

# The Responsible Advertising and Children Programme



AdvertisingInformationGroup



The RAC programme represents advertisers, agencies and media in Europe and worldwide

[www.responsible-advertising.org](http://www.responsible-advertising.org)

**“Effective self-regulation together with the statutory enforcement authorities can provide appropriate redress for consumers, a level playing field for advertisers, and a significant step towards completing the Single Market... legislation cannot achieve these aims on its own, but it can provide the essential legal backstop to make self-regulation effective and tackle rogue traders”**

*European Advertising Standards Alliance (EASA) Charter, 25 June 2004<sup>1</sup>*



## **1. Advertising self-regulation does not replace statutory legislation but complements an existing framework of law to provide robust and proportionate consumer protection with advantages for consumers, business and governments.**

- In the few cases where this is needed, provisions for a **legal backstop**<sup>2</sup> ensure that companies can be taken to court if in continued breach of a self-regulatory code. Effective self-regulation offers consumers a double layer of protection.
- On top of the legal backstop, advertising self-regulation includes **stringent sanctions** for advertisers in breach of codes. These comprise 'naming and shaming' (publication of decisions), the withdrawal of the advertisement, obligatory copy advice for future campaigns and withdrawal of trading privileges.
- **Self-regulation supports a legislative framework.** Self-regulation deals with legitimate, mainstream advertisers while authorities are freed up to deal with rogue traders.<sup>3,4</sup>
- **Copy advice and pre-clearance systems** are often used to improve compliance with self-regulatory codes before ads are aired.
- Self-regulation operates **at no charge to the consumer or government.** Yet, statutory regulation and enforcement ultimately place a financial and bureaucratic burden on the consumer.
- Self-regulation is **dynamic and flexible.** Technology and market conditions evolve at an astounding speed. In contrast to the lengthy procedures required for adopting and reviewing statutory regulation, advertising self-regulation is a highly flexible and responsive form of regulation; regular reviews ensure that codes are proportionate and respond to consumer concerns.<sup>5</sup>
- This flexibility means that self-regulatory systems can **respond quickly and proactively to sensitive issues** in advertising, such as children, food, and alcohol.<sup>6</sup> Sectoral codes can add specifics that apply to a particular category of goods or services or advertising techniques used.
- Advertising self-regulation **promotes best practice.** Being industry-sponsored, both in terms of financing and content, advertisers have an incentive to abide by both the spirit and letter of the codes.
- Self-regulation can deal with cross-border complaints across the **European Single Market.**

## **2. Industry recognises that it has an especially important responsibility with respect to advertising to children.**

- The advertising industry has made a commitment to develop and implement especially **high standards** of self-regulation in

the area of advertising to children. Self-regulatory codes include very detailed provisions in this area.<sup>7</sup>

- When relating to children, advertising self-regulation is often **more restrictive than statutory law.**<sup>8</sup>
- In addition to self-regulatory codes themselves, the ICC has issued further interpretative guidelines, such as the “Framework for Responsible Food and Beverage Communications” which offers detailed interpretation of existing codes.

## **3. Self-regulation involves a wide range of stakeholders**

Advertising self-regulation is the results of a regular dialogue with stakeholders, both in terms of the content of the codes and decision of complaints:

- Advertising self-regulatory codes are developed on the basis of a **multi-stakeholder consultation** and wide-ranging consensus that reach beyond industry interests.
- Complaints are handled by adjudication committees comprising a wide variety of stakeholders, thus ensuring impartial decisions.

## **4. Independent studies show that advertising self-regulation works.**

- Advertising self-regulation has repeatedly been commended by non-industry commentators for its effectiveness in ensuring a **high level of consumer protection.**<sup>9</sup>
- Studies undertaken by the European Commission point out that advertising self-regulation “seem[s] to be especially successful with respect to the application of rules on advertising and the protection of minors”.<sup>10,11</sup>

## **5. Industry relies on consumer confidence.**

The advertising industry recognises that while markets and societal expectations change, advertising self-regulation must adapt and ensure that it meets consumer demands. We continue to work with all our partners to ensure that advertising self-regulation across the enlarged European Union provides a high level of consumer protection based on five principles:

- **Awareness and resources** - Knowing how and where to complain
- **Transparency and openness** - Complaint-handling takes place in the public domain
- **Effectiveness** - Complaint handling is rapid and flexible
- **“Teeth”** - Effective industry sanctions are combined with recourse to the courts when needed
- **Free access** - It is a self-financing system with no charge to the consumer or governments

## **For more information**

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<sup>1</sup>The European Advertising Standards Alliance ([www.easa-alliance.org](http://www.easa-alliance.org))

<sup>2</sup>The 'European Enforcement Legislation' (2005) foresees a network of enforcement authorities across the EU Single Market comprising a self-regulatory 'legal backstop' in each member state

<sup>3</sup>EASA reports that approximately 99.9% of all cases complained about are related to serious advertisers, while rogue traders represent the remaining 0.01%.

<sup>4</sup>"Self-regulatory bodies have an important role to play in monitoring their own industries. The role of self-regulation in advertising is central in many Member States and acts effectively to deal with the bulk of cases that concern law-abiding traders." David Byrne, European Commissioner for Health and Consumer Protection, Dutch Presidency Conference on EU Consumer Policy, 21st October 2004.

<sup>5</sup>Witness the ICC Guidelines on advertising and marketing using electronic media

<sup>6</sup>Statistics from EASA shows that for the 52 500 complaints received in 2003, it took from receiving the complaint, investigating the case, writing to the advertiser and complainant, decision taken and enforced, and both parties informed of the decision, an average of 1.33 months.

<sup>7</sup>As seen in the Compendium of ICC Rules on Children and Young People and Marketing.

<sup>8</sup>For instance, the ICC advertising code of conduct contains provisions on the protection of children that are stricter than the EU Directive on Television without Frontiers.

<sup>9</sup>See 'Study on the impact of advertising and teleshopping on minors', INRA / Bird&Bird 2001. Also, see a "Study to identify best practice in the use of soft law and to analyse how this best practice can be made to work for consumers in the European Union", by Lex Fori for the European Commission (DG SANCO - Public Health and Consumer Affairs), published in October 2002.

<sup>10</sup>European Commission Communication on 'The Future of European Regulatory Audiovisual Policy', COM (2003) 784, p.23

<sup>11</sup>Also, figures from EASA between 1998 and 2003 show only 0.58% of all complaints relate to advertising and children.