

# Prioritisation principles: Regulatory statement

New principles to guide the work and regulatory priorities of the ASA



# 1. Background

The ASA's five-year [strategy](#) 2014 – 2018 is a public commitment to 'Having more Impact' and 'Being more Proactive' in how we regulate. It expresses our ambition to make every UK ad a responsible ad.

The strategy entails us doing things differently. We remain committed to our central complaint-handling role of providing a simple and free means for people to register complaints about ads across all media - with the promise that none will be ignored.

However, whilst judgements on whether an ad is misleading, harmful or offensive will continue to be made against the requirements of the UK Advertising Codes, the nature and extent of our regulatory activities will be guided by new prioritisation principles. These principles will help us decide what regulatory resource we commit, or activity we undertake, in response to the regulatory issue identified either through complaints or other forms of information e.g. research or intelligence from another regulator.

This more proactive and targeted approach will allow us to have the biggest impact on the issues that matter most, benefitting consumers, society and responsible advertisers alike and supporting our ongoing commitment to positive change for better regulatory outcomes.

In November 2014 we consulted on a set of new prioritisation principles (developed through pre-consultation with other regulatory bodies, consumer groups and business groups) that will guide the allocation of our regulatory resources.

We undertook to consider the following prioritisation principles to help guide the allocation of our regulatory resources:

- what **harm or detriment** has occurred;
- the likely **risk** of action versus inaction;
- the likely **impact** of our intervention; and
- what **resource** would be proportionate to the problem to be tackled.

Those principles, and the types of questions the ASA would ask itself in relation to each one, are reproduced in the **Annex** to this paper. We invited interested parties to answer the following questions:

**1. Do you consider that the prioritisation principles and their accompanying explanations are clearly set out and understandable? If not, please explain why and provide your suggestions for improvement.**

**2. Do you agree with the prioritisation principles? If not, please explain why and provide any suggestions you may have for different principles or approaches.**

**3. Do you wish to provide any other comments?**

The consultation closed on 1 December 2014. We received 15 responses from trade and regulatory bodies, businesses, a third sector organisation and an individual. This document details the key themes that emerged from the responses, our response and next steps.

## 2. Consultation responses

Consultation responses concentrated on three main areas. The first was our decision to introduce prioritisation principles and their appropriateness. The second concerned how the principles may be implemented in practice. The third referred to wider issues not directly related to either the new principles or how they will be applied. These key areas, and our responses to them, are detailed below.

### 2.1 Our proposed prioritisation principles

Consultation responses revealed broad levels of support for the introduction by the ASA of formal prioritisation principles, and support for the four principles that have been developed around harm and detriment, risk, impact and resource. Respondents generally agreed that the principles and their accompanying explanations were clear, logical and understandable.

We welcome this endorsement of our decision to introduce prioritisation principles, and of the principles themselves that we will, therefore, retain in their current form. We are satisfied that they are fit for purpose and allow us to move to the next phase of this process which is to consider how they will be applied in practice to guide our decision making and allocation of regulatory resources.

### 2.2 On how these principles will be implemented

Several respondents sought further clarification on how, once introduced, the principles will be applied in practice. They sought clarification to ensure that the ASA's prioritisation decisions were transparent and consistent. Others highlighted existing guidance or suggested their own guidance (and, in some cases, providing illustrative examples) to help support the ASA's practical interpretation of the principles, and to help us determine what level of resource or priority we allocate to the different regulatory issues we are faced with.

We are committed to answering these calls for transparency and consistency to ensure that the principles will be applied in a fair and proportionate way. These themes will be at the heart of our next phase of work, which is an internal process to address how the principles will be integrated into our regulatory activity; for example, how they will affect the resources and activities we allocate to different types of complaints or project work. In addition to ensuring that our internal processes and quality assurance mechanisms bring about consistency in our decision making, we will also examine how best to ensure the requested transparency through additional published information or guidance.

Other respondents noted the importance of retaining a flexible approach to prioritisation decisions and enforcement action, based on risk. The prioritisation principles are designed to be used flexibly and are not exhaustive. Decisions on how to prioritise projects or cases, or even on whether to continue with or to deprioritise existing work streams, will be made by the ASA on a case-by-case basis taking into account all relevant factors.

### 2.3 Other responses

Other points were raised that were not of direct relevance to this consultation, for example around the scope of the ASA's remit, our complaints handling processes, and our standards for the substantiation of health claims. We note these helpful points and have brought them to the attention of relevant colleagues in the organisation, but will not be producing a formal response at this stage.

### 3. Conclusions and next steps

We are grateful to those who responded to our consultation and are satisfied, based on the responses we have received, that we have identified the appropriate prioritisation principles to help guide our work.

We will now use the principles to gradually introduce new ways of working to ensure we have the greatest impact in our work. We will do so in a measured way in keeping with the ASA Strategy 2014-2018, and we will explain clearly any significant changes to our front line services before they come on stream. In this way we are confident we can build towards becoming a more proactive regulator, without putting at risk the best elements of what we do today and what we will continue to do in the future.

# Annex

## List of ASA Prioritisation Principles and key questions

### Principle one: Harm or detriment

We will consider what **harm** or **detriment** has occurred or might occur.

- *To what extent are consumers or society experiencing, or likely to experience, serious or widespread detriment as a result of a potentially misleading, harmful, offensive or otherwise irresponsible ad or advertising practice? To what extent does or might an ad or advertising practice undermine the rules of fair competition for advertisers?*

### Principle two: Risk

We will balance the **risk** of taking action versus inaction.

- *What risk is there to consumers, advertisers or wider society from taking action or not taking action?*
- *Does an ad or advertising practice risk undermining consumer or industry confidence in the ASA or wider regulatory system?*

### Principle three: Impact

We will consider the likely **impact** of our intervention.

- *What would be the likely impact of ASA intervention or non-intervention?*

### Principle four: Resources

We will consider what **resource** would be proportionate to the problem to be tackled.

- *What are the complexities associated with delivering a successful outcome?*
- *Are the resources that are likely to be required for a successful outcome proportionate to the problem and the likely impact on consumers, society, or advertisers?*
- *Is the ASA the right body to act; alone, in partnership or not at all?*