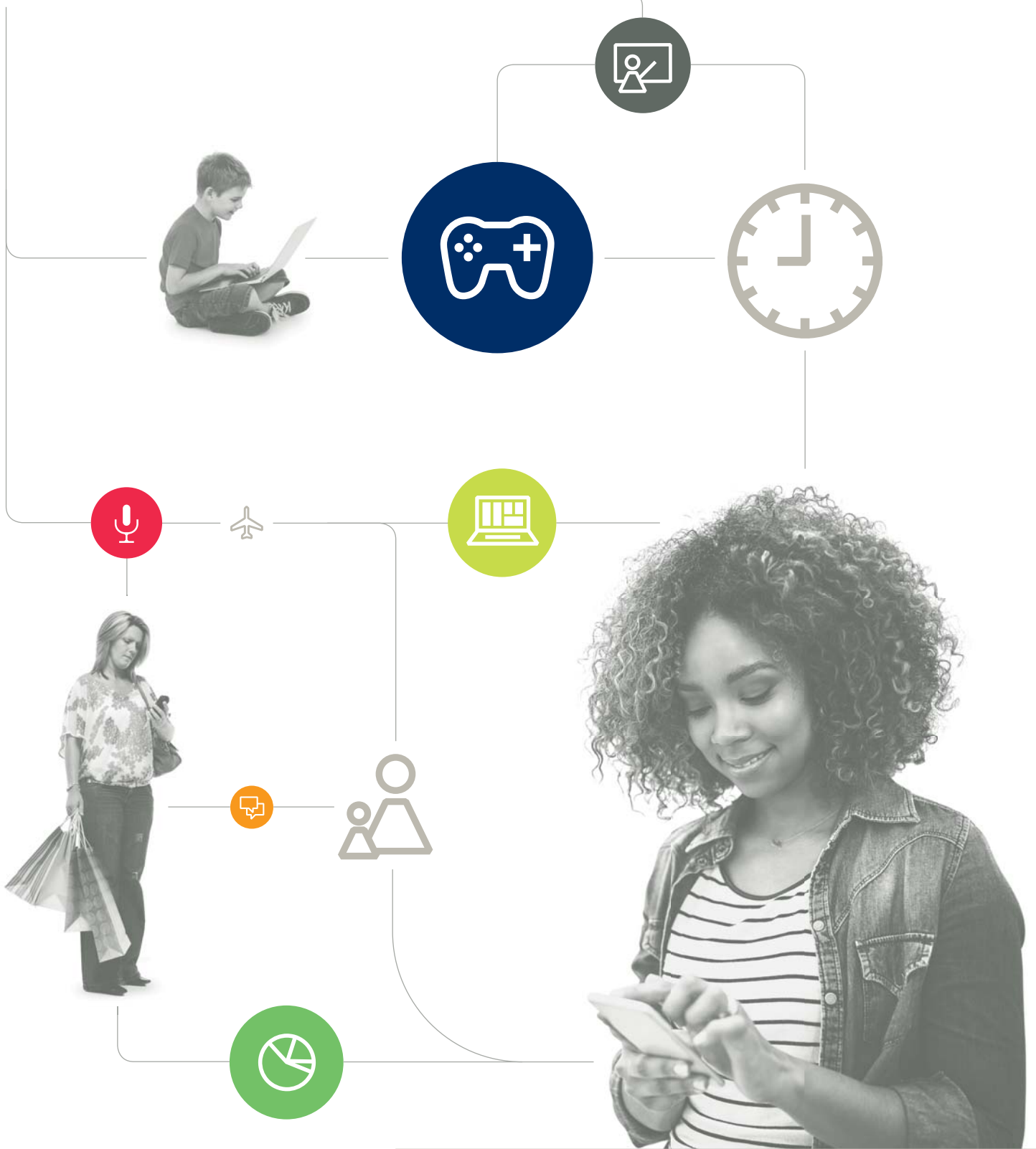


Advertising regulation in a connected world



Introduction

The role of the ASA and CAP is changing to embrace and respond to the increasingly interconnected world in which we live. We now encounter messages from brands and organisations on websites, on social media platforms, in vlogs, blogs, postings and tweets, even in sponsored online articles.

In a world where the lines between offline and online and between paid-for, owned and earned advertising are increasingly blurred, that means making sure ads are obviously identifiable as ads. It means checking they're responsibly targeted. And it means making sure their content is legal, decent, honest and truthful.

In addition to our regular reporting, this year's report highlights the impact of the online world on our regulation and how we've adapted to make ads responsible wherever they appear.

ASA ✓

The Advertising Standards Authority (ASA) is the UK's independent regulator of advertising across all media.

CAP ✓

The Committees of Advertising Practice (CAP) write the Advertising Codes, providing authoritative advice on the rules.

Together, we work to make ads responsible.

We do this by taking action against misleading, harmful or offensive advertising and ensuring compliance across all sectors. We believe responsible ads are good for people, society and advertisers.

Contents

Introduction

Find out more online	1
Chief Executive's statement	2

Chairmen's reports

A word from the ASA Chairman	5
A word from the CAP Chairman	6

Our performance

Our strategy	9
Our performance against our objectives	10

Key projects

12

Complaints and cases in context

18

Governance

ASA Council	22
Independent Reviewer's report	24
Committees of Advertising Practice	25
Advertising Advisory Committee report	26
Our Panels	27
Industry Advisory Panel report	28
Promotional Marketing and Direct Response Panel report	29
Online Publications Media Panel report	29
Financial report	30

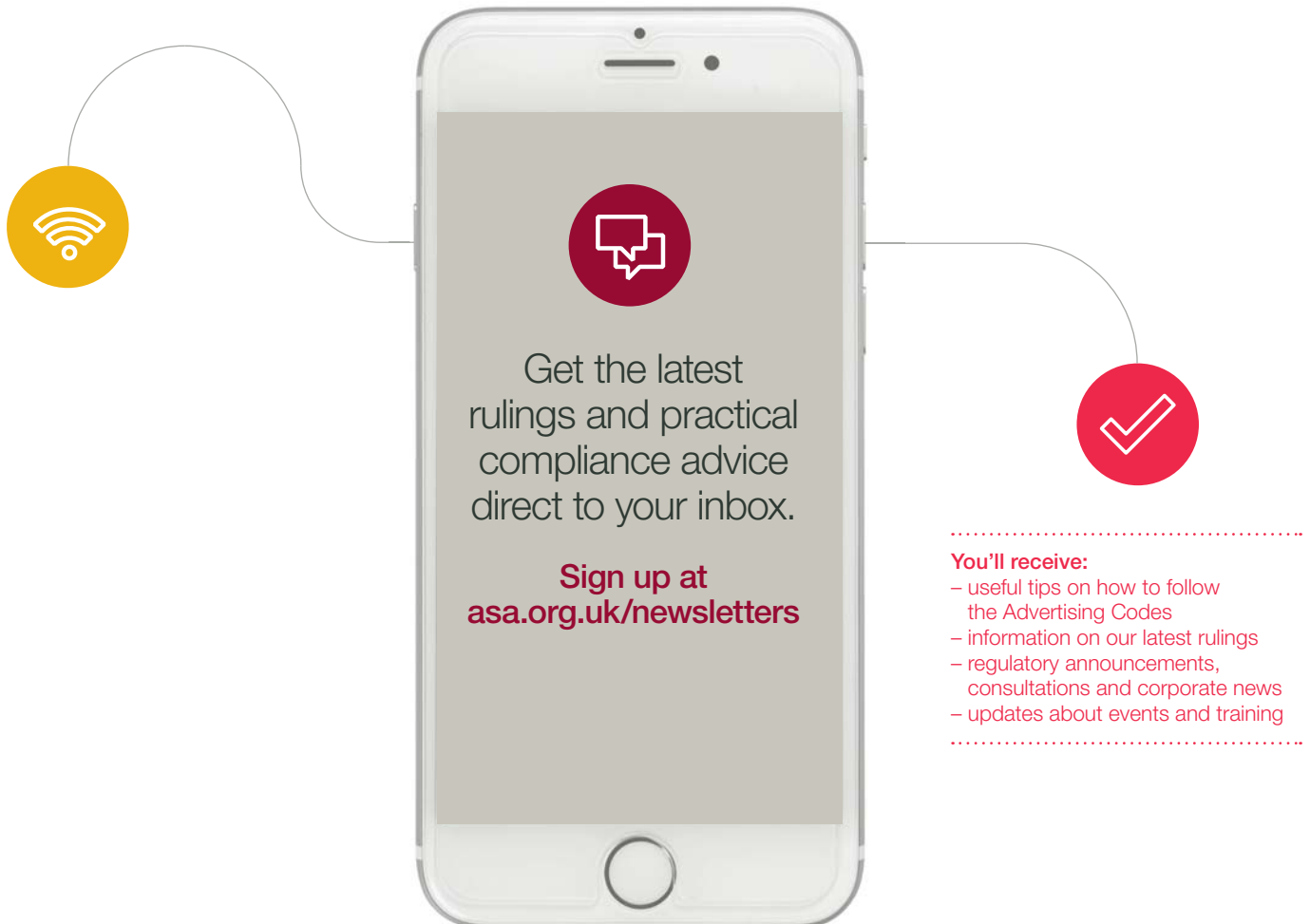
You can read more about us online:

www.asa.org.uk

www.cap.org.uk



Find out more online



Get the latest rulings and practical compliance advice direct to your inbox.

Sign up at
asa.org.uk/newsletters

You'll receive:

- useful tips on how to follow the Advertising Codes
- information on our latest rulings
- regulatory announcements, consultations and corporate news
- updates about events and training

Our online report contains the following additional information:

Advertising Advisory Committee report

The Advertising Advisory Committee (AAC) advises the Broadcast Committee of Advertising Practice (BCAP) on the consumer and citizen issues arising from key aspects of the TV and radio broadcast rules. Stephen Locke, AAC Chair, reports on the Committee's activity for 2016.



Industry Advisory Panel report

The Industry Advisory Panel (IAP) provides industry insight and guidance to CAP on non-broadcast and broadcast matters. Tim Duffy, the IAP Chair, shares some of the areas the panel advised CAP and the ASA on during 2016.



Promotional Marketing and Direct Response Panel report

The Promotional Marketing and Direct Response Panel (PMDRP) advises CAP and the ASA on promotional and direct marketing matters. Catherine Shuttleworth, Chair, highlights some advice they provided during 2016.



Financial report

Find out more about how we are funded and our expenditure.



Chief Executive's statement

Five years of regulating websites and social media advertising

In March 2011, we extended the Advertising Codes to cover a lot more advertising content online.

Before then, when it came to online, the Codes primarily applied to paid-for ads. But the public, politicians and civil society wanted us to cover companies' and other organisations' advertising claims on their own websites and social media spaces. In short, online 'advertiser-owned' advertising.

Together with the industry, we explored the implications of these changes. We questioned how we would define advertising online and how we would separate it from editorial material. (Answer: By determining if the content is directly connected to the supply or transfer of goods and services.)

Our decisions were informed by the attitudes and opinions of real people. People who told us that they were happy to accept more contentious content if they went to a more controversial website, but they expected advertising to be honest and truthful wherever it appeared.



Today, online 'advertiser-owned' advertising makes up nearly half of our regulation. It's one of the key factors driving our strategy to have more impact and be more proactive. There still are plenty of challenges, but that's not bad progress in five years.



Guy Parker
ASA Chief Executive

We developed new sanctions to help us tackle harmful, offensive and misleading advertising content online where there was no traditional media gatekeeper.

When an advertiser doesn't comply, we work with internet search websites to remove their paid-for search ads. We feature non-complying advertisers' names and details on a dedicated section of the ASA website, designed to appear in search engine results. We place our own ASA ads into search engine results to warn consumers and further highlight those advertisers' non-compliance.

Today, online 'advertiser-owned' advertising makes up nearly half of our regulation. It's one of the key factors driving our strategy to have more impact and be more proactive. There still are plenty of challenges, but that's not bad progress in five years.



We've resolved 41,383 online advertiser-owned complaints relating to 36,872 ads



In the last five years 1 in 3 ads resolved was an online advertiser-owned case



Since 2011, 88% of online advertiser-owned cases concerned potentially misleading ads, compared to just 71% of cases overall



Six notable online advertiser-owned cases



March 2011

The **ASA's online remit extension** comes into effect covering 'advertiser-owned' advertising online.



April 2011

First online remit extension ruling is upheld against **The Maperton Trust** for making unsubstantiated claims on their website for their Head Lice Repelling Unicorn Badge.

January 2012

This **Krave cereal adverage** was deemed to be in remit because it was available on Facebook, and it was directly connected to the supply of Krave cereal because of the branding in the game. The ASA did not uphold a complaint that the adverage encouraged unhealthy eating habits in children because Kelloggs had ensured that under-17s could not access the game by activating Facebook's age restrictions.

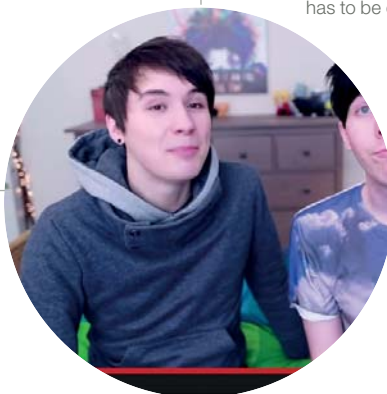


February 2013 & April 2013

The ASA ruled against **Live Blood Test** trading as Errol Denton for making several irresponsible health claims on his website. These rulings resulted in a sector-wide CAP compliance project, where marketers of live blood analysis were sent guidance on the strict rules in place to protect vulnerable consumers from misleading, unsubstantiated and potentially harmful claims.

November 2014

A landmark ruling against a vlog ad for **Oreos** clarified that the advertising nature of an online video has to be clear before you click.



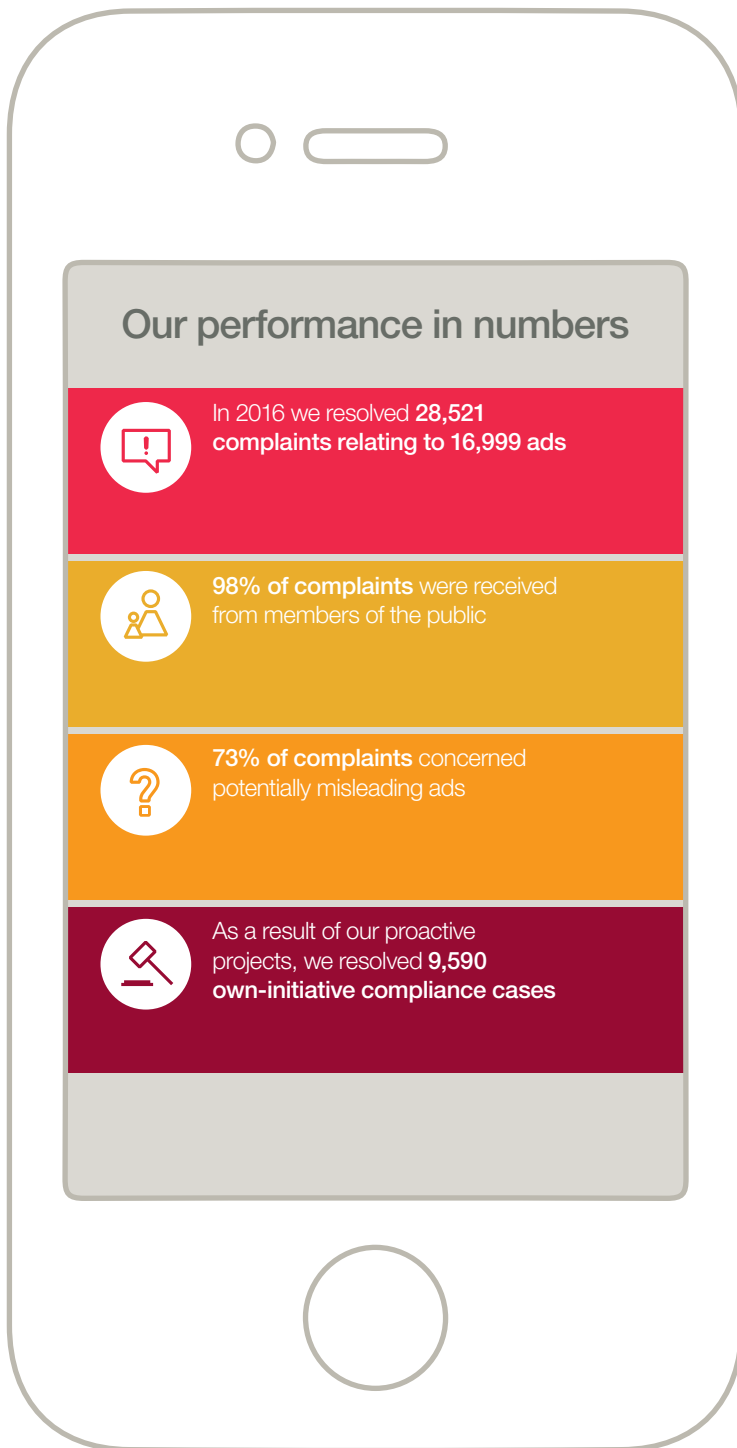
October 2015

The ASA ruled against **Coral, Bet365 and Totesport** on the use of images of under-25s in gambling ads on Twitter, setting an important precedent for the application of the CAP Code to social media.



August 2016

Electronic Healing, an alternative therapy provider, was successfully prosecuted by Trading Standards, following the ASA's referral after the ASA upheld complaints about misleading efficacy claims on their website.



ASA ✓

4,824
ads

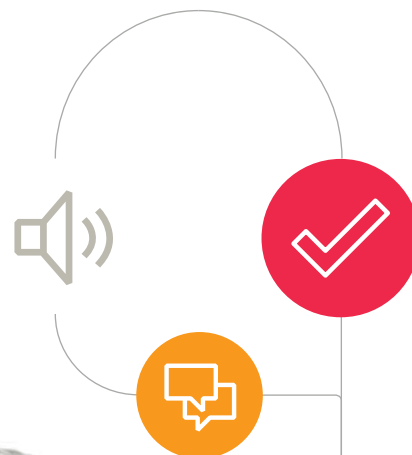
were amended
or withdrawn as a
result of our work.

A word from the ASA Chairman

“

The ASA stands tall as a recognised exemplar of successful self- and co-regulation.

”



At the end of September 2017 I will – with considerable regret – be stepping down as Chairman of the ASA.

It's been a hugely enjoyable ten years. I've seen Council members come and go, and Chris Graham depart as Chief Executive and Guy Parker take up the reins; I've overseen the taking on of a greatly enhanced online remit, with online advertising now around half of all our work; I've argued for (and secured) a major change of emphasis to become more proactive in our work; I've met with government ministers of all parties in successive administrations about what we do; I've lived through issues around gambling, alcohol, children's food, e-cigarettes, broadband, violence, sexual exploitation, alternative medicine, and the suction power of vacuum cleaners; and I've been delighted in recent months to see a real commitment for our enhanced relationship with the Scottish Government and our presence in Scotland.

Through it all, I've been consistently proud of the quality of our staff, the expertise and insight they bring to their work, their assessment of cases, their advice to the industry, and their engagement with the wider world. Without them, nothing would have been possible.

The ASA stands tall as a recognised exemplar of successful self- and co-regulation. That success is largely due to the quality of our team here. It's also partly due to the really valuable role that members of our Council play. Those who sit on Council are drawn from a wide variety of backgrounds and are called on to bring their experience, wisdom and common sense to bear on the issues that face us.

Of course, the ASA's impact is also due to the broad acceptance of our work and our rulings across the entire advertising industry. We won't always satisfy everyone, of course. But, the support advertisers and media demonstrate constantly for

what we do, is the cornerstone of the system. It is that commitment that makes the system work.

I'm delighted to be handing over the Chair to Lord David Currie, who has the most astonishing record of regulatory achievement to his name. As the founding Chair of Ofcom, and more recently of the Competition and Markets Authority, he knows a thing or two about how to keep people "legal, decent, honest and truthful". I have every confidence that under David's leadership the ASA will go on from strength to strength.

Rt Hon Lord Smith of Finsbury
ASA Chairman

A word from the CAP Chairman

“

We seek to balance the protection of vulnerable audiences with the freedom of others to see and hear about things they might like.

”



So, 2016: 'interesting times', as they say. And for CAP, too. A major project on food advertising and children, resulting in significant new non-broadcast rules, plus new policy work on gambling, e-cigarettes and broadband advertising; record numbers for industry advice and training to ensure the overwhelming majority of ads do not break the rules; and continuing impressive levels of compliance with ASA rulings, now actively backed-up by Trading Standards.

The new food rule, precluding products high in fat, sugar or salt (HFSS) from appearing in any media of particular interest to children, was initiated by the industry in the light of the UK's serious obesity problem and changes in young people's media choices. It was a great example of self-regulation in action: diverse business stakeholders – brand, media and platform owners as well as agencies – supporting a public consultation and the resulting constraints in the interest of responsible advertising.

Gambling advertising remains a sensitive area. Our commitment to ensuring that it does not risk causing harm to vulnerable people prompted us to make an open call, assisted by the Gambling Commission in reaching concerned parties, for any evidence of risk factors as yet unidentified in our rules and guidance that might encourage problem gambling. No such factors were identified, but we remain vigilant.

Brexit has obviously raised questions about advertising regulation, but we believe that the robustness of the UK's self-regulatory system means that this is one problem the government does not have. Our Codes and industry's support of them and compliance with them give us confidence that, during the Brexit process and afterwards, it will be business as usual.

Finally, as ever, a big thank you to the expert, energetic and effective team who support the Committees and enable us to play our part in keeping UK advertising as responsible as it is successful.

James Best
CAP Chairman

CAP

In 2016 we provided

281,061
pieces of advice
and training

to industry to help
them get their ads right.

Our performance in numbers



Over **145,000 people** visited CAP AdviceOnline articles for guidance on a range of subjects



40 Insight newsletters shared topical tips on everything from the Queen's 90th birthday to user generated content



More than **1,150 people signed up** to complete an eLearning module to get in-depth training on key sections of the Advertising Codes



Our free Copy Advice service answered **5,397 enquiries**, with 96% of those being answered within 24 hours

Our performance

Strategy & performance

In response to technological changes, we've been taking a more proactive and project-based approach to our work. In this section we report on our progress against our strategy and annual objectives, as well as highlighting some of our key projects of 2016.

Strategy	9
Objectives	10
Key performance indicators	11



Key projects

Making broadband ads clearer	12
Investigating gender stereotyping in ads	13
Food advertising: new protections for children	14
Tackling misleading prices for holiday bookings	15
Helping claims management companies stick to the rules	16
Working together to make osteopathy claims clearer	17

Our strategy

Our purpose is to make advertisements responsible and our ambition is to make every UK ad a responsible ad.

We're passionate about what we do because responsible ads are good for people, society and advertisers.

Proactive

We'll be proactive and work with others. We'll use a wide range of information to identify and tackle problems to make sure ads are responsible, even if we haven't officially received a complaint.

Awareness

We'll increase awareness of the ASA and CAP. We will make sure that the public, civil society and the industry know who we are and what we can do, so they can engage with us when they need to, and have confidence in our work.

Understanding

We'll be an authority on advertising and active on issues that cause societal concern. We'll be open to calls for regulatory change, acting purposefully and in a timely fashion, while being fair and balanced in our assessment of the evidence and arguments.

Support


We'll provide support to industry to help them create responsible ads. We'll increase, improve and better target our advice and training so every business has access to the information and support it needs.

Impact

We'll target our efforts and actions on where they will have the most impact. Focusing on our existing remit, we'll spend less time tackling ads that cause little detriment to consumers or to the vulnerable. But, where a complaint indicates that the rules have been broken, we will always do something.



The five strands of our strategy help to inform our annual objectives.

 Read more about the progress on our objectives on pages 10 and 11.

Our performance against our objectives

Objectives	Key activities					Key performance indicators
<p>Overarching objective We will implement our strategy in pursuit of our ambition to make every UK ad a responsible ad, protect people and help them, society and business to feel more trusting of advertising.</p>	Irresponsible ads tackled and support provided to make ads responsible	Protected the vulnerable through HFSS restrictions, review of payday loan ads and through banning the sexual portrayal of 16-17s	Enforcement successes against persistent offenders: eight websites taken down; one conviction; two arrests pending prosecution			4,824 ads amended or withdrawn ✔
<p>1. Prioritising our activity We will deliver a step change in prioritising our work better, being more research-led and tackling more issues in the round through projects. We will develop new ways of measuring our impact.</p> <p>Delivering our strategy by: ✔ Impact ✔ Proactive</p>	Completed broadband pricing project and commenced projects on gender stereotyping and broadband speeds	Initiated and completed six additional projects; eight others ongoing	Introduced Advice Notices to quickly resolve lower priority cases	Achieved the rebalancing of our work from reactive complaints casework to proactive work: 22% of direct service resource spent on proactive regulatory projects		281,061 pieces of advice and training delivered ✔
<p>2. Increasing advice and training We will review our CAP advice and training services and increase our advice and training Touchpoints to 270,000, in particular by disseminating material through partner bodies' membership networks.</p> <p>Delivering our strategy by: ✔ Support</p>	Delivered a 10% increase in advice and training Touchpoints (281,061 up from 250,342 in 2015)	1,150 bookings for CAP eLearning and three more modules delivered	Launched the 'Support' strand of our strategy, focusing on improving and increasing our advice and training			98% of Formal Investigations cases enforced – against a target of 97% ✔
<p>3. Ensuring joined-up regulation We will continue to increase our understanding of and collaboration with other stakeholders, regulators and enforcement regimes, in order to provide joined-up, consistent and effective regulation. We will commission an independent audit of our performance against our Commitment to Good Regulation and publish and respond to the findings.</p> <p>Delivering our strategy by: ✔ Understanding</p>	Appointed Independent Auditor and supported their study and analysis	Engaged with Primary Authorities, Regulatory Delivery unit within Government, and the British Retail Consortium	Secured membership of the Consumer Protection Partnership			60% complainant satisfaction – against a target of 75%* ✘
<p>4. Increasing public research We will increase our public research and ensure that the ASA takes into greater account the views and interests of those who live in different nations and regions of the UK.</p> <p>Delivering our strategy by: ✔ Understanding</p>	Conducted research into perceptions of the ASA system amongst MSPs	Delivered Research Strategy and conducted major research projects on broadband speed and gender stereotyping, which included fieldwork in Wales, Scotland and Northern Ireland	Held ASA Council in Edinburgh, plus a stakeholder event and Advice:am training seminar	Conducted Scottish engagement programme, reaching 22 industry and civil society partners		77% advertiser satisfaction – against a target of 80% ⚠
<p>5. Increasing awareness We will establish a way of measuring the reputation of the ASA, while increasing exposure of our public ad campaign. We will explore calculating the value of advertising self/co-regulation and communicate findings to key stakeholders.</p> <p>Delivering our strategy by: ✘ Awareness</p>	Created model for monitoring reputation and conducted research into views of public and stakeholders	Secured £6.25m of donated space (ratecard equivalent) for ad campaign, exceeding targets	Generated £18.6m of press coverage; 93% positive	Decided not to undertake value of self-regulation research for feasibility and cost reasons		8 out of 12 case types were closed within target timescales ⚠
<p>6. Enhancing skills and capabilities We will make sure we have the necessary skills and capabilities to deliver our strategy and improve our understanding of emerging technologies.</p> <p>Delivering our strategy by: ✔ Understanding</p>	Delivered 940 training sessions to 116 staff including our internal transform modules	Launched the 'Understanding' strand of our strategy – focusing on emerging technology and engagement with digital sector				Developed new 'direct cost' productivity measures ✔ <ul style="list-style-type: none"> • Cost per No Additional Investigation case £65 (£65 in 2015) • Cost per Informal Investigation case £233 (£236 in 2015) • Cost per Formal Investigation case £645 (£672 in 2015)
<p>7. Investing in technology We will make sure we have the necessary technology to deliver our strategy, developing new websites and a new case/contact management system that work well together.</p> <p>Delivering our strategy by: ✔ Understanding</p>	Designed and began building new joint ASA – CAP website for launch in early 2017	Completed external security review	Developed process improvements and collated detailed business requirements for our case/contact management system			Developed new ways of measuring impact ✔
						Completed two high priority projects – against a target of two to four Completed six standard projects – against a target of six to ten ✔
						Responded to 96% of standard Copy Advice enquiries within 24 hours – against a target of 90% ✔
						92% satisfaction with Copy Advice service – against a target of 90% ✔
						Beat target of 270,000 advice and training Touchpoints ✔
						Improved cost of every piece of advice and training by 8% (from £1.96 in 2015 to £1.80) against a target of 5% ✔
						Conducted two major pieces of research ✔
						Ensured fieldwork took place in devolved nations ✔
						Met target to increase spontaneous awareness, now 25% compared to 17% in 2015 ✔

Key to KPI progress: ✔ On-target ⚠ Requires action ✘ Off-target

* We are taking action to address low complainant satisfaction. The decrease may also partially be attributed to the nature of complaints received about Moneysupermarket and Match.com ads; many complainants held strong views and were dissatisfied that the ASA did not uphold their complaints.



Andrew Bruce Operations Manager – Investigations, ASA

Making broadband ads clearer

2016 saw the culmination of the ASA's work to bring about clearer pricing in broadband advertising. The major change was an end to the practice of separating out the cost of line rental. Consumers now see ads with all-inclusive monthly costs, accompanied with clear information about the contract length and any up-front fees. We're confident that this approach will ensure consumers aren't misled about what they'll pay for broadband.

For most people, price is the most important factor when choosing a broadband product, but it's not the only factor. The speed of home broadband is another important consideration and we're aware of concerns that the current standards allow broadband providers to exaggerate the speed experienced by the majority of people

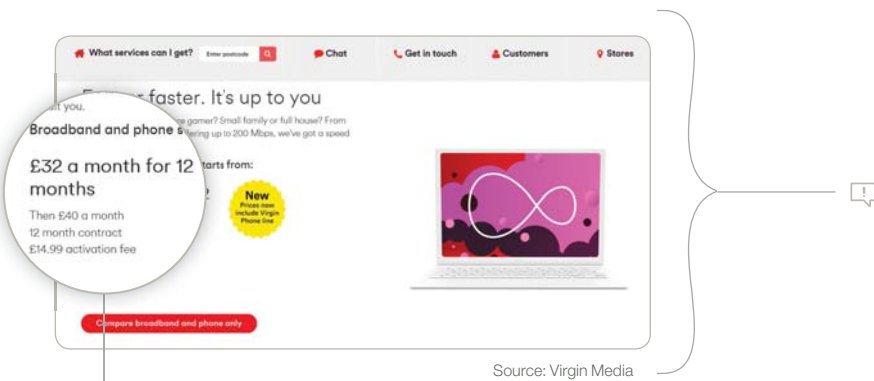
who use their service. Those standards – created by CAP and enforced by the ASA – allow broadband speed claims that are achievable by at least 10% of customers, where they are preceded with the words "up to" and qualified, as appropriate, to help manage consumers' expectations of achievable speeds.

In response to those concerns we commissioned independent research into consumers' understanding of broadband speed claims, the findings of which we published in November. The study found that, while many people are uncertain of the speed they are likely to receive, most believe they are likely to get a speed at or close to the headline speed claim. For many, that's unlikely to be the case.

While our research has helped us determine that the current approach to advertising speeds is likely to mislead the public, it doesn't identify an obvious alternative that would be suitable to everybody's needs. In response, CAP has committed to reviewing the existing standards, taking into consideration our research and other relevant information, to ensure that broadband providers aren't over-promising on their speed claims. That review should be completed in spring 2017 and we'll publish a way forward that ensures that consumers of broadband services are adequately protected.



Consumers now see ads (like the one opposite) with all-inclusive monthly costs, accompanied by clear information about the contract length and any up-front fees.



Ella Smillie Regulatory Policy Executive, CAP



Investigating gender stereotyping in ads

Responding to recent public interest in equality issues, we resolved to re-evaluate our position on gender stereotyping in ads, with a view to ensuring our approach reflects prevailing standards in society. This cross-organisational project was driven by our recognition of increasing interest amongst politicians, commentators and the public in the presentation of gender roles in the media, and the impact this might have on people's empowerment and well-being. To date the ASA Council's approach has evolved from several ground-breaking rulings, particularly concerning ads which depict unhealthy body images. We wanted to be certain we were making the right decisions across all presentations of gender stereotyping in advertising.

To help improve our understanding, we commissioned primary research into public attitudes, collated existing evidence, and brought together a range of expert stakeholders to discuss their views. Particular areas under examination included the following:

- The mocking of women and men in non-stereotypical roles
- The reinforcement of stereotyped views of gender roles and characteristics
- Objectification and sexualisation
- Idealised and unrealistic body images

The enquiry covers adults and children of all ages and backgrounds. Crucially, our original research involved children and young people at various stages of their development.

We're now analysing the evidence to see whether there's a case for changing the advertising rules in these areas, or alternatively reconsidering how the ASA enforces existing rules.

Clearly, advertising is only one part of the picture when it comes to reinforcing stereotypes, but ads exist to influence people and we want to be sure they're not inadvertently causing harm or widespread offence, or promoting social irresponsibility. We'll publish our decisions on whether change is needed in 2017.

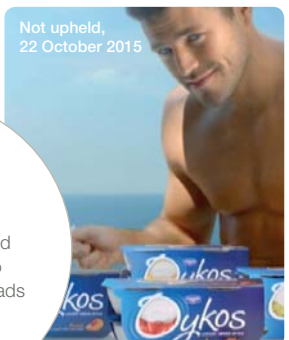


Adult females

In 2016,
1,645 complaints and
416 cases related to the
portrayal of women in ads



Mood boards were used in our research to help participants consider the cumulative effect of the portrayal of men and women in ads over time.



Adult males

In 2016,
1,584 complaints and
219 cases related to
the portrayal of men in ads

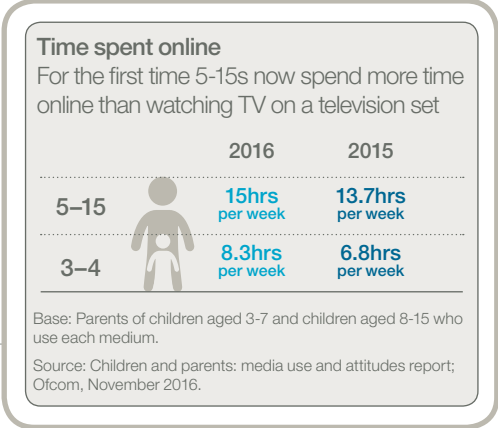


The ads used in the research reflected a range of issues including body image and sexualisation as well as gender roles and characteristics.

Andrew Taylor Regulatory Policy Executive, CAP



Food advertising: new protections for children



A major regulatory change in 2016 was CAP's announcement of new rules that will place, for the first time, dedicated restrictions on the advertising in non-broadcast media of food and soft drink products that are high in fat, salt or sugar (HFSS).

The new restrictions strengthen protections for children, contributing to wider societal efforts to improve their diet and health. While advertising restrictions are not a 'silver bullet', they can make a meaningful contribution to tackling the complex, long-standing problem of poor diet and obesity amongst children.

Research suggests that advertising has a modest effect on children's food preferences. While the evidence stops short of suggesting a direct link between advertising and obesity, research shows that advertising does exert an influence. In view of the links between childhood obesity and ill-health in later life – as well as the huge costs to the economy and society of current obesity levels – CAP concluded that it should act.

In doing so, CAP also recognised that protections needed to reflect changes in media consumption, with children increasingly watching content online.

CAP carried out a UK-wide consultation to ensure the new approach was fully informed by the experience of industry and civil society stakeholders. We liaised with health officials across both Whitehall and the devolved legislatures, as well as with industry partners and media owners.

The result is a considerable change: from July 2017, HFSS ads will no longer be allowed in and around dedicated children's media, including online. To support healthier choices, ads for non-HFSS products will now be allowed to include promotions, licensed characters and celebrities popular with children.

The new restrictions bring the CAP Code into line with the rules that have applied to TV advertising – covered by the BCAP Code – over the past ten years.

As we move towards the new rules coming into force in July 2017, CAP will provide advice and training for the industry on how to ensure the new restrictions are observed.



The new restrictions strengthen protections for children, contributing to wider societal efforts to improve their diet and health.



Anthony McGarry Senior Investigations Executive, ASA



Tackling misleading prices for holiday bookings



Although ASA rulings relate to specific ads, they can assist enforcement work by other regulators, leading to better outcomes for consumers.

An illustration of this effect is the outcome of a complaint we investigated about flight prices displayed on the Opodo website. The prices presented included a pre-applied discount that was only available for customers paying via Entropay, a pre-paid visa card. The homepage carried the claim that this was the 'cheapest payment method'. However, in order to use an Entropay card, a customer would need to register and load funds onto the card itself – incurring an unavoidable fee.

We considered that most consumers would expect the default prices displayed on the website to relate to a debit card payment, rather than prices that would only be attainable using a specific pre-paid card, unless they were clearly told otherwise. Alongside this, the additional fee for loading the Entropay card rendered the company's 'cheapest payment method' claim misleading.

In response, we required Opodo to retract the claim that the Entropay card payment was the cheapest payment method where it did not work out to be so, while also ensuring they reflected the cost of using Entropay in their ads.

The Civil Aviation Authority welcomed the ruling and subsequently launched its own investigation of Opodo's website and pricing practices. One outcome of the process was that Opodo agreed to advertise flights at prices that could be achieved when customers paid by debit card, the payment method the ASA felt most consumers would expect to be the default.

As a result, consumers will find that prices for their holidays reflect the amounts they'll actually pay using a debit card.



Sally Ramsden & Freya Becker Senior Investigations Executive & Compliance Executive, ASA & CAP

Helping claims management companies stick to the rules

Our joint ASA and CAP approach to working with claims management companies (CMCs) illustrates the action we take to educate advertisers when there's a risk that consumers will be misled by claims made in ads.

Complaints to the ASA showed that some CMCs' claims about pay-outs, fees and success rates were causing particular concern for consumers and parts of the industry. Taking a closer look at the market, we saw that a significant proportion of providers consisted of small companies, who can sometimes be less familiar with advertising rules.

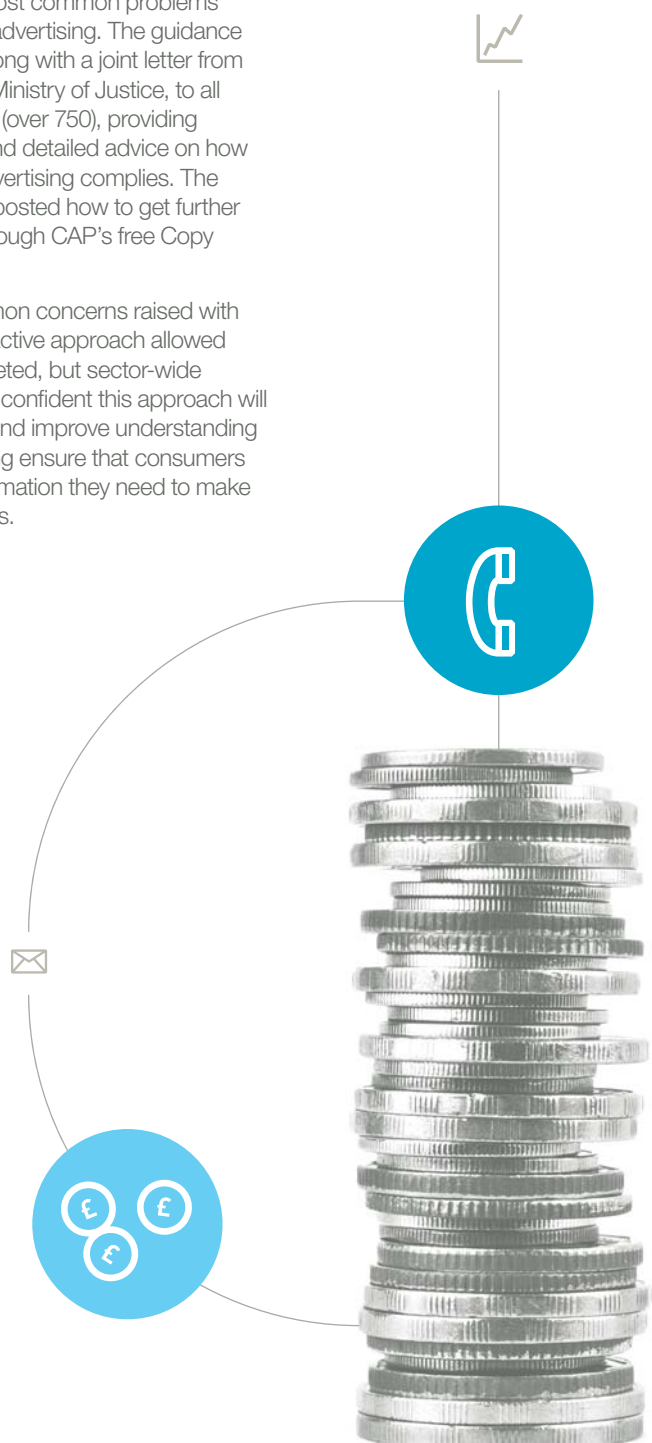
Education was clearly a priority to improve rates of compliance. A step change was certainly in the interests of CMCs themselves, since repeated or consistent failure to follow the advertising rules might also lead to individual CMCs losing their authorisation with the Ministry of Justice's Claims Management Regulation Unit (CMRU). The Unit's code of conduct stipulates that CMCs' marketing needs to be fully compliant with the CAP and BCAP Codes. We therefore partnered with the CMRU to raise awareness of the rules and ensure that CMCs of all sizes become better able to avoid misleading advertising.

The aim of the guidance we developed was to improve CMCs' understanding of how and when the rules apply to them, specifically addressing the most common problems we found in their advertising. The guidance was circulated, along with a joint letter from the ASA and the Ministry of Justice, to all authorised CMCs (over 750), providing them with clear and detailed advice on how to ensure their advertising complies. The material also signposted how to get further help, including through CAP's free Copy Advice service.

Addressing common concerns raised with the ASA, this proactive approach allowed us to provide targeted, but sector-wide assistance. We're confident this approach will raise awareness and improve understanding of the rules, helping ensure that consumers are given the information they need to make informed decisions.



A joint letter from the ASA and the Ministry of Justice was sent to over 750 CMCs providing clear guidance on how to ensure their advertising complies with the rules.



Jessica Tye Operations Manager – Investigations, ASA



Working together to make osteopathy claims clearer

“

There are nearly 5,000 registered osteopaths operating in the UK.

”



It's vitally important that consumers can rely on the claims made by osteopaths in their marketing and on their websites. In 2016, the ASA sought to meet a request from the industry for more clarity and guidance on the rules governing certain advertising claims.

Our aim was to help advertisers get their ads right by working with the sector through persuasion, collaboration and education. We worked closely with the General Osteopathic Council (GOsC) and industry representatives from the Institute of Osteopathy (iO) to develop and disseminate the new guidance throughout the sector.

The guidance helps osteopaths advertise the healthcare they provide in a way that complies with the rules and does not mislead. It provides a clear set of principles, as well as practical examples of various claims that are, and are not likely to be acceptable – making it easier for osteopaths to work out which claims

are likely to be compliant with the rules. In particular, the guidance provides greater clarity on how to advertise osteopathic care for pregnant women, children and babies responsibly, because we recognise these groups could be more vulnerable to claims to treat certain conditions.

The ASA distributed the guidance to all registered UK osteopaths in December 2016 in a joint communication with the GOsC, with news about the guidance appearing in social media, member bulletins and website news stories. The December version of GOsC's registrant magazine featured a two-page news story about the guidance, including a section from the ASA. This collaborative approach ensured that the guidance was communicated in a way that could reach all practitioners across the country.

To ensure compliance with the rules, we'll work to build on this momentum both in the osteopathy sector and in other sectors that would benefit from a similar approach.

Complaints and cases in context

Resolving complaints and cases

Our action on misleading, harmful or offensive ads

There are three types of action the ASA can take as a result of an investigation.



No additional investigation

We may decide there is no problem under the Advertising Codes and take no further action. In other cases, we are unable to investigate because the complaint or the advertising material falls outside of the ASA's remit.



Informal investigation

Where appropriate, the ASA will resolve issues informally. For example, where a minor or clear-cut breach of the Advertising Codes has been made, we may issue advice on how to comply with the Codes or seek assurance that an advertiser will change or withdraw their ad immediately.



Formal investigation

If the ad raises concerns under the Advertising Codes, we can conduct a thorough investigation in which all sides are given the opportunity to comment. Advertisers will be asked to provide their arguments and evidence to support their advertising claims and approach. Final rulings are made by the ASA Council, with complaints either upheld or not upheld. They are published in full on our website each week.

Complaints and cases resolved

 **7%**

more cases were resolved than in the same period last year, while complaints resolved were down 3%



While TV is the most complained about medium, internet cases outnumber TV cases by two to one

	Non-broadcast		Broadcast		Overall totals	
	Complaints	Cases	Complaints	Cases	Complaints	Cases
Total not investigated	11,088	9,155	12,683	4,598	23,336	13,411
Outside remit	2,411	1,876	588	370	2,947	2,211
No additional investigation	8,677	7,279	12,095	4,228	20,389	11,200
Total investigated	4,038	3,357	1,260	287	5,185	3,588
Informal investigation	3,209	2,849	412	157	3,586	2,982
Formal investigation	829	508	848	130	1,599	606
Of which:						
Upheld	501	289	470	73	915	340
Not upheld	148	51	357	42	486	86
Withdrawn cases	180	168	21	15	198	180
Total complaints and cases resolved	15,126	12,512	13,943	4,885	28,521	16,999

N.B. Both non-broadcast and broadcast figures include multimedia figures which appear only once in the 'overall totals' column.

Ads amended or withdrawn



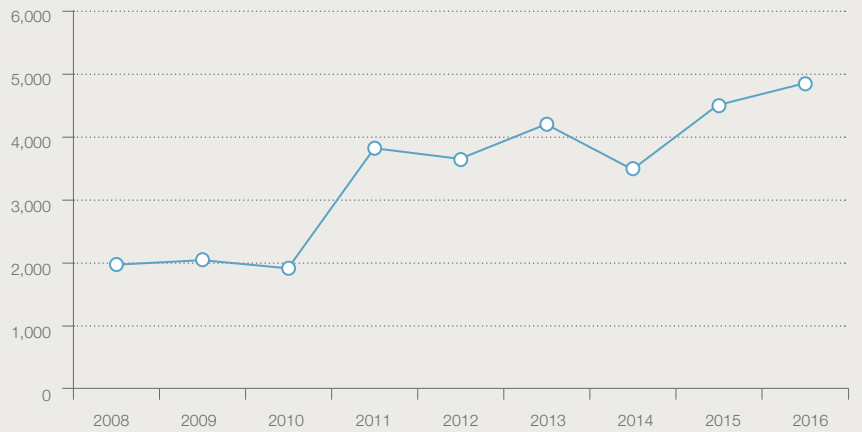
4,824

ads were amended or withdrawn this year, a 5% increase compared to 2015, itself a record year



In 2016 the health and beauty sector had the most ads amended or withdrawn

Ads amended or withdrawn



Turnaround performance

% on target for different case types (target = 80%)



8 of 12

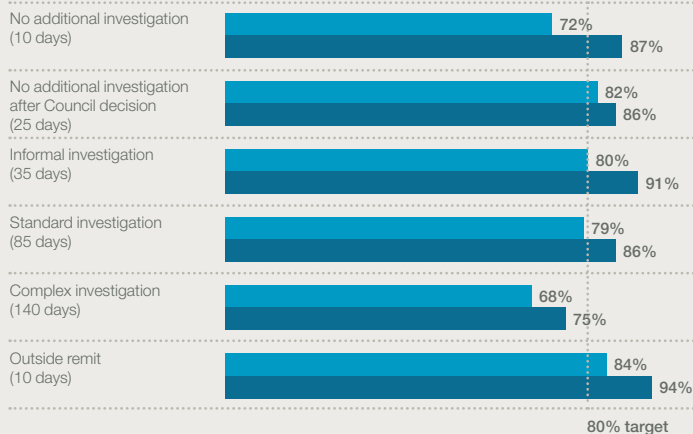
of our turnaround KPIs were met



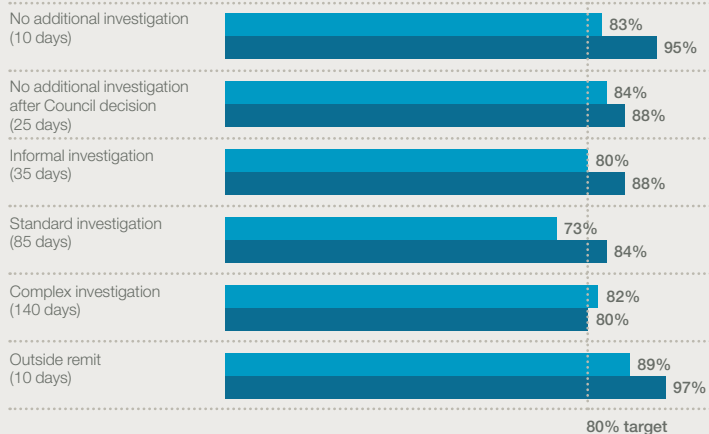
It only takes one complaint for the ASA to investigate whether an ad has broken the rules

Non-broadcast

2016
2015



Broadcast



Complaints and cases in context

Trends in complaints and cases

Complaints and cases resolved by media

 -29%

decrease in national and regional press complaints

 +15%

increase in television complaints

 +56%

increase in transport cases

 +34%

increase in radio cases



77% of internet cases resolved concerned online advertiser-owned ads

Media	2016		2015	
	Complaints	Cases	Complaints	Cases
Television	13,356 (+15%)	4,455 (+14%)	11,611	3,920
Internet	10,431 (+9%)	9,201 (+7%)	9,582	8,633
Outdoor	1,100 (-16%)	548 (-15%)	1,305	644
Email	912 (-5%)	860 (-1%)	959	870
Radio	758 (+19%)	581 (+34%)	636	435
National press	672 (-29%)	549 (-17%)	943	663
Transport	593 (-15%)	291 (+56%)	697	186
Point of sale	525 (+9%)	458 (+4%)	482	439
Regional press	342 (-29%)	270 (-26%)	480	363
Direct mail	341 (+5%)	299 (-2%)	326	304
Other	303 (+21%)	250 (+6%)	250	236
Magazine	294 (-15%)	247 (-14%)	345	287
Leaflet	293 (+31%)	245 (+15%)	223	213
Brochure	278 (-23%)	255 (-17%)	363	309
VOD	200 (-9%)	119 (-7%)	219	128
Packaging	181 (+50%)	114 (+3%)	121	111
Circular	138 (+23%)	111 (+5%)	112	106
Cinema	118 (+4%)	85 (+23%)	114	69
In-game advertising	118 (+16%)	110 (+18%)	102	93
Mailing	108 (+135%)	89 (+102%)	46	44
Text message	83 (-41%)	83 (-37%)	140	132
Catalogue	81 (-6%)	76 (-7%)	86	82
Mobile	73 (+26%)	64 (16%)	58	55
Insert	58 (-48%)	54 (-30%)	111	77
Press general	53 (-40%)	49 (-32%)	89	72
Ambient	21 (+17%)	19 (+19%)	18	16
Directory	18 (+20%)	17 (+13%)	15	15
Voicemail	2 (-50%)	2 (-50%)	4	4
Fax	0 (-100%)	0 (-100%)	2	2

Complaints and cases resolved by sector



+44%

increase in complaints about non-commercial ads



-31%

decrease in complaints about holidays and travel ads



+18%

increase in leisure cases



+15%

increase in food and drink cases

Sector	2016		2015	
	Complaints	Cases	Complaints	Cases
Leisure	5,574 (+42%)	2,993 (+18%)	3,932	2,530
Retail	3,894 (+3%)	3,006 (+13%)	3,763	2,656
Financial	3,811 (+2%)	1,149 (+2%)	3,745	1,125
Health and beauty	2,624 (+2%)	1,476 (-10%)	2,583	1,637
Non-commercial	2,521 (+44%)	894 (+12%)	1,752	799
Food and drink	2,160 (+13%)	1,071 (+15%)	1,912	935
Holidays and travel	1,798 (-31%)	1,412 (+9%)	2,605	1,291
Business	1,626 (+9%)	1,397 (+9%)	1,493	1,279
Computers and telecommunications	1,573 (-4%)	1,209 (-3%)	1,644	1,244
Household	591 (+12%)	430 (-6%)	527	458
Motoring	497 (-21%)	385 (-4%)	633	402
Property	472 (-7%)	439 (-9%)	509	484
Publishing	350 (-18%)	289 (-4%)	427	302
Utilities	346 (+32%)	221 (+21%)	262	183
Unknown*	219 (+34%)	215 (+34%)	163	161
Education	141 (+13)	132 (+9%)	125	121
Alcohol	114 (-3)	109 (+21%)	118	90
Employment	87 (-12%)	78 (-9%)	99	86
Clothing	74 (-44%)	49 (-43%)	132	86
Industrial and engineering	22 (-49%)	21 (-49%)	43	41
Agricultural	19 (0%)	16 (14%)	19	14
Tobacco	5 (-50%)	5 (-50%)	10	10
Electrical appliances	3 (-84%)	3 (-82%)	19	17

*Includes complaints about advertising in general.

Complaints and cases resolved by issue



3 out of 4

non-broadcast complaints concerned potentially misleading ads, while more than half of broadcast complaints related to ads that were considered offensive



89% of online advertiser-owned cases resolved related to misleadingness

Issue	2016				2015			
	Non-broadcast		Broadcast		Non-broadcast		Broadcast	
	Complaints	Cases	Complaints	Cases	Complaints	Cases	Complaints	Cases
Misleading	12,013 (77%)	10,570 (82%)	4,187 (29%)	2,481 (48%)	11,247 (73%)	10,030 (80%)	3,552 (28%)	2,061 (46%)
Offensive	2,131 (14%)	1,018 (8%)	8,011 (55%)	1,621 (32%)	2,339 (15%)	966 (8%)	6,898 (53%)	1,479 (33%)
Harm	770 (5%)	595 (5%)	1,966 (13%)	756 (15%)	922 (6%)	572 (5%)	1,859 (15%)	736 (16%)
No issue/ miscellaneous	677 (4%)	615 (5%)	412 (3%)	263 (5%)	888 (6%)	832 (7%)	503 (4%)	241 (4%)

N.B. Numbers in brackets represent percentage totals of complaints and cases by issue.

ASA Council

The ASA Council is the independent jury that decides whether ads have broken the Advertising Codes.

Independently chaired by Lord Smith of Finsbury, the Council is made up of two panels – broadcast and non-broadcast.

Two-thirds of the Council members on each panel are independent of the advertising and media industries and the remaining members have a professional background in the advertising or media sectors.

Collectively, they offer a wide range of skills and experiences, representing perspectives across society, including young people, families, charities and consumer groups.

In November, the Advertising Standards Boards of Finance (Asbof and Basbof), the bodies that fund the advertising self-regulation system, appointed Lord David Currie as our next Chairman. He will succeed Lord Chris Smith, taking up the position from 1 October 2017.

In addition, in 2016, we said goodbye to John Mayhead, who had served his maximum appointed term of six years, but we were delighted to welcome Reg Bailey to the ASA Council.



In addition to being the jury that decides whether ads have broken the advertising rules, the Council operates as the Board of the ASA.

Chairman

**Rt Hon Lord Smith of Finsbury
ASA Chairman**

Former Culture Secretary;
PPL Board member;
Chairman of The Art Fund;
Master of Pembroke
College, Cambridge



Kate Bee
Independent member
Freelance journalist



Roisin Donnelly
Advertising industry
background member



Non-executive Director, Just
Eat; Non-executive Director,
Bourne Leisure; Past President,
Marketing Society; Past
President, Women in Advertising
and Communications London



Shireen Peermohamed
Independent member
Partner, Harbottle & Lewis LLP;
Member, Video Standards
Council Appeals Panel



Suzanne McCarthy
Independent member
Chair, Depaul UK; Chair,
Southwark and Lambeth
Integrated Partnership; Chair of
the Joint Audit Panel, Mayor's
Office of Policing and Crime and
the Metropolitan Police Service



Wesley Henderson
Independent member
Independent Assessor,
Commissioner for
Public Appointments for
Northern Ireland;
Past Director, Consumer
Council for Northern Ireland



Reg Bailey
Advertising industry
background member
Member, British Board of
Film Classification (BBFC);
Consultative Council Member,
Advertising Association's
Media Smart Expert Panel



Sam Younger
Independent member
Public Interest Council
Observer, Chartered Institute
of Taxation; Vice Chair,
Voluntary Service Overseas;
Chair, CILEx Regulation



Alan Bookbinder
Independent member
Director, Sainsbury Family
Charitable Trusts



Rachel Childs*
Independent member
Home Education English
Lead for The Reintegration
Service in West Berkshire;
Former Junior School
Headteacher



Sir Martin Narey
Independent member
Consultant, DfE on Children's
Social Care; Chair, Adoption
Leadership Board; Non-executive
Member, Ministry of Justice
Board; Chair, Portman Group



Hamish Pringle FIPA
Advertising agency
background member



David Hepworth
Non-broadcast media industry
background member
Writer and broadcaster
Director, Mixmag Media Ltd



Ray Gallagher
Broadcast media industry
background member
Senior Policy Adviser to the
Secretary of State for Culture,
Media and Sport;
Former Specialist Adviser to the
House of Commons Culture,
Media and Sport Select Committee

**Key**

Broadcast Council

Non-broadcast Council

* The Senior Independent member sits in place of the Chairman when the Chairman is unable to attend the meeting or has a declared interest in the case being discussed.

Independent Reviewer's report

An independent review of the rulings of the ASA Council enables consumers and advertisers to question whether those decisions are fair and reasonable.

I want to highlight three key independent review cases from 2016.

The first case, a review of a ruling on a TV ad for Urestemol Men by Omega Pharma, demonstrates the value of the ASA being able to seek an independent review of its own decisions in rare circumstances where it becomes aware that a mistake may have been made on a case. This is in my view a very transparent and accountable process.

Originally, the ASA had upheld a complaint from 15 members of the public that the ad for an overactive bladder medicine was irresponsible because it could discourage viewers from seeking medical advice, just buying the medicine over the counter instead. The ASA requested an independent review of its original ruling, when the Medicines and Healthcare Products Regulatory Agency (MHRA) brought to its attention the fact that it had approved the product for general sale without medical advice.

I reopened the investigation, and following my advice and further consultation with the MHRA, the Council reversed its original ruling so the complaint was not upheld.

The second case highlights the need for vigilant regulation in supermarket advertising, an extremely competitive market, to ensure ads do not mislead consumers. The Council ruled against three Aldi ads that compared the prices of a selection of their own-brand goods to own-

brand and branded goods from their competitors that represented a typical weekly shop. The ASA concluded the comparison was misleading and not representative as the target audience was unlikely to go to other supermarkets and fill their trolleys with more expensive, branded goods. Following my review, I concluded that the Council's decision to uphold the complaint was entirely reasonable and the original ruling remained unchanged.

Finally, the last case exemplifies the ASA applying its experience, intelligence and common sense. The ASA received a large number of complaints about a series of TV Money supermarket ads that, in my view were, mildly sexually suggestive. I was asked to review the ruling on the grounds that the ads were likely to cause serious and widespread offence. The Council had not upheld the complaints as it concluded that the ads would be interpreted as fantastical and bizarre and that the key dance-off sequence was light-hearted and humorous. In addition, the ad had been scheduled so that it would not appear in or around children's television programmes. That seemed to me to be a sensible decision. With advertising there are often bound to be strong views, but the ASA ruled with experience and common sense, as a good regulator should.



Sir Hayden Phillips, GCB DL
Independent Reviewer of
ASA Adjudications

Review Cases 2015-2016

	Non-broadcast		Broadcast	
	2016	2015	2016	2015
Total cases received of which:	36	33	14	12
Ineligible/withdrawn	6	7	2	2
In progress	2	0	1	0
Not referred to Council	24	14	9	8
Referred to Council of which:	6	10	1	2
Unchanged	0	0	0	0
Decision reversed	0	3	1	1
Wording changed	3	7	0	1
Re-opened investigation	2 ongoing	Results now above	0	Results now above
In progress	0	0	0	0

Committees of Advertising Practice

CAP and BCAP are responsible for writing and updating the UK Advertising Codes.

Chaired by James Best, the Committees are made up of representatives of advertisers, agencies, media owners and other industry groups, all of who are committed to upholding the highest standards in non-broadcast and broadcast advertising.

Committee of Advertising Practice (CAP)

Advertising Association
 Cinema Advertising Association
 Direct Marketing Association
 Direct Selling Association
 Incorporated Society of British Advertisers
 Institute of Practitioners in Advertising
 Institute of Promotional Marketing
 Internet Advertising Bureau
 Mobile UK
 News Media Association
 Outsmart Out of Home
 Professional Publishers Association
 Proprietary Association of Great Britain
 Royal Mail
 Scottish Newspaper Society
 Television on Demand Industry Forum
 Clearcast
 Radiocentre

Broadcast Committee of Advertising Practice (BCAP)

Advertising Association
 BT
 Channel 4 Television Corporation
 Channel 5 Broadcasting Ltd
 Commercial Broadcasters Association (CoBA)
 Direct Marketing Association
 Electronic Retailing Association UK
 Incorporated Society of British Advertisers
 Institute of Practitioners in Advertising
 ITV plc
 Sky UK Ltd
 STV
 Clearcast
 Radiocentre
 S4C

N.B. Clearcast, Radiocentre and S4C have observer status on the Committees.

Advertising Advisory Committee report

The Advertising Advisory Committee (AAC) advises the Broadcast Committee of Advertising Practice (BCAP) on the consumer and citizen issues arising from key aspects of the TV and radio broadcasting rules.

At the beginning of 2016 we welcomed four new members to the Committee – Robin Foster, Adair Richards, Ruth Sawtell and Jo Swinson. With the support of the two continuing members, Alison Goodman and Claire Whyley, the AAC encompasses a wide range of consumer, professional and policy making experience that provides an important 'critical friend' function for the advertising regulatory system.

Protection of children and young people was, as ever, high on our list. In particular, we considered in some detail the sexualised depiction of under-18s. The AAC backed BCAP's recommendation that the age of protection be raised from 16 to 18. We also advised on the best way to communicate proposals for change, given the sensitivity of the subject. This led to the publication of a consultation document in late November 2016 that we considered to be a very good example of its kind.

We were involved in continuing discussions on the advertising of HFSS foods. We advised on reviewing the guidance on how to distinguish between brand ads and those specifically promoting HFSS products, which should not appear in children's programming.



Our role is to provide advice from the consumer perspective to the Broadcast Committee of Advertising Practice (BCAP).



Concerns about a different type of vulnerability have influenced discussions on another topical issue – the advertising of payday loans. The AAC considered research and other data in detail, and gave crucial reassurance to BCAP in rejecting the case for a scheduling rule. However, we encouraged regulators to think more broadly about where payday loans sat in the wider context of the credit market, and the risks of serious detriments arising through other products. We welcomed ASA/BCAP's review of payday loan advertising content, and advised on its scoping and conclusions.

New product markets have also figured prominently on our agenda. One major issue was the advertising of e-cigarettes, which raised some very difficult questions. The market, and the public debate, has been changing rapidly, and the AAC has pressed for new developments to be kept under close scrutiny. In terms of advertising rules, the main development was a ban on broadcast advertising of e-cigarettes that contained nicotine, unless they had a medicinal licence. This arose from an Ofcom direction rather than a self-regulatory decision, but the AAC provided detailed advice on proposed guidance on issues such as indirect promotion, both before and after public consultation.

As well as the six members of the AAC, I am grateful, as ever, to Shahriar Coupal, Malcolm Phillips and colleagues for their excellent support.



Stephen Locke
Chair, Advertising Advisory Committee

Members

Robin Foster
Alison Goodman
Stephen Locke (Chair)
Adair Richards
Ruth Sawtell
Jo Swinson
Claire Whyley

Our Panels

The advertising industry is central to the success of the self-regulatory system; as part of that, CAP receives valuable support from three industry panels – the **Industry Advisory Panel**, the **Promotional Marketing and Direct Response Panel**, and the **Online Publications Media Panel**.

The Panels bring together advertisers, creatives, media planners and media owners who volunteer their time to give advice on marketing communications. The Panels also provide a forum for the exchange of information and ideas between the industry and the ASA and CAP.

Industry Advisory Panel report

The Industry Advisory Panel (IAP) advises both CAP and BCAP on non-broadcast and broadcast matters.

2016 was a year of evolution for the Panel. Our name changed from the General Media Panel to the Industry Advisory Panel, to better reflect to stakeholders the work the Panel does. We also welcomed a number of new members with a digital background, ensuring the Panel remains expert in all new and emerging marketing techniques. The Panel continued to give an expert view on the main topics affecting advertising regulation, including supermarket price claims, whether gambling ads were socially responsible, YouTube videos were appropriately targeted and the labelling required for both online and offline advertising content.



The Panel provided a crucial industry perspective on a wide range of cases in 2016. The new members we welcomed to the renamed Panel bring with them a wealth of experience of digital marketing, ensuring the Panel's expertise covers new and emerging techniques as well as more traditional methods.



Tim Duffy
Chair, Industry Advisory Panel

Members

Sanjay Balakrishnan
Sara Bennison
Jenny Biggam
Shahriar Coupal (Secretary)
Doulla Croft
Liz Darran
Matthew Dearden
Tim Duffy (Chair)
Tim Evans
Peter Gatward
Steve Goodman
David Hepworth (ASA Council)
David Hollis (Assistant Secretary)
David Lloyd
Chris McLeod
Sheila Mitchell
Mike Moran
Hamish Nicklin
Sue Oake
Simon Rhodes
Charlie Snow
Michael Todd
Stephen Vowles

Promotional Marketing and Direct Response Panel report

The Promotional Marketing and Direct Response Panel (PMDRP) advises the ASA and CAP and on promotional marketing and direct marketing matters.

In 2016, the PMDRP considered a wide variety of issues and cases, ranging from providing key advice on the availability of promotional items, to guidance for broadcast advertising, as well as important consideration of the nature of 'free' promotional items. As ever the Panel is there to provide a forum for information exchange between the industry and the ASA and CAP Executive.



The Panel is an important resource for both the ASA and CAP and the industry. It provides vital practitioner perspective and industry insight from senior professionals, feeding that into all aspects of the regulator's work in this dynamic and innovative sector. This ensures that everyone can have confidence in the ads they see and hear – and the industry can be clear that their voice is heard.



Online Publications Media Panel report

The Online Publications Media Panel was established at the instigation of the Advertising Association Council, and with the endorsement of CAP, to advise CAP on the proper distinction between editorial and advertising in online publications, in the event of any confusion.

To date, the Panel has not been required to meet.



Catherine Shuttleworth
Chair, Promotional Marketing and Direct Response Panel

Members

Peter Batchelor
Hamish Pringle (ASA Council)
Mark Challinor
Shahriar Coupal (Secretary)
Mark Dugdale
Michael Halstead
Janine Paterson
Nick Hudson (Assistant Secretary)
Hina Parmar
Joanne Prowse
Catherine Shuttleworth (Chair)

Members

Lord Black of Brentwood, Executive Director, Telegraph Media Group
Sir Chris Powell, Chairman, Advertising Standards Board of Finance

Financial report

We are funded by advertisers through arm's length levy arrangements that guarantees the ASA's independence. Collected by the Advertising Standards Board of Finance (Asbof) and the Broadcast Advertising Standards Board of Finance (Basbof), the 0.1% levy on the cost of buying advertising space and the 0.2% levy of the Royal Mail's Mailsort and Advertising Mail contracts ensures the ASA is adequately funded without revealing to us which companies are contributing. We also receive a small income from charging for some seminars, premium industry advice services and from the European interactive Digital Advertising Alliance for regulating Online Behavioural Advertising.

Year to 31 December 2016

Audited income and expenditure figures for the combined non-broadcast and broadcast activity in 2016 (see table) are the total of the amounts recorded in the Audited Report and Financial Statements of our two operating companies, namely The Advertising Standards Authority Ltd (ASA), and The Advertising Standards Authority(Broadcast) Ltd (ASA(B)). These were adopted by the Non-broadcast and Broadcast Councils' at their respective Annual General Meetings held on 28 April 2017.

Income for the year

Compared with 2015, total income received from Asbof and Basbof increased by £713,000 (9%) to £8,600,000. Other income increased by £8,000 (8%) to £112,000. Interest received decreased by £1,000 (8%) to £11,000.

Expenditure for the year

Compared with 2015, total expenditure increased by £616,000 (8%) to £8,590,000. This total expenditure was also less than the original budget for the year by £233,000 or 3%.

Profit for the year

The combined profit before tax of both non-broadcast and broadcast activity was £133,000. After tax the combined profit was £115,000.

The Audited Report and Financial Statements for ASA and ASA(B) reflect a split of costs, determined by Asbof/Basbof, to reflect the workload between non-broadcast and broadcast activities, of 63% and 37% respectively, and applying them to the non-specific costs – overheads, general office costs and the like. Specifically identifiable costs were allocated in full to the relevant function.

Non-broadcast and Broadcast combined for the year ended 31 December 2016

	2016 £'000	2015 £'000
Income		
Funding received from:		
The Advertising Standards Board of Finance Ltd (Asbof)	5,385	4,967
The Broadcast Advertising Standards Board of Finance Ltd (Basbof)	3,215	2,920
Total income	8,600	7,887
Expenditure		
Salaries and direct staff costs	5,559	5,343
Office accommodation and general costs	1,535	1,485
Communications costs	446	348
Legal and professional fees	425	444
Information technology costs	310	236
Website development costs	143	–
Depreciation	96	89
Travel, subsistence and entertaining	76	29
Total expenditure	8,590	7,974
Operating profit/(loss)	10	(87)
Interest receivable	11	12
Other income (i.e. seminars, advice and eLearning)	112	104
Net refund of surplus on wind up of pension scheme	–	107
Profit on ordinary activities before tax	133	136



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