



I

2023

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 acts as a co-ordination point for best practice in the implementation of self-regulation, as well as operational standards for its national Self-Regulatory Organisation (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 41 entities committed to making sure advertising is legal, decent, honest, and truthful. EASA's membership is made up of 27 SROs from 25 European countries, 13 advertising industry stakeholders, including advertisers, agencies, media associations, and 1 digital pure-play company. EASA is also a member of ICAS (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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1 Key Findings

EASA's Self-Regulatory Organisation (SRO) members ensure that all Cross-Border Complaints (CBCs) are handled effectively and efficiently with a thoroughly developed mechanism based on a network of independent, impartial, and recognised SROs that exchange constant flows of information.

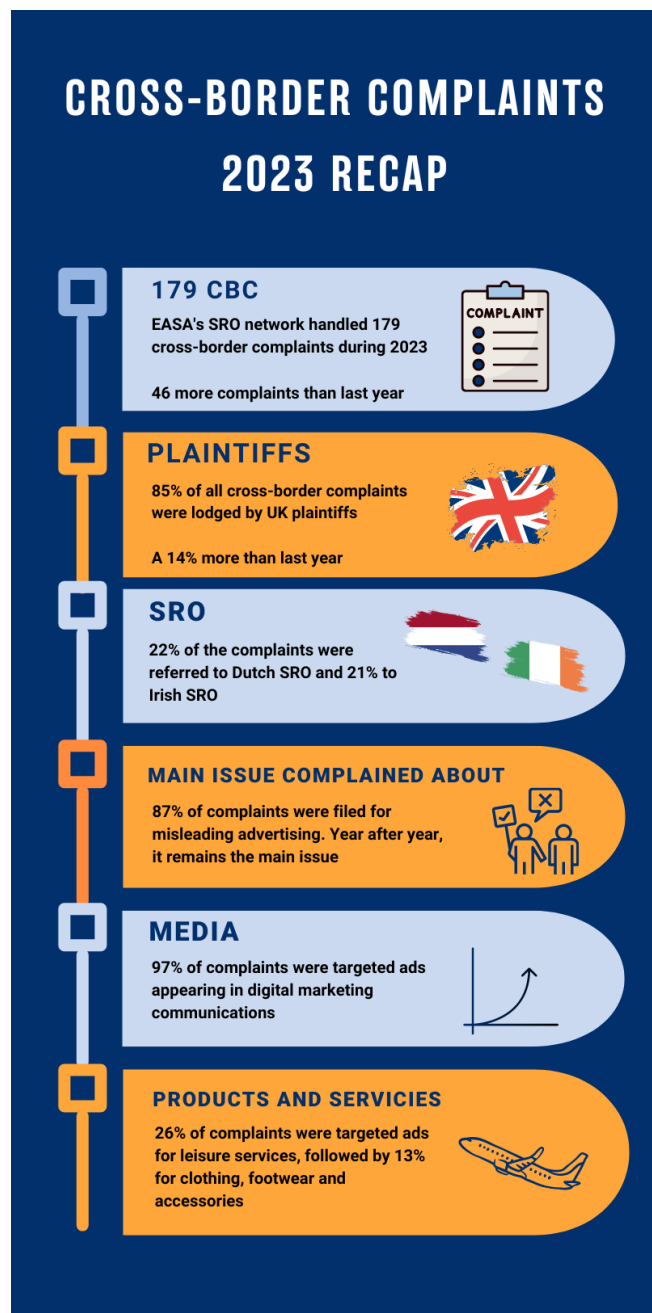
Cross-border complaints (CBCs) are consumer or competitor complaints lodged against advertisements that appear in media or originate from advertisers based in another country than that of the plaintiff. The EASA Secretariat coordinates these types of complaints through a system that has been in operation 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 originating from one EU Member State is circulating in media from another. SROs handle an average of around 236 complaints annually.¹

In 2023, the number of cross-border complaints was 179. As can be seen in Figure 1, from 2021 to 2022, there was a 46 CBC increase.

- EASA's CBC system covers **27 EASA SRO** members in **25 European countries** that handle complaints.² It also reaches out, on an ad hoc basis, to international SROs that are members of the International Council for Ad Self-Regulation (ICAS).
- EASA has members **both inside and outside of the European Union** who participate in the CBC mechanism. Each CBC is assessed based on the rules, laws, and regulations of the SRO in the country of origin of the medium or the advertiser, depending on the type of ad.

¹ Over the past 5 years.

² As of December 2023



2 The Total Number of Cross-Border Complaints Received

In 2023 EASA's SROs transferred 179 complaints, 46 more than in 2022.

Over the course of 2023, EASA was notified of a total of 179 cross-border complaints, which translates into a 34.59% increase in referred complaints in comparison with the preceding year.

However, it is worth noting that 2011 saw the lowest level of CBCs at 73 and 2012 the highest level ever on record at 414. Over the past 5 years, since 2019 to 2023, an average of around 236 cross-border complaints were treated annually by EASA's network.

The numbers may be fluctuating due to external factors and dynamics in the market. The post-2020 recovery phase of the Covid-19 pandemic still evokes a level of uncertainty that has been felt across the Single Market's economy, which may partly explain the drop in 2021 and 2022.

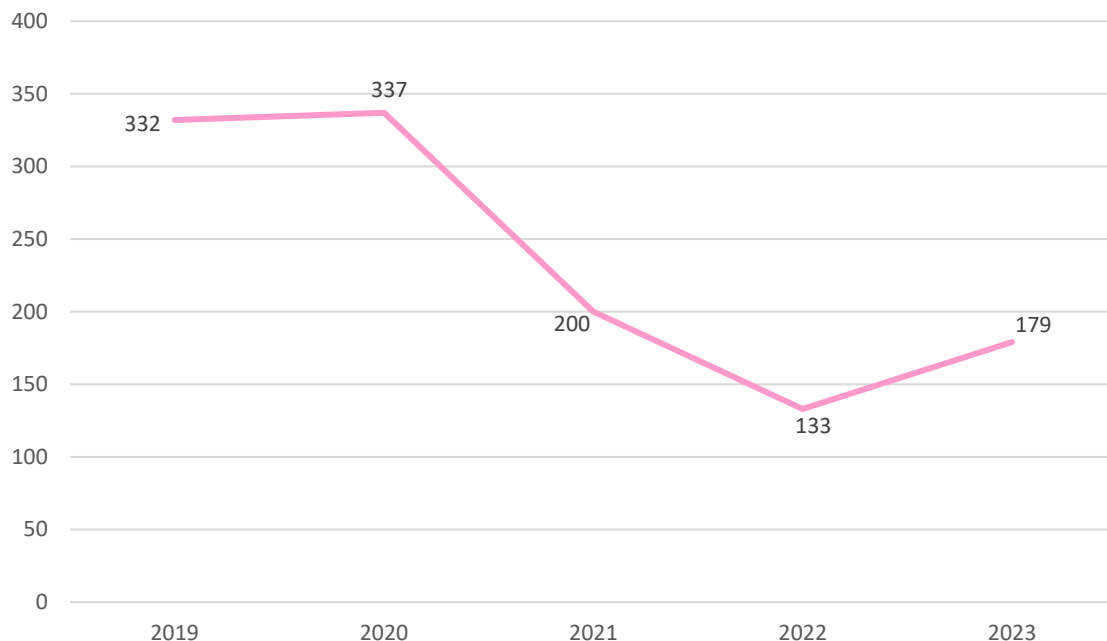


Figure 1: Cross-border complaints received between 2019 and 2023.

Source: Annual Cross-Border Complaints Report 2021 & Online Database³

³The "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.

3 The Origin of Complainants

85.47% of cross-border complaints were lodged by UK complainants.

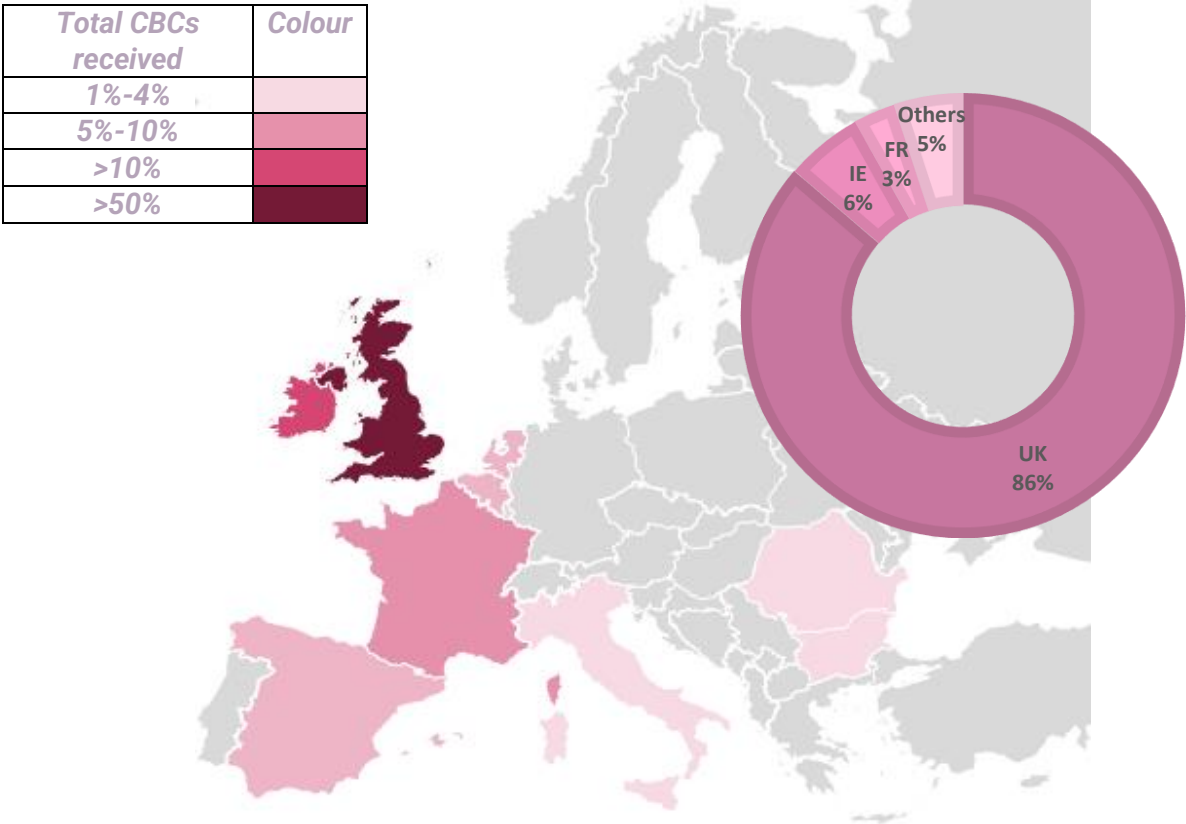


Figure 2: Advertisements complained about per country of the complainant in 2023.
Source: Online Database

UK plaintiffs remained the most active in lodging cross-border complaints in 2023, having sent 153 (85.5%) objections on ad content to the Advertising Standards Authority (ASA). An increase can be noted with respect to the previous year, where UK plaintiffs lodged a total of 95 complaints in 2022 (71%). Thus, there has been a noticeable rise of 14.5 points in complaints this year compared to the previous year.

Although cross-border complaints in 2023 were again mostly lodged in the UK, advertisements from Ireland (5.59%) and France (2.79%) come next. However, it's evident that these percentages are significantly lower compared to the 85.5% projected for the UK this year.

This year, only Ireland had at least 10 complaints, whereas the previous year saw at least five countries (excluding the UK) each surpassing this threshold.

The table below also shows that only a handful of countries are sending over complaints to other countries. Despite an increase to 153 in 2023 compared to 95 in 2022, this remains a relatively low figure compared to the data from the past five years, with 2022 still marking a trough in the number of referred complaints.

Country	2023	2022	2021	2020	2019
United Kingdom	153	95	161	300	291
Ireland	10	18	22	15	25
France	5	10	5	5	4
Belgium	2	6	1	5	3
Netherlands	2	1	1	5	2
Spain	2	1	0	2	0
Italy	1	1	0	3	3
Bulgaria	1	0	0	0	0
Romania	1	0	0	0	0
Germany	0	1	3	3	2
Other	0	0	0	0	1*

Table 1: Cross-border complaints per country of complainant between 2019 and 2023

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

Source: Annual Cross-Border Complaints Report 2021 & Online Database

4 The Country of Origin of Advertisements

Ads from Ireland and the Netherlands generated the highest number of cross-border complaints in 2023.

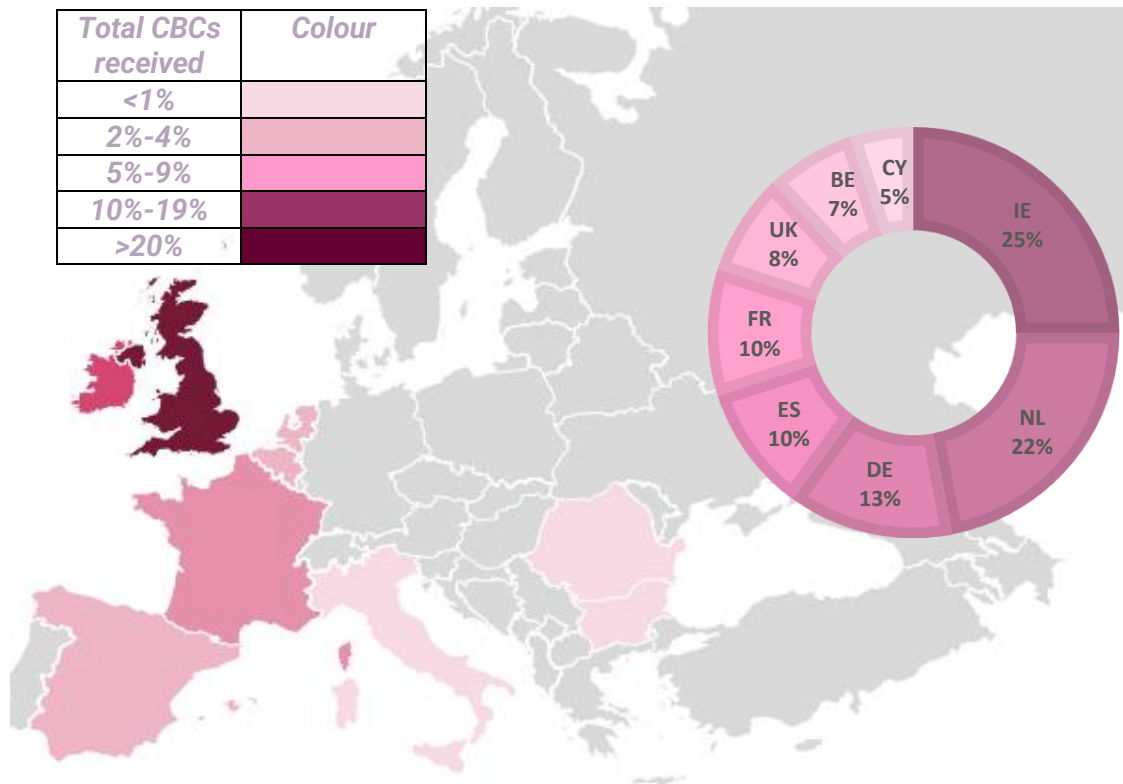


Figure 3: Cross-border complaints per country of origin of the media/advertiser in 2023

Source: Online database

EASA's Cross-Border Complaints System requires that all advertisements comply with the advertising laws and advertising self-regulatory codes of the country wherein the medium carrying the advertisement is based. In the case of Direct Mail and Online Advertising, the SRO that is responsible for handling the complaint is the one wherein the advertiser is based.

In the case of Online Behavioural Advertising (OBA), it is the country in which the principal decision-making authority is conducted that counts as the country of origin.⁴ As we will see in

⁴ Switzerland requires that advertisements addressed by Swiss-based marketers to consumers in other countries comply with the rules and laws of those countries (known as the "principle of the country of destination"). Consequently, in such cases, the Self-Regulatory Organisation (SRO) in the plaintiff'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. Similarly, some other SROs, in EU Member States, operate under different principles. However, SROs always share information and best practices to reach a swift and definitive decision for each CBC.

subsequent sections of this report, the vast majority of CBCs relate to digital marketing communications. According to the EASA CBC system principles, this means that it is the SRO in the country of origin of the advertiser that is responsible for handling the complaint according to local rules and legislation.

In 2023, 1 out of 4 complaints were aimed at advertisements originating in the Netherlands (25.14%), of all 179 cross-border complaints. In second place (22.35%) are complaints lodged against ads originating from Ireland. This year, unlike the previous one, although both countries remain at the forefront, their rankings have shifted from 2022, when Ireland held the top spot with 28%, while the Netherlands trailed in second place with 14%.

These two countries, with 45 complaints for the Netherlands and 40 for Ireland, generated the highest number of adverts subject to complaints in other European countries. Overall, they were the countries that received just under half of all CBCs, with in third place Germany (13.97%) with 25 complaints. Other countries where advertisements were subject to frequent complaints originated in France (7.26%) and Spain (5.59%).

The rest of the countries received less than five CBCs each. In addition, 3 of complaints were sent to ICAS global SROs (including Canada, Australia, and NZ).

UK plaintiffs lodged 39 complaints direct to The Stichting Reclame Code (SRC) and 37 complaints to the Irish Advertising Standards Authority (ASAI).

The Advertising Standards Authority (ASA) transferred over 7 in 10 CBCs, less than previous years (85.47%). Digital Marketing Communication is year-on-year the medium with the most complaints.

Annual statistics (presented in Table 1) show that despite some fluctuations over the past 5 years, the most complained ads originated in the same 5 countries: Ireland, the Netherlands, France, Germany, Spain, and the UK. The number of complained ads originating from Ireland was especially high in 2020, while closing back in towards the second highest number of complaints (coming from the Netherlands) in 2021. However, in 2022, Ireland again takes distance over the Netherlands, with a more significant difference in terms of complaints between both countries. Despite a significant decrease in 2023, it still maintains its position as the second highest.

Table 2: Cross-border complaints per country of origin between 2019 and 2023.

Country	2023	2022	2021	2020	2019
Netherlands	45	19	43	74	89
Ireland	40	36	57	122	110
Germany	25	9	16	29	15
France	15	11	17	24	20
Spain	10	11	12	11	17
Italy	7	7	4	5	11
United Kingdom	5	13	17	15	17
Belgium	5	4	0	5	4
Cyprus	4	1	4	16	11
Finland	3	3	0	3	5
Czech Republic	2	3	3	2	2
Hungary	2	1	3	5	2
Greece	2	0	0	0	
Switzerland	1	2	3	1	0
Turkey	1	1	2	1	3
Sweden	1	1	2	9	7
Austria	1	1	5	2	3
Poland	1	0	0	0	0
Slovakia	1	0	0	0	0
Bulgaria	1	0	0	0	0
Romania	1	0	0	0	0
Other ⁵	0	5	5	0	2

⁵ The 'Other' category in 2022 includes Canada, Singapore, New Zealand, and the United Arab Emirates, and 2021 includes Canada and United Arab Emirates.

5 Outcome of Resolved Complaints

5% of the complaints received by the SROs were upheld. 20% were not upheld and over 4% of complaints were not investigated as SROs had already initiated procedures at national level, including successes at resolving the case informally, or transferring the case to appropriate authorities.

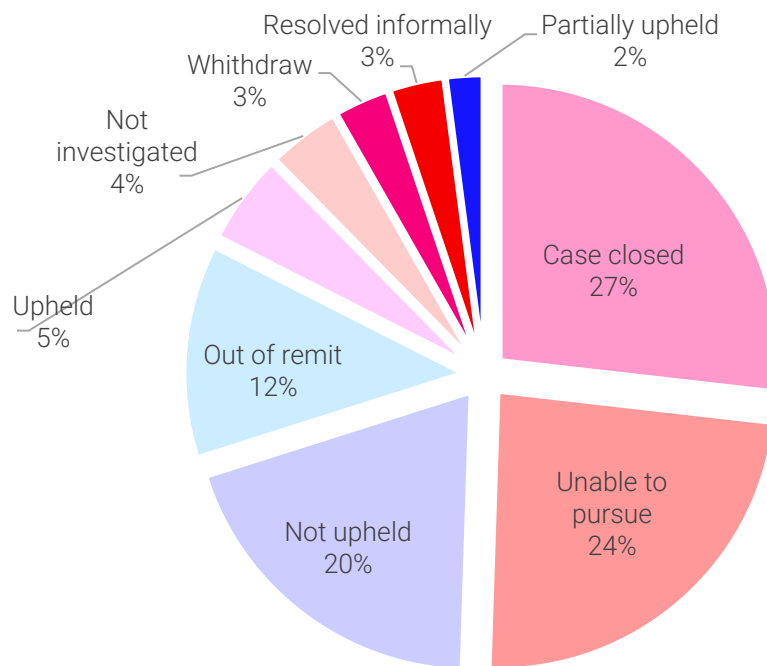


Figure 4: Cross-border complaints per outcome in 2023

Source: Online Database

SROs' juries and committees upheld or partially upheld a 7%. Only a handful were partially upheld as the juries or committees found these CBCs to be groundless for further action but issued private warnings to advertisers, considering the ad to be featuring potentially problematic elements. A further 24% of complaints did not make it to the jury sessions as the SROs' secretariats were unable to collect sufficient information to bring the case to the committees, usually due to unresponsive advertisers or lack of information given in the complaint. These were thus classified as "unable to pursue".

In 2022, the percentage of complaints resolved informally by SROs was 5%, whereas in the current period, it has decreased to 3%. This represents a significant decrease of almost half in 2023.

These are complaints where the secretariats of the SRO were able to mediate between the advertisers and the plaintiffs about the former's grievances. SROs can take on an important mediator role in certain cases.

Only 4.42% of complaints received by the SROs were not investigated for various reasons based on decisions made on the national level. For these cases, SROs found that these complaints had either no grounds for a case as the advertisements at hand did not breach any rule or legislation, or that the complaint was unable to be pursued by the SRO. As depicted in the graph above, complaints that fell outside of the SROs' remit stand at 12%. The SRO in the country of the plaintiff may have accepted the complaint under their statutory rules. However, it is the SRO in the country of origin of the media or of the advertiser whose remit counts in referred cases.

The remaining 3% of complaints were later withdrawn by plaintiffs, in cases where the SRO explained that there were no breaches or grounds for a case.

Finally, no complaint was transferred to the appropriate authority, either to legal authorities or other local regulatory or self-regulatory organisations, compared to 1% in 2022.

Comparing the data of CBCs' outcomes across the past 5 years (see figure below) reveals a series of contractions and expansions for each complaint outcome. The variability observed over the years and across different sectors and categories, although it may appear significant, is not uncommon. The CBC mechanism operates as a dynamic system, influenced by factors such as emerging advertising trends, revised self-regulatory protocols, cultural shifts, and societal challenges that shape consumer expectations. Over the past three years, the onset of the COVID-19 pandemic has introduced an entirely new category of advertisements for diverse products and services, reflecting the adjustments made by markets in response to the profound societal changes brought about by the pandemic.

Self-regulatory organisations strive to keep ads compliant with high standards both with respect to well-accepted rules and laws but also to new events amid changing norms that current rules may not explicitly cover. Consequently, resolving complaints informally or transferring complaints to other better-suited organisations are ways SROs can navigate the ever-changing societal landscape, all the while keeping ads in line with their Codes. In this sense, SROs are best positioned as focal points in receiving, handling, and mediating consumers' or other organisations' complaints rapidly and decisively, especially in times of crises and upending circumstances.

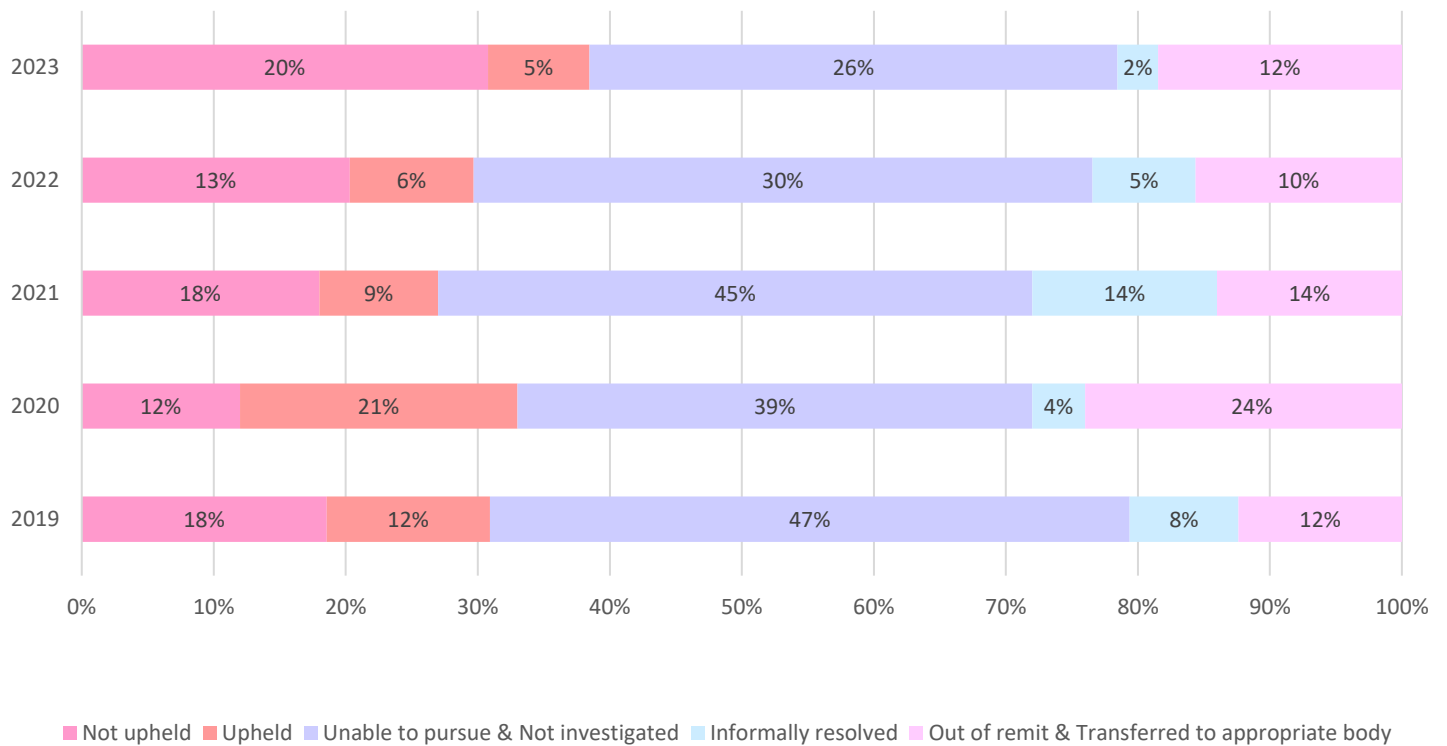


Figure 5: Cross-border complaints per outcome between 2019 and 2023⁶

Source: Annual Cross-Border Complaints Report 2021 & Online Database

⁶ The figures include “Partially upheld” complaints in the category of “Upheld” complaints to make it comparable with previous years and as the share of the former are negligible.

6 Issues Complained About

Misleading advertising continues to be the main issue complained about

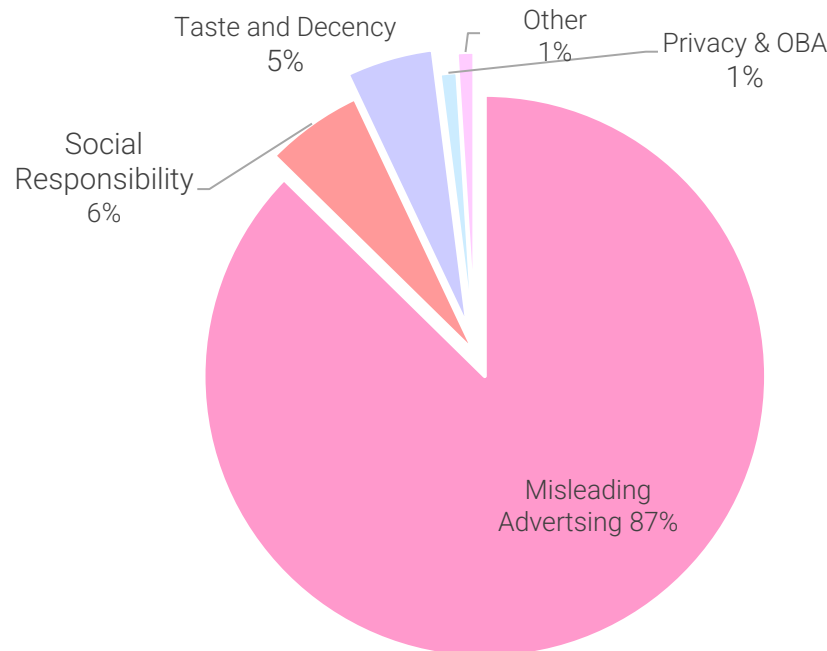


Figure 6: Cross-border complaints per issue in 2023

Source: Online Database

Continuing the trend set in previous years, the largest share of cross-border complaints in 2023 concerned misleading advertisements, with 87% of complaints dealing with such an issue.

Within this category, consumers mainly objected to advertisements by companies operating in the leisure services sector (36%), such as airline companies, bus touring services, accommodation services, etc. The next biggest industry that had been complained about regarding misleading marketing practices was advertising within the clothing, footwear and accessories sector, accounting for 13% of the complaints.

Beyond misleading advertising, consumers also complained about social responsibility, with 6% of complaints, which pertains to issues such as discrimination and the responsibility of advertisers in addressing some of the topical matters discussed at the societal level. The third biggest issue related to taste and decency at 5%, this represents the same number compared to 2022. Taste and decency vary largely according to local sensitivities, cultural particularities, and community events. Privacy and data protection issues were also raised by plaintiffs, though in small numbers, accounting only for 1% of complaints. Finally, there is 1% of the complaints,

others, that represents inappropriate or harmful for children and incitement to illegal behaviour. For example, in one of the complaints, the complainant believes the ad is irresponsible because it promotes abuse of a controlled substance of nitrous oxide.

This focus on issues about misleading commercial advertising practices is not new. Consumers are mostly complaining about unclear advertisements that lead them to a purchase that they would have otherwise not conducted, had the advert been clearer or more honest in its promotion.

Over the past five years, concerns about breaches of social responsibility and taste and decency have consistently ranked second highest, averaging at 12.4% overall (combining both categories). However, there was a decrease in complaints related to social responsibility in 2023, dropping by 2 points to 6%, compared to 8% in both 2022 and 2021.

Privacy issues accounted for just 1% of complaints between until 2021. In 2022, the percentage rises to 2%. However, these three issues pale in comparison to the broader problem of misleading advertising.

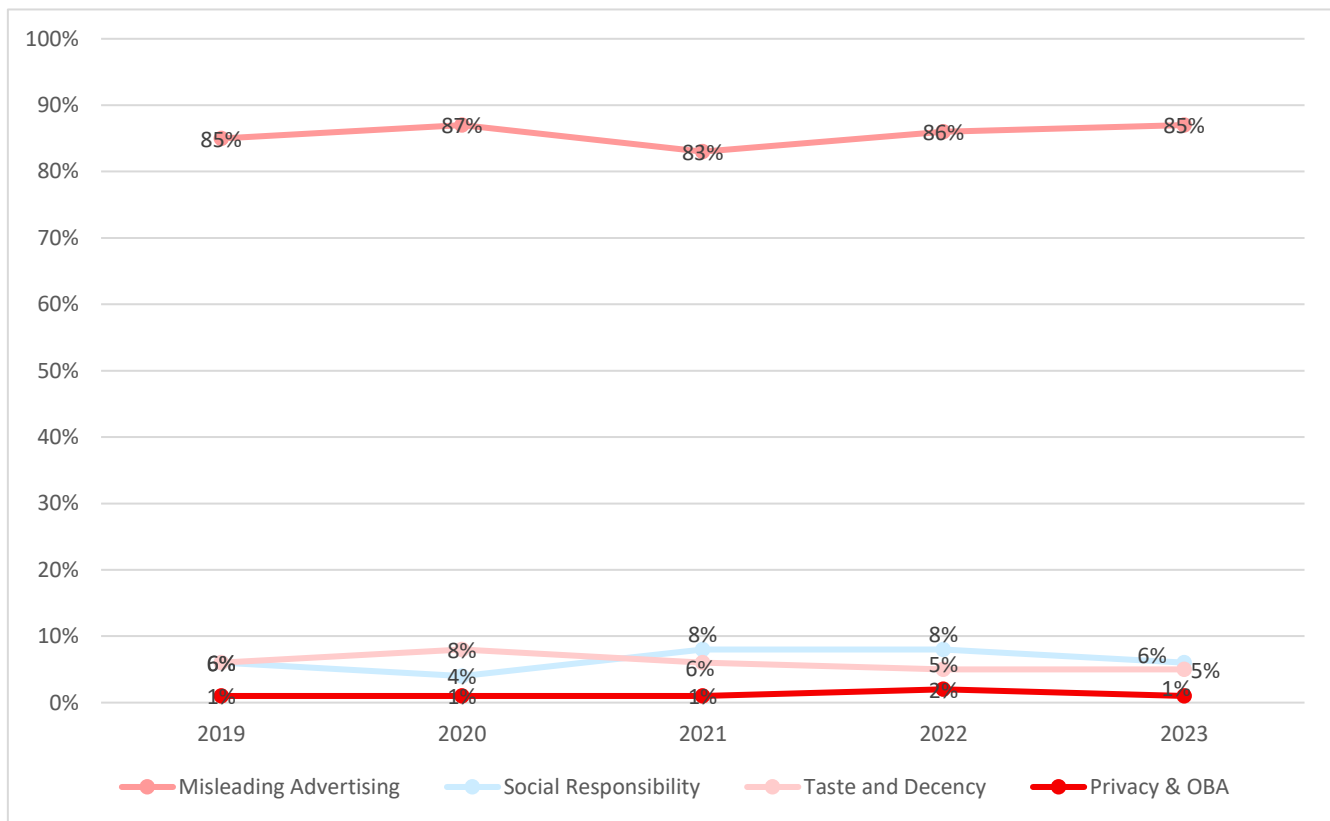


Figure 7: Cross-border complaints per issue between 2019 and 2023

Source: Annual Cross-Border Complaints Report 2022& Online Database

7 Media

Digital Marketing Communications gathered the most complaints among all media categories at 97%.

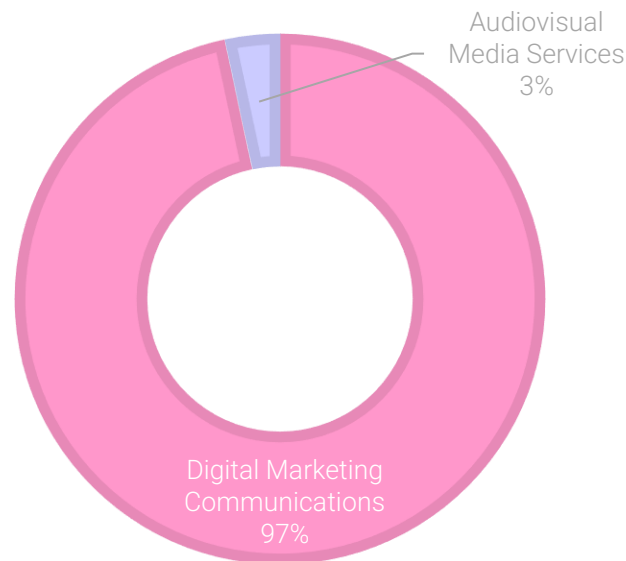


Figure 8: Cross-border complaints per medium type in 2023

Source: Online Database

Online Advertising, or Digital Marketing Communications, accounted for 97% 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. An increase of 4% in the percentage can be appreciated with respect to 2022.

CBCs against advertisements appearing on Audio-visual Media Services (AVMS), such as television, prompted 3% of cross-border complaints, while out-of-home advertising or direct marketing did not see any complaints during 2023.

This shows that television ads are comparatively rarely complained about. This could be because, in countries such as the UK and France there is a national SRO – Clearcast and ARPP respectively – that clears every advertisement before airing it on TV or radio. This enables the self-regulatory body or its counterparts to filter through a great deal of misleading or problematic ads that consumers would have otherwise flagged after publication in a complaint. In this sense, this system of review before publishing is fruitful (see Figure 10). Moreover, analysing the data, we see that 97% of all complaints in the Online Advertising category are against adverts that have been complained about for misleading content.

Annual statistics show that Digital Marketing Communications have been generating by far the most cross-border complaints in recent years, with an average of 91.2% of complaints in the

period from 2019 through 2023. For the first time, in 2023 there is no record of Direct Marketing media and from out-of-home ads.

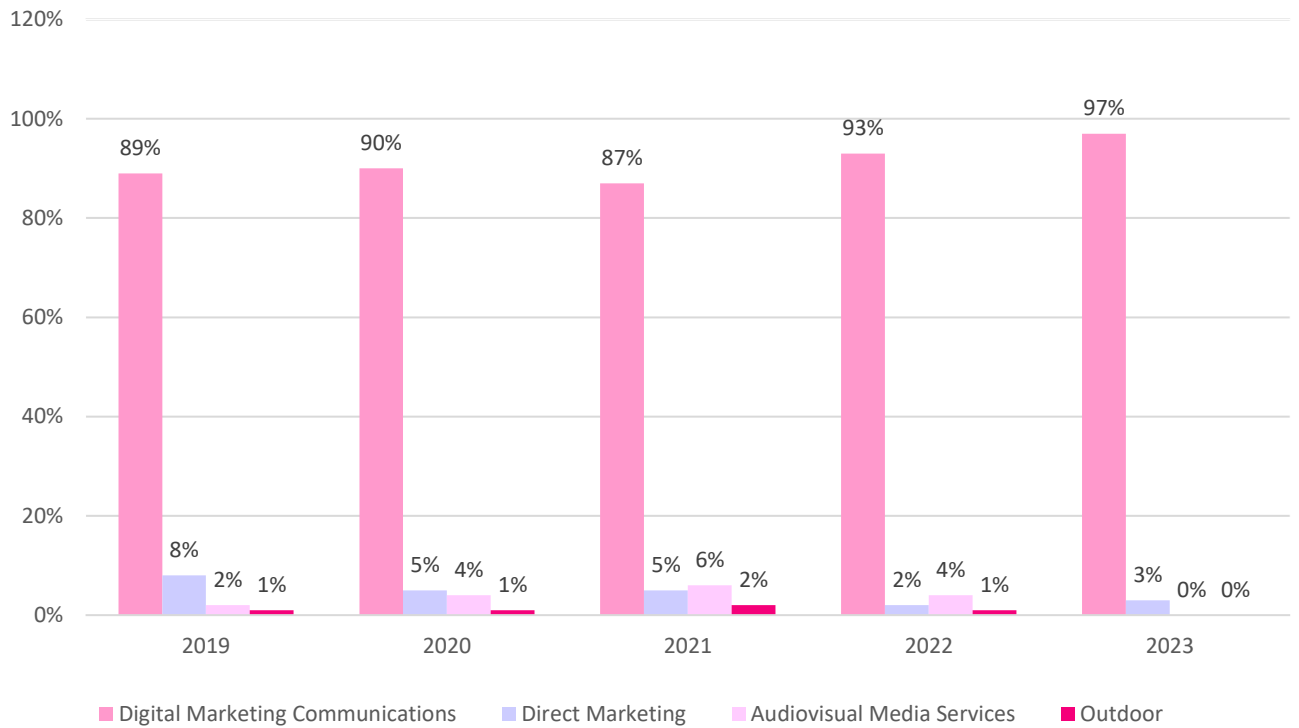


Figure 9: Cross-border complaints per medium from 2019 to 2023

Source: Annual Cross-Border Complaints Report 2022 & Online Database

8 Complaints about Advertising for Products and Services

CBCs were mostly concerning advertising of leisure services, health & beauty, and food & alcohol.

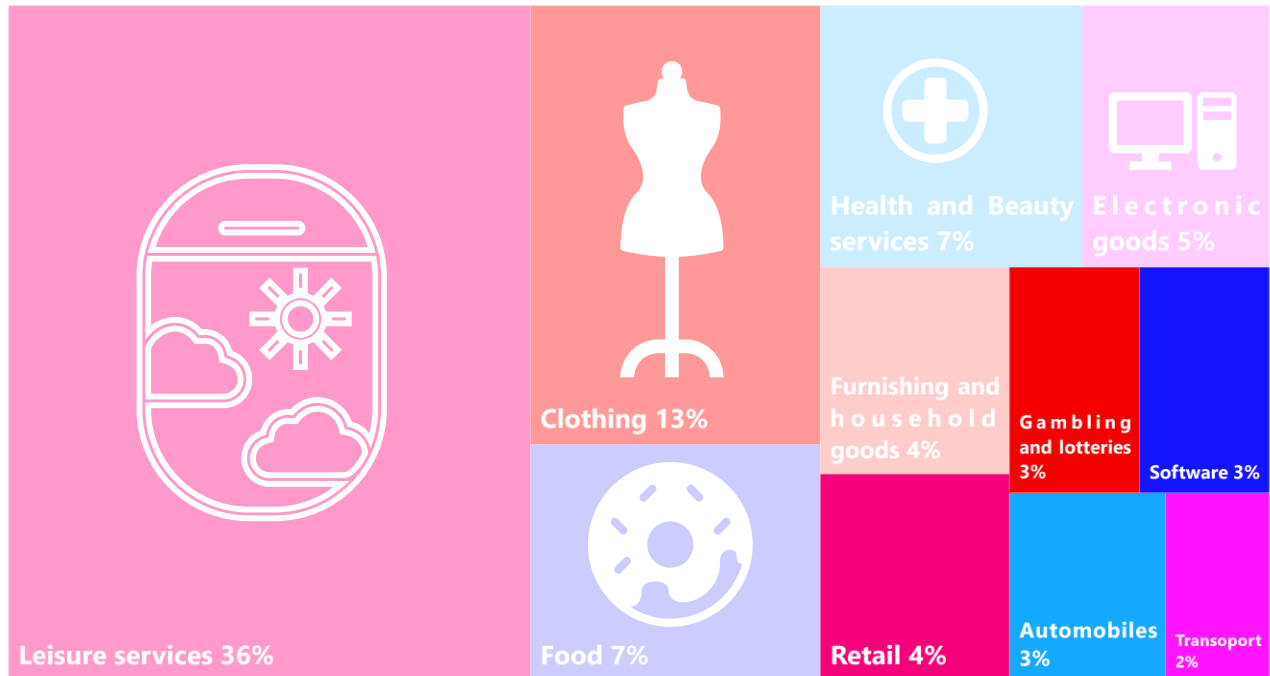


Figure 10: Cross-border complaints in terms of products and services in 2023

Source: Online Database

In 2023, 36.31% of all complaints pertained to leisure services, including airline companies, hotels and holiday accommodations, travel and renting services, entertainment, sports, gaming activities, and dating services. Consumers around Europe also complained about alleged breaches of the SR codes regarding marketing communications for clothing, footwear, and accessories (12.85%).

Food (7.26% of total complaints) was one of the most complained sectors as well, followed by Health and beauty services (6.7%), and electronic goods (4.47%) of CBCs.

The “Other” category (10%) stands out as one of the largest. It includes various categories and sub-categories of products and services advertised across the continent, such as educational services, employment services, and house maintenance services, among others.

This includes, as a total out of the 179 complaints, furnishing and household goods (4%), retail (4%), gambling and lotteries (3.35%), software and other IT products (2.79%), automobiles (2.79%), and transport services (1.68%). Other services each account for 1% or less of total CBCs.

Some sectors have seen some variations. In 2020, the food sector recorded more than twice as many CBCs as the year before. In 2021, despite a drop, it remained in second place after leisure services. In 2022, the claims in this sector were significantly reduced to 5%. Nevertheless, by 2023, this sector, previously in a lower position, now constitutes 8% of CBCs.

In 2022, most categories experienced a decrease. For example, electronic devices and IT hardware and software products saw a decrease, but in 2023, this sector doubled their percentage. Meanwhile, others like cars and motorized vehicles maintained the same percentage as the previous year. In 2023, there were no telecommunications complaints registered for the first time in the past 5 years.

A more detailed breakdown of complaints per products and services can be found below. It allows for a comparison of complaints throughout the past 5 years.

The leisure and tourism services category accounted for 36.31% of all claims. This sector, as defined for the purposes of this study, includes many different industries that contribute to almost one-third of all claims transferred in Europe. Of the 65 complaints in this category, the majority were against airlines, and another significant portion concerned hotels and accommodation services. The remainder were objections to advertising by various entertainment services, such as movie providers, gaming activities, especially on digital platforms, and music streaming services.

Products and services	2023	2022	2021	2020	2019
Leisure services	65	34	63	102	179
Clothing & Accessories	23	23	13	19	22
Other (products/services)	18	14	5	37	17
Food (and Alcohol)	14	8	27	43	20
Electronic devices and IT hardware and software products	13	6	14	37	16
Health & Beauty services	12	13	22	33	19
Furnishing and household goods	7	-	-	-	-
Retail	7	2	3	17	22
Gambling & Lotteries	6	2	2	13	4
Automobiles	5	5	8	11	15
Transport	3	3	4	6	6
Energy, water, and combustibles	2	-	-	-	-
Financial & Business services	1	4	1	6	3
Books and magazines	1	2	2	5	-
Non-commercial	1	1	1	3	-
Toys	1	-	-	-	-
Telecommunication	-	1	5	5	3

Table 3: Cross-border complaints in terms of products and services between 2019 and 2023*Source: Annual Cross-Border Complaints Report 2021 & Online Database*

9 European data on CBCs: wrap-up for 2023

Slight increase in total number of CBCs – Online Advertising remain dominant media, leisure remains the dominant sector

We can conclude, from the analysis of the figures for 2023, that consumers in the UK and Ireland were the source of most complaints transferred abroad. The 179 CBCs predominantly took issue with misleading online and digital advertising material from leisure services, clothing, and accessories, as well as health and beauty services of which the marketers' headquarters are in Ireland and the Netherlands.

The data for 2023 also indicates that CBCs are still principally lodged against digital and online adverts that allegedly contained misleading content. The 2023 statistics follow the same trends as in 2022, namely in terms of digital marketing communications being still overwhelmingly the most complained-about media. Continuously developing digitalisation implies that the digital realm will remain the medium with the most CBCs for the foreseeable future. As mentioned in the last CBC annual report, Covid-19 has had a significant impact on the economy and the ad ecosystem, leading consumers to purchase increasingly more via the digital space.

These statistics and figures are a testimony to the successes and challenges for SROs to mediate between consumers rightfully expecting correct, transparent, and high-quality ads informing them of new products and services, and brands competing to capture audience attention. All in all, SROs filtered, handled, and assessed each of the 179 cross-border complaints to ensure that all ads in Europe were accountable for their claims and that they respected the local advertising standards.

Looking ahead, the data suggests a continuing trend towards digital platforms as the focal point of consumer complaints, necessitating on-going adaptation and vigilance by SROs to maintain advertising integrity. As EASA continues to enhance cross-border cooperation among SROs, it remains committed to ensuring a fair and responsible advertising environment across Europe.

In conclusion, the 2023 report underscores SROs' pivotal role in promoting ethical advertising practices and helping protect consumers through effective self-regulation. By addressing the complexities of cross-border complaints and staying attuned to emerging advertising trends, EASA and SROs uphold their commitment to promote high standards and help foster consumer trust in the advertising industry.

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 Online Advertising, 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 that 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 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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