2019

CROSS BORDER COMPLAINTS REPORT













EASA

EASA – the European Advertising Standards Alliance is the single authoritative voice on advertising self-regulation in Europe. 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) 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 preclearance 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 42 organisations committed to making sure advertising is legal, decent, honest, and truthful. EASA's membership is made up of 28 SROs from 26 European countries, 13 advertising industry associations, including advertisers, agencies, the media, and 1 digital pure play company. EASA is also a member of ICAS (The International Council on Ad Self-Regulation) and through its membership additionally partners with 14 SROs worldwide.

EASA is a not-for-profit organisation with a Brussels-based Secretariat. For further information please visit www.easa-alliance.org.

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Key Findings

EASA's Self-Regulatory Organisation (SRO) members ensure that all Cross-Border Complaints (CBCs) are dealt effectively and efficiently through a mechanism that relies on a network of independent and recognised SROs that exchange constant flows of information.

CBCs are complaints against advertisements that originate in media or from advertisers based in another country than that of the complainant. The EASA Secretariat coordinates these types of complaints through a system that has been in operation since 1992, when it was set up in response to the creation of the European Single Market. This mechanism was built to address issues whereby advertising circulating in one EU Member State was carried in media originating in another. Currently, EASA's CBC system covers 28 SRO members in 26 European countries that handle complaints, but also the international network of SROs which are members of the International Council for Advertising Self-Regulation (ICAS). EASA has members both inside and outside of the European Union who participate in the Cross-Border Complaints mechanism.

The report finds that, in 2019, 332 CBCs were received by SROs. This represents a 70% increase from the year before and was concentrated in terms of geography, sector, issue, and medium, as is shown the following sections of the report. Consumers in the UK filed the majority of the CBC complaint. The majority of the CBCS concerned digital marketing communications for airline companies and hotel services headquartered in Ireland or the Netherlands. The ads allegedly contained misleading material.

- In 2019, EASA's SRO network handled 332 cross-border complaints, 70% more than in 2018.
- > 88% of all cross-border complaints were lodged by UK complainants.
- Advertisements from Ireland and the Netherlands were subject to the highest number of cross-border complaints (33% and 27% of all complaints respectively).
- Misleading advertising was the main issue complained about (85%).
- Digital Marketing Communications was the most complained about medium (89%).
- Leisure services were the most complained about industry sector with almost 54% of all complains lodged, followed by Retail (6.5%) and Clothing & Accessories (6.5%).

The Total Number of Cross-Border Complaints Received

In 2019 EASA's SROs transferred 332 complaints, 70% more than in 2018

Over the course of 2019, EASA was notified of a total of 332 cross-border complaints, which shows a 70% increase in transferred complaints in comparison to the year before. This sharp rise was unevenly spread across Europe.

The analysis of the annual statistics (depicted in Figure 1 below) suggests that since 2014, up until 2017, the average number of cross-border complaints remained relatively stable. The slight increase in 2018 continued over in 2019 and materialised into a significant increase. In the past 4 years, an average of around 190 cross-border complaints were treated annually by EASA's network.



Figure 1: Cross-border complaints received between 2014 and 2019

Source: Annual Cross-Border Complaints Report 2018 & Online Database¹

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¹The "Online Database" refers to EASA's internal online cross-border complaints platform that member self-regulatory organisations use to register and send their complaints through to other SROs. EASA acts as a facilitator and caretaker of the platform, using the confidential data only for statistical purposes.

The Origin of Advertisements

Ads from Ireland and the Netherlands generated the highest number of cross-border complaints in 2019

The EASA Cross-Border Complaints System requires that all advertisements comply with the advertising laws and self-regulatory codes in the country in which the medium carrying the advertisement is based in. However, in the case of Direct Mail and Digital Marketing Communications (DMC), the country of origin is the one in which the advertiser is based in. In the case of Online Behavioural Advertising (OBA), it is the country in which the principal decision-making presence is conducted that counts as the country of origin.²

Through 2019, around a third (33%) of all 332 advertisements which were filed in EASA's cross-border complaints system originated from Ireland and 27% from the Netherlands. These two countries generated the highest number of adverts subject to complaints in other European countries, with France, falling far behind at 6%. Other countries where advertisements originated in that prompted frequent complaints were Spain (5%), the United Kingdom (5%), and Germany (5%).

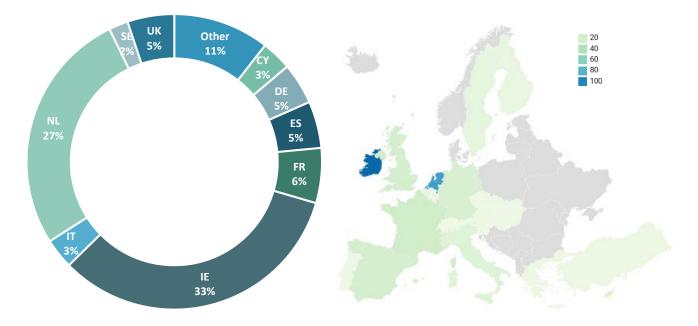


Figure 2: Cross-border complaints per country of origin in 2019

Source: Annual Cross-Border Complaints 2019

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² Switzerland, not being in the EU, requires advertisements addressed by Swiss-based advertisers to consumers in other countries to comply with the rules in those countries (principle of the country of destination). Consequently, in such cases, the Self-Regulatory Organisation (SRO) in the complainant's country assesses the complaint based on its own national rules before passing it to the Swiss SRO, which communicates the decision to the advertiser. Some other SROs, in EU member countries, operate under different principles as well. However, SROs always share information and best practices in order to have a swift and definitive decision on each CBC.

The Irish self-regulatory organisation, the Advertising Standards Authority of Ireland (ASAI), received a total of 110 advertisements, as they all originated in Ireland. UK complainants lodged 95% of these 110 complaints. The same can be said for the Netherlands, with the Dutch SRO SRC having received 89 complaints. Similar to the Irish case, the data shows that the British public lodged 91% of the CBCs received in 2019 by the SRC.

Nearly all the complaints received by the Irish SRO (93%) concerned misleading advertising. The highest share of complained about ads (67%) originating in Ireland was against ads for leisure services. The annual statistics show (see an overview, presented in Table 1) that despite some fluctuations, on average, the most complained about ads for the past five years originated in media or were created by advertisers based in the Netherlands, France, Ireland, Germany, and Spain.

Table 1: Cross-border complaints per country of origin between 2014 and 2019

Source: Annual Cross-Border Complaints Report 2018 & Online Database

| Country | 2019 | 2018 | 2017 | 2016 | 2015 |
|-----------------------|-----------------------|------|------|------|------|
| Ireland | 110 | 34 | 11 | 25 | 23 |
| Netherlands | 89 | 47 | 51 | 33 | 21 |
| France | 20 | 24 | 19 | 13 | 11 |
| Spain | 17 | 12 | 10 | 10 | 11 |
| United Kingdom | 17 | 8 | 12 | 13 | 9 |
| Germany | 15 | 15 | 3 | 4 | 8 |
| Cyprus | 11 | 5 | 3 | 2 | 2 |
| Italy | 11 | 5 | 1 | 1 | 4 |
| Sweden | 7 | 6 | 2 | 6 | 2 |
| Finland | 5 | 4 | 0 | 2 | 0 |
| Belgium | 4 | 1 | 4 | 6 | 5 |
| Austria | 3 | 2 | 1 | 1 | 1 |
| Greece | 3 | 2 | 0 | 4 | 1 |
| Turkey | 3 | 2 | 0 | 0 | 0 |
| Hungary | 2 | 5 | 2 | 2 | 2 |
| Czech Republic | 2 | 2 | 1 | 3 | 0 |
| Portugal | 2 | 2 | 0 | 0 | 0 |
| Poland | 0 | 3 | 3 | 6 | 3 |
| Canada | 4 | 4 | 2 | 2 | 2 |
| India | 0 | 1 | 4 | 1 | 0 |
| Other | 2 ³ | 74 | 4 | 12 | 11 |

³ Category "Other" in 2019 refers to two complaints sent to New Zealand.

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⁴ Category "Other" in 2018 includes Australia and Mexico, which handled two complaints each, as well as Romania which handled one complaint.

The Origin of Complainants

88% of cross-border complaints were lodged by UK complainants

Through 2019, UK complainants remained the most active in terms of lodging cross-border complaints having sent 291 objections to marketing practices to the UK SRO, the ASA (88% of all complaints). Advertisements from Ireland (36%) and the Netherlands (28%) were amongst the most complained about by the British public. However, it is also important to note that the complainants from the UK challenged advertisements originating from 19 different European countries, plus two non-European countries, namely Canada and New Zealand. Last year also saw cross-border complaints lodged by Irish (7.5%) and French (1%) consumers, with the rest of the European countries falling below 1%, as showed in Figure 3, below.

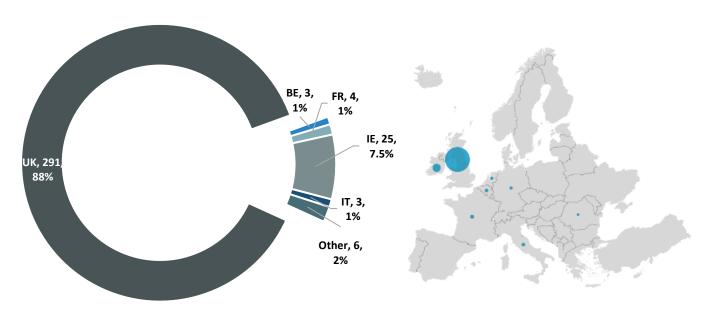


Figure 3: Advertisements complained about per country of complainant in 2019

The figure below provides a complete overview of the cross-border situation in 2019, with the number of CBCs each SRO has sent out abroad, the amount received, and the amount handled in each country. The arrows reflect the number of CBCs transferred, with the bigger and darker ones mirroring the important cross-border communication between SROs. The blue disk gradient reflects the number of CBCs received and the coloured countries indicate the total amount of cross-border complaints sent abroad by the SROs.

As illustrated in earlier sections, the largest transfer of CBCs occurred between the UK and Ireland, and the UK and the Netherlands. Notable transfers also took place from the UK to Spain, Germany, Cyprus, and France as well as between other countries. However, the bulk of CBCs was sent and received in Western Europe. About 2% of CBCs were sent to global SROs in New Zealand and Canada.

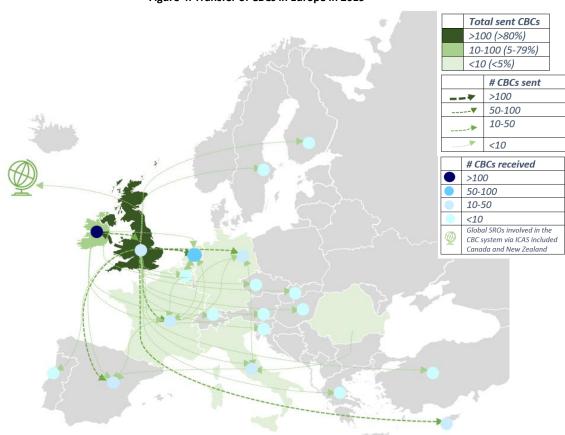


Figure 4: Transfer of CBCs in Europe in 2019

The table below also shows that only a handful of countries are sending over complaints to other countries. The biggest contributor remains the United Kingdom. Over the past six years, UK complainants have filed-in the largest share of cross-border complaints: three to seven times more compared to all other plaintiffs of other countries combined

Due to its government mandate to review, monitor, and issue rules and guidance for the advertising industry, the ASA has thus an important clout and is a focal point for all complaints. Furthermore, as the table below shows, five more countries have seen an increase in complaints sent abroad.

Table 2: Cross-border complaints per country of complainant between 2014 and 2019

| Country | 2019 | 2018 | 2017 | 2016 | 2015 | 2014 |
|----------------|------|------|------|------|------|------|
| United Kingdom | 291 | 174 | 103 | 121 | 85 | 108 |
| Ireland | 25 | 10 | 19 | 10 | 12 | 5 |
| Belgium | 3 | 6 | 6 | 1 | 1 | 3 |
| France | 4 | 1 | 4 | 4 | 1 | 5 |
| Spain | 0 | 1 | 1 | 1 | 1 | 2 |
| Germany | 2 | 0 | 1 | 5 | 2 | 0 |
| Netherlands | 2 | 0 | 1 | 1 | 5 | 1 |
| Italy | 3 | 0 | 0 | 1 | 1 | 0 |
| Sweden | 0 | 0 | 0 | 1 | 0 | 1 |
| Romania | 1 | 0 | 0 | 0 | 0 | 0 |
| Other | 1* | 0 | 0 | 0 | 3 | 4 |

^{*}Other in 2019 represents a complaint filed via EASA's online form.

Source: Annual Cross-Border Complaints Report 2018 & Online Database

4 Outcome of Resolved Complaints

A third of complaints were not investigated as SROs had already initiated procedures, and 11.5% were upheld whereas 17% were not

Nearly a third of complaints (32.7%) were not investigated as SROs found either no basis for the complaints, the ad had already been under investigation, or the complaint was not targeting any specific advertisement. SROs' juries and committees upheld 11.5% of complaints and rejected 18%, with only a handful (3%) partially upheld as the juries or committees found the complaint to be unfounded but issued private warnings to the advertiser, considering the ad to be featuring potentially problematic elements. A further 15% of complaints did not make it to the jury sessions as the secretariats were unable to collect sufficient information to bring the case to the committees and were thus classified as "unable to pursue the case". Such complaints include unresponsive plaintiffs and/or advertisers, and complaints that did not contain the required information about the ad to enable SROs to construct a case. Just under 8% of complaints were resolved informally by the SROs. These are complaints where the secretariats of the SRO are able to mediate between the advertisers and the plaintiffs about their grievances. An equal number of complaints also fell outside the SROs' remit. Finally, a mere 4% were transferred to the appropriate authority, either to national offices or to non-European SROs.

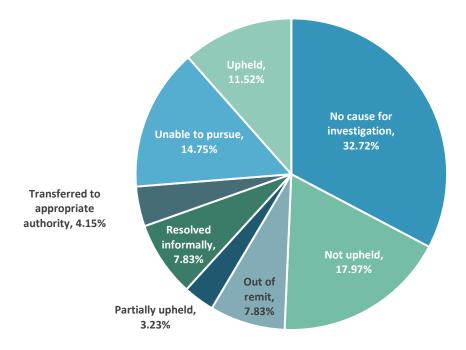


Figure 5: Cross-border complaints per outcome in 2019

The comparison of data of the outcome of CBCs between 2015 and 2019 (see figure below) reveals a constant evolution of categories with contractions and expansions across the 5 years. In 2018, the majority of complaints were not upheld whereas last year saw a shift towards an important number of complaints not being investigated by SROs as the targeted advertisements were already subject to close inspection under previous complaints or the case not containing the required information to reach the committee or jury. We also see a decrease in the number of complaints upheld compared to the previous year, but an increase in complaints resolved informally and those out of remit or transferred to appropriate bodies.

Such evolution across years and between categories are normal as each year brings new advertising campaigns, updated self-regulatory rules and procedures, and societal challenges that consumers may find distasteful to see featured in ads in the moment. An additional factor are the way cultural narratives change over time. Certain adverts may seem completely acceptable at one point in a year but inappropriate only a couple of months later due to rapidly evolving news stories, events, and overall narratives. SROs strive to keep ads to high standards both with respect to well-accepted rules and laws but also to new and changing norms that current self-regulatory rules may not cover. Consequently, resolving complaints informally or transferring complaints to other better suited organisations, for instance, are ways SROs can navigate the ever-changing news and narrative landscape. In this sense, SROs are best positioned as focal points in receiving, handling, and mediating consumers' or other organisations' complaints rapidly and decisively.

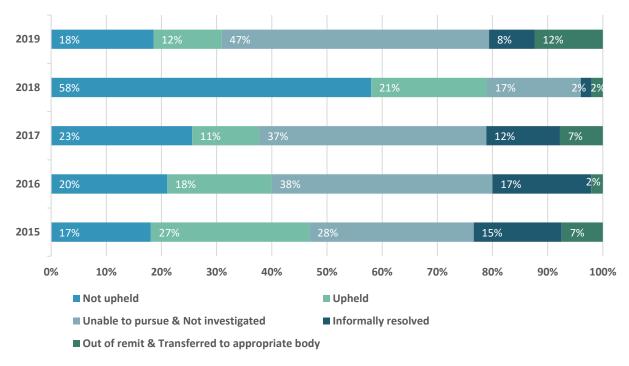


Figure 6: Cross-border complaints per outcome between 2015 and 2019⁵

Source: Annual Cross-Border Complaints Report 2018 & Online Database

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⁵ The figures include "Partially upheld" complaints into the category of "Upheld" complaints to make it comparable with the previous years.

Issues Complained About

Misleading advertising continues to be the main issue complained about

Continuing the trend set in previous years, the largest share of cross-border complaints in 2019 concerned Misleading Advertisements, with 281 complaints dealing with such an issue, or around 85%. Within this category, consumers were mostly objecting to advertisements by companies within the leisure services industry, such as hotels, flights, tourism, cultural events, etc. The next biggest industry that was complained about with regard to misleading marketing practices was advertising within the Retail sector with 6.5%, far behind the Leisure services industry.

Beyond misleading advertising, consumers also complained about Social Responsibility and Taste and Decency issues. Though on second place, both categories trail far behind at only just over 6% of complaints related to such issues. The same focus on Leisure services industry applies to these two categories of issues.

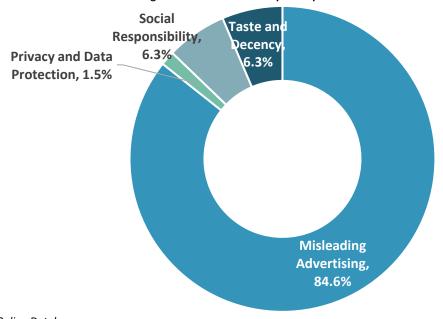


Figure 7: Cross-border complaints per issue in 2019

This focus on issues about misleading commercial advertising practices is not new nor has it evolved much in the past few years. In fact, as Figure 8below illustrates, over the last six years, misleading advertising continues to account for the highest share of complaints, with a multi-year average of 76%. This shows that consumers are mostly complaining about advertisements that are unclear and lead consumers to a purchase that they would have otherwise not conducted, had the advert been clearer or more honest in its intentions.

Complaints about alleged breaches of Taste and Decency and Social Responsibility ranked second highest over the five years with an overall average of 21% (adding both categories together). Privacy issues accounted for just over 2% of complaints between 2014 and 2018, on average. However, these three issues pale in comparison to the broader problematic of misleading advertising. In fact, the graph indicates a decrease in complaints pertaining to social responsibility and an increase in misleading practices from 2015 through 2016. This means that consumers are more susceptible to adverts that are deceiving them in the products that the ads are promoting, rather than to the social responsibility image that many companies have been investing in resources to showcase how the brand is taking care of its environmental footprint or the welfare of local communities.

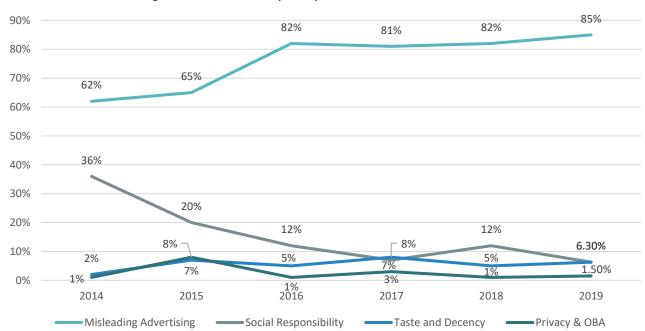


Figure 8: Cross-border complaints per issue between 2014 and 2019

Source: Annual Cross-Border Complaints Report 2018 & Online Database

6 Media

Digital Marketing Communications were the most complained about media

Digital Marketing Communications (DMCs) accounted for 89% of cross-border complaints, indicating consumers are more susceptible to complain about ads that feature in online feeds and digital platforms than in other media. This category includes social media networks, website advertising, and general online marketing. Advertisements received as Direct Marketing triggered just over 8% of cross-border complaints. This includes direct mails with promotions and new products advertisers to consumers who once registered their e-mail or home address.

CBCs against advertisements appearing on Audio-visual Media Services (AVMS) prompted less than 2% of cross-border complaints, while out of home advertising accounted for under 1% of complaints. This shows that television ads are complained about rarely. This could be due to the fact that, in some countries like the UK or France, there is a national SRO that clears every advertisement before airing it on TV. This enables the self-regulatory body or its counterparts to filter through a great deal of misleading or problematic ads that would have otherwise been flagged by consumers later. In this sense, this system of review before publishing is fruitful with fewer complaints than ever in the past six years (see Figure 9). Moreover, aggregating the data, we see that 87% of all complaints in the DMC category are against adverts that have been complained about for misleadingness.

0.60%
8.43%
Audiovisual Media Services
Digital Marketing Communications
Direct Marketing
Outdoor

Figure 9: Cross-border complaints per medium in 2019

Annual statistics show that the DMCs have been generating by far the most cross-border complaints in the recent years with an average of 78.5% of complaints in the period from 2014 through 2019.

Advertisements received as Direct Marketing have ranked second in terms of CBCs in a multi-year comparison with an average of 14% of complaints during the same period. However, cross-border complaints about direct marketing have been steadily declining in the previous few years to what seems to be a flat 8% in the past two years. Audio-visual media services have prompted 6% of complaints on average in the past six years, while Outdoor ads did not provoke more than 1% of complaints since records began. As mentioned earlier, this could be due to the self-regulatory bodies' filter on TV, radio, and out-of-home ads that exists in some countries, leading consumers to flag ads on the digital platforms more often than on others, as for those media, SROs do not have a pre-clearance system.

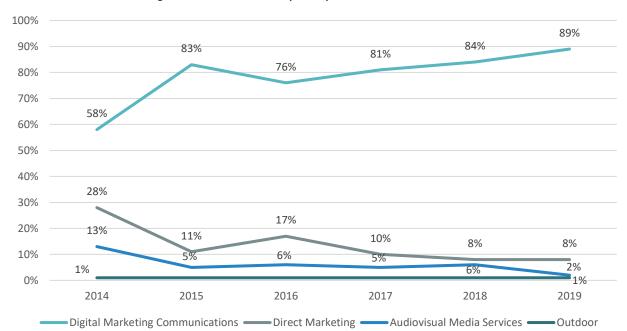


Figure 10: Cross-border complaints per medium from 2014 to 2019

Source: Annual Cross-Border Complaints Report 2018 & Online Database

7 Complaints about Advertising for Products and Services

Consumers complaints mostly regarded once again advertising of leisure services

In 2019, just over half of all complaints pertained to leisure services, which include airline companies, hotels and holiday accommodation, travel and renting services, entertainment, sports, and leisure activities, and dating services.

Retail (6.6% of total complaints) was the second most complained about sector, on par with Clothing & Accessories (6.6%). Consumers around Europe also rather frequently complained about alleged breaches of the SR codes regarding marketing communications for Food and Alcohol (6%), as well as Health and Beauty services (5.7%) and Automobiles at 4.5%.

The second biggest category though, in Figure 11 below, is "Other", which encompasses different categories of products and services advertised throughout the continent. This includes, as a total out of the 332 complaints, Educational services (<1%), Toys (1%), Financial and Business services (<1%), Gambling & Lotteries (1%), Household products and utilities (1.5%), Transport services (2%), and Telecommunication services (<1%), and miscellaneous sub-categories that SROs did not qualify (3%).

When considering the data, it becomes evident that consumers complained mostly about advertising practices from companies in the leisure and tourism industry.



Figure 11: Cross-border complaints in terms of products and services in 2019

A more detailed breakdown of complaints per products and services, which allows for a comparison of complaints throughout the years, can be found in Table 3 below.

The trend that started in 2015 with the number of complaints about advertising for leisure services rising steadily, has seen a stark increase in 2019, with the number of complaints rising by a near 143%, between 2018 and 2019. Furthermore, other sectors have also seen big variations. Gambling and lotteries' sector saw a 69% decrease in complaints. Similarly, the electronic equipment and software sector saw an increase of about 53%. On the other hand, much like the leisure and tourism sector, the transport sector also saw a huge 275% increase as did the food and alcohol industry with a 265% increase in complaints. This is, of course, reflected in the overall aggregated complaints' increase of 70% from 2018 to 2019, as we presented earlier in the report.

Table 3: Cross-border complaints in terms of products and services between 2014 and 2019

| Products and services | 2019 | 2018 | 2017 | 2016 | 2015 |
|--|------------------------|-----------------|------|------|------|
| Leisure services | 179 | 70 | 53 | 31 | 25 |
| Retail | 22 | 25 | 4 | - | - |
| Clothing & Accessories | 22 | 14 | 13 | 9 | 14 |
| Food (and Alcohol) | 20 | 5 | 4 | 2 | 1 |
| Health & Beauty services | 19 | 11 | 12 | 8 | 11 |
| Electronic devices and IT hardware and software products | 16 | 17 | 8 | 19 | 5 |
| Automobiles | 15 | 7 | 3 | 4 | 2 |
| Transport | 6 | 4 | 5 | 28 | 12 |
| Gambling & Lotteries | 4 | 13 | 3 | 13 | 16 |
| Financial & Business services | 3 | 5 | 4 | 4 | 4 |
| Telecommunication | 3 | - | 6 | 10 | 12 |
| Other (products/services) | 17 ⁶ | 21 ⁶ | 19 | 21 | 9 |

Source: Annual Cross-Border Complaints Report 2018 & Online Database

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 $^{^{6}}$ "Other" category in this table includes, for 2019 and 2018, toys, household objects, and educational services.

The category of leisure services and tourism accounted for over half of all complaints. This sector, as defined for the purpose of this study, includes many different industries that contribute to half of the 332 complaints transferred across Europe. Of the 179 complaints in this category, half were against airline companies and under a third were against hotels and relaxation centres. The rest were objections to advertising done by various entertainment services such as film providers, game activities taking place mostly on digital platforms, and only a few (3 complaints) were against sports activities.

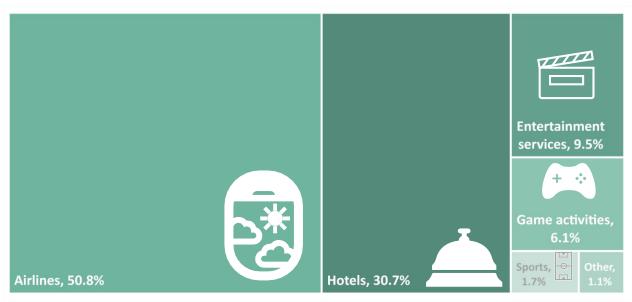


Figure 12: Cross-border complaints in the Leisure services and tourism category in 2019

Source: Online Database

We can conclude, from the analysis of the figures for 2019, that consumers in the British Isles were the source of most complaints transferred abroad that targeted misleading digital advertising material from airline companies and hotel services headquartered in Ireland and the Netherlands. This sudden increase was concentrated in terms of geography, sector, issue, and medium, with the vast majority of complaints issued in the UK and transferred to Ireland or the Netherlands, were targeting ads for leisure services appearing on digital marketing communications.

Annex: How the Cross-Border Complaints (CBC) System Works

EASA's Cross-Border Complaints System

EASA's 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 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 around 3,400 cross-border complaints.

The Basic Principles of the 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 European Single Market. The CBC system is founded on the principle that an advertisement must abide by the rules of the country where the media is based that features the advertisement. However, in the case of Direct Marketing and Digital Marketing Communications (DMCs), the advertisements will generally be expected to follow the rules of the country where the advertiser is based, whereas in the case of Online Behavioural Advertising (OBA), the country of origin of the company will be based on the principal decision-making presence (headquarters' offices). 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.

The 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 a Cross-Border Complaint

The complainant may not initially realise that their complaint lies outside the competence of their national SRO. Hence, the plaintiff's first point of contact will be the local national SRO. Once the latter 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 for investigation. The EASA Secretariat is included in all correspondence related to the case and will closely monitor its progress. Furthermore, 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.

Publications

Closed cross-border complaints are reported annually in CBC Reports, published on the EASA website: www.easa-alliance.org.



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