting as a consumer.

The ASAI Executive initially assesses complaints against the provisions of the Code and, where an investigation is warranted, will invite comments from the advertisers. Where a potential breach of the Code is identified or where a precedent case is involved, the matter may be referred to the Independent Complaints Committee for adjudication.

## COPY ADVICE

ASAI provides a valuable pre-publication copy advice service on proposed marketing communications' compliance with the Code. This service is available to all those involved with advertising – advertisers, their agencies and the media.

Copy advice is free and given on a confidential basis. The advice is non-binding on both the requester and on the ASAI; while the requester does not have to accept the advice of the ASAI Executive, neither does the Independent Complaints Committee, should the marketing communication subsequently come before them for adjudication. However, where the service has been utilised, marketing communications are less likely to contravene the Code in any substantial way.

## MONITORING

The ASAI conducts monitoring exercises of individual marketing communications to assess compliance with the Code requirements. Such exercises can be conducted on specific media or a mix thereof and incorporates both traditional and digital media. They can also be focused on a particular industry or area of economic activity. Initially, this is carried out on an informal basis with the advertiser/promoter being asked for comments within a specific period.

Failure to respond to the Compliance Monitor's request for information may result in the matter being escalated to a formal investigation.

The ASAI Monitoring Service also monitors compliance with the adjudications of the Complaints Committee.

## COMPLIANCE

Where a complaint is formally adjudicated upon by the Complaints Committee, the Executive takes appropriate steps to ensure that advertising found in breach of the Code is amended or withdrawn.

The Executive continues to experience an exceptionally high compliance level with adjudications, testament to the recognition of the ASAI in championing the highest

standards in advertising content.

## AWARENESS, KNOWLEDGE ENHANCEMENT AND EMPOWERMENT

The ASAI strives to ensure that there is a high level of awareness of the role of and importance of standards in advertising.

The ASAI Executive is available to present to advertisers, agencies and media on the provisions of the ASAI Code and how they are applied with a view to enhancing practitioner knowledge and empowering them in effective use of the Code.

## SECTION 4

# STAKEHOLDER ENGAGEMENT

## STAKEHOLDER ENGAGEMENTS

The Code has been developed primarily in the interests of consumers and society as a whole. As a consequence, the ASAI has a long history of inclusiveness and collaboration through engagement with, and having due regard for, stakeholder interests. Full revisions of the Code are therefore subject to broad consultation, including public interest groups.

Interim reviews and revisions of industry/sectoral Code sections or section changes that may impact on one sector are the subject of consultation confined to key stakeholders.

Policy matters are considered by the ASAI with appropriate interest parties. The ASAI's engagements are broad ranging, taking account of the gamut of sectors specifically covered by the Code. The ASAI regularly engages with Government Department and State agencies, such as the Competition and Consumer Protection Commission.

The exponential growth in digital advertising has led the ASAI to engage further with the associated platform providers. The equitable application of and support for the Code across all media, offline and online, is an imperative for the ASAI.

Broad consumer awareness of the Code and its application – primarily through complaints and adjudication precedents – has always been a priority for the ASAI. The continuing effectiveness of the Code facilitates the prevalence of high standards in advertising.

### 4.1 | Industry Awareness of the ASAI

The ASAI's effectiveness as a regulatory body depends on the practical and active support of advertisers, agencies and the media. The ASAI recognises the importance of ensuring that all of those employed in the relevant agencies and the media are aware of the ASAI and the Code.

The ASAI therefore continues to actively seek opportunities to present on the Code to key stakeholders, particularly those involved in the advertising industry, ensuring the widest awareness of the Code and its provisions.

### 4.2 | Public Awareness of the ASAI

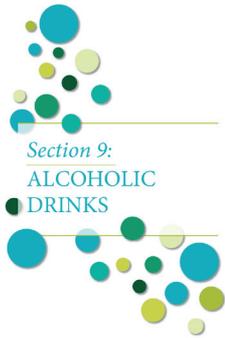
The ASAI Code stipulates that it should be implemented primarily in the interests of consumers. Indeed, one of the primary functions of the ASAI – the examination of complaints – depends on the public being aware not only of the ASAI's presence but also of its role. Consequently, public awareness of the ASAI is vital to its successful operation. In considering the role self-regulation might play in the future regulation of advertising, a high level of public awareness is also considered by the EU Commission to be of great importance.

The ASAI wishes to continuously increase levels of awareness of the organisation and, in particular, of the services it offers. This is done partly through the publication of the adjudications of the independent Complaints Committee, which are regularly carried in the media, in trade publications and on the ASAI website.

The ASAI frequently posts on Twitter and is increasing its profile on LinkedIn, with both platforms offering an opportunity to reach out and communicate with a wider audience.

## 4.3 | ASAI's Engagement Highlights in 2019

### ALCOHOL ADVERTISING



The framework for the regulation of alcohol advertising in Ireland is one of the most robust in Europe. Prior to The Public Health (Alcohol) Act 2018 ('the Act') being introduced with effect from 12 November 2019, the ASAI Code provisions ensured, and continue to ensure, that marketing communications for

alcohol products do not glamorise them, do not encourage over-consumption or immoderate consumption, and, very importantly, ensure that they do not appeal to children. The number of marketing communications found in breach of the Code by the independent Complaints Committee continues to be very low. This has been the case since the introduction in 2003 of CopyClear, a service which pre-vets all alcohol marketing communications in Ireland against the ASAI Code.

In addition to the provisions of the ASAI Code, and prior to the Act, alcohol marketing communications had to comply with the rules set down in the Alcohol Marketing, Communications, and Sponsorship Codes of Practice. The aim of these Codes has been to limit the exposure of young people, in particular, to advertising and include provisions on where and when alcohol marketing communications can appear. The ASAI provides secretarial and executive services to the Alcohol Marketing Communications Monitoring Body, which was set up by the Department of Health in 2006 to oversee compliance with the Codes.

The Public Health (Alcohol) Act 2018 introduced legislation concerning restrictions on marketing communications for alcohol products. The initial impact of the statute came into effect in November 2019 and broadly is anticipated to be fully effective over a subsequent three-year period. The ASAI Code will be amended appropriately to take full account of the changes imposed by the Act. The Code will continue to play a vital role in alcohol advertising in areas not covered by the Act, such as digital advertising.

### NON-ALCOHOL PRODUCT VARIANTS

The introduction of new alcohol legislation has coincided with an increase in the emergence of non-alcohol product variants being advertised in the Irish market. While the Code provides that the full application of its alcohol section may apply, it was considered that the full application of those provisions should not apply to the new product category.

However, in the public interest and for the protection of children, care is needed to ensure that they are not addressed to, nor contain content, that is primarily of interest to children. Therefore, in order to ensure that advertising for products that have an association to products that contain alcohol contains responsible content, the ASAI drafted guidelines for this product category. In line with ASAI practice, the guidelines were subject to a consultation process with key stakeholders.

#### Below are the key points of the new guidelines:

- 1) It should be made very clear at the start and throughout a marketing communication that the product is non-alcoholic.
- 2) Any illustrated activities which could be considered a risk to personal safety, similar to that if alcohol was being or was to be consumed, is unlikely to be considered in conflict with the Health and Safety requirements of the Code's Alcoholic Drinks section.
- 3) Children's media and advertising that is proximate to schools must be avoided and advertising should not appeal to minors in either placement or content.
- 4) Marketing Communications should be clearly aimed at people aged 18 and over and anyone in an advertisement shown drinking or playing a significant role should be aged over 25 and should appear to be over 25.

The new guidance note has been published in the best interests of consumers, those involved in the advertising industry and Irish society in general.

The ASAI's undertaking with this guidance is indicative of its aims to lead the way in ensuring all marketing communications are legal, decent, honest and truthful.

## MOBILE AND BROADBAND ADVERTISING

A significant initiative during the year that has had a national impact was the introduction of the ASAI's Guidance Note on Marketing Communications for mobile phone and broadband services.

The new guidelines were developed as an action resulting from the Report of the Mobile Phone and Broadband Taskforce<sup>1</sup>.

The Taskforce was established by the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs and the Department of Communications, Climate Action and Environment.

The purpose of the Taskforce was to identify measures that could deliver significant improvements in access to high-quality mobile and broadband services throughout Ireland.

### RECOMMENDATION NO. 32 OF THE REPORT OF THE MOBILE AND BROADBAND TASKFORCE RELATED TO THE ASAI. IT STATED:

“The Taskforce recommends that the Advertising Standards Authority review advertising in this area. The Taskforce also recommends that operators review their own advertising to ensure they are not creating a false or misleading impression, and also that any consumer who feels they have been misled contact Advertising Standards Authority to enable them to investigate”

The ASAI submitted a report to the Taskforce which concentrated on marketing communications with a particular focus on speed, availability and fibre claims. The Taskforce recognised that guidance for the telecom operators in a number of key areas would be helpful.

An extensive consultative process followed, with strong and positive engagement from key providers. They presented on technologies in operation and related capabilities and limitations, and on consumer expectation and knowledge.

As part of the body of work that the ASAI undertook with the Taskforce, the ASAI developed draft Guidelines. To conclude the process, these draft Guidelines were shared with key stakeholders in 2019 prior to roll out of the new Guidelines.

The Guidelines outline the general requirements that telecom operators must follow when using marketing terms for mobile phone and broadband services and also provides guidance for the telecoms industry concerning the use of the following specific marketing terms to describe telecommunications in the Irish market:

- Coverage and Availability
- Speed claims
- Fibre

The guidelines also include advice on information resources for consumers, substantiation and terms and conditions / general claims.

The ASAI formally launched and introduced the new guidelines relating to the advertising of mobile phone and broadband services, effective from 1st September 2019.

The guidelines also complement the existing ASAI Code in ensuring that certain marketing terms used by telecommunications operators convey clear meanings that are not misleading to consumers.

In response to the introduction of the new guidelines, the Chair of the Taskforce, Seán Canney, TD, Minister of State for Community Development, Natural Resource and Digital Development, commented:

“I welcome the publication of the guidelines by the ASAI and acknowledge the work that has been undertaken in bringing a key 2019 deliverable to fruition.

One of the aims of the Mobile Phone and Broadband Taskforce is to improve consumers' knowledge of the different types of telecommunications services on offer. With the publication of these guidelines, the ASAI has gone a long way to ensuring that consumers will have greater clarity over what they can realistically expect to receive from their broadband or mobile phone

1: <https://assets.gov.ie/2731/131118142403-079cf4be5b644478ba522501b921085f.pdf>

package. I look forward to the guidelines being fully implemented by industry.”

This Guidance Note represents the completion of part one of a two-part review of telecommunications advertising. Part two relates to the circumstances in which descriptors such as the word ‘unlimited’ are used. The ASAI can confirm that a comprehensive review of these terms will now be undertaken and guidance will be developed.

### FARM SAFETY AND ADVERTISING

To tie in with Farm Safety Week (commencing 15th July 2019), the ASAI embarked on reminding advertisers of their requirements when creating ads that are set in an agricultural setting.

The Authority was particularly keen to highlight what advertisers need to be aware of when featuring children in adverts that have an agricultural focus.

The Code requires advertisers to be mindful that children may imitate what they see in marketing communications, and given that, they should not be encouraged in any way to copy practices that might be unsafe. While the ASAI is not a safety organisation, its Code contains rules related to safety. Advertisers have a special responsibility around the inclusion of children in marketing communications, including those that reflect an agricultural setting.

### ONLINE POLITICAL ADVERTISING

The Code does not apply to marketing communications principally related to advertisers’ expression of positions on political issues or those of public interest or concern. Nevertheless, when the ASAI became aware of comments by the Minister of State for Local Government and Electoral Reform, John Paul Phelan, that the ASAI should have a role in relation to online political advertising, the ASAI met the Minister to explore the ASAI’s potential involvement in this area of advertising.

The ASAI provided insights on relevant commercial advertising mechanisms, the advertising self-regulatory ecosystem and how it may serve in the online political landscape. This was of particular importance with forthcoming European and local elections pending at the time.

The ASAI also liaised with leading digital platforms to consider common areas of transparency and related initiatives taken by them in other jurisdictions.

The ASAI completed its initial engagement through liaison with members of the Department of An Taoiseach on matters related to transparency. The ASAI presented a scoping project plan on the potential approach it considered would be appropriate to embark upon to assist on transparency in online political advertising. It was envisaged by the Department that a legislative process would need to be undertaken and would require further evaluation. The ASAI may see further developments in this area in the coming year.

### AUDIO VISUAL MEDIA SERVICES DIRECTIVE (AVMSD)

To take account of the audiovisual media landscape which has changed significantly in recent years, the new AVMSD introduced a number of key changes to the original Directive (2010). While the existing Directive applies to TV broadcast and on-demand, the new AVMSD now regulates ‘video-sharing platform services’ (VSPS).

The AVMSD retains the ‘country of origin’ principle, and with many leading VSPs head quartered in Ireland, the Irish Government is at the forefront of overseeing governance. This, coupled with the new directive outlining a number of areas where self and co-regulation could be developed/deepened, incorporates that the ASAI is continuing to play an important role in discussing the frameworks to support advertising-related post-transposition arrangements.

During the year, the Authority engaged with the Department of Communications, Climate Action and Environment on a consultation process over the implementation of the Directive. The Authority has commenced engagement with the Broadcasting Authority of Ireland on the implementation of the AVMSD at local level. Strategically, the ASAI considers that it can significantly contribute to a co-regulatory framework with the BAI.

The European Advertising Standards Alliance (EASA) are very active in this space and the ASAI have been working in close liaison with them on a consistent approach for

advertising self-regulatory organisations (SROs) across the EASA member countries. This focus includes consistency of standards on local Code areas, complaints handling, particularly through the EASA Cross-border handling system, and monitoring of compliance to new requirements under the Directive.

The Authority has also been engaging with platforms head-quartered in Ireland on the transposition.

The ASAI will continue its important work into next year.

## GAMBLING ADVERTISING

The ASAI Code has had long standing rules on gambling, with particular emphasis on the portrayal of gambling and on protection of children.

During the year, the Authority made a comprehensive submission on the Gambling Regulatory Authority proposition.

Subsequently, the Minister of State at the Department of Justice, David Stanton, announced that the Government had approved the establishment of a national gambling regulatory authority

The ASAI foresees that it will continue to strongly contribute to the gambling agenda in the forthcoming year. It further plans to forge working relationships with the new authority, akin to the long-standing close business relationships that co-exist with other State authorities, agencies and Departments.

## INFLUENCERS, BLOGGERS AND #DISCLOSURE

The advertising eco-system is a dynamic one, with new media and new participants continually evolving and engaging in the industry. Advertisers are co-creating content with individuals – people who have their own blogs, their own digital presence and their own social media followings.

Where the advertisers have direction over the content and where they provide compensation (either by payment or in kind), that content is, for the purposes of the Code, a marketing communication. It must therefore comply with all the Code rules, including the rules for recognisability, principally that consumers should know when they are

being advertised to.

Aware that bloggers and reviewers are not part of the traditional advertising eco-system and would not have an in-depth knowledge of the Code, the ASAI has continued its ongoing focus on providing information and guidance in this area. The ASAI Guidance Note on Recognisability in Marketing Communications, which was launched in 2016, was further promoted in 2019 via our social media channels and has been shared and discussed with the Irish Bloggers Facebook Community. There has also been widespread media coverage of the Guidance Note.

The ASAI continues its engagement with bloggers, advertisers, advertising agencies, blogger agencies and blogger management companies, to further embed the ASAI Guidance Note on Recognisability in Marketing Communications and the Code requirements generally, in a bid to ensure the highest possible standards of advertising in Ireland, regardless of the medium involved.

#### 4.4 | European Connections



Set up in 1992 by the ASAI and 15 other European advertising self-regulatory organisations, the European Advertising Standards Alliance (EASA) promotes responsible advertising through best practice in self-regulation, for the benefit of consumers and business. There are now 27 advertising self-regulatory organisations and 14 industry associations in membership of EASA, which is the unified voice for advertising self-regulation in Europe. Industry associations active in Europe form part of the membership.

EASA's lobbying work on policy at EU level is vital to the development and continuation of advertising self-regulation and, where appropriate, contributing to legislative and policy developments in these critical areas. It further supports the development of the system of advertising self-regulation through the drafting of best practice guidelines for all aspects of the work of advertising self-regulators.

Under the Cross-Border Complaints system operated by the EASA, a complaint received by the ASAI, or other national advertising self-regulatory body, concerning an advertisement published in another member country is referred to the appropriate national regulatory body for consideration under their code. This ensures that a consumer can have redress in the case of misleading or offensive advertising originating anywhere in Europe.

The numbers of cross-border complaints across Europe are low, 135 (2017), 193 (2018) and 332 (2019) over the past three years. However, it is a valuable resource for members of the public in any European country to have their complaints dealt with, regardless of where the advertising appeared.

ASAI plays an active role in the EASA with its Chief Executive a member of both the Board of Directors and its Executive Committee. The Executive Committee is responsible for the EASA's day-to-day management and policy decisions during the periods between meetings of the Board.



In 2016, the EASA's existing network of international Self-regulatory Organisations was developed into an International Council for Ad Self-Regulation (ICAS) – an international platform to promote effective advertising self-regulation worldwide.

The aim of the ICAS is to unite global Self-Regulatory Organisations (SROs) and international industry associations to form a powerful Council that will facilitate the establishment of new SROs in emerging markets, help empower them, and provide a platform to discuss and work on solutions regarding the global challenges faced by the advertising industry.

There are now 30 members in ICAS, including SROs from Europe, Asia Pacific, North America, South America and South Africa, along with the World Federation of Advertisers and other industry bodies. The ASAI is delighted to also support and be part of the initiative.



The European Interactive Digital Advertising Alliance (EDAA) is responsible for the administration and granting of licences for the use of an interactive icon to businesses involved in data-driven advertising across Europe operating in the delivery of Online Behavioural Advertising (OBA). The EDAA's principal purpose is to provide the 'AdChoices Icon'. Through use of the icon, consumers can obtain information on data collection and how it can be controlled.

The AdChoices Icon is a consumer-facing, interactive symbol that links consumers to an online portal, [www.youronlinechoices.eu](http://www.youronlinechoices.eu). Here, consumers can obtain information on data collection and how it can be controlled, find out about their online ad choices, how online advertising is used to support the sites and services they use and how they can manage their online ad preferences.

The key stakeholders in the European digital advertising community, including the EASA and the IAB Europe, launched the European Interactive Digital Advertising Alliance (EDAA) in Brussels in October 2012.

EDAA and its governing associations - representing the entire online advertising ecosystem - continue to provide meaningful self-regulatory solutions towards enhancing consumer trust in data-driven advertising.

Through its 150+ participating companies in the EDAA Programme, 2019 saw over 162 billion AdChoices Icons delivered to European consumers, linking to [www.youronlinechoices.eu](http://www.youronlinechoices.eu), a Consumer Choice Platform

available in 33 markets and 27 languages, and seen millions of times annually.

EDAA also conducted in 2019 a multi-market consumer research, titled How EU citizens perceive digital advertising since GDPR, to explore consumer attitudes and perceptions towards online advertising and determine how these may have changed since the introduction of GDPR.

During the EDAA 2019 Summit, a record attendance of leaders from across the global advertising industry came together in London to address the challenge of engaging consumers and increasing consumer trust and transparency in online advertising. EDAA presented its plans to reshape how self-regulatory mechanisms will continue to play a critical and positive role in supporting consumers and companies to navigate their digital rights and responsibilities in today's self-regulatory landscape.

Find out more on EDAA's activities here:  
<https://www.edaa.eu/2019-activity-report/>

# SECTION 5

# CODE IMPLEMENTATION

## 5.1 | 2019 Complaints Resolution

In 2019, the ASAI received 1,858 written complaints concerning 1,360 advertisements. This represents a increase of just over 10% on the number of complaints received in 2018. The number of individual advertisements that attracted complaints increased by nearly 15% on the number of advertisements complained about in 2018 (1,360 compared to 1,185).

Although an increase on the number of advertisements complained about in 2018, at 1,360, the number of advertisements that received complaints is a very small proportion of the thousands of advertisements that were published during the year in all Irish media – TV, radio, online newspapers, magazines, outdoor, brochures, leaflets and cinema.

	2019		2018		2017	
	Complaints	Ads	Complaints	Ads	Complaints	Ads
Carried forward from previous period	495	413	560	341	218	201
Received during period	1,858	1,360	1,681	1,185	2,148	1,098
Resolved in Period	1,900	1,385	1,746	1,113	1,806	958
Brought forward to next period	453	388	495	413	560	341

The significant increase in the number of complaints received in 2019 resulted in more open complaints being brought into 2018 than were brought into 2017. That open number was reduced in 2018 and notwithstanding the fact that the number of advertisements complained

about in 2019 was nearly 24% higher than those complained about in 2017, the number of complaints open and being brought forward to 2020 (at 453) is 19% lower than the complaints open at year end in 2017.

### HOW COMPLAINTS ARE DEALT WITH

After an initial evaluation, and investigation where appropriate, complaints are either dealt with informally by the ASAI Executive or submitted to the Independent Complaints Committee for formal adjudication. The decision on how the complaint will be processed depends on whether or not the marketing communications in question are likely to be in breach of the provisions of the Code. Most complaints are suitable for dealing with informally, using well-established and recognised procedures. The Complaints Committee reviews a sample of complaints dealt with informally by the Executive at each Committee meeting. Further details on the complaints dealt with by the Independent Complaints

Committee are set out in the section of this report on the Complaints Committee.

When a significant number of complaints is received about one advertisement on the same grounds, for example, that the advertising is misleading or offensive, the ASAI Executive will assess whether further complaints on the same basis can inform the decision-making process. If it considers that further complaints on the same basis are not necessary, an information notice to that effect is posted on the ASAI website. The ASAI is aware of the need to balance the understandable desire of consumers to have their individual complaint heard with the need for the effective use of available resources.

## RESOLUTION OF COMPLAINTS

	<b>2019</b>		<b>2018</b>		<b>2017</b>	
	<i>Complaints</i>	<i>Advertisements</i>	<i>Complaints</i>	<i>Advertisements</i>	<i>Complaints</i>	<i>Advertisements</i>
Additional information requested but not provided	336	328	242	233	232	214
<b><u>Out of Remit</u></b>						
Media/matter out of remit	272	147	220	129	283	78
Cross-border complaint	43	42	26	26	276	33
	<b>315</b>	<b>189</b>	<b>246</b>	<b>155</b>	<b>559</b>	<b>111</b>
<b><u>Preliminary Assessment of Advertisement</u></b>						
Complaint withdrawn	23	23	20	20	22	22
More appropriate for another Body	17	17	40	22	18	15
No basis under Code	436	380	338	286	272	255
No evidence of offence	68	55	61	42	59	38
Previously adjudicated	79	30	42	29	101	32
	<b>623</b>	<b>505</b>	<b>501</b>	<b>399</b>	<b>472</b>	<b>362</b>
<b><u>Investigation by Secretariat</u></b>						
Formal - Referred to Complaints Committee	248	123	343	83	190	86
Informal - Resolution by Secretariat	378	334	414	355	353	319
	<b>626</b>	<b>457</b>	<b>757</b>	<b>438</b>	<b>543</b>	<b>405</b>
<b>TOTAL</b>	<b>1,900</b>	<b>1,479</b>	<b>1,746</b>	<b>1,225</b>	<b>1,806</b>	<b>1,092</b>

One of the features of the ASAI system is that an advertisement can be the subject of different categories of complaint.

For example, in the case of one advertisement, eleven complaints were submitted to the Complaints Committee but were upheld, while a further thirteen complaints about

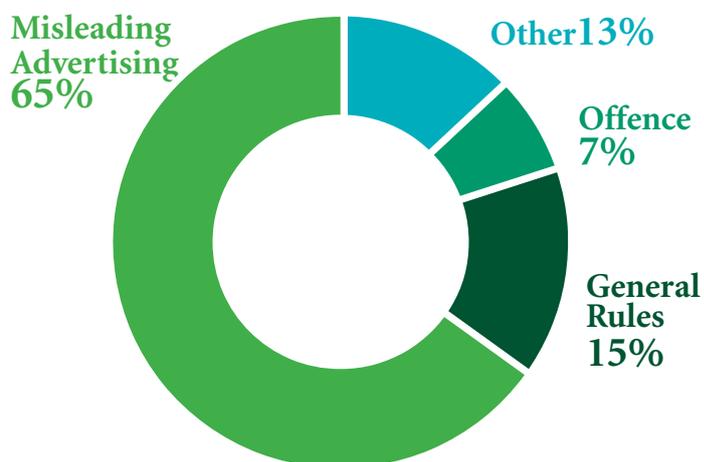
the same advertisement were received after the Committee adjudicated on the advertisement and the complainants were advised that the Committee had found that the advertisement was not in breach of the Code. In this case, the advertisement was recorded in 'Preliminary assessment of advertisement – Previously adjudicated'; and 'Formal – referred to the Complaints Committee'.

## GROUNDS OF COMPLAINT

In 2019, as in previous years, the main area of complaint related to advertising being misleading, 65% of the Code sections raised were those with a provision relating to misleading advertising. The general rules of the Code which relate to areas such as responsibility, portrayal of persons in advertising, recognisability of advertising, depictions of unsafe practices and anti-social behaviour, gave rise to 15% of complaints with those relating to offence at 7%.

However, there is a wide range of other issues covered by the Code provisions that were raised by members of the public, including concerns about promotional marketing practices, food and non-alcoholic beverages, health

& beauty, e-cigarettes, children, alcohol advertising, slimming, gambling, environmental claims, financial services and products, online behavioural advertising, distance selling and employment advertising.



## COMPLAINTS BY SECTOR

The sectoral areas attracting complaints are set out in this table.

SECTOR	2019	2018	2017
Health & Beauty	229	166	128
Leisure	172	222	130
Non-Commercial*	170	158	448
Travel/Holidays	169	102	79
Motoring	161	100	87
Telecommunications	139	192	189
Food & Beverages	137	289	115
Financial	108	76	101
Household	104	100	96
Clothing / Footwear	101	79	33
Education	48	11	12
Publishing	44	12	16
Alcohol	30	26	24
Property	27	17	30
Business	26	37	36
Computers	15	18	19
TV / Audio / Video	8	20	17
Employment / Business Opportunities	6	9	10
Agriculture	3	9	8
Miscellaneous	203	103	228
	<b>1,900</b>	<b>1,746</b>	<b>1,806</b>

\*Examples of ‘Non-Commercial’ includes advertising for not-for-profit bodies that does not have a commercial element (such as charity advertising with no fundraising element) or advertising by other organisations advocating on policy issues.

## INTRA-INDUSTRY COMPLAINTS

Advertisements must not only be legal, decent, honest and truthful, but must also respect the principles of fair competition generally accepted in business. Section 4.34 of the ASAI Code states that: “Marketing communications should not unfairly attack, discredit or denigrate other businesses or their products, trademarks, trade names or other distinguishing marks.”

While comparisons are allowed (for example, between an advertiser’s goods or services and those of competitors) they must be fair and the consumer must not be misled.

Generally, competitor complaints are made under the Code rules relating to substantiation, truthfulness, prices,

comparisons and denigration.

In 2019:

- 18\* complaints were carried forward
- 49 complaints were received
- 47 complaints were resolved and
- 20 complaints were brought forward to 2020

\*Four complaints which had been closed in 2018 were subsequently reopened.

The Complaints Committee formally adjudicated upon five complaints relating to five advertisements, three of which were found to have breached the Code rules.

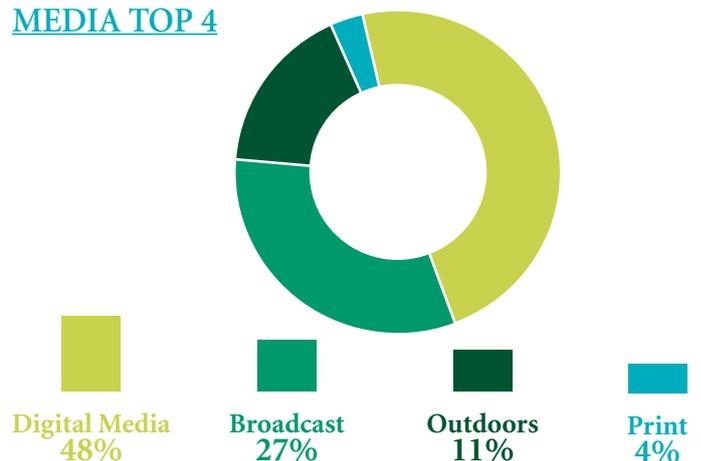
## COMPLAINTS BY MEDIA

MEDIA	2019	2018	2017
Digital Media	976	948	1141
Broadcast	552	516	479
Outdoor	226	350	219
Print	80	91	79
Brochures / Leaflets	63	58	61
Cinema	61	50	12
Direct Marketing	4	12	15
Other	59	95	102
	<b>2,021</b>	<b>2,120</b>	<b>2,108</b>
BROADCAST	552	516	479
Radio	178	159	125
Television	374	357	354

The number of media mentioned in relation to complaints is greater than the number of complaints in the year. This is because complainants often mention multiple media when they describe where they saw or heard the marketing communication concerned. The ASAI captures all the media they mention.

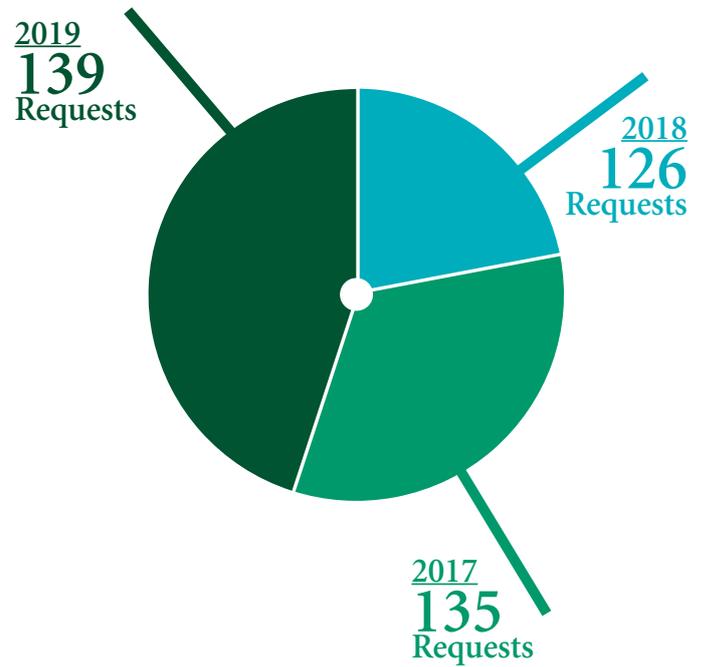
In 2019, following the trend evident in earlier years, digital media gave rise to the largest block of complaints. As a proportion of all complaints it has been increasing steadily; in 2010, it represented 22% of total complaints compared to 48% in 2019.

## MEDIA TOP 4



## 5.2 | Copy Advice

During 2019, 139 copy advice requests were submitted to the Executive, 10% more than submitted in 2018. The ASAI has continued to promote the service to industry throughout the year as it is seen as an essential service that the ASAI can offer. A dedicated email address, [copyadvice@asai.ie](mailto:copyadvice@asai.ie), was introduced for this service.





**1,900**  
FORMAL COMPLAINTS  
RESOLVED  
IN 2019

**105**  
ADVERTISEMENTS  
FOUND TO BE  
**IN BREACH**  
OF THE ASAI CODE

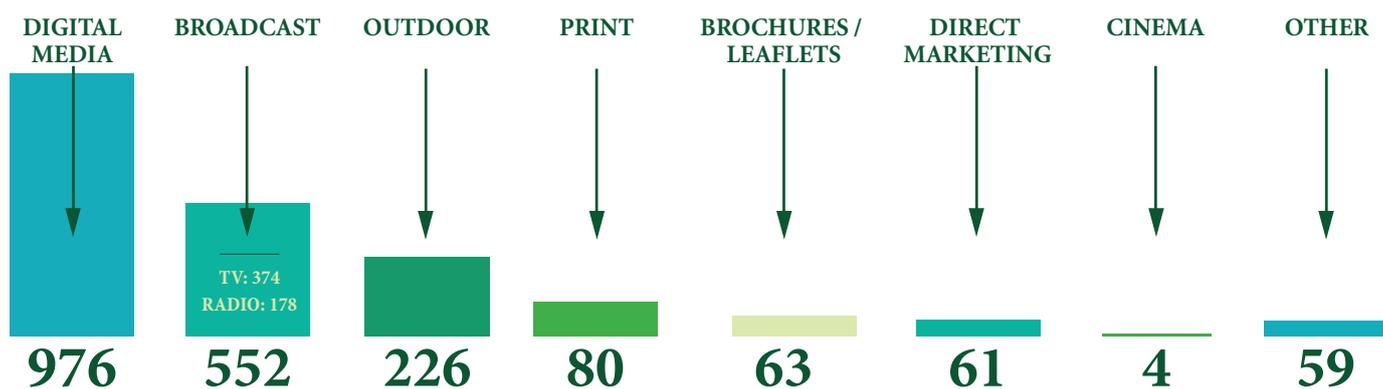
**65%** made on the basis that an advertisement was **MISLEADING**

**7%** made on the basis that an advertisement was **OFFENSIVE**

**TOP 5 AREAS** of advertising which raised concerns for the public



**COMPLAINTS BY MEDIA**



SECTION 6  
STRUCTURE  
OF THE ASAI

## 6.1 | The Structure of the ASAI



The work of the ASAI is centred on the ASAI Code.

There are four constituent parts; the **Board of Directors**, the independent **Complaints Committee**, the independent **Review Panel** and the **Executive**. Each has clearly defined responsibilities and duties.

The **Board**, as well as being responsible for the governance and finances of the Authority, own the Code of Standards on behalf of the industry and are responsible for ensuring that it is up-to-date and relevant. They do not have any role, however, in deciding on whether a breach of the Code has occurred. That is the role of the independent **Complaints Committee** who assess compliance with the Code and adjudicate on complaints submitted to it by the Executive of the ASAI.

Details of Board Members 2019 are given on page 32.

The **Complaints Committee** comprises a blend of persons with and without a background in the industry. The structure of the Committee ensures that the majority of members are not employed in, nor have a background in, the advertising industry. These non-industry members have an interest and expertise in relevant areas such as consumer protection, child and adolescent welfare, the sciences, and community issues. The Committee at present

comprises an independent Chairperson and 13 members. The composition of the Complaints Committee and the participation of the independent members ensures the objectivity of the complaint investigation procedure and provides assurance that the system is operated with special regard to the interests of consumers. The members of the Complaints Committee, each acting in an individual capacity, consider each case on its merits taking account of the characteristics of the likely audience, the media by means of which the marketing communication is communicated, the location and context of the marketing communication, the nature of the advertised product, and the nature, content and form of any associated material made available or action recommended to consumers.

The current Complaints Committee includes academics, social workers, public servants and representatives from the advertising industry. The majority of Committee members are independent of the advertising industry. The Committee is chaired by Professor Bairbre Redmond, Provost of Universitas 21.

The adjudications are enforced through the co-operation of the media members of the ASAI whom we regard as the 'gatekeepers' for the Code. Media members should not carry advertisements that are in breach of the ASAI Code. Details of the adjudications are regularly carried in the media and

on our website ([www.asai.ie](http://www.asai.ie)).

The **Review Panel** can, on request by one of the parties to a complaint, review a decision of the Complaints Committee where they consider whether the application for review meets specific criteria (further information is available on page 39)

The **Executive** and the staff of the ASAI service the Board, the Complaints Committee and the Review panel. They are responsible for implementing the Board strategy, defining

and shaping Policy within the remit and spirit of the Code and managing operations. Operations includes the vital role of assessing complaints to determine whether a case for investigation exists and, where it does, seek comments from the advertisers and, where appropriate, bring cases to the Complaints Committee for formal adjudication.

The Executive also provides copy advice on proposed advertising and carries out the ASAI's monitoring programme to ensure compliance with the Code.

## 6.2 | ASAI Board Members 2019

ADVERTISER MEMBERS	AGENCY MEMBERS	MEDIA MEMBERS
Eoin Doyle Director of Marketing, Glanbia	Ken Kerr Account Director, BBDO Dublin <i>Resigned September 2019</i>	Colin Leahy Managing Director, Exterior Media
Barry Dooley Chief Executive, AAI	Kyla O'Kelly Director, Javelin Advertising <i>Joined December 2019</i>	Ann Marie Lenihan Chief Executive, Newsbrands Ireland <i>Joined April 2019</i>
Aidan Power Director of Customer, Brand & Marketing, KBC Bank	Kate O'Leary Managing Partner, Mindshare Ireland	Siobhan Lennon Chief Executive Sunday Business Post <i>Resigned April 2019</i>
Elizabeth Sheehan Innovation Director, Lucozade Ribena Suntory	Charley Stoney Chief Executive, IAPI	Suzanne McElligott Chief Executive IAB Ireland
	Dave Winterlich Chief Strategy Officer Dentsu Aegis	Johnny O'Hanlon Director Local Ireland
		Antony Whittall Commercial Head - TV Operations RTE
		Scott Williams Group Content Director Wireless Group

## SECTION 7

# COMPLAINTS COMMITTEE

## 7.1 | Chairperson's Statement



Bairbre Redmond, Chairperson, Complaints Committee

I have great pleasure in presenting my report as the independent Chairperson of the Complaints Committee.

The Committee formally considered 248 advertisements during 2019. In addition, a number of complaints dealt with by the Executive were reviewed by the Committee.

The actual number of advertisements assessed by the ASAI in 2019 was 1,385.

The number of advertisements submitted to the Committee in 2019 for adjudication was higher than that in the previous year. However, each case is assessed on its own merits, and the number of advertisements sent to the Committee by the Executive is determined by the requirement for adjudication rather than achieving a particular target.

This year, we welcomed an additional member to the Complaints Committee, adding to the strength and breadth of experience that members individually and collectively bring. Once again, these attributes have contributed to the

hallmarks of the consistent sound decision making of the Committee over the year.

I want to pay particular thanks to the members of the Complaints Committee who not only carry out their work in a considered and objective manner, but also for bringing a range of important professional skills to the adjudication process. The majority of the Committee is comprised of non-industry members and, as Chair, I am fortunate to be able to draw on expertise in areas such as child and adolescent health and mental health, microbiology, consumer affairs, and national and international policy making. These skills are complemented by the considerable experience provided by the industry members. The Committee members all give their time voluntarily in order to uphold high standards in Irish advertising.

2020 also marks my final complete year of being associated with the Complaints Committee. I have highly valued my association with the ASAI and found the engagement and work very fulfilling over the years. I will miss this interaction greatly and wish my successor every success in this important role that, in particular, seeks to protect the interests of consumers.

Finally, as always, I would also like to thank the Executive and the Board of the ASAI for their work and support in the last year.

### **Bairbre Redmond**

Chairperson, Complaints Committee

## 7.2 | The Role of the Complaints Committee

The role of the independent Complaints Committee is:

- (a) To consider and adjudicate on complaints submitted by the public, by a member of the ASAI, by a government department or by any other person, or body of persons, in the light of the ASAI Code.
- (b) To initiate corrective action where necessary and to issue appropriate directives.
- (c) To notify the Board of the ASAI when the corrective action or directive is not complied with or is ignored.

The Complaints Committee may vary in size from 11 to 15 members, including the independent Chairperson. It comprises people with a background in advertising and others with no connection with the industry. The composition of the Complaints Committee is designed to ensure the objectivity of the complaints investigation procedure and to provide assurances

that the system is operated with special regard for the interests of consumers. The members of the Committee act in an individual capacity and consider each case put before them on its particular merits in the light of the requirements of the ASAI Code.

Members of the Complaints Committee are set out on page 37.

While the Executive of the ASAI may resolve cases informally when the circumstances do not justify or require referral to the Complaints Committee, the Committee retains the right to review any of these cases and to request that they be put before them for adjudication.

The Complaints Committee met formally six times during 2019. The Committee's adjudications are published regularly in the media and are posted on the ASAI website.



ASAI Complaints Committee and Executive members

### 7.3 | Analysis of Adjudications by the Complaints Committee

Of the 123 advertisements considered by the Committee, complaints in relation to 105 were upheld and 18 were

found not to be in breach of the provisions of the Code. As in previous years, the principal reason advertisements were found to be in breach of the Code was because they were considered to be misleading.

#### RESOLUTION OF COMPLAINTS BY COMPLAINTS COMMITTEE

	<b>2019</b>		<b>2018</b>		<b>2017</b>	
	<i>Complaints</i>	<i>Advertisements</i>	<i>Complaints</i>	<i>Advertisements</i>	<i>Complaints</i>	<i>Advertisements</i>
Submitted to the Committee	248	123	343	83	190	86
Upheld / In Breach	204	105	312	72	138	75
Not Upheld / Not in Breach	44	18	31	11	50	9
Statement	0	0	0	0	2	2

#### INVESTIGATED ADVERTISEMENTS – OUTCOME BY SECTOR

SECTOR	Investigated	In Breach	Not In Breach
Health & Beauty	28	28	0
Leisure	17	16	1
Food & Beverages	14	7	7
Household	11	9	2
Motoring	10	8	2
Miscellaneous	9	9	0
Clothing / Footwear	8	8	0
Telecommunications	7	5	2
Travel/Holidays	4	4	0
Education	3	3	0
Financial	3	2	1
Publishing	3	1	2
Alcohol	2	1	1
Property	2	2	0
Business	1	1	0
Non-Commercial	1	1	0
	<b>123</b>	<b>105</b>	<b>18</b>

## 7.4 | Members of the ASAI Complaints Committee 2019

**Chairperson:** Prof. Bairbre Redmond

### Non-industry members

**Ms. Lisa Garavin** – Social Worker

**Mr. Les Kennedy** – Retired Civil Servant

**Mr. Michael O’Keeffe** – Chief Executive, Broadcasting Authority of Ireland

**Mr. Tom Morgan** – Senior Investigator, Office of the Ombudsman

**Ms Clare Mulcahy** – Senior Consumer Protection Manager, Competition and Consumer Protection Commission / Joined June 2019

**Prof. Dermot Walls** – Assoc. Prof. DCU

### Industry members

**Ms. Lisa Buckley** – Communications & Marketing Manager, Newsbrands Ireland

**Mr. Declan Fahy** – Head of Digital Sales, Independent News & Media

**Mr. Finbarr Hayes** – Account Director, Javelin Group

**Ms. Denise Manning** – Adclearance RTE

**Ms. Edel McCabe** – Director, Publicis Dublin

**Ms. Kate Scott** – Group Marketing Manager, Monaghan Mushrooms

SECTION 8  
REVIEW  
PANEL

## REVIEW PANEL

The ASAI Review Panel comprises a Chairman and two ordinary members. The Chairman of the panel is independent of the advertising industry and the ASAI. One ordinary member has a background in the advertising industry and the second ordinary member has a consumer background.

Parties to a complaint may seek a review of a decision of the Complaints Committee. The Review Panel will consider whether the application for review meets specific criteria one of the following three grounds:

- New, fresh or additional relevant evidence has become available, which could have a significant bearing on the Decision concerned (in such cases, an explanation as to why such evidence was not previously available and/or provided, will

be required).

- The Decision concerned was clearly and manifestly in error having regard to the provisions of the Code, was wholly irrational, or clearly made against the weight of the evidence before the Complaints Committee at the time of the making of the Decision.
- There was a substantial flaw in the process by which the Decision was reached.

The Review Panel can refer the case back to the Complaints Committee for reconsideration by the Committee. The Committee have the final decision as to whether an advertisement is in breach of the Code or not.

The grounds on which a review can be requested and the procedures involved are fully set out in Appendix IV of the Code.

In 2019, there was two requests for review in one case, (compared to one request received in 2018). The Review Panel assessed the requests for Review but did not consider that they had met any of the three grounds set out in the Code.

### 8.1 | Review Panel Members 2019

Mr. Pat Whelan,  
**Chairman**

Ms. Mary McLoughlin,  
**Ordinary Member –  
consumer background**

Mr. Terry Leonard,  
**Ordinary Member –  
advertising industry  
background**

# Advertising Standards Authority for Ireland

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