

2016

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) 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 53 organisations committed to making sure advertising is legal, decent, honest and truthful. EASA's membership is made up of 27 SROs from 25 European countries and 14 advertising industry associations, including advertisers, agencies and the media. EASA is also a member of ICAS (The International Council on Ad Self-Regulation) and through its membership additionally partners with 12 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

This report clearly shows how the EASA's SRO (Self-Regulatory Organisation) network ensures that the Cross-Border Complaints (CBC) mechanism works. Cross-border complaints are complaints about advertisements originating in media or from advertiser based in another country to that of the complainant. The EASA Secretariat co-ordinates this type of complaints through the system that 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.

- In 2016, EASA experienced an increase number of cross-border complaints with 150 cross-border complaints being registered, 9 % more than in 2015. In total 145 CBCs were resolved over the course of 2016.
- Advertisements from Ireland and the Netherlands generated the highest number of cross-border complaints (22.8% and 17.2% of all complaints respectively)
- The vast majority of cross-border complaints were lodged by UK complainants (82.8% of all complaints)
- 15.2% of cross-border complaints were upheld and 16.6% as were not upheld; 15.9% complaints were resolved informally)
- Misleading advertising was the main issue complained about (82.1%)
- Digital Marketing Communications was the most complained about medium (75.9%)
- Leisure services (21.4%), transport services (19.3%) and electronics (13.1%) were the three most complained about industry sectors
- The majority of cross-border complaints were resolved within three months (69.7%)

1 The Total Number of Cross-Border Complaints Received/Resolved

In 2016 EASA's SROs received 150 and resolved 145 cross-border complaints

In the course of the year, EASA received a total of 150 cross-border complaints, which shows 9% increase in received cross-border complaints in comparison to 2015. Out of all received complaints 124 were resolved in the course of 2016, whereas 26 complaints were still under investigation at the end of the year. Additionally, 21 complaints lodged in 2015 were also closed in 2016. The analysis that follows in this report focuses exclusively on the 145 complaints that were resolved during 2016.

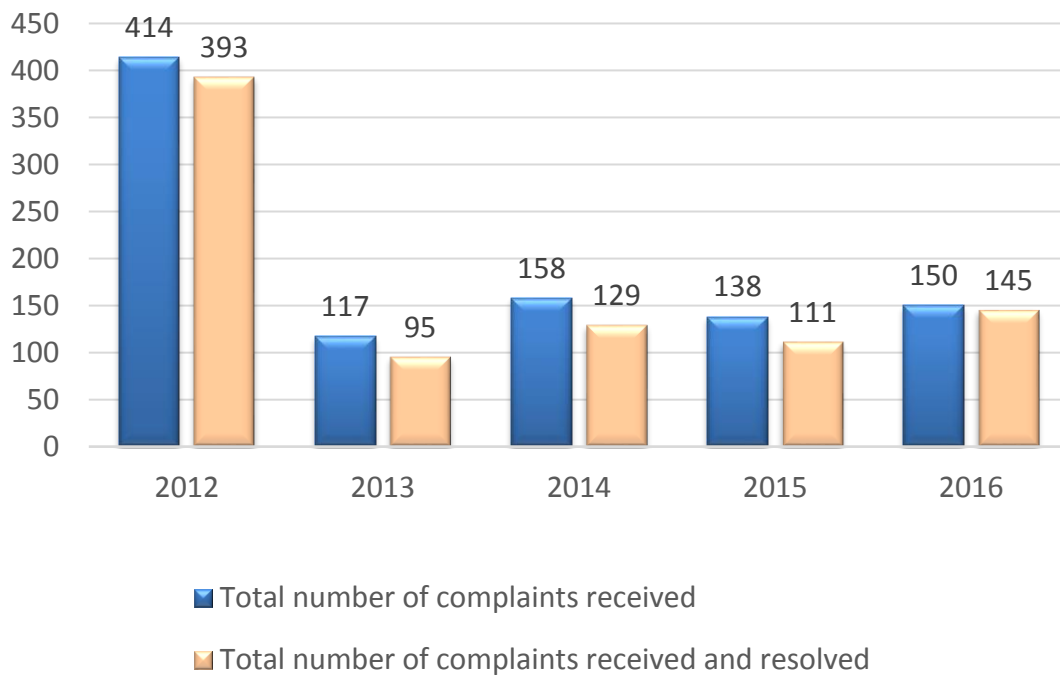
Table 1: Total number of cross-border complaints received between 2011 and 2015

Year	Total number of complaints received	Total number of complaints received and resolved
2016	150	145
2015	138	111
2014	158	129
2013	117	95
2012	414	393

Source: Annual Cross-Border Complaints Report 2015

The analysis of the annual statistics (depicted in Figure 1 below) suggests that over the past three years the number of cross-border complaints remained relatively stable at around 149 cross-border complaints per year. This suggests that European consumers continue to shop and use services cross-border.

Figure 1: Cross-border complaints received/received and resolved between 2012 and 2016



Source: Annual Cross-Border Complaints Report 2016

2 The Country of Origin

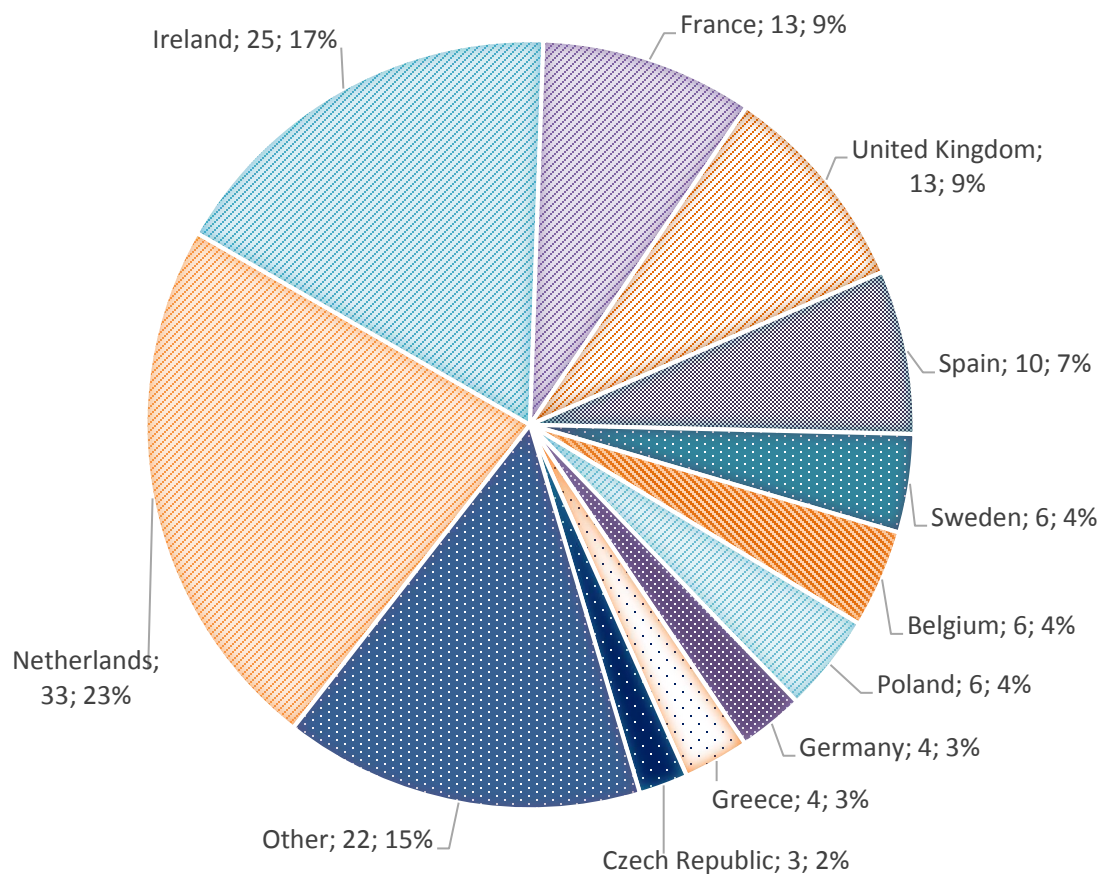
Ads from the Netherlands and Ireland generated the highest number of cross-border complaints in 2016

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; in the case of direct mail and Digital Marketing Communications (DMC), the country in which the advertiser is based; and in the case of Online Behavioural Advertising (OBA), the country in which the principal decision-making presence is¹.

In 2016 advertisements from the Netherlands and Ireland generated the highest number of cross-border complaints, 22.8% and 17.2% complaints respectively. Other most frequent countries or origin of lodged complaints were the UK (9.0%), France (9.0%) and Spain (6.9%).

¹ 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.

Figure 2: Cross-border complaints per country of origin in 2016



Source: Annual Cross-Border Complaints Report 2015

Regarding the advertisements originating in the Netherlands, UK complainants lodged 84.8% of complaints about these ads. The majority of the complaints (90.9%) were provoked by misleading advertising. The highest share of complained about ads (63.6%) originating in the Netherlands concerned leisure services. More particularly one Dutch website for hotel reservations which all of these mentioned complaints.

Regarding the advertisements originating in Ireland, all 25 cross-border complaints were lodged by the British consumers. The vast majority (76.0%) of the complaints about ads originating in Ireland, were provoked by misleading marketing communications as well. Regarding topics – the highest share of complaints (36.0%) were received in relation to advertising of gambling and betting services, particularly one Irish online betting platform, which was complained about the most (5 out of 9 complaints).

Overall, the annual statistics shows (see an overview, presented in Table 2) that despite some annual volatilities, on average, the most complained about ads for the past five years were produced in the Netherlands, Ireland, France, the UK and Spain. However, we also see Central and Eastern European markets becoming more visible in CBC map each year (e.g. Poland, Czech

Republic, Lithuania, Slovakia). European SROs also continue to investigate complaints outside Europe, discovering complaints about ads which originated in Canada (2 complaints) and India(1 complaint) in 2016.

Table 2: Cross-border complaints per country of origin between 2012 and 2016

Country	2012	2013	2014	2015	2016
Netherlands	13	15	18	21	33
Ireland	334	14	33	23	25
France	1	8	35	11	13
United Kingdom	8	14	8	9	13
Spain	10	8	6	11	10
Sweden	1	0	1	2	6
Belgium	3	3	4	5	6
Poland	0	0	0	3	6
Germany	2	11	6	8	4
Greece	0	1	1	1	4
Czech Republic	0	0	0	0	3
Hungary	0	0	1	2	2
Switzerland	0	0	0	1	2
Lithuania	0	0	1	0	2
Canada	1	3	2	2	2
Cyprus²	0	1	1	2	2
Luxembourg	0	2	1	0	2
Slovakia	14	2	2	1	2
Finland	0	0	0	0	2
Italy	2	1	4	4	1
Austria	1	1	1	1	1
Bulgaria					1
Turkey					1
Portugal					1
India					1
Other	6	13	9	9	6*
TOTAL	393	95	129	111	145

Key: category "Other" in 2016 include Italy, Austria, Bulgaria, Turkey, Portugal and India, which all handled one CBC each

Source: Annual Cross-Border Complaints Report 2016

² The Cypriot SRO, CARO, joined EASA in 2012.

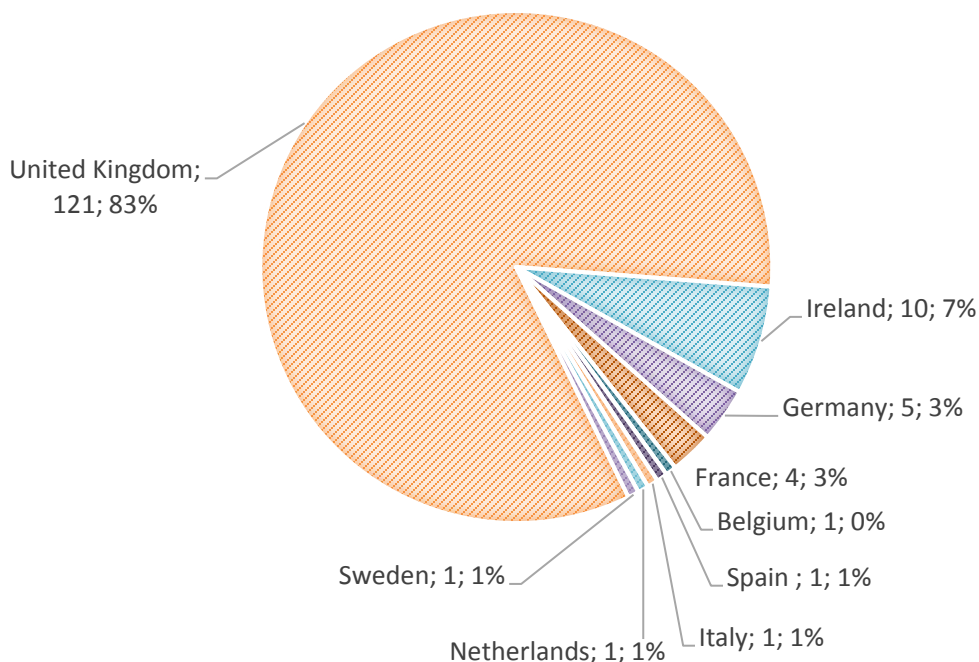
3 The Origin of Complainant

83% of cross-border complaints were lodged by UK complainants

In 2016, UK complainants remain the most active in terms of lodging the complaints (82.8% of all complaints). Although, as reflected upon in the previous chapter, the advertisements from the Netherlands (23.1%) and Ireland (20.6%) and amongst the most complained about by UK complainants, it is also important to note that the complainants from the UK challenged advertisements originating from 23 different countries (including ads from India and Canada). Same as in previous year, the vast majority of these cross-border complaints (90.9%) were about alleged misleading advertising. Furthermore, the highest share of complaints were related to leisure services (23.1%) and transport (22.3%), followed by complaints about the electronic goods (14.0%) and gambling/ betting services (10.7%).

The remainder of the cross-border complaints (17.2%) were lodged Irish, German, French, Belgian, Spanish, Italian, Dutch and Swedish consumers, as showed in Figure 3, below.

Figure 3: Advertisements complained about per country of origin of complainant in 2016



Source: Annual Cross-Border Complaints Report 2016

The annual statistics shows (see an overview, presented in Table 2) that over the years UK complainants have reported the greatest share of cross-border complains, three to five times more complaints than the rest of the complainant combined.

Table 3: Cross-border complaints per country of origin of complainant between 2012 and 2016

Country	2012	2013	2014	2015	2016
UK	366	66	108	85	121
Ireland	5	11	5	12	10
Germany	0	0	0	2	5
France	2	3	5	1	4
Netherlands	0	3	1	5	1
Belgium	4	6	3	1	1
Spain	1	0	2	1	1
Italy	0	0	0	1	1
Sweden	0	1	1	0	1
Other	15	5	4	3	0
TOTAL	393	95	129	111	139

Source: Annual Cross-Border Complaints Report 2016

4 Outcome of Resolved Complaints

17% of cross-border complaints were found to be in breach of the advertising codes, while 16% were not upheld

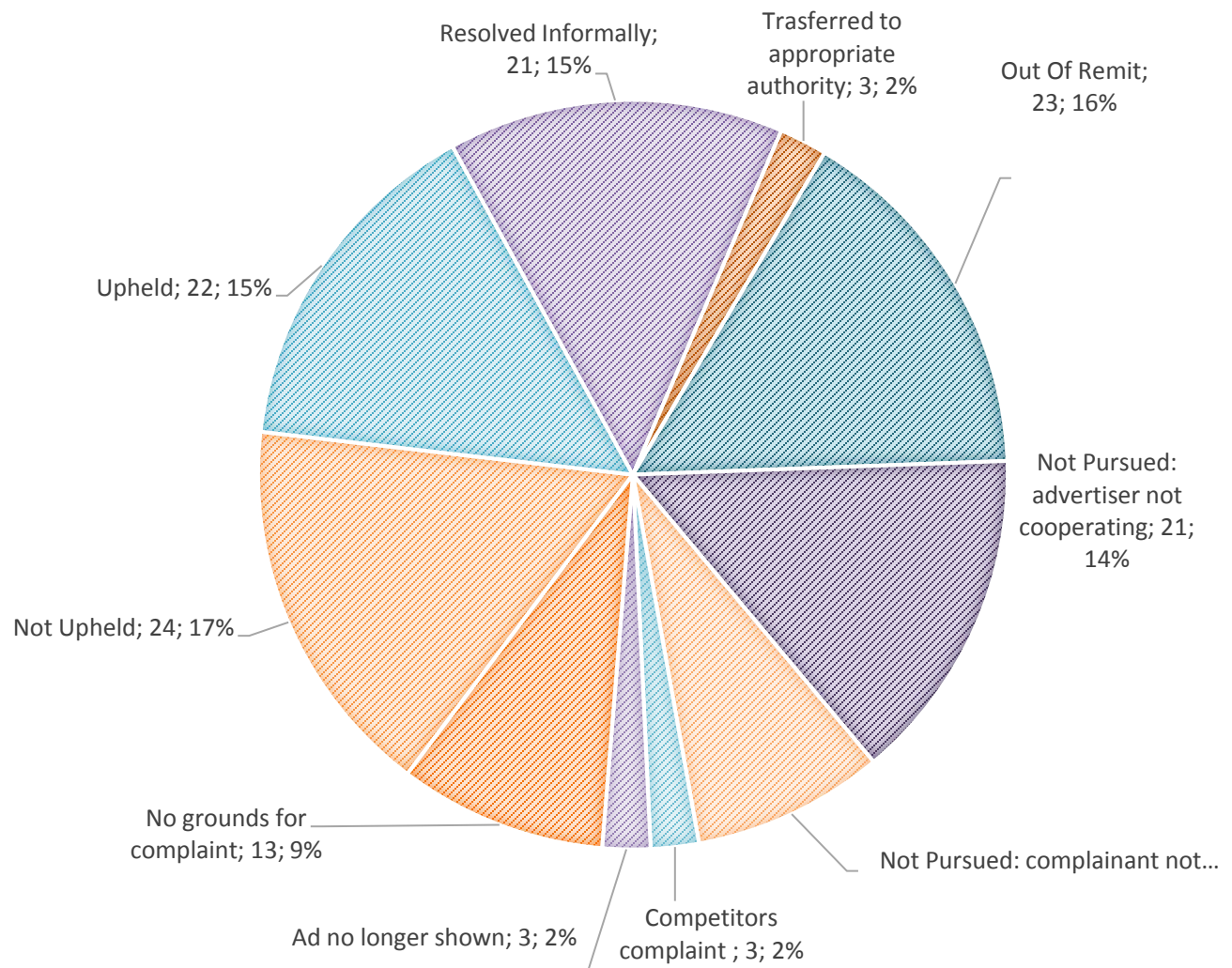
In 2016, very similar numbers of cross-border complaints were upheld (15.2%) as were not upheld (16.6%). Moreover, the SROs rather frequently (15.9%) managed to resolve complaint informally to the satisfaction of complainant (e.g. advising the advertiser to modify the ad or compensate the losses to the consumer due to misleading advertising).

Most of complaints overall (22.8%) fell into the “not pursued/not investigated” category. However, it is worth looking into this category more closely, which shows that more than 1/3 of those complaints (8.3%) could not be investigated due to insufficient evidence and complainant’s decline to further communicate this with SRO. 2/3 of the “not pursued” complaints (14.5%) were due to inability to reach the advertiser and cooperate in complaint investigation process.

Additionally, a large proportion (15.9%) of CBC’s were found out of remit of the SRO that the complaints were referred to. This means that the complaints were either about the marketing issues not covered by the SRO (i.e. in many cases these complaints were directly about the products rather than advertising) or the advertisers were not based in the SRO the CBC was referred to. In the latter cases the SROs of the origin of the consumer were further dealing with the complaint at national level of referring it to other colleagues.

Finally, in 9% of cases no grounds for complaint were found. Small number of complaints were also referred to the appropriate regulatory body, dealt with as competitors complaints and needed no further actions since the ad complained about was already stopped at the beginning of the complaint investigation (2.1% of cases for each mentioned category) .

Figure 4: Cross-border complaints per outcome in 2016



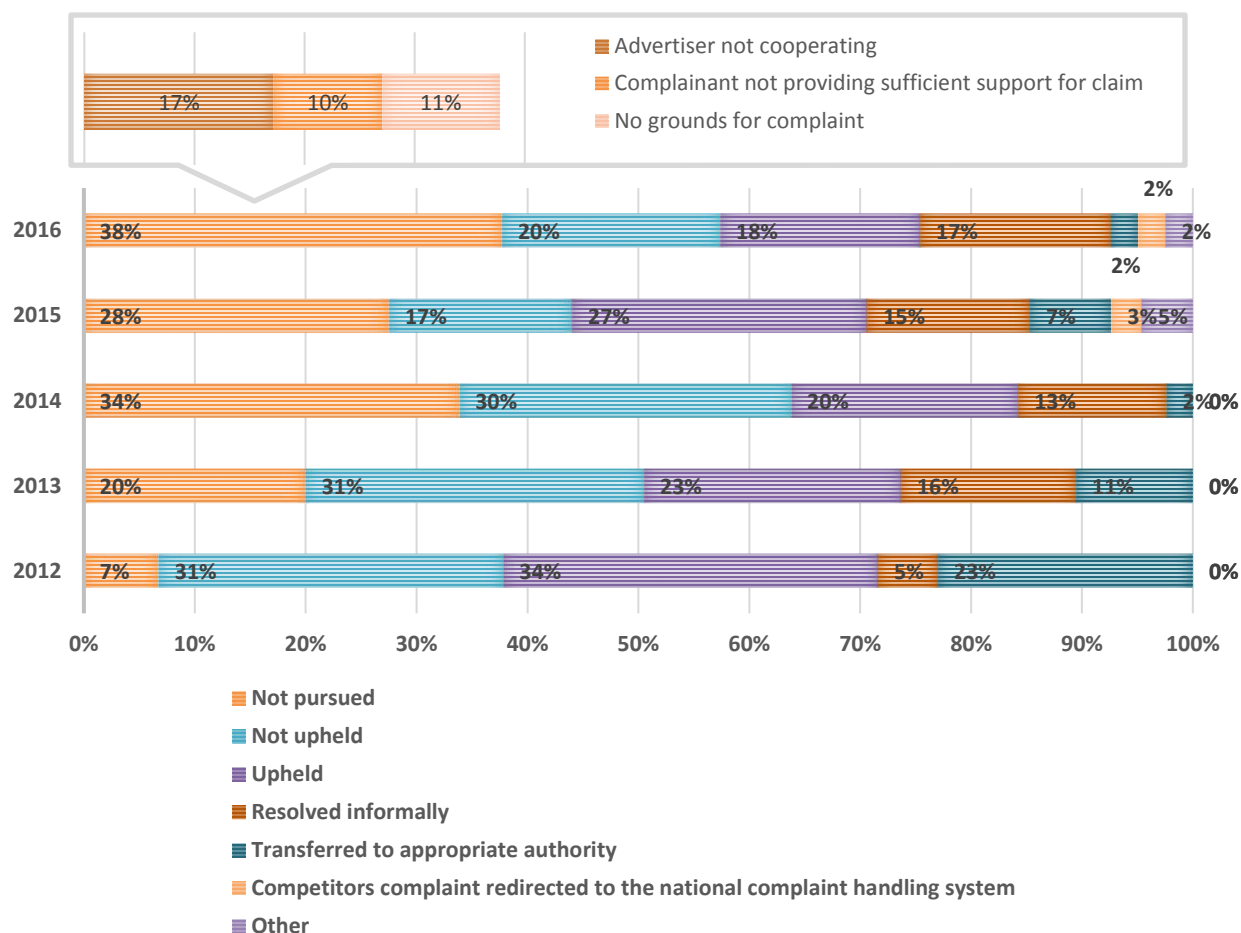
Source: Annual Cross-Border Complaints Report 2016

Looking at the data on the outcome of cross-border complaints between 2012 and 2016 (see Figure 5), it is noticeable that despite some annual fluctuations, the main categories and their percentage values remained similar (particularly in the last three years) with some of key outcomes changing places in terms of being more or less common each year (e.g. not upheld and upheld).

Moreover, it is important to investigate the category of “not pursued” complaints more closely as it remains the most common one among the outcomes of all complaints in the past three years. The breakdown of this type of complaint resolution shows very different subcategories resulting in overall “not pursued” outcome. Only less than half of these cases could not be further investigated due to SROs exhausted efforts to reach out to and get further information from the advertiser. Meanwhile, in over half of such cases the claims were decided as lacking substantiation or the complainants refused to provide necessary information to further investigate

the complaints (e.g. copy of the ad complained about). None of these decision were appealed by the complainants.

Figure 5: Cross-border complaints per outcome between 2012 and 2016³



Source: Annual Cross-Border Complaints Report 2016

³ The figure excludes the category "Out of remit" in order to avoid over-representing anomalies occurred in 2012 when unusually high number of complaints against one particular advertisement originating in Ireland were out of remit. Outcome of ruling concerning these cases distorts the image of outcome for cross-border investigations over the course of years.

5 Issues Complained About

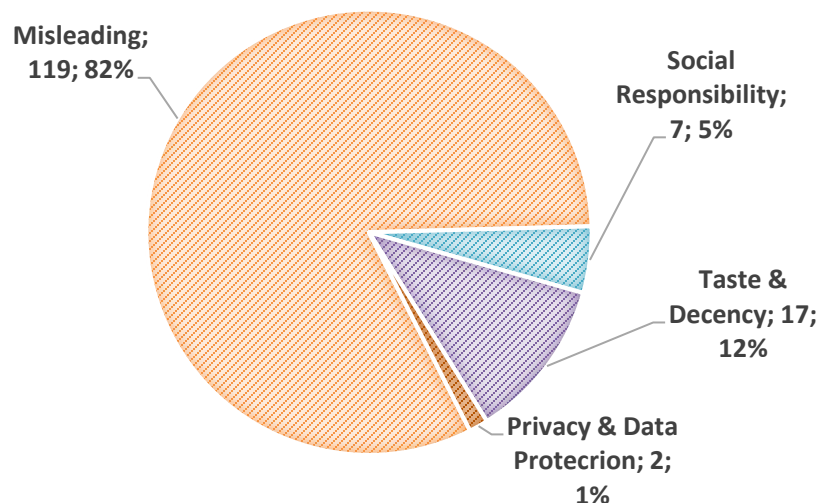
Misleading advertising continues to be the main issue complained about

Following trends set in the previous year, in 2016, the largest share of cross-border complaints (82.1%) concerned misleading advertisements (119 complaints), out of which 21 complaints (17.6%) were found in breach of the advertising codes.

17 complaints (11.7%) related to taste and decency issues. This category included range of issues, including protection of children against harmful imagery, distress causing visuals, portrayal of gender and violence.

Social responsibility issues provoked 7 complaints (4.8%) and privacy and data protection – 2 complaints (1.4%) in 2016. Responsibility issues were raised in relation to impacts of shocking visuals in advertising, unhealthy body image and gender stereotyping.

Figure 6: Cross-border complaints per issue in 2016



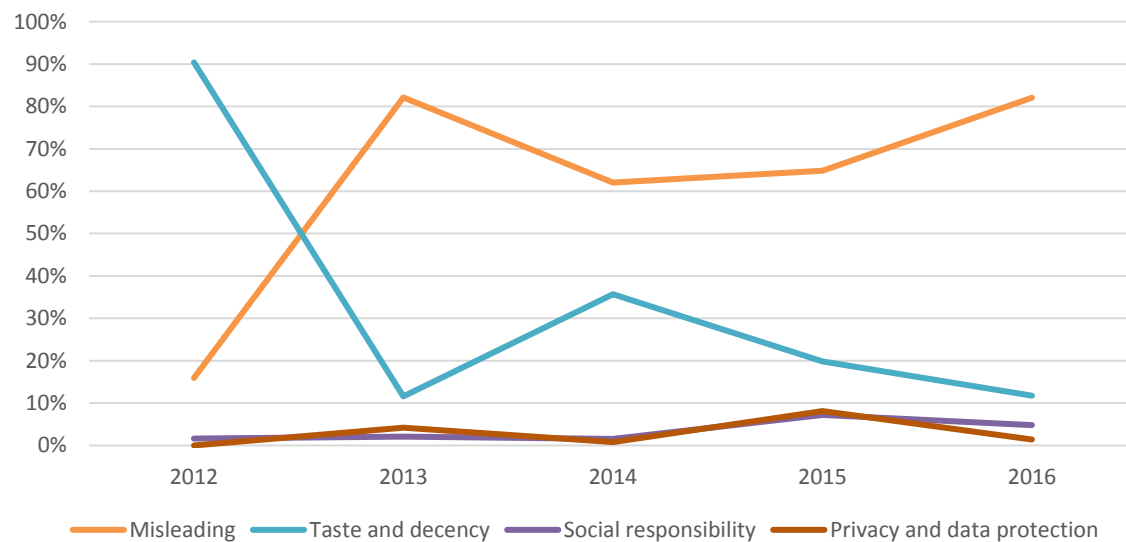
Source: Annual Cross-Border Complaints Report 2016

Below the figure 7 below illustrates, over the last five years, misleading advertising continues to account for the highest share of complaints, with the exception of 2012 when most of complaints concerned taste and decency (please see the footnote below for more explanation).

The complaints about alleged breaches of taste and decency ranked second (excluding previously mentioned exception⁴) with an average of 19.7%.

Social responsibility generated only a small fraction of complaints between 2012 and 2016, with an average of 3.9%, while privacy issues raised on average 3.6% of complaints.

Figure 7: Cross-border complaints per issue between 2011 and 2015



Source: Annual Cross-Border Complaints Report 2016

⁴ The calculation excludes the number of misleading advertisings for year 2012 when unusually high number of complaints against one particular advertisement originating in Ireland were lodged. The issue of the complaints was the portrayal of women in an advertising. As seen in Figure 7, such actualization of this issues distorts the overall picture of the main trends in cross-border investigations over the course of years.

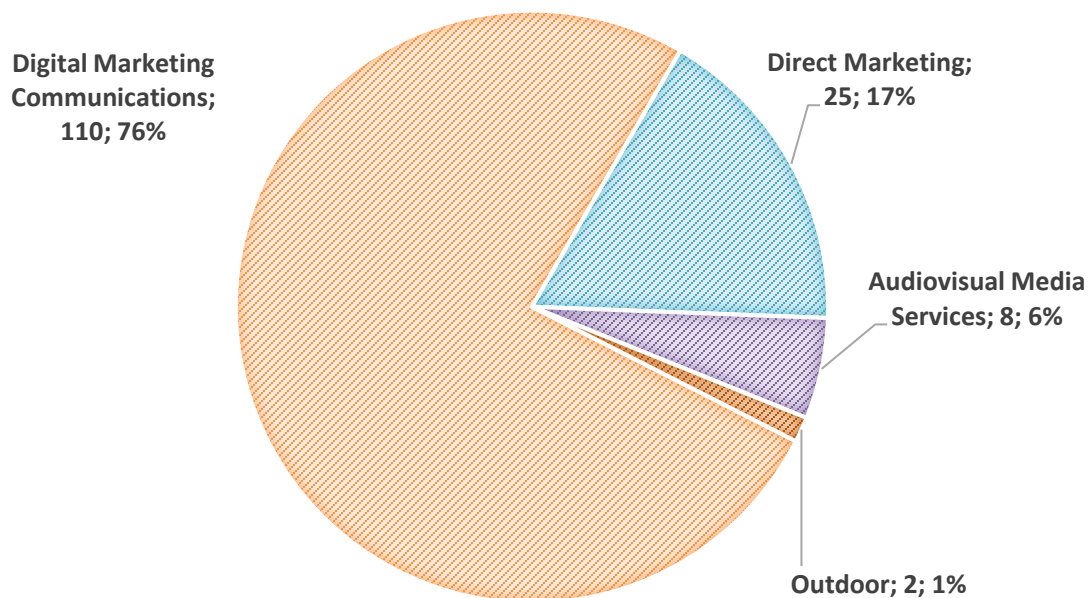
6 Media

Digital Marketing Communications were the most complained about media

Digital Marketing Communications (DMC) accounted for 110 (75.9%) cross-border complaints. Advertisements received as direct marketing triggered 25 (17.2%) cross-border complaints.

Cross-border complaints against advertisements appearing on Audiovisual Media Services (AVMS) prompted 8 (5.5%) cross-border complaints, while outdoor advertising provoked 2 complaints (1.4%).

Figure 8: Cross-border complaints per medium in 2016

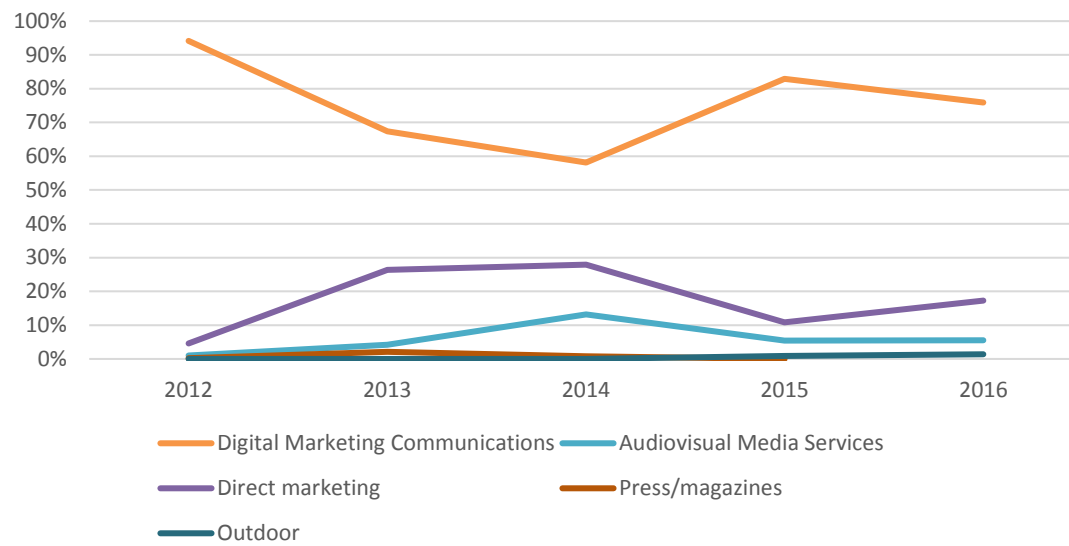


Source: Annual Cross-Border Complaints Report 2016

Annual statistics shows, since 2012 the main media to generate complaints about advertisements has been DMC. In the period 2012-2016, an average of 75.7% of complaints regarded DMC.

Advertisements received as direct marketing have ranked second since 2011 with an average of 17.4% of complaints between 2012 and 2016. Audiovisual media services has been in the third place with 5.9% of complaints on average. Both press/magazines and outdoor advertising did not provoke more than 1% of average number of complaints (0.8% and 0.5% on average, respectively).

Figure 9: Cross-border complaints per medium from 2012 to 2016



Source: Annual Cross-Border Complaints Report 2016

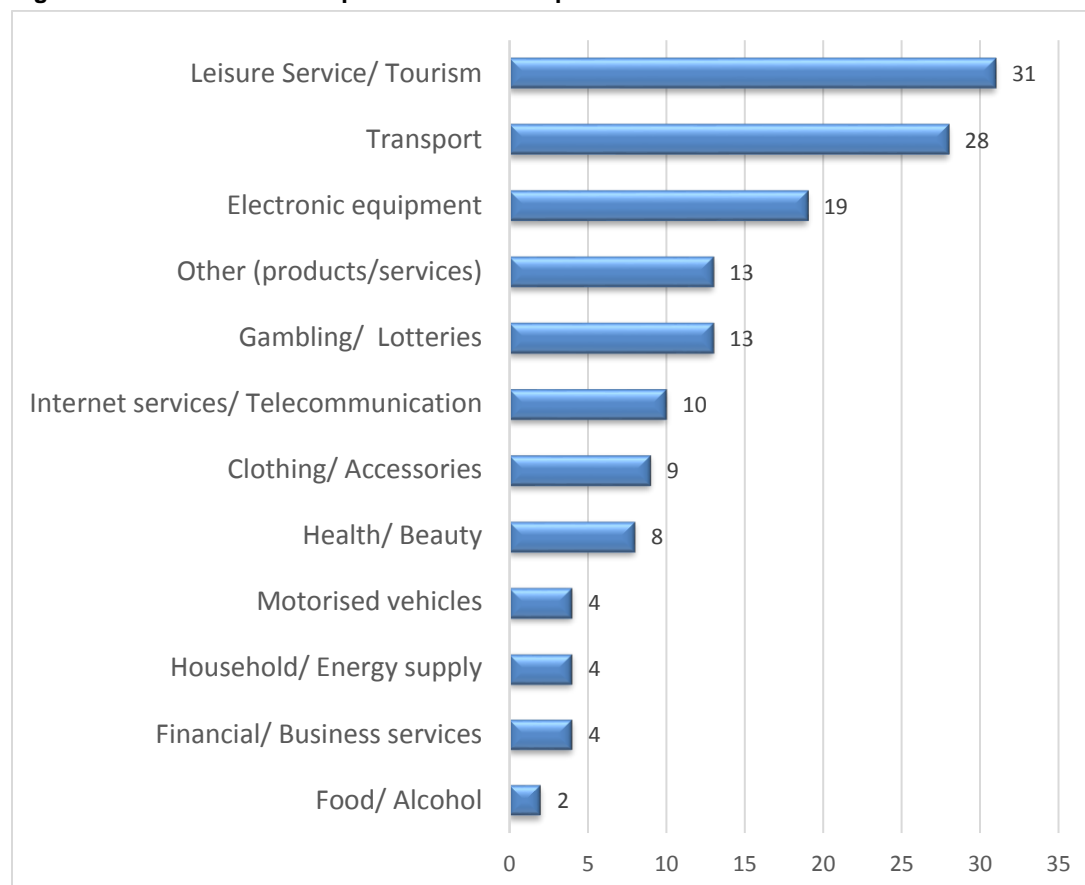
7 Complaints about Advertising for Products and Services

Consumers lodged most complaints regarding advertising of leisure and transport services sector and electronics

In 2016, the most complained about sector was leisure and tourism services with 31 complaints (21.4%). This category includes hotels and holiday accommodation, travel and renting services, entertainment, sports and leisure activities and dating services. 28 of those complaints were lodged by the British consumers, mostly about ads seen online (26 complaints)

Transport services (28 complaints, 19.3%) was the second most complained about sector, while electronics came third (19 complaints, 13.1%). Consumers around Europe also rather frequently complained about the alleged breaches of the SR codes regarding marketing communications of the gambling services (13 complaints, 9.0%), internet services and telecommunications (10 complaints, 6.9%), as well as clothing (9 complaints, 6.2%), and health beauty products and services (8 complaints, 5.5%).

Figure 10: Cross-border complaints in terms of products and services in 2016



Source: Annual Cross-Border Complaints Report 2016

More detailed breakdown of complaints per products and services which allows for comparison of complaints throughout the years can be found in Table 4.

The trend of rising numbers of complaints about advertising for leisure services was once again reinforced in 2016, with number of complaints rising by almost 20%, between 2015 and 2016. However, the consumer complaints about marketing communications for transport sector and electronic goods grew even faster. The former provoked around 1.3 times more complaints while the latter was reported by the consumers 3 times more often in 2016 than in 2015.

The number of complaints about gambling services (second most popular sector in 2015) was in decline by almost 19%. Fewer consumers lodged their complaints about clothing advertising as well (decline by almost 36%)

Table 4: Cross-border complaints in terms of products and services between 2012 and 2016

Products and services	2012	2013	2014	2015	2016
Leisure service/ Tourism	2	12	17	25	31
Transport	9	14	8	12	28
Electronic equipment	6	9	8	5	19
Gambling/ Lotteries	329	4	27	16	13
Internet services/ Telecommunication	7	7	7	12	10
Clothing/ Accessories	0	6	15	14	9
Health/ Beauty	6	4	9	11	8
Financial/ Business services	2	1	16	4	4
Household/ Energy supply	1	2	1	3	4
Motorised vehicles	1	1	4	2	4
Food/ Alcohol	2	0	4	1	2
Publications	15	7	1	1	0
Other (products/services)	13	28	12	5	13⁵
Total	393	95	129	111	145

Source: Annual Cross-Border Complaints Report 2016

⁵ For 2016 the category includes sectors that received not more than two complaints per sector, which includes among others complaints on toys, patent and employment services, products for adults, lifestyle service websites.

8 Speed of the Resolution of Complaints

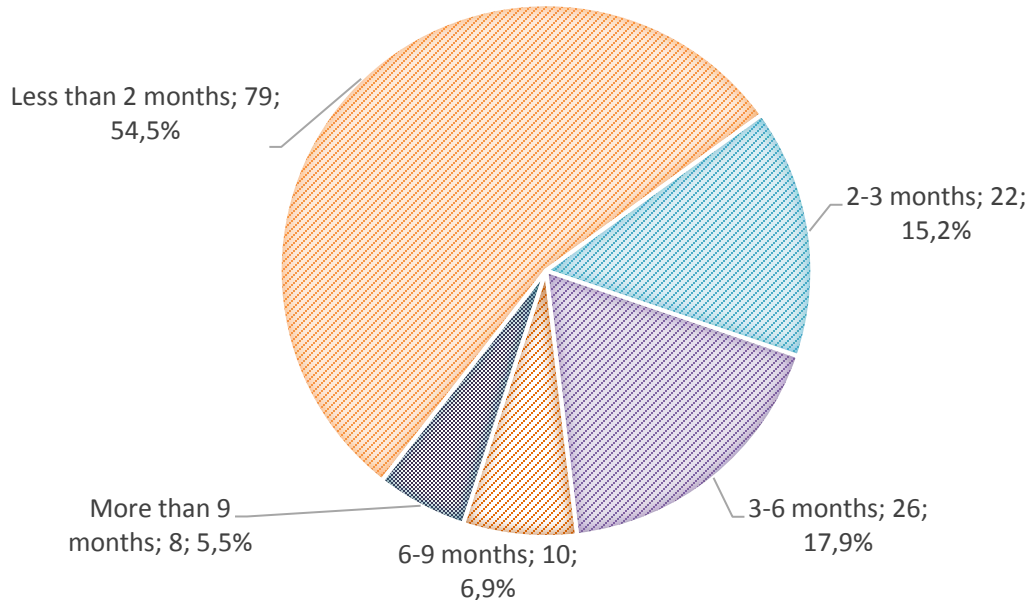
The majority of complaints were handled in less than three months

The speed of complaint resolution varies depending on the complexity of a case. Simple cases can be resolved in as little as two days, whereas more complex cases may take longer. If scientific substantiation of advertising claims is required, complaints may lead to a prolonged investigation. As cross-border complaints are handled by two SROs and often a translation is necessary which might considerably extend the complaint handling.

In 2016, SROs resolved 79 (54.4%) cross-border complaints received in less than two months and additional 22 complaints (15.1%) within 2 and 3 months. Additionally, 26 (17.9%) more complaints were resolved with half a year.

Overall, 18 complaints (12.4%) required longer than six months of investigation period longer. These complaints This complaint was lodged by an Irish consumer regarding an online advertisement for a Polish tech company offering smart home automation systems. The complainant objected to the fact that all the products advertised wireless update of devices, along with other features, which was not the case in reality.

Figure 11: Speed of cross-border complaint resolution in 2016



Source: Annual Cross-Border Complaints Report 2016

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 nearly 3.000 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 Single Market. With regards to the CBC 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 Digital Marketing Communications, however, the advertisement will generally be expected to follow the rules of the country where the advertiser is based, whereas in the case of Online Behavioural Advertising, the country of origin of the company will be based on the principal decision-making presence (office). 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.

Publications

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

Notes

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