



Advertising Standards Authority for Ireland

ANNUAL REPORT

— 42nd Annual Report 2022



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SECTION ONE

Chair's Statement

CHAIR'S STATEMENT



Miriam Hughes, Chair

It has been an honour to join as chair of the ASAI to work with the Board, the Chief Executive and her team, particularly as the organisation embarks on the implementation of a new and ambitious strategy that seeks a range of undertakings, but specifically undertakes to strengthen the role of the ASAI as a regulator and co-regulator with Government.

Ensuring strong relationships with key state stakeholders has always been of importance for the ASAI, but given the increasing complexities of the advertising, marketing and legislative eco-system, the new strategy has identified the importance of significantly increasing this focus. As regulation develops, ASAI is strongly placed to provide both independent self-regulatory and co-regulatory solutions to the challenges posed by these increasingly complex landscapes.

We remain the custodian and mediator of all advertising complaints in the communications industry, are very committed to ensuring strong compliance in this area, but we want to ensure that a proactive culture of building trust in all communications is a key cornerstone of our activity.

Our recent sentiment survey demonstrated that trust in advertising has remained low for consumers in Ireland, similar to the situation globally. This is a concern for our board, for consumers and Government alike, as well as for the advertising industry. We have committed to renewed strategic focus, in fostering trust in advertising by deploying additional resources to proactively monitoring, regulating and enforcing high standards across all communications sectors .

In 2022 we have been working alongside the Broadcasting Authority of Ireland (BAI) to explore co-sharing the new onerous advertising related obligations arising for Ireland following the transposition of the AudioVisual Media Services Directive.

Joining forces with the European Advertising Standards Alliance (EASA), of which the ASAI is a co-founder, ASAI successfully partnered with them on providing the BAI with a solution to a critical citizens' complaints mechanism for advertising content on video sharing platforms. This places the ASAI at the centre of an evolving area to protect citizens rights at a pan-European level. Importantly, and reflective of the solid working relationship, I am pleased to report that these tri-partite discussions have resulted in an agreed Statement of Common Intent between the BAI and EASA, with an intent to continue exploring and building on the work to date.

Building on its productive work with the BAI, the ASAI Executive are proactively engaging with the newly formed media commission, An Coimisiún na Meán, the statutory body with responsibility for online safety and media regulation. Allied to the organisational strategy, the ASAI Executive will capitalise on the opportunity to provide and extend ASAI services to key stakeholders involved, including at Government Department and State Agency level as well as social media platforms headquartered in Ireland. We intend to ensure Ireland has a world-class capability in protecting the integrity of all communications across all platforms and ensuring all content is decent, honest and true.

The Competition and Consumer Protection Commission (CCPC) is another highly significant stakeholder of ASAI. Their partnership on joint guidance for influencer marketing is another welcome development this year. This work underpins the strong value of a co-regulatory partnership to address and safeguard against consumer concerns and potential exploitation from non-compliant advertising.

To continue to provide a strong regulatory framework for advertising in the Irish market, full financial recognition and support for the ASAI is required from all players in the advertising ecosystem. ASAI charges advertisers a modest 0.2% levy on their advertising media spend in order to regulate at European and international standards. As part of the new Strategy, ASAI will be developing a plan to identify and address gaps in funding streams so as to ensure that ASAI has the capacity to continue to deliver regulation in the interest of all concerned.

The ASAI as an organisation has been well served over many years by voluntary Board members contributing to shaping the growth of the organisation and benefitting from their industry insights. As part of the new strategic direction, a review of Board governance as a whole has been taking place to reflect best practice and a move towards right-sizing the Board to also encourage input from non-industry sources and expertise in the future. The Board are fully supportive of this programme of work will continue into 2023.

We have strong ambitions and are fully committed to reshaping this complex and evolving ecosystem. We continue to work with our membership, other regulatory bodies and government to ascertain how the overall regulatory framework should evolve.

Finally, I wish to thank Orla Twomey, Chief Executive, Michael Lee, Deputy Chief Executive, and the whole ASAI team for their continuing dedication and execution of business imperatives that underpin the high standards of advertising self-regulation in Ireland and which help to secure ASAI's valuable place in society.

MIRIAM HUGHES

Chair, Advertising Standards Authority for Ireland.

SECTION TWO

Highlights Summary

HIGHLIGHTS SUMMARY

New Chair of ASAI Board

The Board appointed Miriam Hughes as Chair of the ASAI. Miriam brings extensive experience to the ASAI, with over 30 years working in the marketing and communications industry, which will be of immense benefit to the ASAI as it continues to successfully navigate the complexities of the advertising eco-system and extending our reach with diverse stakeholders.

New ASAI Strategic Direction

The ASAI adopted an ambitious and all-encompassing organisational strategy with a redefined purpose of 'Fostering Trust in Advertising for All'. The strategy encompasses a vision and direction of travel to enhance and extend existing corporate relations and partnership in liaison with Government Departments and State Agencies.

Statement of Common Intent with BAI and EASA

The ASAI engaged with the Broadcasting Authority of Ireland (BAI) and the European Advertising Standards Alliance (EASA) on exploring how EASA's advertising self-regulatory members could support at national level the regulatory aims of the AVMSD, culminating in a Statement of Common Intent representing a realistic pathway for continuing, developing and harnessing the shared understandings between the BAI and EASA.

Influencer Marketing

The ASAI carried out new research in November 2022 as part of the ASAI's ongoing commitment to understand consumer issues and concerns regarding influencer marketing. The research reveals that there is a severe lack of trust between influencers and consumers, which, while some might find surprising, echoes a Social Media Influencer Report released by the Competition and Consumer Protection Commission (CCPC) in December 2022.

The ASAI is working with the CCPC on updated guidance to ensure there is increased clarity in relation to responsibilities and requirements from influencers when advertising on social media.

Joint Oireachtas Committee on Environment and Climate Action

The ASAI attended a meeting of the Joint Oireachtas Committee on Environment and Climate Action to discuss the role of media and communications in actioning climate change specifically in relation to advertising. ASAI communicated its view that such is the scale of sustainability challenges multiple stakeholders across borders are needed to work together. In pursuing this agenda, ASAI and EASA members are continuing the conversation to further identify appropriate needs and actions.

2.1 - Complaints Resolution

In 2022, the ASAI received 1,187 written complaints concerning 897 advertisements. This represents a decrease of 18% when compared to the number of complaints received in 2021. The number of individual advertisements that attracted complaints decreased by 64 compared to the same figure for 2021 (897 compared to 961).

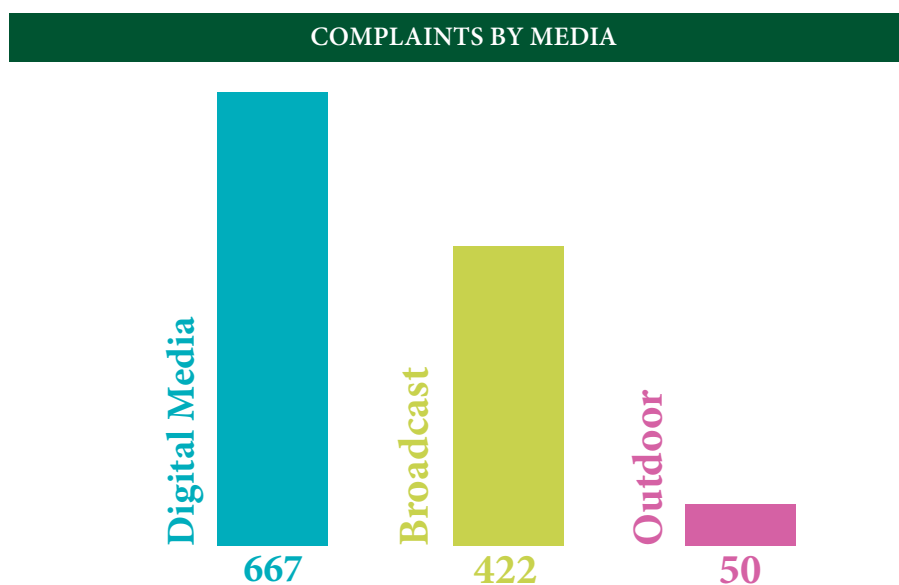
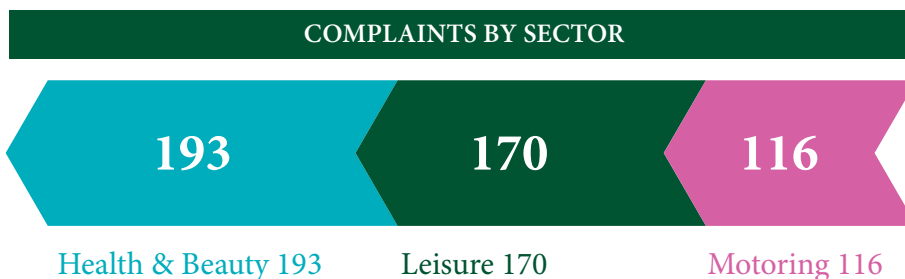
At 897, the number of advertisements that received complaints is a very small proportion of the thousands of advertisements that were published during the year in all Irish media – TV, radio, online, social, newspapers, magazines, outdoor, brochures, leaflets and cinema.

2.2 | Grounds of Complaint



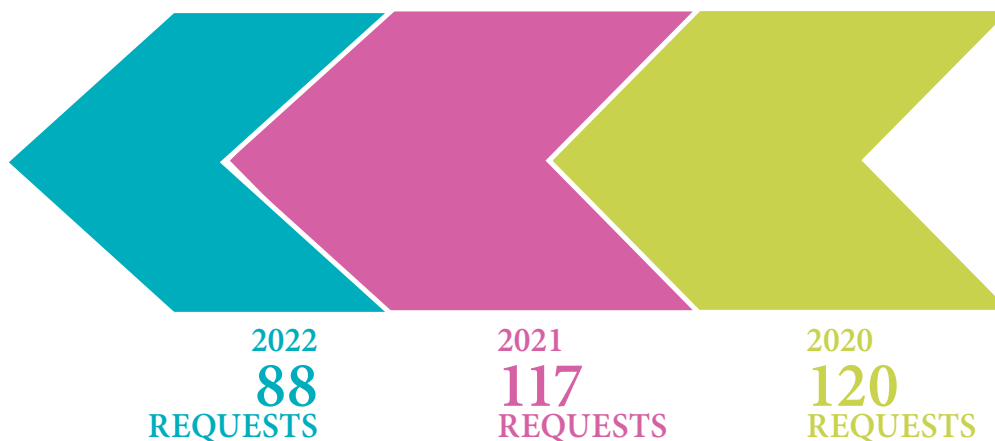
Misleading Advertising	72%	■
General Rules	12%	■
Offence	8%	■
Other	8%	■

2.3 | Top Three Complaints



2.4 | Copy Advice

During 2022, 88 copy advice requests were submitted to the Executive. The ASAI continues 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, was introduced for this service.



SECTION THREE

Overview of the ASAI

AN OVERVIEW OF THE ASAI

This is the 42nd Annual Report of the Advertising Standards Authority for Ireland (ASAI), for the year 2022.

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 the 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) which have always been in scope, over the years editions of the Code have been extended to include email marketing, and 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, 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 ASAI 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. 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. This dedicated service is provided at copyadvice@asai.ie.

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.

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.

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, www.asai.ie

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 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 representative bodies, Government Departments and State Agencies, in the conduct of our regulatory tasks. These agencies include the Broadcasting Authority of Ireland (BAI) (now part of Coimisiún na Meán), 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 ASAI periodically contributes to developing and reviewing specific advertising standards in various sectors.

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 or for those with 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.

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.

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.

As noted in the Overview, ASAI is supported by all major media owners, including broadcast, outdoor, digital and the print media in Ireland. The media plays a pivotal role in contributing to upholding the highest standards in advertising. A principle of the ASAI's function is to have advertising removed or amended which may be in breach of the Code. An integral part of the successful implementation of this framework lies in the media agreeing to decline publication of advertising which has been found in breach of the Code by the ASAI's independent Complaints Committee.

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 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 engages with 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.

2022 MEDIA COVERAGE

Throughout 2022, the ASAI received 78 pieces of coverage ranging across diverse areas within the ASAI's remit. As the reach of online news outlets continues to grow, we focused on the digital space with the majority (61 pieces) of coverage online, followed by national print media (15) and broadcast (2).

SOCIAL MEDIA – A YEAR IN REVIEW

In 2022, we continued to grow the ASAI's social media presence through posting regularly on LinkedIn and Twitter along with paid posts. These digital platforms were leveraged as key information tools for connecting with stakeholders and communicating core messages. Our social media presence also provided an open forum opportunity for the public to engage easily with the ASAI in addition to traditional means such as email.

We continued implementing social strategies including **paid social media campaigns** and using more **authoritative and proactive language** to establish the ASAI's role across the Irish landscape. This resulted in a year of significant growth for the ASAI's social profiles. For example, followers on Twitter increased by **159%** compared to 2021, with **406** new followers in 2022. Overall, brand awareness improved and engagement was strong with **691,500 total 'impressions'** in 2022, a **174%** increase on **'impressions'** achieved in 2021.

The same strategy was implemented across our LinkedIn profile, where there was a substantial growth in engagement and brand awareness, with a total of **630 followers** on LinkedIn as of December 2022. LinkedIn offered the ASAI an opportunity to reach and communicate with a wider audience and similar organisations such as EASA and IAA, which we leveraged thoroughly in 2022.



Time spent focusing on our digital communications approach to reach and engage with the ASAI's target audience proved successful in 2022. The ASAI will continue to develop and expand its social media presence going forward.

TWITTER - 2021 VS 2022

	2021	2022
Total Impressions	252,223	691,500
Total Profile Visits	30,699	38,836
Followers Gained	157	406
Total Likes	789	743
Number Of Followers	1,441	1,856

SECTION FOUR

Stakeholder Engagement

STAKEHOLDER ENGAGEMENTS

The Code has been developed primarily in the interests of consumers and society as a whole. As a consequence, 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. ASAI's engagements are broad ranging, taking account of the gamut of sectors specifically covered by the Code. ASAI regularly engages with Government Department and State agencies, such as the Competition and Consumer Protection Commission. ASAI and the CCPC will be further deepening their engagement through more regular structured meetings to discuss areas of common interest and to share learnings.

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.

ASAI periodically conducts surveys to evaluate the awareness of the organisation nationwide. This year, over a half (55%) of those surveyed advised that they were aware that there is an independent organisation that is responsible for overseeing advertising standards in Ireland. This is a welcome increase on the 2020 awareness level (43%) and likely due to the continuing profile that ASAI has in the media generally, both offline and online. Of those in 2022 that are aware that there is an independent organisation that oversees advertising standards, just over one-third stated that they were aware of the name of the organisation. Out of this cohort, nine in every ten were able to name the ASAI. Awareness of ASAI and some core service offerings is of significant importance to ASAI.

The ASAI plans to build further on the momentum gained which will form part of the new organisational strategy.

4.3 | ASAI’S ENGAGEMENT HIGHLIGHTS IN 2022

ASAI Organisational Strategy

A considerable investment was made by the Board, Executive Management Team and the ASAI operational team during the year into designing, developing and commencing the implementation of an ambitious and all-encompassing

organisational strategy. Redefining the organisation's purpose to foster trust in advertising has been central to driving the future direction of its value proposition.

Taking full account of the fast-paced and evolving advertising ecosystem, the strategy encompasses a vision and direction of travel to enhance and extend existing corporate relations and partnerships in liaison with Government Departments and State agencies. Extending the depth and reach of advocacy engagements and partnerships forms a core element of the ASAI strategy, in the interests of stakeholders and society alike. Internal developments are also planned to consider internal infrastructure in order to further build and support the anticipated capacity demands of the organisation into the future.

ASAI appoint new Chair

The Board appointed Miriam Hughes as Chair with her role taking effect from September 2022. Bringing extensive experience to ASAI, with over 30 years working in the marketing and communications industry, including ten years as Group CEO of a leading advertising agency, Miriam is currently Chairperson and Non-Executive Director of Bus Éireann and Pluto as well as a Non-Executive Director of Córas Iompair Éireann and eir. Her appointment was made as ASAI continues to successfully navigate the complexities of the advertising eco-system and extending our reach with diverse stakeholders.

Board Governance Review

Allied to the organisational strategy, a review was initiated to evaluate current and best practice governance at Board level. With contributions from external expertise, the Board agreed a pathway for a future direction which incorporates consideration of the size, membership, including the inclusion of independent directors, and working committees of the Board. Implementation of the changes will extend into 2023 to incorporate a comprehensive review of the Memorandum and Articles of Association.

Brand Refresh

An end-to-end programme has been proposed to review the ASAI brand and collateral. Dovetailing the organisation's redefined purpose, a revised brand vision will be developed and core values will be revisited to reflect external needs and demands. The programme of work is intended to introduce a new look and feel to the ASAI brand together with revising the ASAI website navigation and content. This work will extend well into 2023.

Online Safety and Media Regulation Act 2022

The Online Safety and Media Regulation Act, which had been some time in development, was enacted on 28 December 2022. The enactment provides for forming a new media commission into which the current Broadcasting Authority of Ireland (BAI) will be effectively subsumed.

The ASAI has a long history of positive working relations with the BAI. The enactment also presents a very significant range of opportunities and challenges for stakeholders impacted by the legislation.

The Act transposes the Audiovisual Media Services Directive (Directive (EU) 2018/1808), revised in 2018, which encourages Member States to recognise the role of effective self-regulation, as a complementary policy instrument to the legislative, judicial and administrative mechanisms in place. The Member States also recognise its useful contribution to the achievement of the objectives of Directive 2010/13/EU. Importantly for ASAI, and its role in self-regulation, Article 4a(1) establishes that:

"Member States shall encourage the use of co-regulation and the fostering of self-regulation through codes of conduct adopted at national level in the fields coordinated by this Directive to the extent permitted by their legal systems".

Furthermore, the Directive gives a set of criteria for such self- and co-regulatory regimes and codes, including:

- broad acceptance of the codes by the main stakeholders in the Member States concerned;
- clearly and unambiguously set out objectives of the codes;
- regular, transparent and independent monitoring and evaluation of the achievement of the objectives of the codes; and
- effective enforcement including effective and proportionate sanctions.

In terms of the regulatory remit, one of the novelties introduced by the AVMSD revision is the extension of the Directive to video sharing platforms (VSPs). Article 28b of the revised Directive refers to co-regulation and out-of-court redress mechanisms in relation to VSP-related requirements for audiovisual commercial communications and disputes. It calls for Member States to "encourage the use of coregulation" as provided for in Article 4a(1), as well as to ensure the availability of out-of-court redress mechanisms *"for the settlement of disputes between users and video-sharing platform providers"* which should *"ensure that out-of-court redress mechanisms are available for the settlement of disputes between users and video-sharing platform providers"*.

The application of the EU Country of Origin principle to VSPs means that, for the purposes of the AVMSD, the jurisdiction of the main platforms such as Google's YouTube, Meta's various audiovisual services, and others, is Ireland, regardless of where the VSPs' services are being accessed. In the context of commercial communications specifically, the Irish media regulator will, in its implementation of the AVMSD, therefore have to address a potential influx of queries and complaints from other European Countries where consumers will raise concerns about commercial communications on such Irish-based VSP providers.

Furthermore, the regulator will also have the responsibility to understand and evaluate the overall compliance issues in relation to commercial communications appearing on the VSPs, subject to the provisions of the Directive as given effect by the Online Safety and Media Regulation Act 2022. The same jurisdiction principle applies to every designated media regulatory authority based in the EU Member State where the VSP is based.

The Country of Origin principle brings natural challenges to a ‘single regulator’, being the new Media Commission, Coimisiún na Meán. One of such apparent challenges is the array of 24 national languages that a single regulator would need to take into account while building internal capacities to address and handle incoming consumer queries and complaints from the EU citizens regarding the advertising appearing on such VSPs. Accordingly, in recognition of these challenges, ASAI and the European Advertising Standards Alliance (EASA), which assists in co-ordinating advertising self regulatory authorities (SROs) throughout Europe, engaged with the BAI during the year to explore the issues.

ASAI, alongside 27 contemporaries in Europe, administer and enforce advertising codes of conduct adopted, in accordance with the principles enshrined in the AVMSD, ensuring responsible advertising through effective and comprehensive self- and co-regulatory systems at the national level. This includes effective and independent out-of-court dispute resolution mechanisms for the settlement of disputes between consumers and companies based on complaints received regarding all forms of marketing communications and all media and platforms, including digital, such as commercial communications on VSPs. SROs are coordinated at the European level by EASA.

Similar to ASAI, SROs also provide a wide range of services, educating and supporting stakeholders of the advertising ecosystem, helping them comply with existing advertising codes (e.g., providing advertising copy advice, training programmes for creatives and advertisers).

In anticipation of the 2022 Act, ASAI has been a key player with EASA in progressing and agreeing on potential solutions to related challenges that the new Media Commission will face. As the parties concerned have expressed a shared interest in meeting challenges over complaints management for VSPs, they entered into a Statement of Common Intent at the end of the year. The Statement of Common Intent represents a realistic pathway for continuing, developing and harnessing the shared understandings between the BAI and EASA on the issues at hand as the BAI becomes effectively subsumed into the new media commission in early 2023.

Digital Services Act

The Digital Services Act (DSA), originating from the EU Commission, seeks to complement the e-commerce Directive and update the legislative framework governing digital services and impact certain advertising elements.

The Digital Services Act, together with the Digital Markets Act, aim to create a safer digital space where the fundamental rights of users are protected and to

establish a level playing field for businesses.

The protection of consumers, the fundamental rights online, transparency requirements and the accountability framework for online platforms are all features among others, that fall within the scope of the Act. Specifically relevant to advertising, the DSA addresses the following issues:

- Codes of conduct and codes of conduct on online advertising
- Definition of “advertisement” and online advertising transparency
- Scope of the Article 34 on Standards
- Internal complaint settling and out of court dispute settlement

The DSA came into force on 16 November 2022. It will be directly applicable across the EU and has a number of key milestone dates applicable to various stakeholders up to 2024. Each member state is required to designate a competent authority as their Digital Services Coordinator (DSC). Comisiún na Meán (Media Commission) is the appointed authority for Ireland.

ASAI, in conjunction with EASA, will take account of further developments as they emerge, particularly in relation to any impact on ASAI Codes or practices.

Mobile Phone and Broadband Taskforce

The Mobile Phone and Broadband Taskforce (‘the Taskforce’) was established in 2016 to identify immediate solutions to broadband/mobile phone coverage deficits and to investigate how better services could be provided to consumers prior to full build and rollout of the network planned under the National Broadband Plan State intervention (NBP).

ASAI was invited to participate and contribute outputs for the Taskforce as part of its programme of work 2017 to 2019. Membership is drawn from central and local government departments and agencies and includes the Department of Housing, Local Government and Heritage; the Department of Transport, Tourism and Sport; the Local Government Management Agency; the OPW; the City and County Management Association and of course the Department of Rural and Community Development and the Department of the Environment, Climate and Communications.

The work of the Taskforce is supported by ComReg, acting as an independent advisor to the Taskforce. The Taskforce also has ongoing engagement with the telecommunications industry and through the involvement of IBEC.

In late 2021, the Minister of Justice, Social Protection, Community and Rural Development and the Islands Heather Humphreys, TD, and Minister of State Ossian Smyth, TD, reconvened the Mobile Phone and Broadband Taskforce.

The full Mobile Phone and Broadband Taskforce met in April and November 2022. Attendees included the State stakeholders, including ComReg and the ASAI, and Industry, and the meeting was co-chaired by Minister for Rural and Community Development, Heather Humphreys, TD and Minister of State Ossian Smyth, TD. The purpose of the meeting was to finalise the new work programme for the first of three years of the re-constituted Taskforce, to confirm

each of the stakeholders' agreement to leading on the implementation of actions assigned to them and supporting on other actions as required.

The ASAI undertook to conduct a data analysis exercise over the following year to examine the main areas of telecommunications advertising that generate consumer complaints, and provide guidance and / or directions to the sector to address any failings. Liaison with the Taskforce on the work programme will continue into 2023.

Food Code - rules relating to advertising of High Fat, Salt and Sugar

The full application of the ASAI complaints system for Food Code rules relating to advertising for High Fat, Salt and Sugar (HSS) products became effective from 1 May 2022. The rules had been launched in June 2021, to come into effect from 1 December 2021. A six month period followed when complaints would be dealt with informally.

The new rules apply to children under the age of 15 with restrictions applying to the percentage by media of HFSS marketing communications that can be carried by each media format. They also apply to sponsorship activities, the use of licensed characters in promotional activity and locations primarily used by children.

No complaints have been dealt with in 2022 under the new rules, indicative of a level of compliance with the new rules.

Given the nature of programmatic advertising, publishers do not receive information on the product category when the advertising is served programmatically. With the Code rules inclusion of a threshold for High Fat, Salt and Sugar (HFSS) advertising of no more than 25% of digital inventory for HFSS products, ASAI formed a working group with IAB Ireland members from publishers, adtech and agencies to consider the effective implementation of the digital threshold.

Recognising the importance of assisting the global advertising industry to identify HFSS programmatic advertising in seeking to comply with HFSS regulations, IAB Tech Lab supported the addition of the HFSS product category. Work on the initiative for full implementation will continue in 2023.

Best-ReMaP presentation 16 March 2022

Best-ReMaP is a Europe-wide Joint Action (2020-2023) that seeks to contribute to an improved quality of food supplied to citizens of Europe by facilitating the exchange and testing of good practices concerning:

1. the monitoring and analysis of how the food that people consume changes at the European and national level
2. the regulations on the marketing of food and beverages to children and
3. the procurement of food by public bodies for educational institutions, social care facilities, etc.

One of four project teams has been considering food marketing with a project that sets out plans to take forward further marketing and advertising restrictions across the EU, especially in the digital world, to help achieve a reduction in childhood obesity.

In March 2022, Best-ReMaP facilitated a workshop to assist EU Member States with an evidence-informed code of practice to integrate into their national policies to reduce the exposure of unhealthy food marketing in children up to 18 years of age. In light of the ASAI Food Code rules on High Fat, Salt and Sugar (HFSS) and the successful implementation of its rules, ASAI were invited, alongside the Broadcasting Authority of Ireland and the Food Safety Authority of Ireland, to present and share its insights by providing an overview of the Irish context in which statutory regulations and supporting voluntary codes of practice were developed.

ASAI potential use of online tools for compliance monitoring

ASAI has periodically undertaken various compliance monitoring projects, both offline and online. Such is the scale of digital advertising, that monitoring by fully manual interventions alone prevents monitoring at scale. With the development of artificial intelligence and machine learning, ASAI has been giving consideration to the potential use of such tools as a medium to long term part-solution to managing scale. Embarking on a potentially new permanent solution would be a significant investment for ASAI. Partnering with EASA and some member SROs to consider the possibilities has been undertaken, with the potential for outsourcing to a dedicated software partner being considered in more detail and what it may have to offer on a long term basis. Further exploratory work will continue into 2023.

State examination of media and communications in actioning climate change

The Joint Committee on Environment and Climate Action invited ASAI to a meeting of the Committee in December 2022 to discuss the role of media and communications in actioning climate change specifically in relation to advertising.

ASAI informed the Joint Committee that, with the imminent transposition of the Audiovisual and Media Services Directive, the new Media Commission will have EU-wide responsibility in the new area of video-sharing platform services regulation. In this context, ASAI advised that it had been in liaison, together with the European Advertising Standards Alliance (EASA), with the Broadcasting Authority of Ireland (BAI) over the potential use of the EASA existing cross-border complaints mechanism as a tool to assist the new Media Commission. In this regard, the mechanism could be leveraged to manage future advertising complaints, including those emerging in the sustainability space.

ASAI also informed the Joint Committee of ASAI compliance monitoring to evaluate Code compliance of marketing communications. To manage scale

for online advertising, the ASAI has been working with European partners on exploring the potential of artificial intelligence and machine learning capabilities as tools to capture both compliant and non-compliant advertising. These tools could assist ASAI in assessing compliance of marketing communications, including those concerning sustainability.

The Joint Committee were informed that such is the scale of sustainability that ASAI holds the view that multiple stakeholders across borders are needed to work harmoniously in an inclusive and collaborative way of bringing forward this agenda for the benefit of all stakeholders. As an ongoing agenda, with EASA and its members, having a significant role in the development of best practice for advertising self-regulation, EASA members are continuing the conversation to further identify appropriate needs and actions.

Influencer Marketing Survey

ASAI carried out new research in November 2022 that revealed that a lack of authenticity, edited photos, too many paid ads and influencers misrepresenting real life were the top traits that cause annoyance amongst Irish consumers.

The survey was conducted as part of the ASAI's ongoing commitment to understand consumer issues and concerns regarding influencer marketing, so the organisation can continue to proactively provide guidance in this area and increase the monitoring of those who consistently breach the advertising Code. The survey results were based on the views of 1,000 participants across a broad demographic, interviewed online and representative of the adult population.

Almost 60% of Irish consumers (56%) trust brand advertisements more than social posts by influencers. As was the case in 2021 according to the ASAI's first Influencer Marketing Survey, over half (51%) of people in Ireland say they are concerned by the lack of transparency in influencer marketing.

The survey revealed that nearly 7 in 10 (67%) were familiar with the practice of influencer marketing, with awareness being highest (75%) amongst those age 35 and under. A majority (71%) believe that when an influencer posts an ad, they are being paid by the brand to post positive content, which is slightly down from 80% in 2020. While the research found that 84% of consumers use social media apps frequently and almost 40% of those use it for tips or inspiration, consumer confidence in what they're seeing online is still extremely low, with just one in 10 consumers having trust in influencers' posts, while over 62% believe that influencers post too much sponsored content. Echoing similar results to the recent Social Media Influencer Report released by the Competition and Consumer Protection Commission (CCPC) in December 2022, this research reveals that there is a severe lack of trust between influencers and consumers.

While the majority of people might find these results surprising, the ASAI has found that some of the statistics in fact correspond with what the organisation has discovered already as part of their ongoing work in the area of Influencer Marketing. For example, the ASAI has strict guidelines around the disclosure of influencer content, having introduced revised guidance on the 'Recognisability of Marketing Communications' in 2021. This guidance note covered commercial

content created on behalf of brands as well as commercial content created by influencers for their own products and services. However, the results of this research indicate that there is a need for additional guidance for both consumers and influencers, particularly around labelling, correct ways to disclose and to re-enforce the importance of influencers adhering to the Advertising Code.

The ASAI is working with the CCPC on updated guidance to ensure there is increased clarity in relation to responsibilities and requirements from influencers when advertising on social media.

Meta Content Creators

Meta invited ASAI to contribute to an informative seminar and panel discussion at Meta's Irish HQ alongside other industry experts and creatives about the importance of transparency, trust and integrity when it comes to brand collaborations on social media, as well as understanding how to maintain authenticity while building an own personal brand.

Insights for attendees from the panel discussion included the importance of clear communication, staying true to yourself as an influencer/content creator and the value of looking at content through an audience/readership lens and perspective to ensure disclosure of advertising content is clear to the consumer.

ASAI hosted international event

ASAI welcomed international delegates from the global SRO community including the European Advertising Standards Alliance (EASA) and the International Council for Ad Self-Regulation (ICAS), for a three-day event during May 2022 to discuss relevant global issues including responsible advertising online, environmental and sustainability claims and other regulatory developments within the international advertising industry, and to mark the 30th Anniversary of the EASA.

With over 70 guests in attendance across the three days of activities, key guests and speakers included:

- Orla Twomey, CEO of the Advertising Standards Authority for Ireland (ASAI) and SR Vice-Chair of the European Advertising Standards Alliance (EASA)
- Michael Lee, Deputy CEO of the Advertising Standards Authority for Ireland (ASAI)
- Suzanne McElligott, Interim Chair of the Advertising Standards Authority for Ireland (ASAI)
- Charo Fernando Magarzo, Deputy Director General of the Spanish Advertising SRO and Chair of the European Advertising Standards Alliance (EASA)

- Guy Parker, CEO of the Advertising Standards Authority (ASA UK) and President of the International Council for Advertising Self-Regulation (ICAS)
- Sibylle Stanciu Loeckx, Director at International Council for Advertising Self-Regulation (ICAS)

Key topics discussed and highlighted across the event series included

- Ensuring Responsible Advertising Online (and the continuing role of advertising self-regulation in ensuring a high level of consumer protection by enforcing or complementing EU regulations) and
- Environmental & Sustainability Claims in Marketing: Policy And Sr Rules (including a global overview of green claims and advertising law as well as the challenges and common issues SROs face globally in relation to best ways to inform marketers and consumers on what is a complex area of advertising.).

With presentations and discussions including representatives of the EU Commission, national regulators, advertising self-regulatory standards bodies, digital pure play companies and European and international trade organisations, including the World Federation of Advertisers.

The event presented an opportunity to connect, educate and learn from fellow SROs in person, including members of the European Advertising Standards Alliance (EASA) and the International Council for Ad Self-Regulation (ICAS). It was highly beneficial to contribute to the conversation about relevant global issues and listen to a range of perspectives on the future of self-regulation across the international advertising industry.

4.4 | EUROPEAN AND INTERNATIONAL 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, 3 industry associations and 1 digital pure play company 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, being 337 (2020), 200 (2021) and 133 (2022) 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 2022, ASAI's Chief Executive continued in her role as the self-regulation organisation (SRO) Vice-Chair of the EASA. She is carrying out her role as SRO Vice Chair in conjunction with her existing role at the ASAI. In this role, the ASAI's CEO is working with her fellow Officers in promoting and supporting advertising self-regulation in Europe, with a focus on advertising technological and digital developments, particularly in the areas of minors' protection, sustainability, diversity and inclusion, transparency and privacy.

In May 2022, ASAI welcomed EASA and ICAS members to Dublin for a variety of meetings and workshops, including their Annual General Meetings.



Orla Twomey, Chief Executive ASAI and Vice Chair EASA, Charo Fernando Magarzo, Deputy Director General, Autocontrol and Chair of EASA, Guy Parker, Chief Executive ASA UK and President of ICAS, and Sibylle Stanciu-Loeckx, Director of ICAS



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 33 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 administering the European Self-Regulatory Programme on Data-Driven Advertising. EDAA delivers meaningful self-regulatory solutions towards enhancing consumer trust in data-driven advertising, with over 120 participating companies. This includes

the use of an interactive icon (referred to as the ‘AdChoices Icon’) by businesses involved in data-driven advertising across Europe. Through use of the Icon, consumers can obtain more information on why any particularly online ad was delivered to them. The www.youronlinechoices.eu website is an informative resource for consumers available in 33 markets and 27 languages, as well as hosting a Consumer Choice Platform, visited millions of times annually. 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 better manage their online advertising experience.

In the first half of 2022, EDAA carried out a new, innovative consumer research project in collaboration with the people participation agency, Clever Together, investigating how consumers feel about online data-driven advertising, including their own ideas, needs and expectations from the industry. The results were published in June 2022, outlining consumers’ concerns, levels of trust, the utility that they find in data-driven advertising and how they would like it to be in order to better serve them. The research – called [Your Online Voices: Your Voice, Your Choice](#) – took the form of a deliberative conversation between consumers for the very first time, involving over 1100 people, contributing from five European markets (the UK, France, Germany, Belgium and Latvia), and generating over 25,000 data points.

The educational resource that has been created by EDAA in partnership with Media Smart UK, has been rolled out in several other European markets in 2022. The resource includes a short video, games, quizzes, a presentation for teachers and guidance notes to be used in classrooms and is geared towards children between 11-16 years old. The materials have been greatly appreciated in the UK, where the number of downloads has reached over 1000 (primarily teachers, with each download estimated to reach between 60 and 120 students). In Ireland, the different materials have been downloaded over 1100 times, and they can be found on the platform [Webwise](#). Most recently, the materials have also been translated and introduced in Hungary. A new initiative coordinated by MediaSmart UK, with OMG UK and Careers Hub has been launched in the UK, using one part of the EDAA educational resource – amongst a broad spread of advertising related educational materials – as a basis to encourage young people

to pursue creative careers and improve their advertising literacy. The project has been piloted in 2022 across ten schools in London.

On November 15, 2022, the EDAA Summit 2022 was held in London with over 110 in-person attendees. The event featured 27 speakers who gathered to discuss various important topics in digital advertising under the banner "*From choices to voices: Transparency in action*". The discussions covered a wide range of issues including regulatory and self-regulatory developments in Europe and beyond, new consumer research, data ethics, and updates on the EDAA programme. The event was once again a great success and served as a significant occasion for representatives across the entire digital advertising sector to come together and collaborate towards a brighter future.

From a regulatory standpoint, new requirements across Europe and beyond continue to drive greater transparency towards internet users over the ads they see online. The Digital Services Act is a crucial addition in this regard, and Article 26 of the DSA specifically details online advertising transparency provisions, requiring more detailed and clear disclosures. Building on the core pillars of its work, EDAA shall be leveraging its toolkit, and in particular the AdChoices Icon, to provide business and consumers with a meaningful and harmonised solution to these evolving expectations.

Another challenge to the industry is represented by the new requirements that will soon be implemented in relation to transparency of political ads. 2023 will be a year of change in this regard, and for this reason EDAA will closely monitor the developments of the new regulation, currently being negotiated in trilogues, and having several key aspects in common with the DSA.

Find more information regarding EDAA's activities in 2022 on edaa.eu.

SECTION FIVE

Code Implementation

5.1 | 2022 COMPLAINTS UNDER THE CODE

In 2022, the ASAI received 1,187 written complaints concerning 897 advertisements. This represents a decrease of 18% when compared to the number of complaints received in 2021. The number of individual advertisements that attracted complaints decreased by 6.7% compared to the same figure for 2021 (897 compared to 961).

At 897, 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, social, newspapers, magazines, outdoor, brochures, leaflets and cinema.

	2022		2021		2020	
	Complaints	Ads	Complaints	Ads	Complaints	Ads
Carried forward from previous period	554	416	523	385	489	419
Received during period	1,187	897	1,453	961	1,648	1,071
Resolved in Period	1,216	886	1,422	930	1,614	1,105
Brought forward to next period	525	427	554	416	523	385

*Complaints closed in the previous period can be reopened if additional information comes to hand that requires additional assessment.

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

	2022		2021		2020	
	Complaints	Advertisements	Complaints	Advertisements	Complaints	Advertisements
Additional information requested but not provided						
	133	128	126	122	251	236
Out of Remit						
Media/matter out of remit	119	95	185	92	148	117
Cross-border complaint	31	31	66	51	35	34
	150	126	251	143	183	151
Preliminary Assessment of Advertisement						
Complaint withdrawn	13	13	14	14	14	14
More appropriate for another Body	13	12	16	16	9	7
No basis under Code	187	167	357	275	444	365
No evidence of offence	86	41	64	45	46	36
Previously adjudicated	30	17	77	18	108	22
	329	250	528	368	621	444
Investigation by Secretariat						
Formal - Referred to Complaints Committee	173	74	162	81	191	75
Informal - Resolution by Secretariat	431	360	355	291	368	302
	604	434	517	372	559	377
TOTAL	1,216	938	1,422	1,005	1,614	1,208

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, a complaint submitted to the Complaints Committee was not upheld, while another complaint about the same advertisement was 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 2022, as in previous years, the main area of complaint related to advertising being misleading: 72% 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 12% of complaints with those relating to offence at 8%.

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.

Misleading Advertising 72% **General 12%**
Other 8% **Offence 8%**



Complaints by Sector

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

Sector	2022	2021	2020
HEALTH & BEAUTY	193	123	308
LEISURE	170	151	142
MOTORING	116	62	83
TELECOMMUNICATIONS	109	112	201
HOUSEHOLD	90	145	110
TRAVEL / HOLIDAYS	70	207	131
FINANCIAL	61	67	49
FOOD & BEVERAGES	60	90	105
CLOTHING / FOOTWEAR	49	78	76
NON-COMMERCIAL*	49	101	63
PROPERTY	29	21	30
BUSINESS	28	23	23
ALCOHOL	23	28	41
PUBLISHING	23	19	24
COMPUTERS	13	17	13
EMPLOYMENT/ BUSINESS OPPORTUNITIES	12	4	13
AGRICULTURE	7	6	4
EDUCATION	7	12	7
TV/AUDIO/VIDEO	3	8	4
MISCELLANEOUS	104	148	187
	1,216	1,422	1,614

*'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 2022:

- 21 complaints were carried forward
- 30 complaints were received
- 37 complaints were resolved and
- 14 complaints were brought forward to 2023

The Complaints Committee formally adjudicated upon 6 complaints relating to 6 different advertisements, 5 of which were found to have breached the Code rules.

Complaints by Media

<u>Media</u>	<u>2022</u>	<u>2021</u>	<u>2020</u>
Digital Media	667	696	871
Broadcast	422	603	631
Outdoor	50	67	36
Print	53	44	34
Brochures/Leaflets	36	36	38
Direct Marketing	17	27	23
Cinema	4	1	4
Other	44	30	44
	1293	1504	1681
Broadcast	422	603	631
Radio	140	136	113
Television	282	467	518

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. ASAI captures all the media they mention.

In 2022, 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 52% in 2022.

Media Top 4



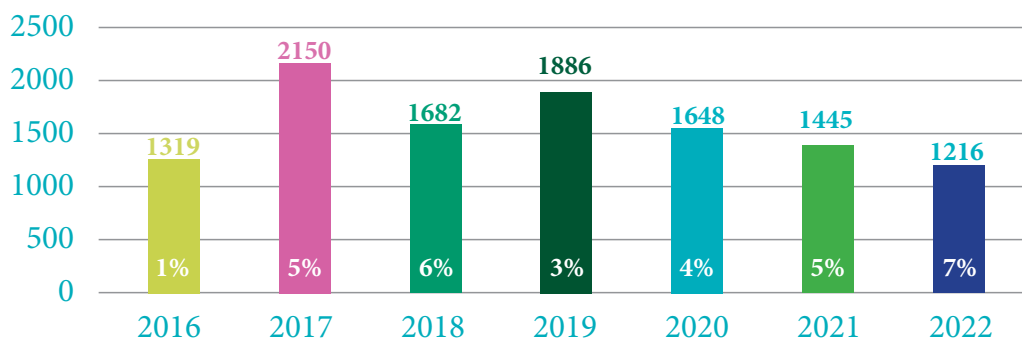
Digital Media 52% **Broadcast 33%**
Outdoor 4% **Print 4%**



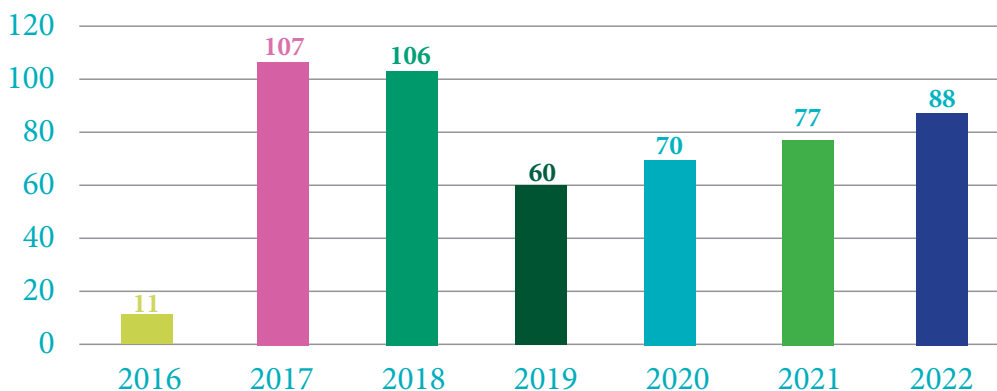
Influencer Marketing

Included in Digital media are complaints about influencer marketing. As noted earlier in this report, the ASAI has been engaging with those involved in influencer marketing (influencers, advertisers, advertising agencies, influencer agencies and influencer management companies) to ensure the highest possible standards of advertising in Ireland, regardless of the medium involved. The following charts show the number of complaints received about influencer marketing since 2016 and what percentage they are of the total number of complaints received in each year. While growing from a very low base (it was actually zero in 2015), the number of complaints received are low when compared to the total number of complaints received each year.

Total Complaints and Percentage of Influencer Marketing Complaints

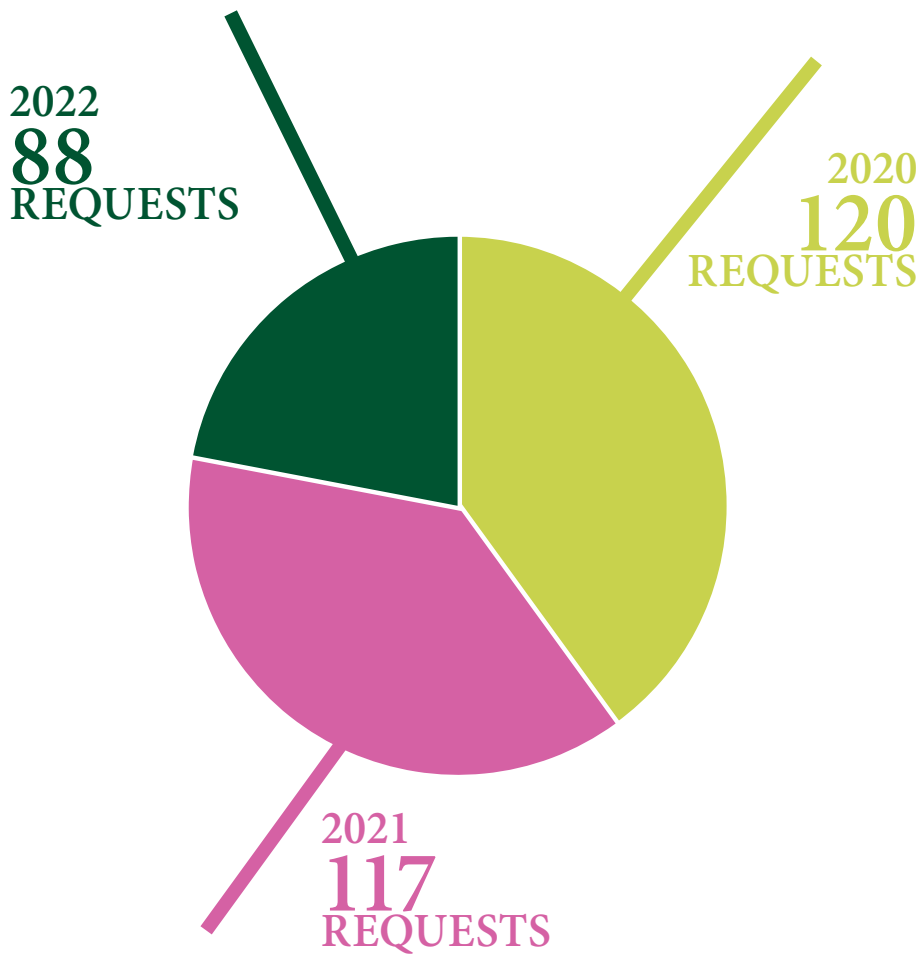


COMPLAINTS ABOUT INFLUENCER MARKETING



Copy Advice

During 2022, 88 copy advice requests were submitted to the Executive. 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. There is a dedicated email address, copyadvice@asai.ie, for this service.





1,216
FORMAL COMPLAINTS
RESOLVED
IN 2022

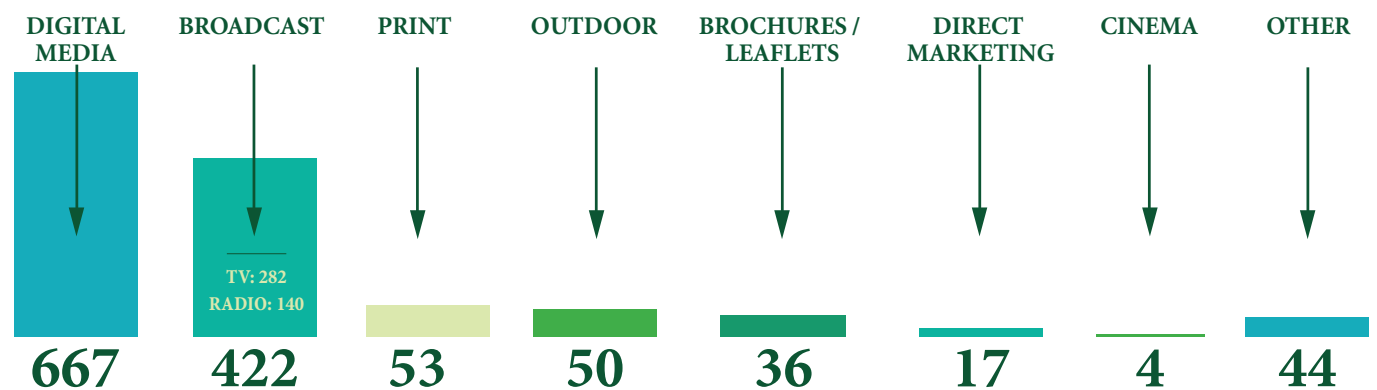
59
ADVERTISEMENTS
FOUND TO BE
IN BREACH
OF THE ASAI CODE



TOP 5 SECTORS of advertising which raised concerns for the public



COMPLAINTS BY MEDIA



SECTION SIX

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 ASAI, own the Code of Standards on behalf of the industry; they 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.

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 twelve 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 Mr Brian O’Gorman, Partner, Arthur Cox LLP.

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).

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.

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 include 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 2022

Chair: Miriam Hughes (from September 2022)

Interim Chair:

Suzanne McElligott (from December 2021)

**Advertiser
Members**

BARRY DOOLEY
Chief Executive,
AAI

EWIN DOYLE
Director of Marketing
and Innovation,
Glanbia Consumer
Foods
Resigned April 2022

CONSTANCE BALSAMO
Head of Alcohol Policy
And Public Affairs,
Diageo Ireland

ELIZABETH SHEEHAN
Sustainability &
Marketing Consultant

SINEAD QUISH
Head of Consumer and
Digital Marketing,
daa
Elected April 2022

**Agency
Members**

KYLA O'KELLY
Director,
Javelin Advertising

KATE O'LEARY
Managing Partner,
Mindshare Ireland

CHARLEY STONEY
Chief Executive,
IAPI

DAVE WINTERLICH
Chief Strategy Officer,
Dentsu Aegis

**Media
Members**

COLIN LEAHY
Managing Director,
Global

BOB HUGHES
Executive Director,
Local Ireland

ANN MARIE LENIHAN
Chief Executive,
Newsbrands Ireland

SUZANNE MCELLIGOTT
Chief Executive,
IAB Ireland

ANTONY WHITALL
Commercial Head –
TV Operations,
RTE

SCOTT WILLIAMS
Group Content Director,
Wireless Group
Resigned December 2022

SECTION SEVEN

Complaints Committee

7.1 | CHAIRPERSON'S STATEMENT



Brian O'Gorman, Chairperson, Complaints Committee

I have great pleasure in presenting my second report as the independent Chairperson of the Complaints Committee. 2022 saw a return to more normal ways of working after a number of eventful years. That being said the by now well established remote and paperless ways of working continued to be embraced by both the ASAI Executive and the Complaints Committee members, resulting in no impact on the Committee's ability to continue its work in adjudicating on complaints.

The Committee formally considered 173 complaints in relation to 74 advertisements during 2022. In addition, over 72 complaints dealt with by the Executive were reviewed by the Committee. The actual number of advertisements assessed by the ASAI in 2022 was 938. This represented a small decrease on the number of cases considered in 2021. Each case is assessed on its own merits, and the number of advertisements sent to the Committee by the ASAI Executive is determined by the requirement for adjudication rather than achieving any particular target.

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 bring 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 a diverse and wide-ranging depth of expertise across the Committee. These skills are complemented by the considerable experience provided by the industry members of the Committee. The strength and breadth of experience that members individually and collectively bring has contributed to the hallmarks of the consistent sound decision making of the Committee over the year. The



Committee members all give their time voluntarily in order to uphold high standards in Irish advertising.

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

Brian O'Gorman,

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.

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 2022. The Committee's adjudications are published regularly in the media and are posted on the ASAI website.

7.3 | ANALYSIS OF ADJUDICATIONS BY THE COMPLAINTS COMMITTEE

Of the 74 advertisements considered by the Committee, complaints in relation to 59 were upheld and 13 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. In the case of the two remaining advertisements, the Committee decided that it was more appropriate to make a statement providing advice/guidance or indeed warnings for advertisers in relation to future campaigns.

Resolution of Complaints by Complaints Committee

	<u>2022</u>		<u>2021</u>		<u>2020</u>	
	<i>Complaints</i>	<i>Ads</i>	<i>Complaints</i>	<i>Ads</i>	<i>Complaints</i>	<i>Ads</i>
SUBMITTED TO THE COMMITTEE	173	74	162	81	191	75
Upheld/In Breach	107	59	134	68	173	63
Not Upheld/Not in Breach	64	13	28	13	17	11
Statement	2	2	0	0	1	1

Investigated advertisements and Outcome by Sector

SECTOR	INVESTIGATED	IN BREACH	NOT IN BREACH
HEALTH & BEAUTY	12	11	1
LEISURE	10	6	4
FOOD & BEVERAGES	7	6	1
HOUSEHOLD	6	5	1
TELECOMMUNICATIONS	6	4	2
ALCOHOL	5	4	1
FINANCIAL	4	2	2
MOTORING	4	4	0
BUSINESS	3	3	0
CLOTHING / FOOTWEAR	2	2	0
EDUCATION	2	2	0
PROPERTY	2	1	1
AGRICULTURE	1	1	0
COMPUTERS	1	1	0
EMPLOYMENT / BUSINESS OPPORTUNITIES	1	1	0
PUBLISHING	1	0	1
TRAVEL / HOLIDAYS	1	1	0
MISCELLANEOUS	6	5	1
TOTAL	74	59	15

7.4 | MEMBERS OF THE ASAI COMPLAINTS COMMITTEE 2022

CHAIRPERSON: Mr Brian O’Gorman

Non-Industry Members

CELENE CRAIG

Chief Executive,
Broadcasting Authority
of Ireland*

LISA GARAVIN

Social Worker

LES KENNEDY

Retired Civil Servant

CLARE MULCAHY

Head of Consumer Affairs,
Commission for Aviation Regulation

FERGUS O’TOOLE

Manager – Active Customers and
Smart Metering,
Commission for Regulation of Utilities

DERMOT WALLS

Associate Professor,
DCU

Industry Members

LISA BUCKLEY

Director of Communications and
Programmes,
Newsbrands Ireland

STEPHEN CRAMP

Head of Brand Marketing,
Britvic Ireland
Appointed April 2022

DEREK DOYLE

Executive Production Director,
Boys & Girls

DECLAN FAHY

Sales & Business Manager,
HoloToyz

PAULA KELLY

Director,
Head of Account Management
TBWA/The Disruption Company

DENISE MANNING

Adclearance,
RTE

*Now Coimisiún na Meán. Ms Craig is the Broadcast Commissioner

SECTION EIGHT

Review
Panel

REVIEW PANEL

The ASAI Review Panel comprises of 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 on 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 2022 there was 1 request for a review, which was not accepted.

8.1 | REVIEW PANEL MEMBERS 2022

PAT WHELAN
Chairman

MARY McLOUGHLIN
Ordinary Member
Consumer background

TERRY LEONARD
Ordinary Member
Advertising industry
background

Advertising Standards Authority for Ireland

7 Herbert Street, Dublin 2, D02 K838

Tel: 353-1-6137040

Email: standards@asai.ie

Or visit our website at www.asai.ie