

# Cross Border Complaints Report



## **EASA**

The European Advertising Standards Alliance (EASA) is the single authoritative voice of 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.

As well as coordinating the cross-border complaint mechanism (which you can find further information about on the next page), 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 and in 2002 developed into a partnership between national advertising self-regulatory organisations (SROs) and organisations representing the advertising industry. Today, EASA's network brings together 38 SROs (27 European SRO members and 11 International SRO members) and 16 Industry members (from 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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## Key findings in 2013

This report clearly shows how the EASA's SRO (Self-Regulatory Organisation) network ensures that the Cross-Border Complaints (CBC) mechanism works. The system has been in operation since 1992 when it was set up in response to the creation of the Single Market and the resulting need to address problems whereby advertising circulated in one EU Member State was carried in media originating in another.

Of particular note, is that in the last few years there are significantly fewer rogue traders' advertisements referred to the CBC mechanism and more about ordinary brands; in 2013 a large number of these have been related to transport and tourism. This shows the way that via the Internet consumers are increasingly shopping across borders, highlighting the way that the internet has facilitated the solidification of the Single Market.

- In 2013, EASA registered a total of 117 cross-border complaints, 71.74% less than in 2012. Of all the cross-border complaints received, 95 were resolved over the course of 2013, and 22 are still under investigation.
- The Netherlands, with 15 complaints, was the country of origin of advertisers/media that generated the highest number of cross-border complaints (15.79%).
- The majority of cross-border complaints (66 complaints, 69.47%) were lodged by UK consumers.
- Misleadingness was the main issue complained about (78 complaints, 82.11%).
- The largest part of the cross-border complaints (64 complaints, 67.37%) concerned Digital Marketing Communications.
- Advertisements for transport services, including amongst others airlines and car rental services, prompted the highest number of cross-border complaints in 2013 (14 complaints, 14.74%), followed by tourism (12 complaints, 12.63%).
- There are significantly fewer complaints about rogue traders' advertisements and more about ordinary brands.

# 1 Total number of cross-border complaints received/resolved

*In 2013, complainants filed 72% less cross-border complaints than in 2012*

In 2013 a total of **115 cross-border complaints** were resolved. In the course of the year, EASA received a total of **117 cross-border complaints**. Of the 117 cross-border complaints received in 2013, **95 were resolved in 2013**, and 22 were still under investigation at the end of 2013. The analysis that follows in this report focuses exclusively on the 95 complaints that were received and resolved during 2013.

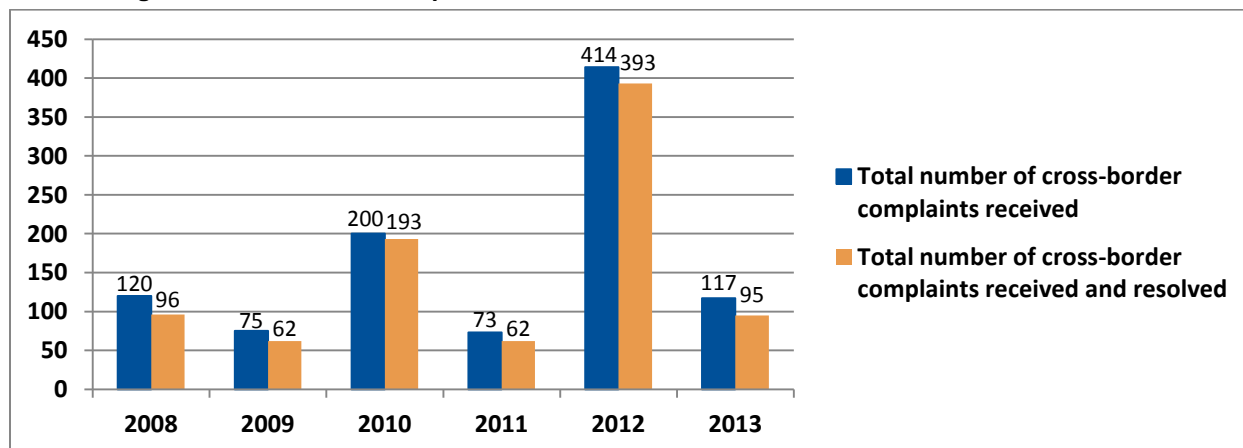
**Table 1: Total number of cross-border complaints received between 2008 and 2013**

Year	Total number of complaints received	Total number of complaints received and resolved
<b>2013</b>	117	95
<b>2012</b>	414	393
<b>2011</b>	73	62
<b>2010</b>	200	193
<b>2009</b>	75	62
<b>2008</b>	120	96

Source: Annual Cross-Border Complaints Report 2013

Looking at figures from the previous years, the number of cross-border complaints resolved in 2013 is similar to the levels from 2008. In 2009 and 2011 the figures reported were significantly lower, whereas in 2010 there was an unusual upsurge which can be explained by 138 complaints against one advertisement. Similarly, in 2012 the number of cross-border complaints was significantly higher due to the fact that one particular advertisement generated 319 complaints.

**Figure 1: Cross-border complaints received/received and resolved between 2008 and 2013**



Source: Annual Cross-Border Complaints Report 2013

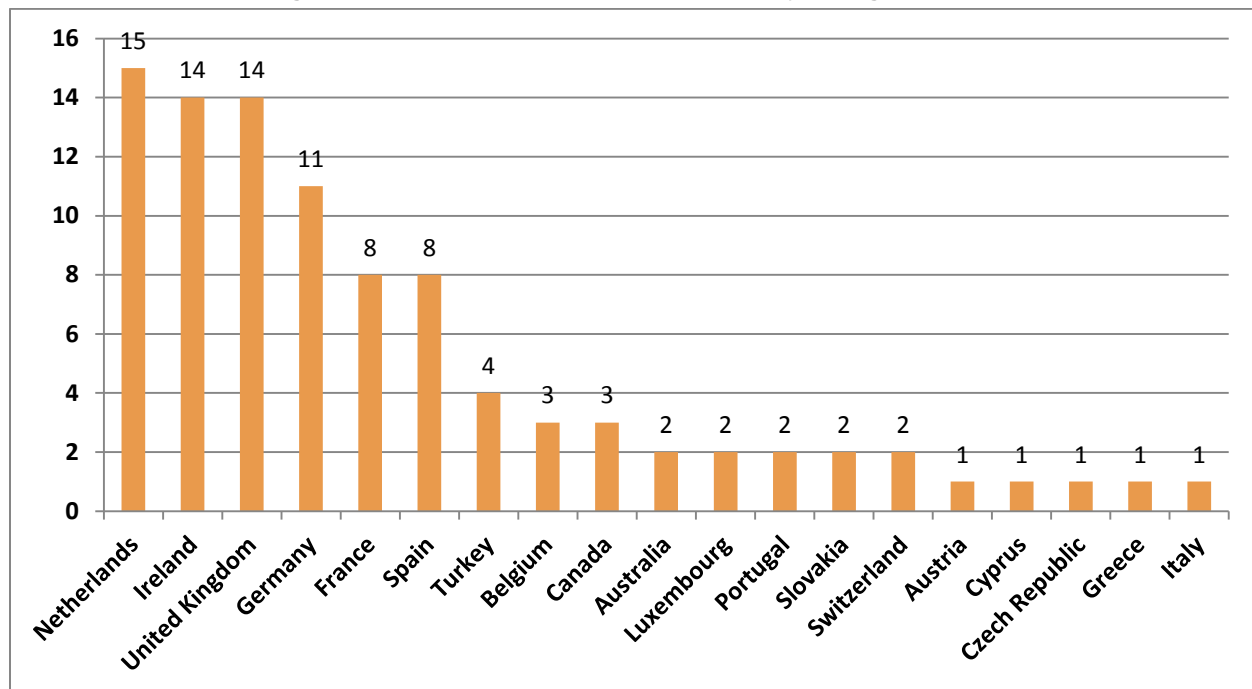
## 2 The country of origin

### *The Netherlands generated the highest number of cross-border complaints in 2013*

The EASA Cross-Border Complaints System requires that all advertisements comply with the advertising laws and codes in the relevant country of origin, that is to say, the country in which the medium carrying the advertisement is based or, in the case of direct mail and online advertising, the country in which the advertiser is based<sup>1</sup>.

In 2013, **the Netherlands, with 15 complaints, was the country of origin of advertisers and media** that generated most of the cross-border complaints registered by EASA.

Figure 2: Cross-border complaints per country of origin in 2013



Source: Annual Cross-Border Complaints Report 2013

UK consumers filed the majority of cross-border complaints that concerned **advertisements originating in the Netherlands (12 complaints)**. The remainder of the complaints (three complaints) came from Belgian complainants. Out of the total number of complaints filed against Dutch advertisements, 12 complaints were provoked by misleading advertising. Five of the complaints were related to tourism, whereas four of them electronic equipment.

<sup>1</sup> 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.

As in to 2012, during 2013 a substantial amount of the advertisements complained about originated from the following countries: Ireland, Netherlands, United Kingdom and Spain.

Looking at the data on country of origin of medium or advertiser over the years, it becomes apparent that there is a trend whereby most of the advertisements complained about are produced in specific countries. This group of countries includes: Ireland, UK, Netherlands, Germany, France and Spain.

From 2009 to 2013 in comparison to the rest of Europe the number of cross-border complaints concerning advertisements from the UK and the Netherlands has been relatively high. The number of CBC complaints received by the UK has generally been over 14 per year and in the Netherlands over 10. In 2010, one single German advertisement generated 138 complaints, and in 2012 the similar situation arose in relation to an Irish advertisement.

**Table 2: Cross-border complaints per country of origin of medium or advertiser between 2008 and 2013**

Country	2008	2009	2010	2011	2012	2013
<b>Netherlands</b>	15	10	3	11	13	15
<b>Ireland</b>	3	0	6	12	334	14
<b>United Kingdom</b>	17	25	27	7	8	14
<b>Germany</b>	7	1	138	4	2	11
<b>France</b>	16	7	1	8	1	8
<b>Spain</b>	1	3	4	6	10	8
<b>Turkey</b>	0	0	0	0	1	4
<b>Belgium</b>	5	0	1	2	3	3
<b>Canada</b>	0	0	1	2	1	3
<b>Australia</b>	0	0	0	2	0	2
<b>Luxembourg</b>	0	0	0	1	0	2
<b>Slovakia</b>	0	1	1	0	14	2
<b>Switzerland</b>	1	1	0	1	0	2
<b>Portugal</b>	0	0	1	1	0	2
<b>Austria</b>	30	10	0	1	1	1
<b>Czech Republic</b>	0	0	0	0	0	1
<b>Cyprus<sup>2</sup></b>	-	-	-	-	-	1
<b>Greece</b>	1	0	0	0	0	1
<b>Italy</b>	0	0	1	1	2	1
<b>Other</b>	0	4	9	3	3	0

<sup>2</sup> The Cypriot SRO, CARO, joined EASA in 2012.

Country	2008	2009	2010	2011	2012	2013
<b>TOTAL</b>	96	62	193	62	393	95

Source: Annual Cross-Border Complaints Report 2013



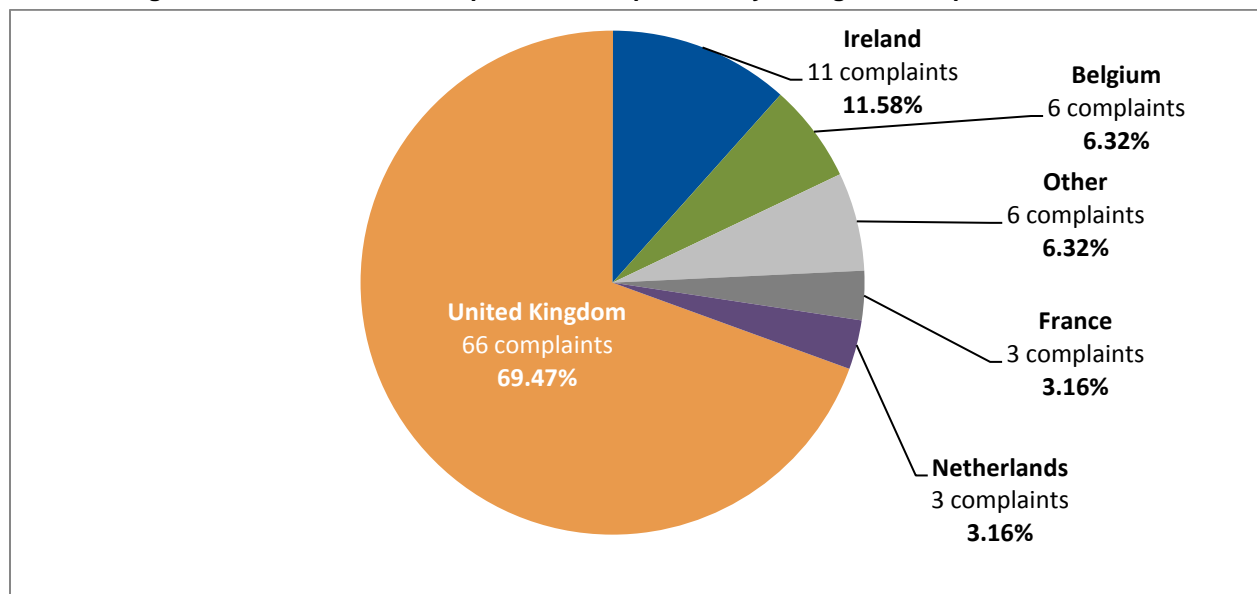
### 3 The origin of complainant

#### *69% of cross-border complaints were lodged by UK consumers*

In 2013, **UK consumers** filed most of the cross-border complaints (**66 complaints, 69.47%**). UK consumers challenged advertisements originating from 16 different countries. Advertisements from Ireland (13 complaints, 13.68%) and the Netherlands (12 complaints, 12.63%) were amongst the most complained about by UK consumers. The vast majority of these cross-border complaints (54 complaints, 56.84%) were provoked by misleading advertising.

**At 11.58% (11 complaints), Irish consumers** came second when ranking countries on the basis of number of cross border complaints filed by consumers. Belgian consumers reported six advertisements whilst French and Dutch consumers reported three advertisements. Combined this accounts for 12.64% of all the cross-border complaints filed in 2013. The remainder of the cross-border complaints (six complaints, 6.32%) were lodged by consumers coming from Canada, South Africa, Sweden, Turkey and the United States.

**Figure 3: Advertisements complained about per country of origin of complainant in 2013**



Source: Annual Cross-Border Complaints Report 2013

It is evident that over the years UK and Irish consumers have reported the greatest numbers of cross-border complaints. This trend has remained unchanged since 2008 with the exception of 2010 when 136 complaints were processed on the request of Italian complainants.

**Table 3: Cross-border complaints per country of origin of complainant between 2008 and 2013**

Country	2008	2009	2010	2011	2012	2013
<b>United Kingdom</b>	23	13	14	42	366	66
<b>Ireland</b>	20	24	30	7	5	11
<b>Belgium</b>	9	4	2	6	4	6
<b>France</b>	7	1	0	0	2	3
<b>Netherlands</b>	0	1	0	0	0	3
<b>South Africa</b>	0	1	0	0	0	2
<b>Canada</b>	0	0	0	0	0	1
<b>Sweden</b>	0	0	0	0	0	1
<b>Turkey</b>	0	0	0	0	0	1
<b>United States</b>	1	0	0	0	0	1
<b>Finland</b>	0	1	7	0	0	0
<b>Germany</b>	1	1	1	3	1	0
<b>Italy</b>	0	2	136	3	0	0
<b>Other</b>	35	14	3	1	15	0
<b>TOTAL</b>	96	62	193	62	393	95

Source: Annual Cross-Border Complaints Report 2013

## 4 Outcome of cross-border complaints

*31% of cross-border complaints were not upheld, while 23% were found to be in breach of the advertising codes*

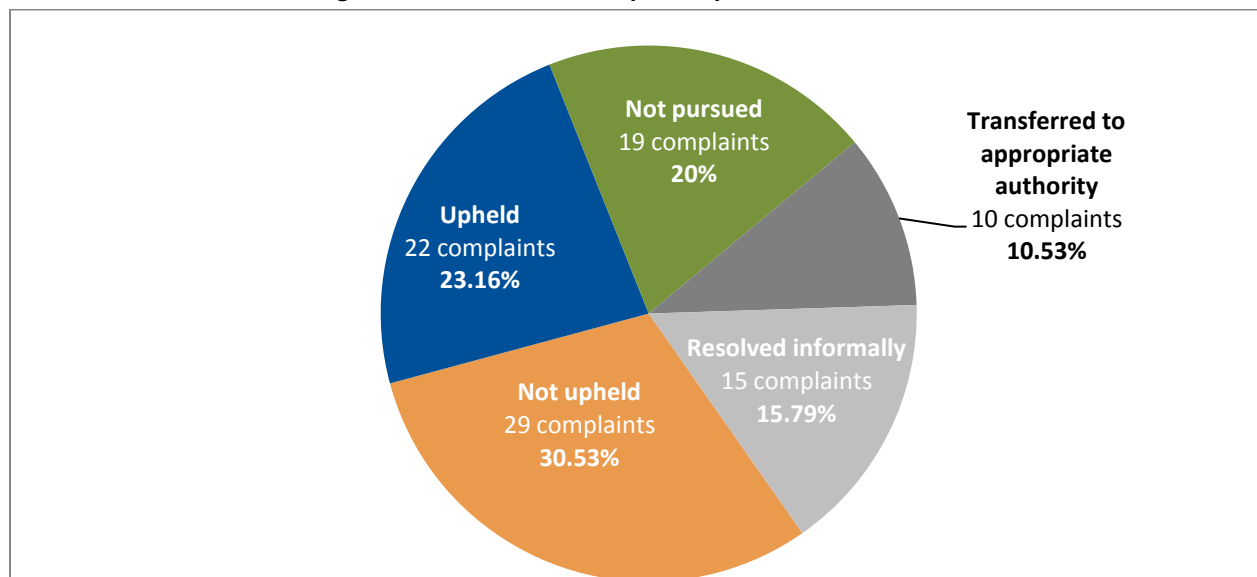
In 2013, 30.53% of cross-border complaints were **not upheld (29 complaints)** as the responsible SROs decided that the marketing communication did not breach the advertising codes. More than one-fifth of the cross-border complaints (**23.16%, 22 complaints**) were **upheld**.

20% of cross-border complaints (**19 complaints**) **could not be pursued**; this occurred, for instance, because the complainants did not reply to SRO's questions regarding additional information about the advertisement complained about.

15.79% of the cross-border complaints (**15 complaints**) were **resolved informally** as the advertiser agreed to change or withdraw its marketing communication immediately after receiving the complaint. Cases when the advertiser contacted the complainant directly in order to solve the problem by means of compensation or reimbursement were also considered as informally resolved.

The remaining 10.53% of the cross-border complaints (**ten complaints**) were **transferred to the appropriate authorities**.

Figure 4: Cross-border complaints per outcome in 2013



Source: Annual Cross-Border Complaints Report 2013

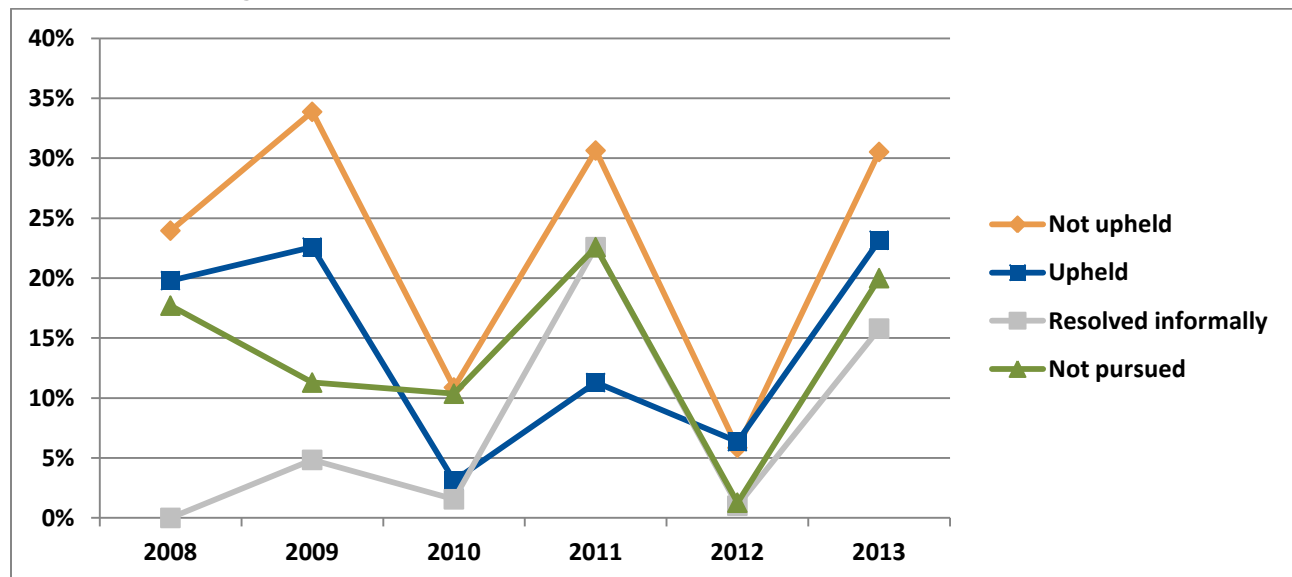
Looking at the data on the outcome of cross-border complaints over the last six years, a great fluctuation can be observed. The number of cases that were not upheld can be seen to peak in 2009, 2011 and 2013, where they reached between 30.53% and 33.87% of all of the resolved cross-border complaints. On the contrary, in 2010 and 2012 not upheld cases drop to 10.88% and 5.85% respectively.

As far as upheld cases are concerned, a similar trend can be observed. However, across the six years substantially there have been fewer upheld cases than not upheld ones; the highest percentage amounted to 23.16% in 2013, whereas the lowest to 3.11% in 2010.

When it comes not pursued cases, a decrease trend can be observed between 2008 and 2010, as well as in 2012, amounting to maximum 4.84% in 2009. It increased considerably in 2011 to 22.58% and a similar level was registered in 2013 (15.79%).

The share of cases resolved informally was relatively low from 2008 to 2010, as well as in 2012, amounting to maximum 4.84% in 2009. It increased considerably in 2011 to 22.58% and a similar level was registered in 2013 (15.79%).

**Figure 5: Cross-border complaints per outcome between 2008 and 2013<sup>3</sup>**



Source: Annual Cross-Border Complaints Report 2013

<sup>3</sup> The figure excludes the following categories: 'Transferred to appropriate category' and 'Out of remit' due to anomalies occurred in 2010 when unusually high number of complaints against one particular advertisement originating in Germany were transferred to appropriate authority; and in 2012 when unusually high number of complaints against one particular advertisement originating in Ireland were out of remit. Outcome of rulings concerning both advertisements distort the image of outcome for cross-border investigations over the course of years.

## 5 Issues complained about

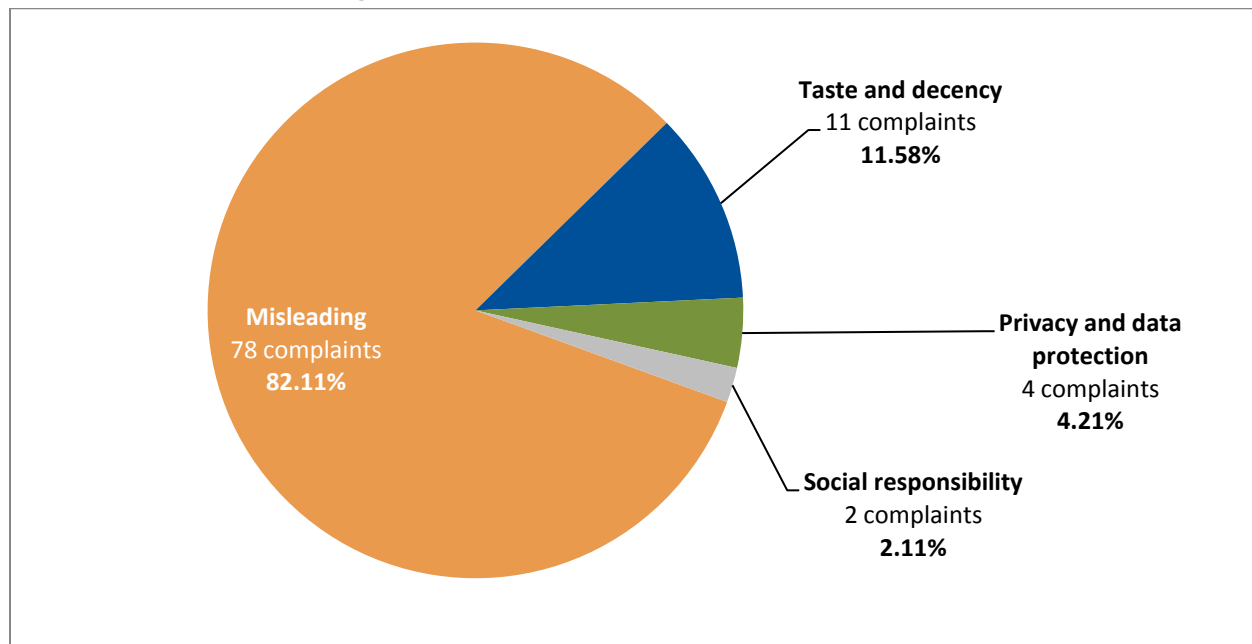
### *82% of cross-border complaints regarded misleading advertising*

In 2013, the largest share of the cross-border complaints (**82.11%**) concerned advertisements which complainants challenged as **misleading**. Of the 78 cross-border complaints that were challenged on this basis, 18 were found in breach of the advertising codes.

Self-regulatory organisations received a total of eleven cross-border complaints (**11.58%**) against advertisements which complainants believed to be against **taste and decency** rules. The category includes range of issues, including animal welfare, bad imagery, offensiveness, pornography, portrayal of women and race.

Three cross-border complaints were received because consumers identified the advertisements as breaching **privacy and data protection**, this included unsolicited mail and OBA consumer choice (**4.21%**, four complaints). The remaining two cross-border complaints resolved in 2013 concerned issues related to **social responsibility**, including advertisements inappropriate for children and violent behaviour (**2.11%**).

**Figure 6: Cross-border complaints per issue in 2013**



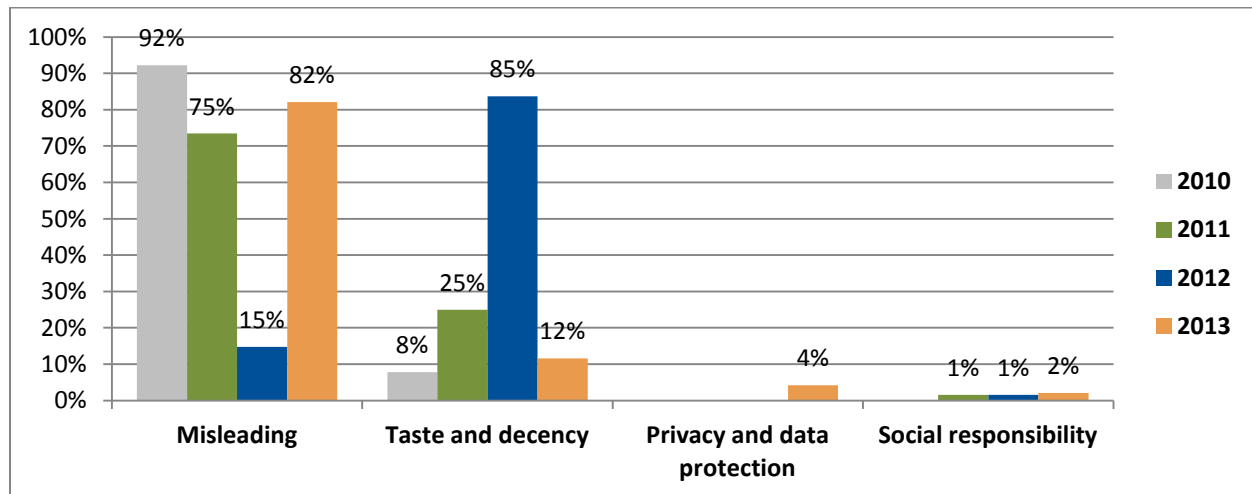
Source: Annual Cross-Border Complaints Report 2013

With the exception of 2012, when most of the cross-border complaints concerned an advertisement considered to be sexist and to discriminate against transgender people, misleading advertising has gathered the highest share of cross-border complaints since 2010. In 2010, such cross-border complaints accounted for 92.23% of all cross-border complaints resolved, in 2011 it was 73.44%, and in 2013 it was 82.81%.

Between 2010 and 2011 and in 2013, cross-border complaints about taste and decency ranked second with 7.77%, 25% and 11.58% shares of the cross border complaints, whereas in 2012 this share grew to 83.72% with the bulk of complaints being on the portrayal of gender.

Social responsibility generated only a small fraction of complaints between 2011 and 2013, from 1.53% to 2.11%. Before 2013 no cross-border complaints about privacy and data protection were recorded.

**Figure 7: Cross-border complaints per issue between 2010 and 2013**



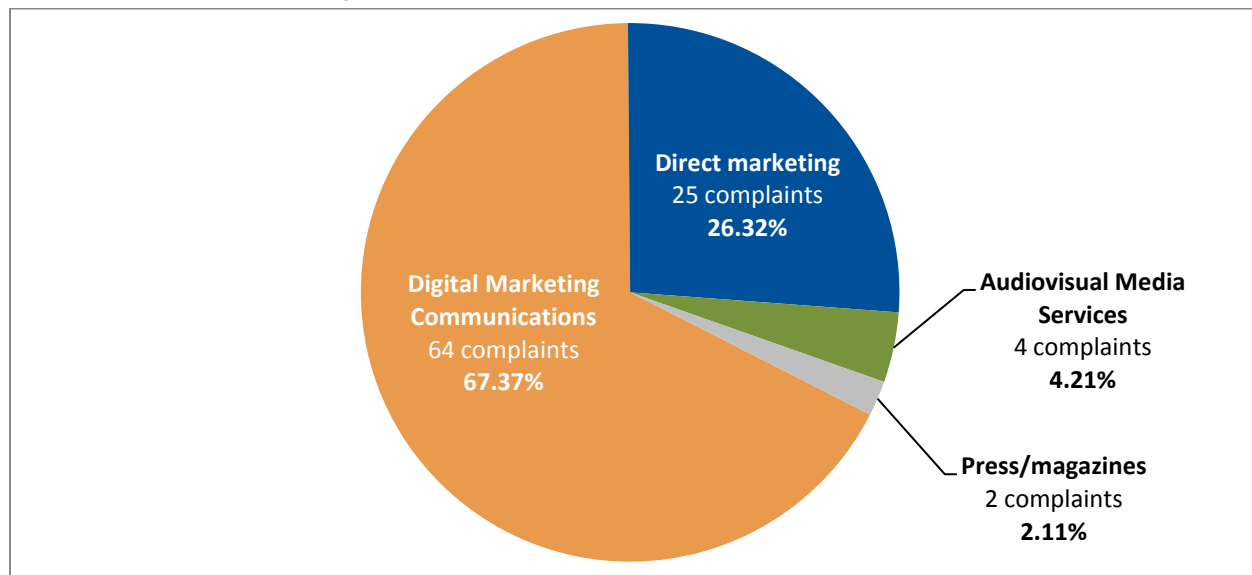
Source: Annual Cross-Border Complaints Report 2013

## 6 Media that generated cross-border complaints

### *68% of cross-border complaints concerned Digital Marketing Communications*

The majority of the cross-border complaints received and resolved by the SROs in 2013 regarded **Digital Marketing Communications (64 complaints, 67.37%)**, against advertisements that mainly appeared on marketer-owned websites. **Direct marketing** ranked second with **25 cross-border complaints (26.32%)**, which were triggered by direct mail (14 complaints, 15.05%) and email advertising (11 complaints, 10.75%) respectively. Cross-border complaints against advertisements appearing on **Audiovisual Media Services (AVMS)** and **press/magazines** advertisements prompted a small margin of consumers to file their complaints; 4.21% (four complaints) on AVMS and 2.11% (two complaints) on press/media advertisements. There were **no cross-border complaints regarding outdoor advertising**.

Figure 7: Cross-border complaints per medium in 2013



Source: Annual Cross-Border Complaints Report 2013

Since 2010, a clearly visible trend can be observed, according to which complaints regarding digital marketing communications prevail among the other advertising channels which mirrors the growth of the digital sector<sup>4</sup>.

Whilst over the last six years a substantial decrease in complaints regarding to direct marketing can be noted, which is consistent with the drop in the number of complaints against rogue traders using this form of marketing, in 2013 the number of such complaints grew by six complaints.

<sup>4</sup> According to IAB Europe Adex Benchmark 2012 (p. 8), the value of the European online ad market in 2012 amounted to €24.3 bn.

Complaints regarding advertisements appearing on audiovisual media services generally constitute a small fraction of all cross-border complaints resolved. In 2010 one single television advertisement for an Irish betting platform, appearing on UK television generated 18 cross border complaints. In absolute numbers, this was the highest ever number of complaints received on this medium. In 2012 and 2013, four cross-border complaints regarding broadcasted advertisements were filed.

As far as press/magazine advertising is concerned, since 2009 it has not generated many complaints and has remained at a low level of one to three complaints per year. Since 2009, there have been no complaints concerning posters and outdoor advertising.

**Table 4: Cross-border complaints per medium from 2008 to 2013**

Type of medium	2008	2009	2010	2011	2012	2013
<b>Digital Marketing Communications<sup>5</sup></b>	4	5	153	39	370	64
<b>Direct marketing<sup>6</sup></b>	65	35	20	11	18	25
<b>Audiovisual Media Services</b>	10	3	18	9	4	4
<b>Press/magazines</b>	12	19	2	3	1	2
<b>Outdoor</b>	5	0	0	0	0	0
<b>TOTAL</b>	96	62	193	62	393	95

Source: Annual Cross-Border Complaints Report 2013

<sup>5</sup> For years 2008-2012, the category was called 'Internet'.

<sup>6</sup> For years 2008-2012, email, now part of Direct marketing, was included in 'Online advertising' category.



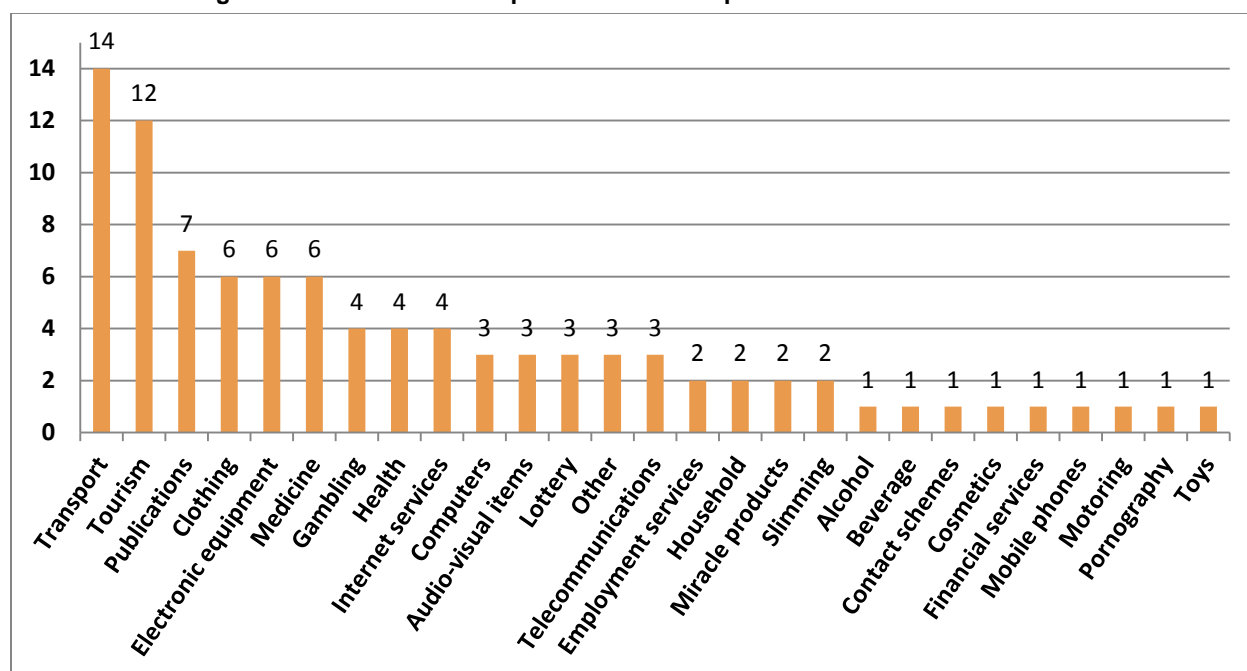
## 7 Products and services that elicit cross-border complaints

### *Transport services prompted the highest number of cross-border complaints in 2013*

In 2013, the most complained about sector was **transport with 14 cross-border complaints**. Since 2011, transport has consistently received a high number of cross-border complaints, which have not fallen below nine complaints per year.

The category includes cross-border complaints about **airlines** (eight complaints), **automotive companies or car rental services** (five complaints) and **rail services** (one complaint). Consumers challenged advertisers on a number of issues such as advertised fare, price claims related to special prices for specific destinations, terms and conditions for loyalty cards, baggage allowance, incorrect currency conversion mechanism as well as linguistic discrimination due to lack of a version of a website in one of country's official languages.

Figure 8: Cross-border complaints in terms of products and services in 2013



Source: Annual Cross-Border Complaints Report 2013

**Tourism ranked second, with 12 cross-border complaints.** In 2013, the number of cross-border complaints against advertisements for tourism services increased from two to eleven complaints. It is the first year that the number of cross-border complaints against this service reaches such a high level since previously there were usually one to two complaints per year.

Most of the cross-border complaints were lodged by UK consumers who challenged the veracity of claims made on **websites offering hotel booking services**. More specifically, the complainants pointed out that the advertisers had not fulfilled their obligations related to price

match guarantees nor they had made it clear that offers were subject to availability. Five of the advertisements originated in the Netherlands and concerned a Dutch website for hotel reservations, whereas a further four originated in France.

**Publications came third, with seven cross-border complaints overall.** The number of cross-border complaints concerning publications has decreased noticeably since 2008 when 42 cross-border complaints were reported. Compared to 2012, the number of such cross-border complaints in 2013 dropped by eight complaints, from fifteen to seven.

Five of these cross-border complaints concerned rogue traders. The decline in the number of cross-border complaints regarding rogue traders that operate with business directory publications can be explained by several court decisions that have in the meantime been published against them. Nevertheless, such scams remain a serious issue which should be looked at carefully.

Six cross-border complaints were lodged against advertisements featuring clothing, electronic equipment as well as medicines. Advertising related to health, Internet services and gambling provoked four cross-border complaints each. For the latter, it meant a significant drop by 325 complaints. Audio-visual items, computers, lottery and telecommunications offers were source of three cross-border complaints each. Two cross-border complaints per category were registered in reference to employment services, household, miracle products and slimming products.

The remaining cross-border complaints concerned the following products/services: alcohol, beverage, contact schemes, cosmetics, financial services, mobile phones, motoring, pornography, toys; each generating one complaint.

**Table 5: Cross-border complaints in terms of products and services between 2008 and 2013**

Products and services	2008	2009	2010	2011	2012	2013
<b>Transport</b>	9	1	3	14	9	14
<b>Tourism</b>	2	1	0	1	2	12
<b>Publications</b>	42	26	17	4	15	7
<b>Clothing</b>	2	0	2	1	0	6
<b>Electronic equipment</b>	2	0	0	5	6	6
<b>Medicine</b>	0	0	0	0	0	6
<b>Gambling</b>	1	0	12	1	329	4
<b>Health</b>	5	1	2	4	6	4
<b>Internet services</b>	1	1	138	1	3	4
<b>Audio-visual items</b>	0	0	1	0	0	3
<b>Computers</b>	0	0	0	1	0	3
<b>Lottery</b>	10	2	0	1	2	3

Products and services	2008	2009	2010	2011	2012	2013
<b>Other</b>	5	3	7	6	8	3
<b>Telecommunications</b>	0	0	1	3	1	3
<b>Employment services</b>	0	0	1	0	0	2
<b>Household</b>	3	1	0	5	1	2
<b>Miracle products</b>	3	0	0	0	0	2
<b>Slimming</b>	0	1	2	1	1	2
<b>Alcohol</b>	2	1	1	0	0	1
<b>Non-alcohol beverage<sup>7</sup></b>	6	22	3	4	2	1
<b>Contact schemes</b>	1	0	0	0	1	1
<b>Cosmetics</b>	0	2	1	7	1	1
<b>Financial services</b>	0	0	1	0	2	1
<b>Mobile phones</b>	0	0	0	0	2	1
<b>Motoring</b>	1	0	0	3	1	1
<b>Pornography</b>	1	0	0	0	0	1
<b>Toys</b>	0	0	1	0	1	1
<b>TOTAL</b>	96	62	193	62	393	95

Source: Annual Cross-Border Complaints Report 2013

<sup>7</sup> For years 2008-2012, the category included 'Food and non-alcohol beverage'.

## **Annex A: 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 2.785 cross-border complaints.

### **The basic principles of the 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.

### **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 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).

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