

Advertising Standards Authority – Written evidence (FDF0022)

1. Background and Introduction

- 1.1.** This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the 'ASA system.'
- 1.2.** The ASA is the UK's independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for 60 years and the broadcast Advertising Code (written and maintained by BCAP) for 18, with our remit further extended in 2011 to include companies' advertising claims on their own websites and in social media spaces under their control.
- 1.3.** We are responsible for ensuring that advertising is legal, decent, honest, and truthful and our work includes undertaking proactive projects and acting on complaints to tackle misleading, harmful or offensive advertisements. We are committed to evidence-based regulation, and we continually review new evidence to ensure the rules and our application of them remain fit-for-purpose.
- 1.4.** As the UK's frontline advertising regulator, the ASA brings together different statutory, co-regulatory and self-regulatory enforcement mechanisms so they appear seamless to people and businesses. Our system involves the active participation of a range of legal backstops in the consumer protection landscape. We work closely with a network of partners including Ofcom, the Gambling Commission, the Information Commissioner's Office, the Medicines and Healthcare products Regulatory Agency, the Financial Conduct Authority and the Competition and Markets Authority.
- 1.5.** Through the sharing of information, joined-up enforcement action and referral processes, our partners bolster our regulation and assist us, where necessary, to bring non-compliant advertisers into line. Together, this 'collective regulation' helps to protect people and responsible business from irresponsible ads: ads that mislead, harm or offend their audience.
- 1.6.** We bring together the ad industry and media owners to set, maintain and police high standards. The UK Advertising Codes are drafted and maintained by the industry committees of CAP and BCAP, supported by experts in our Regulatory Policy team. This means businesses have a direct stake and an enlightened self-interest in adhering to the standards they set and creates a level-playing field amongst them. There are multiple checks and balances in place to ensure the committees' development of rules and guidance is transparent, open to scrutiny and adheres to the principles of good regulation. These include calls for evidence and public consultations; mandatory regard to the advice of an expert independent consumer panel; Ofcom signing off on BCAP rule changes; the ASA System's processes being open to judicial review and more besides. All to ensure the system is wholly accountable to everyone with a stake in advertising.

- 1.7.** The UK Advertising Codes include rules reflecting specific legal provisions and rules developed through separate regulatory process, which in combination ensure ads don't mislead, harm or seriously offend their audience. The inclusion of the rules in the UK Advertising Codes has enormous one-stop-shop benefits for the marketing industry in their application of the rules and for consumers, who benefit from the protection they afford.
- 1.8.** In addition to investigating ads, we also provide a wealth of training and advice services (most of which are free) for advertisers, agencies and media to help them understand their responsibilities under the Codes and to ensure that fewer problem ads appear in the first place. CAP and BCAP provided over 850,000 pieces of advice and training in 2021.
- 1.9.** The ASA system is providing this written submission in response to The House of Lords Committee on the Fraud Act 2006 and Digital Fraud's Call for Evidence.

2. Our role in tackling fraudulent / scam ads

- 2.1.** The ASA regulates ads published on behalf of legitimate businesses, and our system works because the advertising industry buys into it. This is obviously not the case with criminals placing illegal scam ads. While we play an active role in seeking to disrupt scam ads, as a non-statutory body that was not established for and is not equipped to tackle fraud, we do not investigate them because criminals, who have little regard for the law, clearly have no incentive to comply with the UK advertising rules.
- 2.2.** Our Scam Ad Alert system, which is explained in section 3 of this submission, forms part of our ongoing response to better tackling online harms and working more closely with other bodies to better protect consumers. It is not a cure all, but instead builds on existing measures that digital advertising and social media platforms already employ to stop many scam ads appearing in the first place.
- 2.3.** In summary, our work aims to complement and enhance the work already being done by digital advertising and social media platforms and other regulatory bodies to tackle scam ads and, more broadly, other fraudulent activity online.
- 2.4.** While it is not our role or remit to speak about fraud in a broad sense, we do have a view specifically on scam ads. The scale of the online fraud makes it extremely challenging for regulators. Clearly, more needs to be done to tackle online fraud across a broad array of fronts. Tackling online scam ads is a global problem, requiring a joined-up response involving law-enforcement bodies and statutory regulators, platforms and all involved in the online ad industry, as well as national advertising regulatory bodies such as the ASA.

3. Scam Ad Alert system

- 3.1.** In June 2020, we launched our UK Scam Ad Alert system in partnership with major digital advertising and social media platforms to help tackle ads which seek to scam consumers.
- 3.2.** The ad platforms, networks and other companies who participate in the Scam Ad Alert system are Google; Meta (Facebook/Instagram); Taboola; Outbrain; Microsoft; TikTok; Yahoo; Snap; Twitter; Amazon Ads; Sizmek Ad Suite; RevContent; Index Exchange; Clean.io; Reach; and the Media Trust.
- 3.3.** We launched the system because, while the overwhelming majority of ads responsibly inform and entertain their audience, some are published with criminal intent. Scam ads lead unsuspecting consumers to sites which can hoodwink them into spending money on fraudulent items or services.
- 3.4.** For the last two years, consumers have been reporting scam ads appearing in paid-for space online to us via an [online form](#).
- 3.5.** If we believe that a post may be a scam ad, we promptly send an Alert to all participating platforms with key details of the scam ad, as well as to publishers when the ad appeared on a publisher owned site. If they locate them, partners remove the offending ad and suspend the advertiser's account. In some instances they may also add them to blocklists, even when the ads weren't appearing on their platform, stopping them from appearing in future.
- 3.6.** We also share all alerts with the government's [National Cyber Security Centre \(NCSC\)](#). They operate the [government's takedown service](#), which seeks to remove malicious email addresses and websites. They scan the Alert for website addresses (URLs) to find the host website and remove it if it's found to be malicious. This means that alerts not only result in action against the ads but also the websites they link to, which increases their effectiveness in protecting consumers.
- 3.7.** We assess reports within 24 hours, enabling us to quickly and effectively alert platforms to scam ads so that they can promptly remove them, suspend the advertisers' accounts and stop similar ads appearing in future.

4. Scam Ad Alert system data

- 4.1.** From 1 March 2021 to 25 March 2022 the ASA has:
 - Received **1,251** reports of potential scams via our quick reporting form.
 - They resulted in **67** Scam Ad Alerts relating to obvious scams seen in paid-for space online, of which:
 - **14 (21%)** related to ads seen on social media sites
 - **53 (79%)** related to ads seen in other online media, such as publisher's sites, apps, etc

- Platforms responded to our alerts **within 48 hours 80%** of the time to confirm they had removed the reported scam ad (in total **87%** responded to confirm the ad had been removed)
- 4.2.** In addition to the above, we asked participating platforms and networks how many ads and accounts they had removed or suspended as a direct result of information provided to them via our Scam Ad Alert system over the period June 2020 to September 2021. They reported that:
- Around **765** ads and/or accounts had been removed or suspended as a direct result of information provided by us, of which:
 - **135** resulted from a Scam Ad Alert for an ad seen on their own platform; and
 - Around **630** resulted from a Scam Ad Alert for an ad seen on another platform
- 4.3.** For context, not all participants provided figures, so it is likely that the figures above understate the impact of the Alerts. Whilst the data provided is not complete, we consider it nonetheless demonstrates that the Scam Ad Alert system has a material positive impact on tackling paid-for scam ads online.
- 4.4.** The fact that the greatest proportion of ads removed because of the Alerts were not on the originating platform but on other platforms demonstrates the clear value of sharing intelligence.

5. Trends in scam advertising

- 5.1.** The majority of Scam Ad Alerts we've sent over the last 12 months have been for scams relating to cryptocurrency. However, we also sent Alerts for other scam types, including fake energy saving devices and diet pill subscription scams.
- 5.2.** The majority of those scams involved misleading landing pages featuring fake news stories, including fake celebrity endorsements. This has been a persistent theme since the Scam Ad Alert system launched, indicating that this remains a successful approach for scammers in their efforts to entice consumers to engage with scams.
- 5.3.** Whilst cryptocurrency related scam ads have made up the majority of Scam Ad Alerts until now, the system is by no means limited to those. To communicate this more clearly to consumers we have updated the scam examples on our reporting form to include a greater range of case studies.
- 5.4.** One area where we intend to do more work around is e-commerce scams ads. This relates to consumers either not receiving goods or receiving goods which are very low quality and/or clearly don't match the description in the ad and which often originate from non-UK based retailers who cycle through different accounts over short periods. For

example, one report we received in recent months involved a consumer receiving a box with a picture of a projector printed on it, rather than a projector.

- 5.5.** We always consider whether reports which aren't suitable for a Scam Ad Alert nonetheless merit action, where sufficient information is provided. This could include referring clear breaches of existing ASA rulings to our Compliance team; launching a proactive ASA investigation; or providing intelligence to the relevant platform.
- 5.6.** We will continue to monitor the performance of our system and work collaboratively with stakeholders to play our part in tackling scam ads online.

6. Working with regulatory partners to tackle scam ads

- 6.1.** As mentioned in section 1.4, our system of collective regulation involves the active participation of a range of legal backstops in the consumer protection landscape.
- 6.2.** As outlined in section 2.1, we do not investigate scam ads because criminals, who have little regard for the law, clearly have no incentive to comply with the UK advertising rules. However, as a member of the Consumer Protection Partnership, overseen by the Department for Business, Energy and Industrial Strategy, we work with partners including National Trading Standards, Citizens Advice, the Financial Conduct Authority and Competition and Markets Authority to reduce the risk and impact of scams by raising awareness amongst consumers and equipping them with the skills needed to recognise and report them. For example, we actively support the [Scams Awareness Campaign](#) each year.
- 6.3.** Outside of the Scam Ad Alert system itself, we also liaise closely and regularly with the FCA about financial ads, including online scams. Ads in this area are often for lead generation services. Guidance on how to advertise those in a way which doesn't mislead can be found [here](#). Away from scam ads, we have also recently worked alongside FCA to distribute an [Enforcement Notice](#) to over 50 companies which advertise cryptocurrencies. The notice instructs companies to review their ads and to ensure they do not mislead consumers.
- 6.4.** We are currently exploring with the Internet Advertising Bureau, the industry body for digital advertising, whether there are other organisations who may wish to join our Scam Ad Alert system as participants and will invite them to join if so.

7. Working with online platforms to tackle scam ads

- 7.1.** The ASA works effectively with social media platforms and other online ad networks, developing informal compliance procedures and partnerships with the larger platforms and other advertising networks.

- 7.2.** Through our Scam Ad Alert system, as well as other initiatives, we have developed a positive working relationship with major online platforms. For example, we launched a Google search ad campaign in November 2021 using ad credits provided by Google. The goal of the campaign is to increase the number of good-quality scam ad quick reports, as well as increasing awareness of the ASA's online scams work.
- 7.3.** We continue to participate in the Online Fraud Delivery Group (OFDG), a joint initiative from the National Economic Crime Unit (NECC), Tech UK and UK Finance. The other participants include the major ad platforms and social media networks.
- 7.4.** In the context of a changing online regulatory landscape, we and the platforms are determined to adapt and play our part in delivering a more accountable form of online advertising regulation. As part of that, we are working to enhance transparency and widen accountability in regard to the role that platforms and other intermediaries play in the online advertising regulatory framework.
- 7.5.** This shared determination has led to a [pilot project](#) in which we will be working with some of the largest companies in the digital advertising supply chain to extend our role online.
- 7.6.** The initiative is the result of collaboration between the ASA and members of the IAB including Adform, Amazon Ads, Google, Index Exchange, Meta, TikTok, Twitter and Yahoo. It will pilot a [set of principles](#) covering how participating companies raise advertisers' awareness of the rules that apply to their ads online and help us to secure compliance in cases when an advertiser appears unwilling or is unable to comply with the rules. The pilot will run for twelve months from June 2022.
- 7.7.** As part of the pilot, participating companies voluntarily agree to provide information to us to demonstrate how they operate in accordance with the pilot's principles. We will use this information to publicly and independently report on the companies' performance against the principles.
- 7.8.** Because we do not investigate scam ads (as set out in section 2.1) and due to the plans and initiatives of government and legal enforcement bodies to combat scam ads, the Principles do not cover this area of criminal activity. However, the pilot serves as an example of how the ASA system works effectively and collaboratively with online platforms to improve advertising standards online, and by extension, tackle scam ads.

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