



## **EASA Cross-Border Complaints**

### **Quarterly Report No. 49** **(July - September 2010)**



## July – September 2010

This report contains the details of 214 cross-border complaints coordinated by the EASA's cross-border complaints system and closed during the period July to September 2010. 204 of the complaints concern misleading advertising and 10 concern offensive advertising. The media involved are internet (202 complaints), direct marketing (2 complaints) and television (10 complaints).

*n.b. In cases involving EU member states, advertisements are required to comply with the rules in the country of origin of the media in which the advertisement appears or, in the case of direct mail, email or Internet advertising, the country where the advertiser is based. Switzerland, as a non-member of the EU, requires advertisements addressed by Swiss-based advertisers to consumers in other countries to comply with the rules in those countries (country of destination). Consequently, in such cases, the self-regulatory organisation (SRO) in the complainant's country assesses the complaint on the basis of its own national rules before passing it to the Swiss SRO, which communicates the decision to the advertiser.*

### **Misleading**

#### **1980 Ryanair**

Complaint from a British consumer to the British SRO, ASA, about a free online flight/credit card promotion. The advertisement promoted the use of an airline credit card and promised up to 5 bonus flights based on the amount spend with the card. The complainant objected that the website omitted the condition that a mandatory credit card usage fee was charged per person per flight. As the advertiser was based in Ireland, the ASA transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. The Irish SRO advised the complainant that due to the fact that the advertisement is for the credit card and not for the flights and as the terms and conditions for availing of the bonus flights are available, they do not consider the advertisement to be in breach of the Code. **Complaint not upheld, case closed.**

#### **2055 Withinspiration**

Complaint from an Irish consumer to the Irish SRO regarding a series of online advertisements that appeared when various keywords related to the health condition chronic fatigue syndrome (ME) were searched for via a search engine. The advertisements were for a "light therapy" that the company claimed had helped people recover from ME. The complainant claimed that the advertisement was misleading because light therapy had not been scientifically demonstrated to cure ME. As the advertiser was based in the UK the complaint was transferred to the British SRO, ASA, under the cross-border procedure. ASA investigated the case and as they did not find any evidence to demonstrate the efficacy of the lightning process for treating ME, they concluded that the claims could not be proven and were therefore misleading. **Complaint upheld, case closed.**

#### **2069-2079, 2090-2210, 2221-2224, 2228-2229, 2232-2317 Euro content ltd**

Complaints to EASA from 197 Italian consumers about a website in Italian featuring free software to download. Once the consumer entered his data, he received a request for payment of a yearly subscription which would give him access to the service. The complainants, therefore, believed to have been misled. As the company was registered in Germany the complaints were transferred to the German SRO, Wettbewerbszentrale (WBZ). The WBZ contacted the Italian SRO, IAP (Istituto dell'Autodisciplina Pubblicitaria) and Deutscher Schutzverband gegen Wirtschaftskriminalität who both assessed that the Italian enforcement authorities should lead the investigation. The Italian enforcement authority had already initiated investigations against the advertiser. **Complaints transferred to appropriate authority, case closed.**

### **2211 Jobrapido**

Complaint from an Irish consumer, to the Irish SRO, ASAI, regarding an online job ad. While the complainant was searching on a website for vacancies for fraud investigators, he clicked on a Facebook job advertisement which brought him to a different web page where the original job listing had been placed. This page stated that the job had been removed from the site. The complainant considered the original advert to be misleading as there was no notice that the job was not available anymore. As the advertiser was based in Italy, ASAI transferred the complaint to the Italian SRO, IAP, under the cross-border procedure. The Italian Advertising Code does not cover job listing communications unless its content also promotes the company and its product. **Complaint not pursued, case closed.**

### **2225 World Company Register**

Complaint from a German company to EASA concerning a direct mailing from Spain featuring a business directory. The mailing invited the recipient to confirm information already held about the company, but failed to make it clear that signing the form automatically constituted an order for an advertisement in the directory. The complainant received several invoices and considered the advertisement to be misleading. As the advertiser was based in Spain the complaint was transferred to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. AUTOCONTROL investigated the case and considered the ad to be misleading as it advertised the insertion in the guide as "free". The jury concluded that the ad, therefore, contravened article 14 of the Spanish advertising code and asked the advertiser to refrain from advertising in the same way again. **Complaint upheld, case closed.**

### **2226 Euro Business Guide**

Complaint from a British company to EASA about a direct mailing featuring a Business Directory. The complainant was asked to update her company's information. The complainant stated that they did not realise that by signing the form they were placing an order and considered the e-mail misleading. As the advertiser was based in the Netherlands, EASA transferred the complaint to the Dutch SRO, SRC, under the cross border procedure. The SRC transferred the case to the Dutch Fraud Support Centre. **Complaint transferred to appropriate authority, case closed.**

### **2227 Ferrero**

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding a television ad for a chocolate spread which claimed that the product is a healthy breakfast option. The complainant believed this claim to be misleading. As the advertiser was based in the UK the complaint was transferred to the British SRO, ASA under the cross-border procedure. A similar ad had been adjudicated by the ASA council. The ad complained about complied with all the requirements of the previous adjudication and, therefore, the British SRO considered the claims made and the graphics shown in the ad unlikely to mislead viewers about the spread's nutritional properties. **Complaint not upheld. Case closed.**

### **2230 William Hill**

Complaint from an Irish consumer to the Irish SRO, ASAI, about an online ad. The complainant placed a bet of 25 euros and won a free 25 euro bet. When he used the 25 euro free bet, he won again but he got only 9 euros credited to his account instead of 34 euros. He contacted the advertiser and was told that customers would only receive the winning bet and not the stake which was put on it. Therefore the complainant found the ad to be misleading. As the advertiser was based in the UK, the Irish SRO, ASAI, transferred the complaint to the British SRO, ASA, under the cross-border procedure. The ASA investigated the case and found the ad in its current form misleading. The advertiser was asked to modify the ad and to inform customers that the stake is not returned. **Complaint upheld, case closed.**

## **Alleged Offensiveness**

### **2062-2068, 2080-2081 Paddy Power**

Complaints from nine Irish consumers to the Irish SRO, ASAI, about a television advertisement for a bookmaker. The ad featured a blind footballer mistaking a cat for the ball and kicking it from the football pitch into a tree (although the actual kicking or flying of the cat

is not shown). The complainants believed that the ad encouraged cruelty to animals .Therefore they found this advertisement to be offensive. As the media was based in the UK, ASAI transferred the case to the British SRO, ASA, under the cross-border procedure. ASA considered the ad to be surreal and improbable: They concluded that the ad did not directly show any footballer making contact with the cat hence it is unlikely to be seen by most viewers as a realistic portrayal of cruel treatment of an animal or cause serious or widespread offence. **Complaints not upheld, case closed.**

#### **2084 Easy date holdings ltd**

Complaint from an Irish consumer to the Irish SRO, ASAI, about an online ad regarding dating services which appeared in his email inbox. The complainant said that the advertisement is not suitable to be shown on the email inbox page since it can be easily seen by children and it would be more appropriate on an adult site. As the advertiser was based in the UK, ASAI transferred the complaint to the British SRO, ASA, under the cross-border procedure. ASA investigated the case informally and since the advertisers assured that the ad is targeted at hotmail users who are 18 or older, they have concluded that the ad is not in breach of the code and no further investigation should take place. **Complaint not upheld, case closed.**