

## Written evidence submitted by IAB UK

This submission from the Internet Advertising Bureau UK (IAB UK) is intended to provide the Committee with some contextual information about advertising regulation for consideration as it develops the conclusions and recommendations of its inquiry.

IAB UK is the industry body for digital advertising<sup>1</sup>, bringing the industry together through our 1,200 members that include media owners, agencies, adtech companies and brands. Our submission reflects this broad constituency and is made in that context.

### Scam ads online

At the heart of scam advertising are highly organised, technically-sophisticated scammers who exploit online advertising to entrap people using a range of techniques which evolve quickly. The digital advertising industry and Parliament have a shared goal to make the UK a hostile place for this criminal activity and to develop approaches that will deliver good outcomes for consumers. The industry has built significant experience and developed programmes of work to combat scam advertising. The complexity of this ever-moving, ever-mutating challenge cannot be understated and it is essential that any further measures to tackle it draw on industry expertise rooted in an in-depth, practical understanding of their impact on the online advertising ecosystem.

It is equally important that the role and responsibilities of existing regulators is clearly defined to ensure they are working towards shared goals, and that they design and implement approaches which deliver desired outcomes that are consistent with the principles set out in the government's Digital Regulation Plan.<sup>2</sup>

### The role of the Advertising Standards Authority (ASA)

The ASA system exists to regulate *good* actors in the industry, and does this effectively through comprehensive industry buy-in. The ASA's Scam Ads Alert system was created last year in partnership with the major digital advertising intermediaries, publishers, and social media platforms to supplement individual company efforts, giving a means of consumers reporting suspected scams to the ASA, and the ASA sharing alerts so firms can take appropriate action.

In the first six months of the system being live, 1,274 reports were made by the public, resulting in 121 alerts being sent. While this initiative represents a proactive industry effort that enables consumers to tell the frontline advertising regulator about scams they have

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<sup>1</sup> By 'digital advertising' we typically mean commercial marketing communications that a marketer has paid to have placed online. In relation to scam ads, this includes 'bad actors', who may pose as legitimate marketers.

<sup>2</sup> <https://www.gov.uk/government/publications/digital-regulation-driving-growth-and-unlocking-innovation>

seen, it is important that the ASA's role is properly understood. The Scam Ads Alert system aims to help minimise the impact of known scams by facilitating information sharing and action by private companies in the digital advertising ecosystem. However, the ASA was not constituted to deal with the criminal activity itself or its perpetrators. The ASA does not have law enforcement powers, which are necessary to tackle bad actors operating fraudulently – that is not (and never has been) the ASA's role. The ASA typically escalates criminal cases to Trading Standards and the CMA for investigation and enforcement.

We are concerned about the persistent mischaracterisation of the ASA's role and response, and the suggestion that it has failed to address something it was not set up to address. This assertion is being used to support arguments for legislating for scam ads in the Online Safety Bill, and other interventions. This is a barrier to both fully understanding the nature of the problem and considering the most appropriate response supported by the evidence. It remains our view that a multipronged approach would deliver the most effective outcomes for consumers, including targeted adoption of industry good practice, selected law enforcement action against bad actors to serve as a meaningful deterrent and a cross-sector effort to raise awareness among consumers.

#### **Regulatory coordination**

Another troubling feature of the current discussion is the involvement of multiple regulators, each with competing programmes of work and operating under existing legislation which predates the today's digital advertising models by many years. This includes the Consumer Protection from Unfair Trading Regulations 2008 and the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005.

As noted above, the issue of advertising as a vector for scams is ripe for a coordinated response and this should include close cooperation between statutory regulators. This is essential in order to build a fulsome – and shared – understanding of the various different online advertising supply chains and to give due consideration to the impact of exercising legacy powers in digital markets. While there appears to be a good level of knowledge among regulators about social media, understanding of the more complex open display advertising ecosystem which supports UK news publishers and other online services valued by UK consumers appears to be incomplete.

A particular concern is how any intervention on scam advertising – particularly if applied very broadly across the ad ecosystem and involving ex-ante regulation – would intersect with the CMA/DMU's work to develop a pro-competition framework. The CMA's market study identified that the design and implementation of regulation can, in competition terms, have a disadvantageous impact on some types of company compared to others. It is unclear what consideration, if any, that regulators – including the CMA itself - are giving to the competition impacts and the potential unintended consequences of the different potential responses to scam ads.

We ask that the Committee considers these issues in its inquiry.

## **Conclusion**

Scam advertising is a devastating crime against consumers and legitimate advertising businesses alike. The advertising industry has responded with both determination and creativity and is committed to continuing to address it. IAB UK is troubled by generalised assertions that the industry response as a whole has come late and falls short. We do not dispute that these efforts should evolve and be responsive to the changing patterns of criminal activity. The DCMS Online Advertising Programme and the Home Office Fraud Action Plan workstreams are both conducting work to examine potential solutions, and this work should include devoting proper time and attention to understanding and examining both the substance and quality of the industry response and what it has achieved, as well as the evolving criminal behaviour the industry experiences. We ask the Committee to also take this information into account in its inquiry, along with the evidence base being developed by those other workstreams.

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