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EASA BEST PRACTICE RECOMMENDATION DIGITAL MARKETING COMMUNICATIONS

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European Advertising
Standards Alliance

EASA Best Practice Recommendation on

Digital Marketing Communications

EASA

EASA – the European Advertising Standards Alliance is the single authoritative voice on advertising self-regulation. 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 EASA developed into a partnership between national advertising SROs and organisations representing the advertising industry. Today, EASA is a network of 41 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, 13 advertising industry associations, including advertisers, agencies and the media, and 1 digital pure play company member. EASA is a not-for-profit organisation with a Brussels-based Secretariat.

Website
www.easa-alliance.org

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Executive Summary

The Best Practice Recommendation (BPR) on Digital Marketing Communications builds on the principles outlined in the [2018 Advertising and Marketing Communications Code of the International Chamber of Commerce](#) (ICC) to ensure the application of self-regulation on advertising content in the digital space. This document is the result of extensive discussions involving advertisers, agencies, media, digital pure players, and self-regulatory organisations (SROs) as well as key external stakeholders.

In line with the ICC Code, this BPR details that the definition of marketing communications also includes any marketing content published in the online space. The BPR clarifies that the remit of advertising self-regulation and self-regulatory organisations (SROs) also includes any such online marketing content. It provides a list of non-exhaustive digital techniques as examples of what is generally in remit of SROs and their codes. Given the quick paced evolution of new digital and interactive marketing techniques developed in recent years, this guidance's analysis can only be a 'freeze-frame' of the situation at the moment of writing.

Falling generally outside of advertising self-regulatory rules are any form of pure editorial content, corporate reports, user-generated content (UGC), independent review websites, and content that constitutes the product itself. Marketer-owned digital properties must be carefully reviewed to assess whether they contain marketing content, and to what extent SR rules may apply. Furthermore, a clear distinction between marketing communications and editorial content on social media is essential to ensure that consumers do not confuse the two. This can be achieved through several means, such as through design, arrangement, content, etc.

In line with article 23 of the ICC Code, the present guidance also clarifies that the responsibility for such online and digital content is shared among all stakeholders who have helped develop or broadcast the ad, with the brunt of the responsibility lying with the advertisers. SROs are encouraged to engage with all stakeholders of the advertising ecosystem at local level, including digital pure play companies and influencers, to ensure that their SR rules are respected regardless of media.

Additionally, in line with international standards, the BPR details that transparency is a key factor for audiences to properly identify marketing content. This ensures that they receive reliable and correct information and avoids misleading consumers.

EASA's ad SR network focuses primarily on the content of marketing communications, to ensure that these respect the highest standards in social responsibility, decency, honesty, and truthfulness. Without prejudice to any applicable legal requirement on data protection and privacy, this BPR highlights that advertisers that publish any piece of marketing content by targeting users in the online space should also take into account any complementary self-regulatory developments at local level. This is also in line with

provisions in the ICC Code, and some SROs have also developed tools and solutions to support the industry in their endeavour to remain responsible on this matter.

A key recommendation outlined in the document relates to the monitoring activities SROs are encouraged to develop. Given the large scale of advertising circulating online and in the larger digital space, the increased attention to it, and the growing ad spend on online advertising, SROs are encouraged to monitor online ad content against their standards in dedicated review projects. Furthermore, in the long term, it is recommended for SROs to invest, develop, and use tech-enabled tools, such as algorithmic technology, to address the issue of the volume of online ads to monitor. Such solutions allow to filter through swathes of ads and automatically flag potential breaches to be reviewed manually by an expert at the end point.

Finally, the updated EASA Digital Marketing Communications Best Practice Recommendation:

- Reconfirms the advertising industry's commitment to apply effective advertising self-regulation (SR) to all media, including online advertising and the newest online and digital marketing practices;

- Recognises the global nature of digital and online media and the need to develop a coordinated response across EASA's membership;

- Encourages all the actors of the digital advertising market, and especially the relevant digital media practitioners, to participate and contribute to ad SR and, in particular, to the national SROs entrusted to enforce the standards and to handle complaints;

- Encourages local SROs and advertising industry representatives to ensure that the self-regulatory remit at national level is aligned with the recommendations set out in this document;

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What is an EASA Best Practice Recommendation?

EASA's Best Practice Recommendations (BPRs) are designed to provide support and advice to EASA's Self-Regulatory Organisations (SROs) and industry members on the practice of advertising self-regulation. They are based on EASA's *Common Principles and Operating Standards of Best Practice* and *Best Practice Self-Regulatory Model*[1].

EASA BPRs can be divided into two main categories: operational and blueprint BPRs. Operational BPRs give guidance on the operation, structure and procedures of SROs while blueprint BPRs provide guidance on the remit and codes of SROs. The content of blueprint BPRs, such as the present publication on Digital Marketing Communications, needs to be agreed upon by the whole advertising eco-system and all SROs at European level.

EASA BPRs provide guidance and aim to achieve a consistency of remit and application throughout Europe for the benefit of European consumers and businesses, whilst recognising that the way to achieve this at national level may differ as a result of the national regulatory, cultural and societal context.

Best Practice Recommendations do not constitute a European code and are not formally binding. The implementation of a BPR at national level is the result of a negotiation process which takes into account the existing (self) regulatory framework and the legal background to find an approach best suited to the national circumstances and needs. A national SRO may choose to adopt provisions in its advertising code which go beyond those recommended by EASA; some indeed, have already done so.

BPRs are designed to stimulate and assist national discussions on the development of effective self-regulation and are intended as a means for taking clear actions at both European and national level.

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[1] For more information please visit EASA website www.easa-alliance.org.

1. Introduction

1.1   The challenge of regulating Digital Marketing Communications

It is increasingly evident that the rapid and on-going evolution of digital marketing communications means that developments often outpace legislation. Moreover, today's consumers have grown used to high standards, arising from the activities of SROs in the traditional media, which they expect to see maintained, irrespective of the method of communication.

These factors – the evolution of marketing communications in the digital sector and the demands of consumer protection, together with the need to maintain confidence in existing self-regulatory systems – have led to unanimous agreement by the advertising industry on the need for a level playing field across all media. This agreement is in line with the International Chamber of Commerce's decision that its Code should apply without exception to all forms of marketing communication.

1.2   Remit and responsibility

1.2.1 Established remit

Digital marketing communications are subject to all the existing rules of the SRO's advertising code, as is the case with marketing communications in traditional media. The generally accepted definition of what constitutes a marketing communication is provided by the [2018 Advertising and Marketing Communications Code of the International Chamber of Commerce](#) (ICC):

> *"'Marketing communications' includes advertising as well as other techniques, such as promotions, sponsorships as well as direct marketing and digital marketing communications, and should be interpreted broadly to mean any communications produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behaviour."*[2]

This definition unambiguously extends the remit of advertising self-regulation to all forms of marketing communications, including for digital media, as well as any future forms of digital marketing communications that are yet to be developed.

The rapid developments of digital practices and their ad spend growth , in terms of advertising market share in various countries, have resulted in a degree of variation between national self-regulatory approaches to regulating this sector. A 'one size fits all'

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[2] ICC Advertising and Marketing Communications Code, 2018, p.8

approach is neither appropriate nor proportionate, as developments are likely to occur at different speeds in different countries. Nevertheless, EASA's members recognise the importance of working together to ensure high standards for DMC, as evidenced by, for example, the existing EASA Cross-Border Complaints system.

1.2.2 Responsibility

Article 23 of the [Advertising and Marketing Communications Code of the ICC](#) states that "*Marketers have overall responsibility for the marketing communications of their products*"[3] and, therefore, places primary responsibility on the marketers. However, it also specifies that everyone involved shares a responsibility proportionate to their respective position: "*Whatever the nature of the activity, medium or technology, responsibility is shared by all the parties concerned, commensurate with their respective role in the process and within the limits of their respective functions*"[4]. In most cases, a cooperative approach between media, advertisers, agencies, digital platforms, and SROs will be appropriate in the same way it occurs among the actors in the offline world.

SROs are therefore encouraged to engage with all stakeholders of the advertising ecosystem at local level, from the traditional media to the digital pure play companies and influencers/content creators, to ensure that the self-regulatory rules set out in their codes and recommendations are respected regardless of the media that the ads appear in, and addressing the newer advertising techniques, such as influencer marketing or in-game advertising for example. Such engagements may lead to fruitful working arrangements for all parties on key relevant topics and allow for quick response when new media types appear in the future.

1.3   Implementation

1.3.1 How should SROs use the BPR?

SROs will find the BPR useful in the following areas:

- As a basis for discussions with industry representatives on advertising standards and the application of self-regulation to online advertising and other digital marketing formats and, where appropriate, non-binding consultation with external stakeholders;

- As an aid in identifying any structural and/or procedural changes (juries, enforcement, sanctions and monitoring etc) which may be needed to strengthened an SRO's remit;

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[3] Op cit., p. 16
[4] Ibid.

- As a basis for discussions between SROs and key digital marketing operators and associations which are not already in membership of the SRO, with a view to them recognising the SRO's code and its role;

- As a means of identification and assessment of an SRO's needs in terms of resources (i.e. technical and logistical support, additional personnel, staff training and creating awareness).

SROs are invited to inform EASA of difficulties encountered with regard to the use of this BPR.

1.3.2 How should EASA Industry members use the BPR?

To ensure the necessary discussion and adjustment at national level it is recommended that EASA's industry members:

- Encourage their corporate and national association members to support the BPR's aims and objectives;

- Support the extension of advertising self-regulation and the changes in the local codes as described in the BPR;

- Support the establishment and enforcement of the revised local codes;

- Provide practical and, where needed, financial support for any necessary restructuring and/or procedural changes within the national SRO;

- Support the appropriate involvement of new digital players in the process of code revision and enforcement.

2. Best Practice Recommendation for Digital Marketing Communications

2.1 Introduction

This BPR is intended to provide detailed guidance to EASA members on the operation and practice of advertising self-regulation. It is designed to stimulate and assist national discussions on the development, where necessary, of self-regulation according to the *Best Practice Self-Regulatory Model*.

The BPR is based on *EASA's Common Principles and Operating Standards of Best Practice* (hereafter referred to as Common Principles) and the *Best Practice Self- Regulatory Model*. The advertising industry committed itself to achieve these through the signing of *EASA's Advertising Self-Regulation Charter*.

The Charter sets out EASA's commitment to the practical and effective operation of self-regulatory bodies and contains ten principles. The following principles are the most relevant to digital marketing communications:

> *Art.1 Comprehensive coverage by self-regulatory systems of all forms of advertising and all practitioners,*
>
> *Art.3 Comprehensive and effective codes of advertising practice:*
> * *based on the globally accepted codes of marketing and advertising practice of the International Chamber of Commerce (ICC)*
> * *applicable to all forms of advertising*

Based on the principles outlined by the *EASA's Common Principles* and the *Best Practice Self-Regulatory Model* this BPR offers a goal for self-regulatory systems throughout Europe while recognising that the means of achieving it may differ. It is a practical example of 'unity through diversity'.

This BPR proposes a set of commonly agreed upon principles, which can form the basis of national discussion across EASA's network where necessary. EASA recognises that, subject to local parameters and membership agreement, SROs may choose to go beyond what is suggested in this document.

SROs may, where appropriate, advise marketers about complaints that are outside remit so that the marketers will be made aware of the complainant's concerns.

2.2   Recommendations

2.2.1   Coverage in general

EASA has reviewed various techniques and applications of marketing communications in the digital media and online space. These ranged from viral marketing advertising in marketer- and third-party owned websites, digital outdoor, marketing communications within or leveraging social media and in-console stores, in-game ads (whether in online or offline games), all using digital-based technologies. However, due to the constantly evolving nature of these marketing communications, no analysis can be more than a 'freeze-frame' of the situation at the moment when it was written, and ongoing review will be required.

As such, this BPR will help SROs differentiate between marketing communications   and editorial content.[5] Marketing communications as defined by the 2018 ICC Code should fall within the wider remit of advertising self-regulation unless restricted by national provisions – see definition on p.6 of this guidance.

The ICC Code also clarifies that the remit of the Code, and thus of ad self-regulation, extends to all marketing communications, irrespective of media, but with exceptions for corporate content:

> *"This tenth edition of the Code covers all marketing communications, regardless of form, format or medium. Marketing communications are to be understood in a broad sense (see definitions) but obviously do not extend indiscriminately to every type of corporate communication. For instance, the Code may not apply to corporate public affairs messages in press releases and other media statements, or to information in annual reports and the like, or information required to be included on product labels. Likewise, statements on matters of public policy fall outside the scope of this code. Corporate Social Responsibility (CSR) programmes as such are not covered by the Code; however, when a CSR statement appears as a claim in a marketing communication, the Code is applicable. The Code also applies to marketing communication elements of a CSR programme, for example where a sponsorship is included in such a programme. Finally, communications whose primary purpose is entertaining or educational and not commercial, like the content of television programmes, films, books, magazines or video games, are not intended to be covered by this code."[6]*

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[5] Section 2.2.4 lists content that is not a marketing communication and, by definition, falls outside the remit of self-regulation.

[6] ICC Advertising and Marketing Communications Code, 2018, p.4

In addition, the ICC Code details that transparency is crucial for audiences to be able to identify marketing content as such, so as to receive correct information from a reliable source and not mislead potential consumers into believing that a piece of content is editorial in nature:

> *"Marketing communications should be clearly distinguishable as such, whatever their form and whatever the medium used. When an advertisement, including so-called "native advertising", appears in a medium containing news or editorial matter, it should be so presented that it is readily recognisable as an advertisement and where appropriate, labelled as such.*
>
> *The true commercial purpose of marketing communications should be transparent and not misrepresent their true commercial purpose. Hence, a communication promoting the sale of a product should not be disguised as, for example, market research, consumer surveys, user-generated content, private blogs, private postings on social media or independent reviews."*[7]

2.2.2 Definitions

The annex in section 5 of this Best Practice Recommendation outlines an non-exhaustive list of definitions relevant for members of the Alliance. Members are not bound by these terms or their definitions. These terms' suggested definitions come without prejudice to any definitions appearing in legislation at European or national level.

Members are welcome to suggest to the EASA Secretariat any term that should be mentioned in the annex.

2.2.3 Within Self-Regulation Remit

Self-Regulatory Organisations' remit extends to any form that marketing communications may take, irrespective of media or sector. Therefore, any new marketing technique or media type in the online space is by definition in remit of advertising self-regulatory rules. Below is a non-exhaustive list of types of ads and media that SROs may consider to be under their scope of activities, as these fall under the definition of "marketing communications" in paragraph 2.2.2 and within the remit of SROs if used for the purpose to advertise:

- Advergames
- Ads on DVD/CDrom

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[7] Ibid., p.10

- Ads in the metaverse

- In-app advertising

- Influencer Marketing

- Online choice architecture, such as the design/navigation of digital content (insofar as these relate to marketing communications), which may include "dark patterns"

- Digital outdoor

- Display ads (moving, non-moving)

- Marketer-generated or endorsed advertising content

- Marketer-owned apps

- MMS/SMS advertisements or mobile advertising

- In-game advertising (whether offline or online)

- Online 'public' classified ads

  (i.e. classified ads placed by companies not private individuals)

- Paid inclusion/Paid search

- Interactive TV services advertising

- Social media advertising (whether paid-for or on proprietary profile)

- Social selling

This list is non-exhaustive. Full definitions of the concepts above are available in the Annex.

2.2.4 Outside Self-Regulation Remit

The following content is not a marketing communication and, by definition, is outside the remit of advertising self-regulation:

- Any form of genuine editorial or user-generated content that is not advertising, as defined above.

- Corporate reports

- Independent review websites (i.e. the review content itself that has been produced independently from and without the influence of the brand owners);

- Content that constitutes the product itself.

2.2.5 Marketer-owned digital properties

As established in the previous sections, all marketing communications, as defined by the ICC Code, fall within the remit of SR systems. It is not, however, always immediately apparent to what extent content on marketer-owned digital properties may constitute marketing communications and thus fall within the remit of the SROs.

It should never be automatically assumed that a marketer-owned digital property is a marketing communication in its entirety. The actual content of the marketer-owned digital property must be reviewed to determine that which is marketing communication content and that which is not.

For this purpose the following criteria establish whether or not the content, or part of the content of a marketer-owned digital property constitutes a marketing communication:

- Claims (implied, direct, written, spoken and visual) about products or marketers, where the claim is not made in the context of editorial content, annual reports, CSR reports, or similar;
- Where they pertain to the marketing communications and commercial practices covered by the Unfair Commercial Practices Directive and its subsequent published guidance (for example, price promotions and invitations to purchase);
- Third-party UGC and/or viral marketing that has been distributed or endorsed by the marketer;
- Marketing communications that have previously appeared, in the same or comparable form, on other media platforms, including online media platforms.

2.2.6 Social media

A clear distinction between marketing communications and editorial content on social media is essential. Marketing communications on social media may take the form of marketer-owned digital properties (e.g. a social media page for the product or service being promoted), display or banner ads appearing alongside user-generated content on the social media in question, other sponsored advertising similarly placed, or UGC to which the marketer elects to associate his brand, product or service. The consumer must be able to clearly understand that a message is a marketing communication and, in no case, must an advertisement falsely claim or create the impression that a marketer is a consumer and thus create confusion. Marketers using emerging types of social media should remember that these principles will still apply.

The identification of a marketing communication can be achieved through several means, e.g. design, arrangement, content, position/placing within a site or through an identifier. The appropriate way of identifying marketing communications will depend on the context.

2.2.7 User-Generated Content (UGC)

Although UGC can be used as a form of marketing communications, it is more difficult to assess due to possible ambiguity over its origins. UGC is usually outside the remit of regulation and can be considered as "free speech" by an individual. It may be necessary to distinguish between UGC as it was initially created, on the one hand, and UGC that is subsequently endorsed by a marketer or to which the marketer in some other way seeks

to associate his brand or product, on the other, with the latter falling into the remit of regulation but the former falling outside.

In establishing whether UGC should be regarded as online advertising, and consequently fall within the SRO's remit, the primary question to answer is:

> ***Has the marketer solicited, endorsed, incorporated, distributed or actively promoted the user-generated content?***

If so, the material constitutes a marketing communication in the sense of the agreed definition, and the SRO is entitled to review the UGC in question. If the SRO concludes that the UGC breaches its code, the marketer should take all reasonable steps to amend or remove its active engagement to the UGC. If not, the UGC is considered not to be a marketing communication and therefore falls outside the SRO's remit.

UGC on social media is usually identified as content created by Internet users through reviews, blogging, podcasting or posting comments, pictures or video clips. UGC which is intentionally solicited, endorsed, incorporated, distributed or actively promoted by a marketer for advertising purposes would become a marketing communication for which they would be responsible for. Examples of a marketer adopting and endorsing content could include: "liking", "retweeting", "sharing" or using it in other media.[8]

Concerning influencer marketing, further details on the criteria to distinguish between editorial content and marketing communications can be found in EASA's [Best Practice Recommendation on Influencer Marketing](#).

2.2.8 Data protection and privacy

Without prejudice to any applicable legal requirement on data protection and privacy (e.g. the European Union's General Data Protection Regulation, Privacy and Electronic Communications Directive, and other relevant pieces of legislation), advertisers that publish any piece of marketing content by targeting users in the online space should also take into account any complementary self-regulatory developments at local level. The ICC code provides a useful starting point for consideration:

> *"When collecting personal data from individuals, care should be taken to respect and protect their privacy by complying with the relevant rules and regulations."[9]* -

Like all the other aspects of the ICC code, this also applies to digital marketing communications. In accordance with the ICC provisions, EASA actively encourages its

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[8] This should not prejudice existing legal frameworks

[9] ICC Advertising and Marketing Communications Code, 2018, article 19, p.13.

Industry members to comply with existing legislation and relevant industry-negotiated agreements in their digital marketing communications.

EASA and its Industry members have developed a BPR on Data-Driven Advertising, building on the European Interactive Digital Advertising Alliance (EDAA[10]) Framework which was published in April 2011. EDAA has been established to administer key aspects of the European Self-Regulatory Programme on Data Driven Advertising, leveraging its core pillars of transparency, choice and control, and education for consumers across their online advertising experience. This approach is supported by a broad industry coalition at European-level, and by European SROs at local level, which are responsible for the enforcement of the Self-Regulatory Programme principles and consumer complaint handling.

Additionally, some SROs have already established – or may establish – national codes of conduct and services (including for advice and out-of-court settlement of claims) that cover data protection and privacy issues related to advertising.

2.2.9 Monitoring of online advertising

Given the large scale of advertising circulating online and in the larger digital space, the increased attention on it, and the growing ad spend on online advertising, SROs may deem it pertinent to monitor ads online against their standards and rules. The aim is to ensure that the ads circulating online abide by the same rules as those appearing in offline media and are reviewed regularly by the ad standards body, similar to how ads appearing in other media must go through a number of filters before publishing or broadcast.

As laid out in the BPR on Advertising Monitoring[11], monitoring of advertising is generally carried out by an SRO's staff on a regular basis as part of independently initiated projects by the organisation or at the behest of a member or client or government authorities. Its purpose is to review advertising appearing in the media for compliance with the advertising code and take appropriate steps in cases of non-compliance. Monitoring helps the industry respond to numerous challenges, including, among others, verifying compliance with decisions of the SRO and ensuring that the spirit of the decision is respected, providing more reliable statistics and analysis about trends in advertising and code compliance, and supplying up-to-date compliance data and examples to assist the industry in dialogue with consumer groups and governmental authorities.

Given the sheer volume of ads involved, the monitoring of all advertising content, even if desirable, is unlikely to be a practical solution. To this end however, in the long term, it is recommended for self-regulatory organisations to invest, develop, and/or use technology-enabled tools, such as AI and other algorithmic technologies, in order to implement such

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[10] For more information, please visit https://edaa.eu/
[11] Only available for EASA members.

monitoring activities addressing the scale issue related to the significant number of ads that are displayed online daily. Such solutions allow filtering through swathes of online ad content and flag any potentially non-compliant ad. A human operator can then review each flagged ad individually against the ad SR rules, but the fact of rapidly analysing online ads before review by the SRO will bring an added level of consumer protection, awareness about the ad standards body, increase interest and resources to further develop these tools, and build towards an overview of the online ad market.

In addition, as the Internet continues to grow, such data-driven monitoring capabilities may become a necessary part in ensuring advertising remains responsible. Some of the possible challenges might include ensuring transparent disclosure of advertising content appearing in new online media types, reaching out to new actors of the advertising industry that are unaware of the regulatory and self-regulatory frameworks in place for marketing communications, and more generally getting used to new terminologies and marketing techniques.

More information can be found on recommended and possible steps to take as an ad standards body to monitor Influencer Marketing in the BPR dedicated to this topic.[12]

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[12] EASA BPR on Influencer Marketing.

3. Implications for SROs

3.1 Resources and membership

The extension of an SRO's remit may increase the number of complaints and copy advice requests and potentially requires additional resources (hardware, software, personnel).

To ensure the necessary resources, as well as for practical reasons of effectiveness, it is essential to ensure that the SROs' funding and membership systems are comprehensive and robust, further strengthening them where necessary.

From an operational point of view, it is desirable for SROs to include relevant digital media practitioners (e.g. practitioners in membership of the IAB) within their systems. Policies are implemented most effectively when all the parties involved are in general agreement about the steps to be taken and committed to providing the necessary support and resources.

See EASA's *Best Practice Recommendation on Funding.*

3.2 Consumer/user awareness

To encourage consumers/users to help identify potential problems at an early stage, it is essential that SROs are easy to find and contact online. This could be achieved by effective promotional activities, including the active use of keywords in online search engines. EASA's *BPR on Communications and Awareness* emphasises that SROs should make sure that they have an easy-to locate presence online, including a dedicated website (or section of a website), and that the SRO's online complaints form is linked to from other related websites. The SRO's web address should be widely publicised, e.g. on all the SRO's communication material.

Finally, EASA encourages SROs, when appropriate, to co-operate with non-member organisations which have conducted consumer research on topics of interest. This type of initiative may range from informal information exchanges to sector-wide monitoring exercises.

See EASA's *Best Practice Recommendation on Communications and Awareness.*

3.3 Jury composition and training

In order to maintain the authority and credibility of an SRO jury, it is important to ensure that the composition of the jury takes into account the need for impartiality, relevant expertise and sustainable independence. For these reasons, particular attention should be paid to selecting the members of the SROs juries.

In addition relevant training in relation to new provisions (in this case digital marketing techniques) is essential to ensure that the jury of an SRO possess the requisite abilities, experience and competence to carry out its functions since the credibility will depend on it performances as well as on its composition and procedures.

See EASA's *Best Practice Recommendation on Jury Composition.*

3.4 Sanctions

SROs have a variety of sanctions at their disposal. These include instructing the media to refuse advertisements, creating adverse publicity through the publication of decisions (naming & shaming) and expulsion from trade associations.

With regards to digital advertising, the responsibility of the marketer is paramount and marketers are expected to respect the decision of an SRO even if they do not agree with it. SROs may also encourage the use of compliance clauses in advertising contracts, which enable a media owner to refuse a marketing communication which has been found by an SRO to be in breach of a code.

As with traditional media, on the rare occasion where all else fails, the SRO may have to refer the case to the statutory authorities, who have the power to prosecute the marketer with regard to unfair commercial practices and misleadingness. This sanction of last resort is usually necessary only in the case of "rogue traders" who have no intention of complying voluntarily with any form of regulation. Although the decisions reached by an SRO do not have legal force, in the event of a subsequent court case the opinion of an SRO is likely to be taken into account by the court.

3.5 Monitoring of compliance

The notion of effectiveness is central to EASA's Common Principles. Public perception of a self-regulatory system will depend to a large extent on how efficiently it is seen to deal with complaints. Monitoring digital advertising will allow a SRO to take action on its own initiative and be seen to play a proactive role in ensuring code awareness and compliance. This will be important in determining whether the rules and their interpretation and application are continuing to be relevant.

See EASA's *Best Practice Recommendation on Advertising Monitoring*.

3.6 Copy advice

EASA encourages its members to use the provision of copy advice with regards to digital advertising. This will not only benefit the marketers, agencies and media immediately concerned, but also the wider advertising industry, by avoiding complaints and promoting an image of social responsibility. This will encourage greater interaction of digital marketing actors with the self-regulatory process and raise their awareness of the rules

in place. Consequently, marketers, agencies and (digital) media should be actively encouraged to seek copy advice.

See EASA's *Best Practice Recommendation on Copy Advice*.

4. ANNEX – Key terms and definitions

The following glossary of terms has been compiled to provide a user-friendly, yet comprehensive collection of the most commonly used terms with regards to online and digital marketing communications. This comes without prejudice to any definitions appearing in European or national legal texts that may exist or may be implemented or which appear in national self-regulatory codes. This glossary is also not exhaustive and provides only a snapshot of the terms in use at the time of writing. These suggested definitions are not binding to its Members, but are purely to inform and guide, if necessary. Sources are indicated in brackets.

Advergame
An electronic game to promote a product or brand by the brand/product owner. (EASA)

Advertising
The term advertising or advertisement means any form of marketing communications carried by the media, usually in return for payment or other valuable consideration. (ICC Code)

Avatar
An electronic image that represents and may be manipulated by a computer user. (Merriam-Webster)[13]

Augmented reality
Integration of digital information in the user's physical environment in real time. It is different from mixed reality, which blends both virtual and physical worlds into a new environment. (Britannica)[14]

Blockchain
"A shared, immutable online ledger that facilitates the process of recording transactions and tracking assets in a business network. An *asset* can be tangible (a car, cash) or intangible (intellectual property, patents, branding)." (IBM)[15]

Blog
Generic name for any website featuring regular posts arranged chronologically, typically inviting public comments from readers. Blog postings are generally short and informal

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[13] Merriam-Webster, "Avatar", https://www.merriam-webster.com/dictionary/avatar.

[14] Britannica, "Augmented reality", https://www.britannica.com/technology/augmented-reality.

[15] IBM, "Blockchain overview", https://www.ibm.com/topics/what-is-blockchain#:~:text=Blockchain%20defined%3A%20Blockchain%20is%20a,patents%2C%20copyrights%2C%20branding).

and blog software is generally free and very easy for individual users, making it a popular tool for online diaries as well as more professional publications. (EASA)

Corporate Reports
Corporate reports include corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like. (EASA)

Cryptocurrency (or crypto-asset)
Digital representation of value, a right, or an asset that can be transferred or stored electronically, using distributed ledger technologies or other similar technology. (CNMV)[16]

Dark patterns
A type of malicious nudging, generally incorporated into digital design interfaces. Dark patterns could be data-driven and personalised, or implemented on a more general basis, tapping into heuristics and behavioural biases, such as default effects or scarcity biases. (UCPD guidance)[17]

Digital Marketing Communications
The term refers to marketing communications, using digital interactive media intended primarily to promote products or to influence consumer behaviour. (ICC Code)
Sometimes referred to as 'online advertising'.

Digital outdoor
Digital out of home (DOOH) refers to dynamic media distributed across screen-based networks in out of home environments such as roadside billboards, transport systems, shopping malls and supermarkets, airports bus-shelters and retail and leisure venues. (EASA)

Display Advertising
A form of online advertising where an advertiser's message is shown on a destination web page, generally set off in a box at the top or bottom or to one side of the content of the page. (EASA)

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[16] Spanish National Securities Market Commission (CNMV) Circular 1/2022 of 10 January, on the advertising of crypto-assets presented as a means of investment, https://cnmv.es/DocPortal/Legislacion/Circulares/Circular_1_2022_EN.pdf, p.4

[17] UCPD guidance, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021XC1229(05).

Influencer

As per the BPR on Influencer Marketing, the concept of influencer includes any human-controlled online profile active on any online social media platform. (EASA)

Influencer Marketing (IM)

Online content uploaded by influencers on social media platforms that is considered as marketing communication if the content is commercial in nature and/or the advertiser compensated the influencer either via payment or through other arrangements. (EASA)

In-game advertising (IGA)

Refers to the use of computer and video games as a medium in which to deliver advertising. (EASA)

Interactive TV Services advertising

The remote control (interactive keypad) the viewer uses has a red button to press for Interactive TV, and related advertising. In many cases while watching an ad, a 'press of the red button' will allow the viewer to connect directly to the marketer's website. (EASA)

Like

Functionality shared by several social networks, which allows internet users to recommend content/products/services or demonstrate agreement with commentary. This recommendation is shared with the social network, and also serves to move popular content up in the news feed and search rankings. (EASA)

Marketer

The term marketer refers to persons or companies, including advertisers, sales promoters and direct marketers, who or on whose behalf marketing communications are published or disseminated for the purpose of promoting their products or influencing consumer behaviour. (ICC Code)

Marketer-owned digital property

A "marketer-owned digital property" is an asset used as marketing communications owned or controlled, in whole or in significant part, by a marketer.[18] (EASA)

Marketing Communications

The term marketing communications includes advertising as well as other techniques, such as promotions, sponsorships and direct marketing, and should be interpreted broadly to mean any communications produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behaviour. (ICC Code)

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[18] This may include websites, apps, advergames, etc.

Metaverse
The metaverse is a network of virtual environments in which users can interact with one another and with digital objects, while operating virtual representations of themselves. It can be accessed via a computer or a special headset to create an immersive feeling. (WEF) [19]

Mixed reality
The merging of physical and digital worlds to produce new environments and visualisations where objects from both worlds co-exist and interact in real time. It is different from augmented reality, which takes place in the physical world but with a virtual overlay of information and/or objects. (Microsoft) [20]

Mobile Advertising
A form of advertising via mobile phones or other wireless devices (excluding laptops). This type of mobile advertising includes mobile web banner ads, mobile internet sponsorship and interstitials (which appear while a requested mobile web page is loading) as well as mobile paid-for search listings. Mobile internet advertising does not include other forms of mobile marketing such as SMS and MMS. (EASA)

MMS Advertising
Multimedia Messaging Service (MMS) advertising is a marketing message within a standard MMS message and allows for sending messages that include multimedia objects (images, audio, video, rich text). It is mainly deployed in cellular networks along with other messaging systems like SMS, Mobile Instant Messaging and Mobile Email. (EASA)

Paid Search
Fees marketers pay Internet companies to list and/or link their company site or domain name to a specific search word or phrase. Sometimes referred to as Search Engine Marketing (SEM). (EASA)

Product
The term product refers to anything that constitutes the subject of an advertisement; this usually means a goods or services, but is not restrictive: where appropriate, it may also be applied more widely, e.g. to concepts. (ICC Code)

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[19] Lei, Y., et al. "What is the metaverse? 2 experts explain", *World Economic Forum*, https://www.weforum.org/agenda/2021/08/metaverse-media-information-experts.
[20] Microsoft, "What is mixed reality?", https://docs.microsoft.com/en-us/windows/mixed-reality/discover/mixed-reality.

SMS Advertising
Short Messaging Service (SMS) advertising is a marketing message within a standard for a text message. (EASA)

Social Media
Social media can be defined as online services that allow to create profiles and communicate with each other within a community, including through sharing information and content, such as text, images, videos and sound files. (EASA)

Social selling
Marketing practice revolving around developing a relationship with audiences, often via a marketer-owned profile on social media platforms, to sell products. (EASA)

User-Generated Content (UGC)
Any sort of content created by a user of an online platform, system or service. (EASA)

Video-on-Demand (VOD)
Video content that is controlled, enabled, and consumed whenever and wherever a viewer chooses to watch it. VOD content can be found on set-top-boxes, OTT devices, mobile web, mobile apps, and video streaming services. Vloggers may be regarded as well as a specific kind of VOD providers. (egta)

Viral Marketing
Any advertising that propagates itself. In a digital media context it can be defined as a marketing technique that seeks to use pre-existing social networks to produce increases in brand awareness. (EASA)

Virtual reality
A simulation enabling users to interact with an artificial 3D visual or other sensory environment. Virtual reality application immerse the user in a computer-generated environment that can simulate physical reality or deviate completely from it. It requires the use of special goggles.[21] It is the basis of the Metaverse. (Britannica)

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[21] Britannica, "Virtual reality", https://www.britannica.com/technology/virtual-reality.

Relevant links

1. [EASA Advertising Self-Regulatory Charter](#)
2. [Overview of EASA Best Practice Recommendations](#)
3. [EASA Best Practice Self-regulatory Model](#)
4. [EASA Statement of Common Principles and Operating Standards of Best Practice](#)
5. [EASA 30th Anniversary Declaration for Proactive and Effective Advertising Self-Regulation and the Enhancement of Socially Responsible Advertising in Europe.](#)

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