

Appendix 2: The EASA Statement of Common Principles and Operating Standards of Best Practice (May 2002)

1. Advertising self-regulation is the response of the advertising industry to the challenge of dealing with issues affecting commercial communications through co-operation rather than detailed legislation. Through advertising self-regulation, the industry demonstrates its ability to regulate itself responsibly, by actively promoting the highest ethical standards in commercial communications and safeguarding consumers' interests. National self-regulatory bodies (SROs), actively supported by the constituent parts of the industry, are responsible for administering their respective self-regulatory systems and applying national codes of advertising practice – based on those of the International Chamber of Commerce (ICC) – in such a way that advertisements which fail to meet those standards are quickly corrected or removed.
2. The European Advertising Standards Alliance (EASA) is the single voice of the advertising industry in Europe on advertising self-regulation. It acts as the European coordination point for advertising self-regulatory bodies and systems across Europe. All of these systems contain two essential elements: a set of rules (codes) and a procedure to handle complaints submitted about specific advertisements.
3. EASA was set up in 1992 to support and promote self-regulation, coordinate the handling of cross-border complaints and to provide information and research on self-regulation
4. The purposes of the EASA include:
 - ... to encourage best practice and common high standards in advertising self-regulation
 - ... to stimulate improvements where necessary of national self-regulatory systems
 - ... to work to establish common principles of best practice and towards greater convergence of the key principles...
5. To help meet these objectives, the members of EASA have agreed a statement of common principles and recommended best operating practice for use by national SROs which are designed to guide all participants in the self-regulatory process in their work. This statement applies to the self-regulation of both on and off-line advertising.
6. The codes are drawn up by the advertising business including advertisers, agencies and media. The codes are applied and the systems managed nationally by independent self-regulatory bodies.
7. Self-regulation provides an essential complement to national legislation governing advertising. It has a crucial role in maximising consumer confidence in advertising.
8. Self-regulation is proven to be the best method of responding quickly, efficiently, and effectively to consumers' concerns about advertising.
9. It also plays an important part in educating the advertising business and preventing breaches of the codes. This set of principles and practices, and the advice that they offer, draws on the experience of self-regulation over more than 65 years. As has been the case during this time we expect that the principles and practices will evolve as society evolves. There will thus be a regular review of these in order to assess their suitability.

In this paper the **common principles** are the core values that should underpin every self-regulatory system in membership of the EASA. The **operating best practices** are the recommended standards, which all national systems should seek to achieve. The continued acceptance of self-regulation by European consumers and government at both national and EU levels will be made more certain by the visible presence of the common principles and the standards of best practice in all national self-regulation systems. The EASA will ensure that these are maintained throughout its membership.

THE COMMON PRINCIPLES OF SELF-REGULATION

10. Successful self-regulation depends upon the application of a set of principles that underpin the process and are common to all systems. These common principles set out to maximise the benefits of self-regulation to consumers.

11. The consumer benefits

11.1 The purpose of a self-regulatory system is to maintain consumer confidence in advertising by offering a rapid and effective response to consumer concerns. It facilitates consumer protection by providing a route for the individual consumer to express a view directly to the advertising business and the advertiser. It enables brands to compete on a level playing field to the benefit of the consumer. In all this, the advertising business will also be seen to be actively, continuously, and responsibly engaged with the consumer.

11.2 Self-regulatory systems should, above all, ensure that the individual consumer is the focus of attention.

12. Independence

12.1. Self-regulation must be and be seen to be impartial.

12.2. Operation and outcome/decisions of the self-regulatory systems should be made independently of government, specific interests and interest groups.

13. Transparency and accessibility

13.1. Access to the complaints process should be easy and at no cost to the consumer.

13.2. The right of a consumer to access the self-regulatory system and the means of doing so should be well known.

13.3. The workings and outcome/decisions of a self-regulatory system should be transparent to all parties.

14. Effectiveness

14.1. Notwithstanding the national legislative framework, self-regulation must be and seen to be effective, in both its operation and outcome

14.2. Self-regulation must be rapid, flexible, current and applied in a non-bureaucratic manner.

14.3. Self-regulatory rules and procedures should be applied in both the spirit and the letter, and regularly reviewed.

15. Efficient complaint handling and enforcement

15.1. A self-regulatory system should have a means to handle consumer complaints, which should be handled free of charge.

15.2. A self-regulatory system must have adequate and credible sanctions to support its decisions.

15.3. A self-regulatory system should have the power to enforce effectively its decisions, i.e. sufficient moral and practical support from the constituent parts of the advertising industry.

16. Self-regulation and the law

Self-regulation must always be in compliance with the law, and no part of the self-regulatory process should deprive a consumer of the protection provided by the law.

17. Cooperation

Self-regulatory systems and bodies in membership of the EASA have a duty to co-operate with each other in order to handle complaints effectively and converge on best practice.

18. Resources

18.1. Self-regulatory systems must be sufficiently resourced and supported to be able to meet their objectives.

18.2. Industry members should ensure adequate moral and financial support for advertising self-regulation and its implementing organisations.

RECOMMENDED STANDARDS FOR OPERATING BEST PRACTICE IN SELF REGULATION

19. Self-regulation is the system by which the advertising industry actively polices itself. The self-regulatory organisations (SROs) in membership of EASA undertake to uphold the recommended standards of best practice listed below in the operation of their self-regulatory systems and their handling of cross-border complaints.

20. SROs set out to maintain these quality standards in their operations for the benefit of consumers and to promote industry best practice. The standards meet the aims set out in EASA's Articles of Association, in particular "...to encourage best practice and common high standards in advertising self-regulation including monitoring, complaints handling and compliance..." We believe that in this way advertising self-regulation will continue to provide enforcement that is efficient, effective and evaluated.

21. Constitution & membership

The constitution and membership of all SROs should be published and regularly reviewed.

22. Terms of reference for Self-Regulatory Organisations (SROs)

These will include:

- 22.1 Responsibility for the development and implementation of codes that will help maintain and sustain consumer trust and confidence in advertising standards by providing an efficient means of meeting consumer concerns and delivering consumer protection
- 22.2 Practical responsibility for regulating advertising standards, including the power to enforce their decisions with the moral and practical support of the advertising business
- 22.3 The promotion of advertising self-regulation and the demonstration that it is more effective than detailed legislation as a means of regulating advertising and of protecting the consumer.

23. Funding and other resources

Sufficient support from the constituent parts of the advertising industry (or, in the case of sectoral bodies from the sector for which they are responsible) should be made available to ensure effectiveness and credibility.

24. Codes, their development and review

- 24.1 Self-regulatory codes are based on the following basic principles, enshrined in the general Code of Advertising Practice of the International Chamber of Commerce (ICC): "the content of advertising should be legal, decent, honest and truthful with a due sense of social responsibility and respect for the rules of fair competition."
- 24.2 All codes must be applied both in the spirit and to the letter.
- 24.3 Codes should reflect national culture, law, and commercial practices, within the spirit of mutual recognition.
- 24.4 SROs should ensure that self-regulatory principles for advertising content are applied to new areas of advertising and commercial communications.
- 24.5 Self-regulatory rules and procedures should be regularly reviewed in the light of regulatory, social and technological developments, including consumer attitudes to advertising.

25. Operation of the self regulatory system

25.1 Independence

Decisions taken by SROs and self-regulatory systems should be reached in an independent and impartial manner and this should be reflected in the manner in which the complaints are handled.

25.2 Transparency

- 25.2.1 The codes, standards and rules that SROs apply and the procedures by which they operate and by which complaints are handled, should be published (print/website) and made available to all interested parties.
- 25.2.2 It should be easy for consumers and advertisers to know what evidence to provide.
- 25.2.3 The complainant should be notified of the receipt of the complaint and, at the end of the process, of its outcome.

25.3 Adversarial principle

Those subject to complaint should be invited to comment on the complaint and to provide evidence in support of the claims made.

25.4 **Effectiveness**

- 25.4.1 All complaints, whether consumer or intra-industry, should be handled rapidly and efficiently; Self-regulatory rules and systems should be regularly reviewed to ensure that they remain appropriate and effective.
- 25.4.2 A flexible, non-bureaucratic, approach should be adopted, in particular with regard to the interpretation of rules and complaint handling.
- 25.4.3 There should be rapid identification of the nature of the complaint and the appropriate jurisdiction in terms of origin, particularly in cases of fraud or sharp practice.
- 25.4.4 There should be a suitable appeals or review procedure.

25.5 **Liberty and representation**

Legal representation does not form part of the self-regulatory system, but parties should be entitled to representation by third parties should they wish.

25.6 **Self-regulation and the Law**

- 25.6.1 No procedure or decision in the self-regulatory process should deprive a consumer of the protection provided by the law.
- 25.6.2 Decisions and the reasons for them should be communicated promptly to the parties involved.

25.7 **Enforcement**

- 25.7.1 Sanctions must be effective and designed to prevent repeat offences. They should include publication of breaches of the codes, the moral and practical support of member and supporting organisations, and the acceptance by all practitioners of their application
- 25.7.2 An important sanction for breaches of the codes should be that a description of the activities of SROs, including information on the number and nature of decisions taken, should be published on a regular basis to both consumer and industry practitioners.

26. **Consultation with stakeholders**

- 26.1 SROs should ensure that all advertising practitioners are aware of the national self-regulation system, its rules and its procedures
- 26.2 SROs should regularly promote the system to consumers, other relevant organisations, politicians and regulators
- 26.3 SROs should ensure that in the development of codes the relevant views of all stakeholders are taken into account
- 26.4 SROs should ensure the provision of education and training programmes, as well as the provision of advice in order to avoid breaches of the codes.

27. **Effective cross-border consumer protection and co-ordination**

- 27.1 The EASA Secretariat is responsible for the co-ordination of the cross-border complaints system and liaison with appropriate bodies at an EU level to ensure the swift resolution of complaints. Regular reports on the handling of complaints are published in its newsletter and on its website.
- 27.2 SROs should adhere to the procedures of EASA's cross-border complaints system when handling complaints about advertising carried in the media of another member country.
- 27.3 SROs should apply the country of origin principle, as established in the EASA cross-border complaints procedure¹³, to identify the competent SRO.
- 27.4 SROs should transfer cases promptly and co-operate in their resolution
- 27.5 SROs should notify each other and the EASA Secretariat of the receipt, progress and outcome of a cross border case.
- 27.6 SROs should keep cases confidential within the EASA network and not reveal them to third parties, except to the extent necessary to resolve them, until they are ready to be published or transferred to the appropriate authorities.

28. **Promotion and Best Practice**

- 28.1 EASA members should work towards the convergence of self-regulatory systems, their administration and procedures, based on identified best practice.
- 28.2 EASA members should assist EASA to strengthen existing self-regulatory systems where appropriate and to encourage the creation of self-regulatory systems where they do not exist.

¹³ That is, the country of origin of the media carrying the advertisement – where applicable – and the country of origin of the advertiser for cases such as direct marketing, Internet/new media, etc.