

2016

Cross-Border Complaints  
Quarterly Report no. 71  
January - March

## **EASA**

EASA - the European Advertising Standards Alliance is the single authoritative voice on advertising self-regulation. EASA promotes high ethical standards in commercial communications by means of effective self-regulation, for the benefit of consumers and business in Europe and beyond.

Effective advertising self-regulation helps ensure responsible advertising, meeting consumers' demand for honesty and transparency, regulators' demand for responsibility and engagement and businesses' demand for freedom to operate responsibly. EASA and its members have developed a robust and coherent system of advertising self-regulation that can respond effectively to new challenges.

EASA is not a Self-Regulatory Organisation (SRO) in itself, but acts as a co-ordination point for best practice in the implementation of self-regulation, as well as operational standards for its national SRO members. Part of EASA's role involves coordinating the cross-border complaint mechanism, EASA also collects and analyses top line statistical data on received and resolved complaints, as well as on copy advice requests and pre-clearance from its SRO members each year.

EASA was set up in 1992 to represent national self-regulatory organisations in Europe, in 2004 it developed into a partnership between national advertising SROs and organisations representing the advertising industry. Today, EASA is a network of 54 organisations committed to making sure advertising is legal, decent, honest and truthful. EASA's membership is made up of 38 SROs from Europe and beyond, and 16 advertising industry associations, including advertisers, agencies and the media. EASA is a not-for-profit organisation with a Brussels-based Secretariat. For further information please visit [www.easa-alliance.org](http://www.easa-alliance.org).

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# 1 Key Findings

## Scope

This report contains the details of 30 cross-border complaints about 26 advertisements coordinated by EASA's cross-border complaints system, adjudicated by local Self-Regulatory Organisations (SROs) and closed during the period from January to March 2016.

## Issues

The issues complained about were misleading advertising (25 complaints), social responsibility (3 complaints) and taste and decency (2 complaints).

## Media

The media involved were Digital Marketing Communications (24 complaints), Direct Marketing (3 complaints), Audio-Visual Media Services (2 complaints) and Outdoor advertising (1 complaint).

## Sectors

With regards to the different sectors complained about, the transport sector received the most cross-border complaints (7 complaints), followed by the leisure sector (6 complaints) and the electronic goods sector (5 complaints).

## Countries concerned

The Irish SRO (ASAI) and the Dutch SRO (SRC) handled five complaints each, the UK SRO (ASA) and the Spanish SRO (AUTOCENTROL) handled four complaints each, SROs from France (ARPP), Germany (WBZ), Switzerland (CSL) and Belgium (JEP) handled two complaints each, whereas SROs from Italy (IAP), Poland (Rada Reklamy), Czech Republic (CRPR) and Greece (SEE) each handled one complaint<sup>1</sup>.

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<sup>1</sup> 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, e-mail 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.

## 2 Complaints Resolved January – March 2016

Table 1: Complaints resolved per issue between January and March 2016

Issue	Advertiser complained about	Complaint N°	Page
<b>Misleading Advertising</b>	Booking.com BV	2939	<a href="#">p.4</a>
	Ipto Ltd.	2990	<a href="#">p.4</a>
	Adobe Systems Software Ireland Ltd	3028	<a href="#">p.4</a>
	Adobe Systems Software Ireland Ltd	3030	<a href="#">p.5</a>
	Booking.com BV	3034	<a href="#">p.5</a>
	Booking.com BV	3035	<a href="#">p.5</a>
	Booking.com BV	3040	<a href="#">p.5</a>
	Cari's Closet Bridal	3041	<a href="#">p.6</a>
	Code is the new black GmbH	3042	<a href="#">p.6</a>
	Devialet	3043	<a href="#">p.7</a>
	Free Time	3048	<a href="#">p.7</a>
	Bartscher GmbH	3056	<a href="#">p.7</a>
	Booking.com BV	3066	<a href="#">p.8</a>
	Shell International Brands	3070	<a href="#">p.8</a>
	City Jet Ltd.	3073	<a href="#">p.8</a>
	Ethiad Airline	3076	<a href="#">p.9</a>
	Amazon	3077	<a href="#">p.9</a>
	Amazon	3081	<a href="#">p.9</a>
	Global Prospect SL/IPIN Global	3085	<a href="#">p.9</a>
	Wuaki.TV	3095	<a href="#">p.10</a>
	The Travel Gateway Ltd.	3106	<a href="#">p.10</a>
	The Travel Gateway Ltd.	3109	<a href="#">p.10</a>
The Travel Gateway Ltd.	3112	<a href="#">p.11</a>	
The Travel Gateway Ltd.	3113	<a href="#">p.11</a>	
The Travel Gateway Ltd.	3115	<a href="#">p.11</a>	
<b>Privacy and Data Protection</b>			
<b>Social Responsibility</b>	Outfit7 Ltd.	3029	<a href="#">p.14</a>
	Activia Danone	3075	<a href="#">p.14</a>
	Halooint sprl	3080	<a href="#">p.14</a>
<b>Taste and Decency</b>	Bet at Home Internet Ltd.	3088	<a href="#">p.15</a>
	Paddy Power	3134	<a href="#">p.15</a>

## 2.1 Misleading Advertising

### 2939 Booking.com BV

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement on Booking.com BV, a Dutch website for hotel reservations. The complaint was three-fold. Firstly, the website promoted a cottage belonging to the complainant despite that the contract with the property's owner had been suspended and he had left specific instructions to remove all details about the offer from the internet and the search results. Secondly, the website was 'passing-off' the information of the complainant, so when a consumer clicked on the link he would have been told that the cottage was not taking reservations and was directed to other hotels in the area. Thirdly, Booking.com promoted a blanket 20%-off offer for all Woolacombe hotels' that the complainant considered that untrue. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the Netherlands, the UK SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. After review, SRC decided not to handle the complaint because the complainant was a hotel owner and that was a contractual matter with Booking.com. **Complaint out of remit, case closed.**

### 2990 Ipto Ltd.

Complaint from a UK consumer to the UK SRO, ASA, regarding a direct mail by IPTO Ltd., a Czech direct marketing company. The advertisement included the claim "IPTO operates an advertising portal", but the solicitation ('non-invoice') stated a "Filing fee". The complainant believe that the advertisement was therefore intended to be treated as a patent filing invoice. Moreover, the complainant believed that the Terms and Conditions were purposely printed in faint unclear text. Therefore, the complainant challenged whether the advertisement was misleading. As the advertiser was based in the Czech Republic, the UK SRO, ASA, transferred the complaint to the Czech SRO, CRPR, under the cross-border procedure. Following the receipt of the complaint, CRPR attempted to contact the advertiser requesting additional comment but he did not replay to any enquiry. In the circumstances, CRPR was not able to further investigate the complaint. **Complaint not pursued, case closed.**

### 3028 Adobe Systems Software Ireland Ltd.

Complaint from a UK consumer to the UK SRO, ASA, regarding an email advertisement for Adobe Systems Software Ireland Ltd, an Irish counterpart of an American transnational computer software company. The subject of the email stated "Final 48 hours: get 10 free Adobe Stock images", whereas the body stated "Final hours to take 10 – on us." The complainant felt that the email implied that consumers could get 10 free pictures when in fact they had to subscribe for a year. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Ireland, the UK SRO, ASA, referred the complaint to the Irish SRO, ASAI, under the cross-border procedure. Following the receipt of the complaint, ASAI attempted to contact the complainant requesting a copy of the email they received from the advertiser, but the complainant did not reply to any enquire. Under the circumstances, ASAI was not able to further investigate the complaint. **Complaint not pursued, case closed.**

### 3030 Adobe Systems Software Ireland Ltd.

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Creative Cloud software plan by Adobe Systems Software Ireland Ltd, an Irish counterpart of an American transnational computer software company. The website stated "Black Friday. It's on. Get 20% off." The complainant understood that not all software plans actually had 20% off. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Ireland, the UK SRO, ASA, referred the complaint to the Irish SRO, ASAI, under the cross-border procedure. Following contacts with ASAI, the advertiser replied that they were not responsible for any marketing or advertising because they were a small customer service office. Under the circumstance, ASAI could not pursue the complaint. **Complaint not pursued, case closed.**

### 3034 Booking.com BV

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement on Booking.com BV, a Dutch website for hotel reservations. The advertisement featured photos and text which referred to "luxury" apartments. Having visited the suite, the complainant discovered that in fact it was in a state of repair and there was damp, stains and loose wiring. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the Netherlands, the UK SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. Following contacts with SRC, the advertiser referred the positive reviews regarding the property. The average rating of the property was 8 ("very good"), based on 2.321 reviews of guests who stayed at the hotel and were verified according to the hotel. After review, SRC's Committee noted that the only picture that substantiated the complaint was a picture of a crack in the wall: a defect which was of a minor importance. The SRC's Committee has furthermore proved that on other websites the property was valued predominantly positive. Under the circumstances and the information available, it could not be said that the term "luxury" gave a misleading picture of the property and, regarding the pictures, could not have been said that there was a misrepresentation of the property. **Case not upheld, case closed.**

### 3035 Booking.com BV

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement on Booking.com BV, a Dutch website for hotel reservations. The complainant objected that the hotel's room which he booked, was not as it had appeared on the website. In fact there was no reception area and the rooms looked different. The complainant was told that they could not stay there and was taken to a separate hotel. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the Netherlands, the UK SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. After filing the complaint, the complainant was contacted by the advertiser and the matter has been resolved directly. **Complaint resolved informally, case closed.**

### 3040 Booking.com BV

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Booking.com BV, a Dutch website for hotel reservations. The complaint was three-fold concerning the claims on the website. Firstly, the claim “Today 30% off” implied that the price was a special offer, when the complainant believed the price to be the same as other websites. Secondly, the claim “today’s value deal” implied the offer was valid for one day only, when the complainant understood it was available for successive days. Thirdly, the “only (x) rooms” text implied rooms have been selling out, when in fact the hotel only had three small deluxe rooms in total. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the Netherlands, the UK SRO, ASA, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. After investigation, for the first point the SRC’s Committee noted that the ad clearly explained how the advertised discount price was calculated. The fact that the same room apparently was also offered by the hotel for this price, did not mean that the rate on the Booking.com website was not a discount price compared to the rate that was published on its website on other times. For the second point the SRC’s Committee noted that an offer “Today’s value deal” on one day did not exclude the possibility of the same offer to be present on the following days. For the third point the SRC’s Committee noted that the full announcement on the Booking.com website reads: “Only [x] rooms left on our site.” For the average consumer it was sufficiently clear that this statement was a representation of the number of rooms a hotel had made available through the Booking.com website at any given time. After review, the SRC’s Committee did not find any violation of the SRC Code. **Complaint not upheld, case closed.**

### 3041 Cari’s Closet Bridal

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Cari’s Closet Bridal, an Irish bridal dress boutique. The advertiser administered a Facebook page “Cari’s Closet Bridal”. The advertiser ran a Facebook competition for a dress giveaway. However, when the complainant’s sister was chosen as one of the five winners and provided her details as requested, she was then informed that it was a rental dress. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Ireland, the UK SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. Following contacts with ASAI, the advertiser replied that their business was predominantly dress hire and in relation to the post in question there was never any mention stating they were giving away wedding dresses. After review the ASAI’s Committee took note of the wording on the advertisers’ Facebook post alongside a picture of bridal and formal dresses, and the fact that they had referenced the fact that they were ‘giving away’ the dresses as a prize. The ASAI’s Committee considered that if the advertisers were offering the winners the opportunity “to rent” one of their formal dresses at no cost, rather than providing them with a wedding dress “to keep”, this was a very different scenario that should have been stated in their marketing communication. In the circumstances they considered the advertisement to be in breach of Sections 2.22 (Honesty) and 2.24 (Truthfulness) of the Code. The advertiser was advised not to run the advertisement in the same format again. **Complaint upheld, case closed.**

### 3042 Code is The New Black GmbH

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for CovetMe, a social media tool provided by Code Is The New Black GmbH, a German Internet fashion start-up. The complainant took part in a promotion by producing 'covets' for CovetMe and she won £100 vouchers as a reward for endorsing fashion products online, but actually no voucher has been received. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Germany, the UK SRO, ASA, transferred the complaint to the German SRO, WBZ, under the cross-border procedure. Following contacts with WBZ, the advertiser was reminded to send the voucher to the complainant, but they did not reply to any enquiry. Under the circumstances, WBZ was not able to further investigate the complaint. **Complaint not pursued, case closed.**

### 3043 Devialet

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Devialet, a French audio manufacturer. The website detailed acoustic performance of speakers that they produced, and included the claim of distortion level amounting to 0.001%. The complainant objected to the claim, because it could not be substantiated and it was not possible to achieve such a figure for the whole speaker. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in France, the UK SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. Following contacts with ARPP, the advertiser replied that the 0,001% distortion was feasible and he added the information on his website next to the claim "0,001% distortion". After review ARPP considered the information given by the advertiser sufficient and acceptable. **Complaint not pursued, case closed.**

### 3048 Free Time

Complaint from a UK consumer to the UK SRO, ASA, regarding a direct mail by Free Time, a Spanish company for holiday reservation. The complainant was two-fold. Firstly, the complainant received a letter and brochure and the envelope stated "This is not a circular. Time sensitive documents you requested are enclosed" and offered the possibility of getting free holidays through a £99.99 subscription to the advertiser company. The complainant objected that she did not request the letter. Secondly, the complainant objected that her membership was renewed without her consent, so she wished to have their details removed from the advertiser's mailing list. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. After review, the Jury concluded that the advertisement breached the rule 14 of the Code of Advertising Practice of Autocontrol (Misleading Advertising) because the piece contained the aforementioned claim "This is not a circular. Time sensitive documents you requested are enclosed", but the complainant received the documents without having requested them; although the company Free Time expressly stated that the mentioned documents had been requested by the claimant. With regard to the second issue related to the individual membership of Free Time and the charges made by the company, the

Jury stated its lack of competence to issue an opinion on this matter. **Complaint upheld, case closed.**

### 3056 Bartscher GmbH

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement from Bartscher GmbH, a German website. The complainant objected that the claim “Stainless steel oven” was misleading, because when it arrived they discovered the oven was not stainless steel but enamel. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Germany, the UK SRO, ASA, transferred the complaint to the German SRO, WBZ, under the cross-border procedure. Following contacts with WBZ, the advertiser replied that they themselves were not in the contract with the complainant. But they confirmed the order numbers for the ovens on their website were wrong and this has been the reason for the delivery of an enamelled oven. The advertiser corrected the order numbers in the webpage and the new catalogues for the business customers. **Complaint resolved informally, case closed.**

### 3066 Booking.com BV

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an online advertisement from Booking.com BV, a Dutch website for hotel reservations. The complainant objected that the claim “today you’ll pay € 50” was misleading, because when he booked a room and during the confirmation process there was a very small note which said cleaning fee would be €40. The complainant explained that there was no option to see this charge before the booking was made. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in the Netherlands, the Irish SRO, ASAI, transferred the complaint to the Dutch SRO, SRC, under the cross-border procedure. Following contacts with SRC, the advertiser replied that it was explicitly mentioned prior, during and after the booking process as well as in the reservation confirmation, that the cleaning fee was excluded. After review, the SRC’s Committee considered that the cleaning cost should have been included in the price according to article IV sub.1 of the Advertising Code for Travel Offers in alliance with article 8.4 sub. i of the Dutch Advertising Code which applied to internet bookings. According to these provisions a total price must always be displayed in an invitation to purchase (in connection with a distance contract), which means including all the costs that are currently known and determinable. In the circumstances the SRC’s Committee uphold the complaint under the article 8 (Misleading Advertising) of the Dutch Advertising Code. **Complaint upheld, case closed.**

### 3070 Shell International Brands

Complaint from a Dutch consumer to the Dutch SRO, SRC, regarding an online advertisement from Shell International Brands, a Swiss company specializing in oils and fuels. The complainant objected that the video falsely suggested that gas was “clean”. The complainant said fossil fuels were by definition not “clean”, and the framing of Shell gas as clean was inaccurate. Therefore the complainant found the advertisement to be misleading. As the advertiser was based in Switzerland, the Dutch SRO, SRC, transferred the complaint to the Swiss SRO, CSL, under the cross-border procedure. After filing the complaint, CSL noted that the advertisement was not be

available on Twitter anymore and the complainant was satisfied with the outcome and did not wish to pursue the investigation. **Complaint resolved informally, case closed.**

### 3073 City Jet Ltd.

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement from City Jet Ltd., an Irish airline company. The complainant objected that the claim “London City to Cork from £29 one way” was misleading, because the cheapest flight they could find was £51.14. As the advertiser was based in Ireland, the UK SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. ASAI attempted to contact the advertiser several times, but the advertiser did not reply to any enquire. Under the circumstances and with no response from the advertiser, ASAI could not pursue the complaint. **Complaint non pursued, case closed.**

### 3076 Ethiad Airline

Complaint from an Irish competitor to the Irish SRO, ASAI, regarding an online advertisement from Ethiad, a UK airline company. The complainant, Emirates Airline, objected that the claim “Fly from Dublin to Dubai at great fares” was misleading because Ethiad did not fly from Dublin to Dubai, but from Dublin to Abu Dhabi. Therefore the complainant found the advertisement to be misleading and not truthful. As the advertiser was based in UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. Following contacts with ASA, the complainant was asked to follow their competitor complaints procedure as seen on ASA’s website and once this has been done the complainant could contact ASA again. **Complaint not pursued, case closed.**

### 3077 Amazon

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an online advertisement from Amazon, a UK company. The complainant objected that the product (neon strength travel belt luggage strap) was advertised on 28th and 29th oh November 2015 at £11.99. On Monday the 30th the claim”70% OFF Cyber Monday” appeared on the product photograph, but the price remained at £11.99. The complainant expressed unhappiness about it to Amazon and the price was reduced to £9.99. He received an email from Amazon apologising for the incident, saying that the item would no longer be available from Amazon (although it might be available from the merchant). As of 3rd December, the item was still priced at £9.99 with the claim “Fulfilled by Amazon”. Therefore the complainant found the advertisement to be misleading. As the advertiser was based in UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. After investigation, ASA advised Amazon to ensure in future that prices should accurately reflect the savings claimed. **Complaint not pursued, case closed.**

### 3081 Amazon

Complaint from an Irish consumer to the Irish SRO, ASAI, regarding an online advertisement from Amazon, a UK company. The complainant objected that when he logged into his account on Amazon.co.uk, it advertised Amazon Prime service. He also received emails advertising the

service. Therefore the complainant found the advertisement to be misleading. As the advertiser was based in UK, the Irish SRO, ASAI, transferred the complaint to the UK SRO, ASA, under the cross-border procedure. After investigation, ASA noted that the small print of the email stated “All Prime benefits are immediately available to you as soon as you sign up for membership” and considered that, given the recipient was based in Ireland and wouldn’t be able to take advantage of Prime benefits, the ad could mislead consumers by omitting material information, such as geographical restrictions. Whilst ASA did not pursue a formal investigation, they notified Amazon that this was likely to be a breach and provided them with guidance. **Complaint not pursued, case closed.**

### 3085 Global Prospect SL/IPIN Global

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement from Global prospect SL/IPIN Global, a Spanish financial company. The complainant challenged whether the website was misleading, because it implied that the advertiser had expertise in picking low risk investments. In fact, the ad stated that the consumer’s deposit was insured by an insurance company and featured quotes from happy investors. However, the complainant had a negative experience, had lost lots of money and understood that the insurance company was liquidated. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. Following contacts with AUTOCONTROL, the complainant was asked to provide the complete advertisement claimed in order to start the proceedings, because in the ad provided a mentioned insurance claim did not appear. The complainant reported that the web subject of the complaint had been modified and the reference to the insurance company was no longer appearing. Under the circumstances, AUTOCONTROL was not able to further investigate the complaint. **Complaint not pursued, case closed.**

### 3095 Wuaki.TV SLU

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement from Wuaki TV SLU, a Spanish company. The complainant objected that the claim “Now you can enjoy the movies and TV shows in your UltraViolet™ Library at Rakuten Wuaki.tv and your UltraViolet™ purchases on Rakuten Wuaki.tv will be added to your existing UltraViolet™ Library” was misleading because a TV show in his Ultraviolet library was not available via Wuaki TV. Therefore, the complainant found the advertisement to be misleading. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. Following contacts with AUTOCONTROL, the advertiser took responsibility for the ad and explained that they undertook the commitment to amend the advertisement. **Complaint resolved informally, case closed.**

### 3106 The Travel Gateway Ltd.

Complaint from a competitor, Direct Ferries, to the UK SRO, ASA, regarding an online advertisement on the Travel Gateway Ltd.’s website, located in Poland. The complainant noted that the website contained a headline stating “The World’s Leading Ferry Website” and was concerned that it did not reference that this claim is based on a World Travel Award (rather

objective measure of site size or reach) and that the WTA award was just a title, they believed, a site [www.aferry.pl](http://www.aferry.pl) paid a fee to receive (rather than a meaningful award). Therefore the complainant found the advertisement to be misleading. As the advertiser was based in Poland, the UK SRO, ASA, transferred the complaint to the Polish SRO, Rada Reklamy, under the cross-border procedure. After investigation, Rada Reklamy noted that there was no sign on the website that advertiser could be based in Poland: in fact there was only “pl” in the link and the site was in polish ([www.aferry.pl](http://www.aferry.pl)) but if you clicked on contact info, the company address was in UK. Under the circumstances, Rada Reklamy was not able to further investigate the complaint. **Complaint not pursued, case closed.**

### 3109 The Travel Gateway Ltd.

Complaint from a competitor, Direct Ferries, to the UK SRO, ASA, regarding an online advertisement on the Travel Gateway Ltd.’s website, located in Italy. The complainant noted that the website contained a headline stating “The World’s Leading Ferry Website” and was concerned that it did not reference that this claim is based on a World Travel Award (rather objective measure of site size or reach) and that the WTA award was just a title, they believed, a site *aferry* website paid a fee to receive (rather than a meaningful award). Therefore the complainant found the advertisement to be misleading. As the advertiser was based in Italy, the UK SRO, ASA, transferred the complaint to the Italian SRO, IAP, under the cross-border procedure. After investigation, IAP noted that the advertiser was not directly bound to their self-regulation system and, consequently, it was not subject to their control. Under this circumstances, IAP was not able to further handle the complaint. **Complaint not pursue, case closed.**

### 3112 The Travel Gateway Ltd.

Complaint from a competitor, Direct Ferries, to the UK SRO, ASA, regarding an online advertisement on the Travel Gateway Ltd.’s website, located in Greece. The complainant noted that the website contained a headline stating “The World’s Leading Ferry Website” and was concerned that it did not reference that this claim is based on a World Travel Award (rather objective measure of site size or reach) and that the WTA award was just a title, they believed, a site *aferry* website paid a fee to receive (rather than a meaningful award). Therefore the complainant found the advertisement to be misleading. As the advertiser was based in Greece, the UK SRO, ASA, transferred the complaint to the Greek SRO, SEE, under the cross-border procedure. After investigation, SEE noted that the advertiser was not based in Greece but seemed to be located in UK. Under this circumstances, SEE was not able to further handle the complaint. **Complaint not pursue, case closed.**

### 3113 The Travel Gateway Ltd.

Complaint from a competitor, Direct Ferries, to the UK SRO, ASA, regarding an online advertisement on the Travel Gateway Ltd.’s website, located in Spain. The complainant noted that the website contained a headline stating “The World’s Leading Ferry Website” and was concerned that it did not reference that this claim is based on a World Travel Award (rather objective measure of site size or reach) and that the WTA award was just a title, they believed, a site *aferry* website paid a fee to receive (rather than a meaningful award). Therefore the

complainant found the advertisement to be misleading. As the advertiser was based in Spain, the UK SRO, ASA, transferred the complaint to the Spanish SRO, AUTOCONTROL, under the cross-border procedure. After investigation, AUTOCONTROL noted that the advertiser seemed to be located in the UK and under these circumstances, AUTOCONTROL was not able to further handle the complaint. **Complaint not pursued, case closed.**

### **3115 The Travel Gateway Ltd.**

Complaint from a competitor, Direct Ferries, to the UK SRO, ASA, regarding an online advertisement on the Travel Gateway Ltd.'s website, located in Belgium. The complainant noted that the website contained a headline stating "The World's Leading Ferry Website" and was concerned that it did not reference that this claim is based on a World Travel Award (rather objective measure of site size or reach) and that the WTA award was just a title, they believed, a site *aferry* website paid a fee to receive (rather than a meaningful award). Therefore the complainant found the advertisement to be misleading. As the advertiser was based in Belgium, the UK SRO, ASA, transferred the complaint to the Belgian SRO, JEP, under the cross-border procedure. After review, JEP noted that advertisement was not within JEP's remit because the complainant was a competitor. Therefore, JEP could not pursue the investigation. The complainant was advised to address the competent Belgium government body, FPS Economy (Federal Authority for the Economy, SMEs, the Self-employed and Energy). **Complaint transferred to appropriate authority, case closed.**

## 2.2 Privacy and Data Protection

No complaints have been received regarding the issue of Privacy and Data Protection in the period of Q1 (January – March) of the 2016.

## 2.3 Social Responsibility

### 3029 Outfit7 Ltd.

Complaint from a French consumer to the French SRO, ARPP, regarding an app for children called “Mon Angela” downloaded by the plaintiff on the Apple store France. The operator of the app is Outfit7, an English company. The plaintiff complained that advertising for a porno website was displayed in the app. Therefore, the complainant found the advertising to be inappropriately and irresponsibly placed within an app likely to be played by children. As the advertiser was based in UK, the French SRO, ARPP, referred the complaint to the UK SRO, ASA, under the cross-border procedure. After investigation, ASA did not know the identity of the advertiser responsible for the ad’s content. They also attempted to contact the app developers directly for their help; however, they did not respond to their requests for information. Under the circumstance, ASA was not able to further investigate the complaint. **Complaint not pursue, case closed.**

### 3075 Activia Danone

Complaint from a German consumer to the German SRO, DWR, regarding a TV advertisement from Activia Danone, a Swiss company. The ad showed a younger man in a supermarket in front of the yoghurt shelf, while the women were looking at him. The complainant found the advertisement to be discriminating the man because the women seemed only to look at his body and they acted as if they would talk about him only because they wanted to buy the yoghurt. As the advertiser was based in Switzerland, DWR assessed the complaint on the basis of its own national rules before transferring the complaint to the Swiss SRO, CSL, to communicate the decision to the advertiser, under the cross-border procedure. After investigation, the DWR’s Committee noted that the advertisement actually was from the beginning of the previous year and not a recent one, therefore under this circumstance the DWR’s Committee decided to not handle the complaint. **Complaint not pursued, case closed.**

### 3080 Halloint sprl

Complaint from a French consumer to the French SRO, ARPP, regarding an outdoor advertisement from HALLOINT sprl, a Belgian company specialized in work wear. The ad appeared on the advertiser’s trucks and showed a woman in skimpy outfits sitting on a chair. Next to her, there was a men standing in work clothes. The complainant challenged whether the woman has been depicted in a position of inferiority compared to man. Therefore the complainant found the ad to be degrading to the image of women. As the advertiser was based in Belgium, the French SRO, ARPP, transferred the complaint to the Belgium SRO, JEP, under the cross-border procedure. After review, the JEP’s Committee noted that advertisement was not within JEP’s remit and the complainant was advised that this kind of ads are not within JEP’s remit. **Complaint out of remit, case closed.**

## 2.4 Taste and Decency

### 3088 Bet at Home Internet Ltd.

Complaint from a UK consumer to the UK SRO, ASA, regarding a TV advertisement for Bet At Home Internet Ltd., a Maltese online gambling and sports betting company. The ad showed nuns and priests playing a football match. The nun was then seen to use the cross hanging around her neck to blind the opposing team's goal keeper allowing a goal to be scored. The complainant believed that the use of the symbol of Christianity by a nun to gain a competitive advantage/cheat was highly offensive. The complainant also objected to the advertisement for gambling services being shown in the morning. Therefore, the complainant found the advertisement to be against taste and decency. As the medium was based in France, the UK SRO, ASA, transferred the complaint to the French SRO, ARPP, under the cross-border procedure. After investigation, ARPP's Jury considered the ad was not offending for religious beliefs because it was humorous and most people could understand the humour and the exaggeration of the scene. After review, ARPP's Jury did not find any violation of the ARPP Code. **Complain not upheld, case closed.**

### 3134 Paddy Power

Complaint from a UK consumer to the UK SRO, ASA, regarding an online advertisement for Paddy Power, an Irish online betting platform. The ad showed various scenes of people using a taser gun. The complainant challenged whether the ad was offensive because it made light of a violent act and was irresponsible and harmful because it was likely to condone or encourage violence. Therefore, the complainant found the advertising to be offensive. As the advertiser was based in Ireland, the UK SRO, ASA, transferred the complaint to the Irish SRO, ASAI, under the cross-border procedure. Following contacts with ASAI, the advertiser replied that the tasing which was featured in the advertisement had been carried out in conjunction with the voiceover which stated "Here is an idea to give boring matches a jump start... RTE's coverage of the UEFA Euro Qualifiers. Sponsored by Paddy Power, You're Welcome!" A player was then shown tasing his opponent on the football pitch at the same time as the voiceover. The advertisers said that the tone and spoken word of the voiceover was sarcastic and the depiction of violence in the advertisement had not been graphic or realistic. Instead, they considered it had portrayed an over-the-top unrealistic situation. After review, ASAI, did not consider that the advertisers were condoning violence or portraying realistic behaviour that would be acceptable on any football pitch. Moreover, the ASAI stated that the advertising did not cause grave or widespread offence as out of the large audience profile that would have been watching the Euro 2016 qualification matches. **Complaint not upheld, case closed.**

**Annex A: How the EASA Cross-Border Complaints System Works**

## 3 EASA Cross-Border Complaints System

EASA Cross-Border Complaints (CBC) system has been in operation since 1992. With the increase of media travelling across borders, the CBC system was established to provide people Complaint from a UK company to the UK SRO, ASA, regarding a direct mail from Net Company who wished to make complaints against advertising featured in media or by advertisers originating from outside their home territory with the same redress available to consumers within the country of origin of the media or advertiser. Since 1992, EASA has coordinated 3.216 cross-border complaints.

### Basic Principles of EASA Cross-Border Complaints System

The first principle is the 'country of origin', a concept enshrined in EU law to facilitate the growth of the Single Market. With regards to the Cross-Border Complaints system, an advertisement must abide by the rules of the country where the media is based that features the advertisement. In the case of direct marketing or online advertising, however, the advertisement will generally be expected to follow the rules of the country where the advertiser is based. The second principle is 'mutual recognition'. By this principle, EASA members agree to accept advertisements which comply with the self-regulatory rules in the country of origin of the media or advertiser, even if those rules are not identical to their own.

### Competent Body

Once the advertisement's 'country of origin' has been established, the complaint will be assigned to the local self-regulatory organisation (SRO). It is not possible to assign a complaint to more than one SRO.

### Dealing with Cross-Border Complaints

The complainant may not initially realise that his or her complaint lies outside the competence of his or her national SRO. Hence, the complainant's first point of contact may be the local SRO. Once the SRO ascertains that a complaint is in fact a cross-border issue, it will first inform the complainant of the Cross-Border Complaints system and the measures that will be taken to handle the complaint. The complaint, along with any other relevant details, is then passed on to the relevant self-regulatory organisation (SRO) present in the country of origin of the media or the advertiser under investigation. The EASA Secretariat is included in all correspondence related to the case and will closely monitor its progress. Further, EASA may become involved in the process by, for instance, recommending the SRO to take certain actions, involving industry bodies where appropriate, and reporting on the outcome of cases once they have been closed.

### Ad-Alerts

If an ad shows evidence of deliberate unethical, dishonest or criminal activity, the SRO will transfer the complaint to the relevant government authorities. In these circumstances, the EASA Secretariat may, after discussion with members involved, decide to issue an Ad-Alert, which notifies concerned parties of the advertisers' activities. Ad alerts are published on the EASA website: [www.easa-alliance.org](http://www.easa-alliance.org).

### Publications

Closed cross-border complaints are reported quarterly and annually in CBC Reports, published on the EASA website: [www.easa-alliance.org](http://www.easa-alliance.org).

## Outcomes of Complaints

### **Upheld**

Complaints that are investigated by the SRO and adjudicated by the SRO jury are upheld if the jury decides that the marketing communication does breach the advertising codes. Subsequently the advertiser is asked to withdraw or change the advertisement to ensure it complies with the rules.

### **Not upheld**

Complaints that are investigated by the SRO and adjudicated by the SRO jury are not upheld if the jury decides that the marketing communication does not breach the advertising codes. No further action is taken.

### **Not pursued/not investigated**

A complaint is not pursued if the SRO considers that there is no basis for investigation (e.g. the concern of the complainant would not be shared by most people) and subsequently dismisses the complaint; or where not enough information was provided by the complainant or the requirements of complaint submission were not met.

### **Resolved informally**

When a minor or clear-cut breach of the self-regulatory codes has been made, the SRO may decide to resolve the complaint informally, i.e. the marketer agrees to change or withdraw its marketing communication straight away.

### **Transferred to appropriate authority**

For example, complaints that have been transferred to the appropriate legal backstop.

### **Out of remit**

A complaint falls out of remit if either the complaint or the marketing communication falls outside the scope of the self-regulatory code (e.g. the complaint is about the product advertised and not the advertisement as such). However, the SRO might decide to forward the complaint to another complaint handling body for action.

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