

# Advertising Regulation – the UK experience

## Session 2: Why?

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Advertising Standards Authority, UK

# Ad self-regulation makes sense

- Helps to maintain confidence in marketing communications
- Maintains a level playing field between competitors
- Prevents an arms race of exaggerated claims
- Enables business to respond to customer concerns
- Safeguards freedom to advertise responsibly
- Helps to grow the marketing communications sector
- Supports media dynamism and pluralism

# Principles

- Burden of proof lies with the advertiser, not the ASA
- Advertisers must hold substantiation for all claims
- ASA does not have to prove that an ad misleads
- ASA Council interprets the Code
- System works because it is in the interests of advertisers, agencies and media that it should

Complaints received are assessed against the codes

If case to answer, informal approach made to advertiser

If needs be, formal investigation launched.  
It just takes one!

We ask for written evidence to substantiate claims

ASA staff draft ruling that goes to advertiser and complainant for comment

## Complaints procedure

Draft ruling goes to ASA Council who may not agree

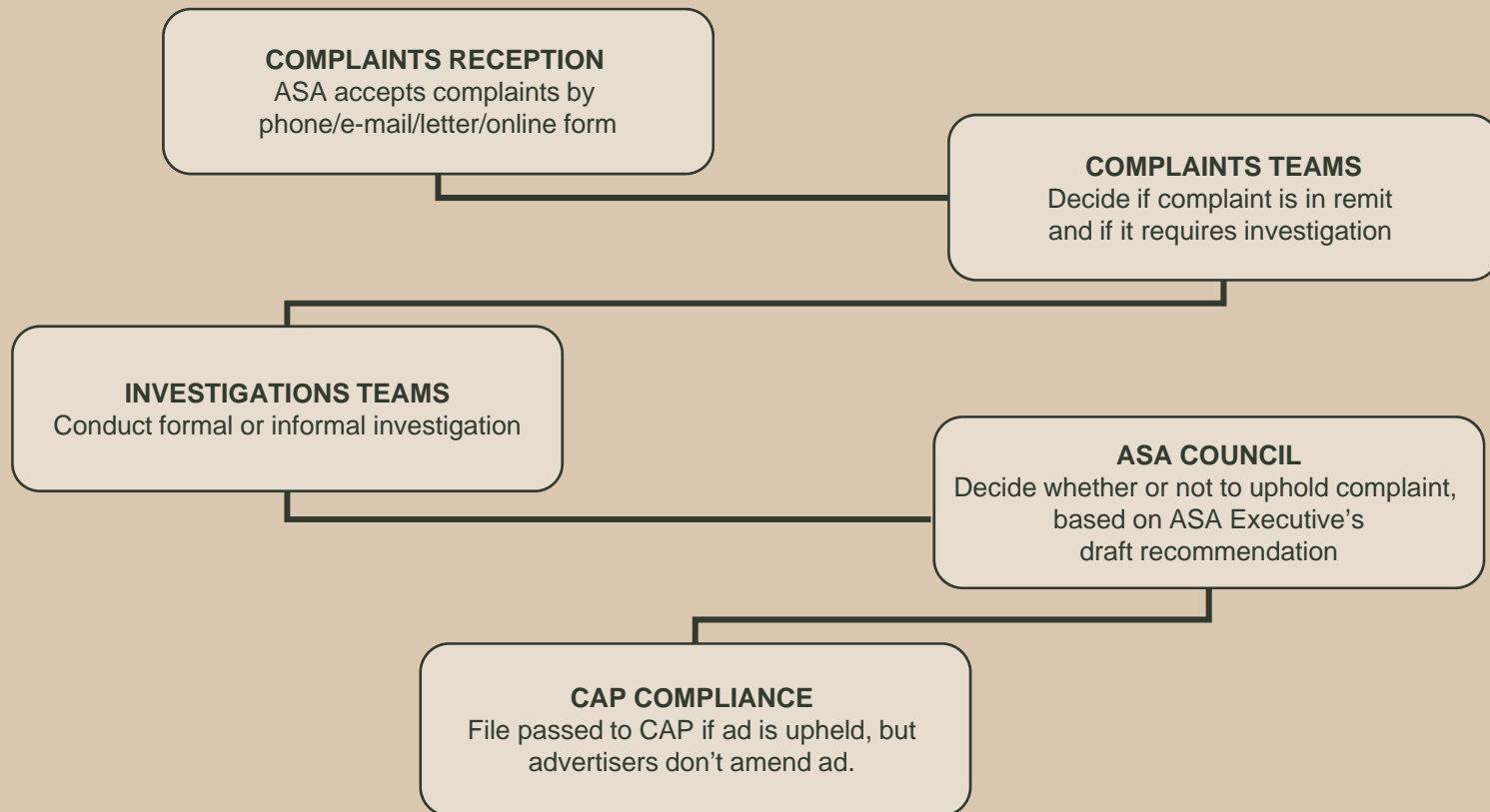
Council's decision is published online at ASA's website

All rulings are released to the media

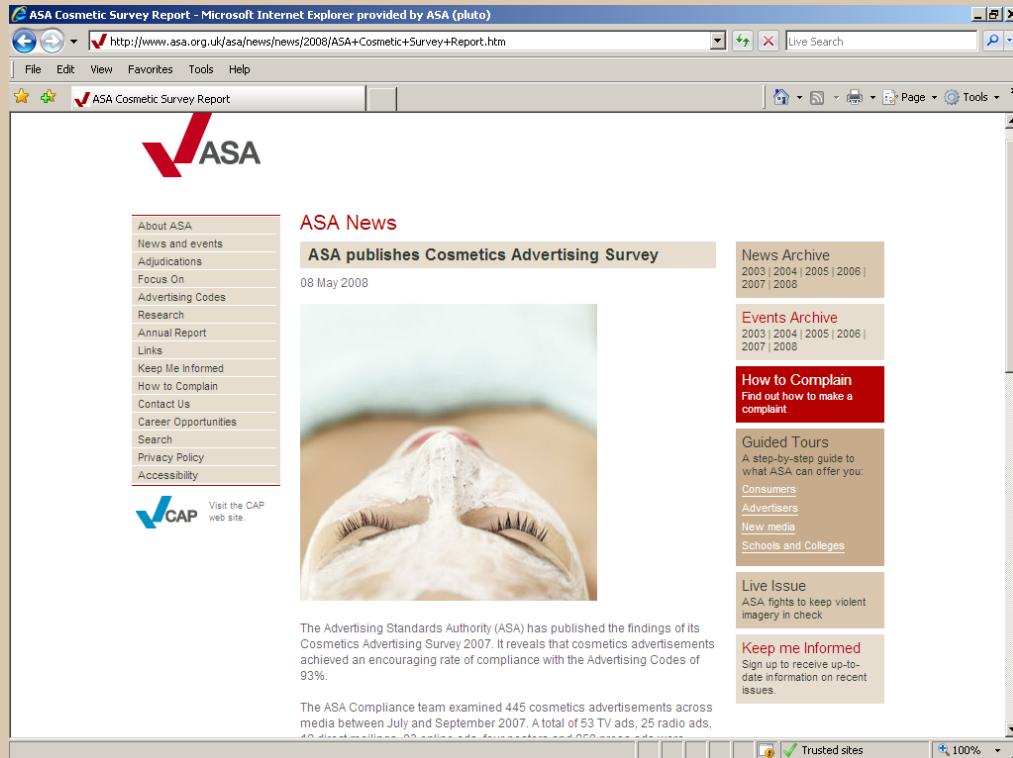
'Complaint upheld' means ad must be withdrawn or changed

Advertisers and complainants may be able to appeal decision

# Stages of a formally investigated case



# Cosmetics Advertising Survey 2007, (published May 2008)



**445 ads** from all media

**93%** overall compliance level – pretty good

But only **81%** for anti-ageing creams (24 out of 126 ads broke rules)

# L'Oreal, 2005



## L'Oreal Wrinkle Decrease:

- 76% reported visible reduction on expression lines (of 50 women's self-evaluation after 3 weeks)
- Anti-creasing cream with Boswelox to counteract skin micro contractions
- In only one hour. Rapidly reduces wrinkles

# Beiersdorf, 2007



## **DNAge Nivea Visage:**

"... Introducing DNAge. Nivea Visage's revolution in face care. Containing folic acid ... it increases cell renewal ... and helps protect your DNA from cell damage ..."

# Six classes of claims

- Sensory claims
- Product aesthetics claims
- Performance claims
- Ingredient claims
- Combination claims
- Comparison claims

# ... and three levels of evidence

- Widely accepted/established
- Established rationale but requiring additional evidence
- Advances in science and technology

# Examples

- **Sensory:**

“Your skin feels smoother”

- **Established performance claim but requiring additional evidence:**

“80% of women say it reduces the appearance of wrinkles”

- **Advances in science and technology:**

“Reduces the appearance of wrinkles by 30% in four weeks”

“long lasting results”

“[cosmetic active A] reduces wrinkles”

# Advances in science and technology

Claims that are based upon what the **general scientific community** would be likely to regard as a **significant advance in science or technology** require the **highest level of supporting evidence**. The ASA/CAP Executive accesses that community through its experts

# Dossiers of evidence

Such evidence will be **viewed in totality** and advertisers should not ignore sound data that contradict the claim when compiling that body of evidence. The total package should be presented in a way that **explains the nature of the scientific or technological advance** as well as how the product works (where applicable), in addition to **providing sufficient evidence** to demonstrate that the product does indeed work and so support the claim itself

# Getting help and staying informed

Protecting Consumers from Deceptive Advertising  
10 June 2008



# Copy Advice

- Fast (within 24 hours); free; confidential
- Its users rate it:
  - 97% overall customer satisfaction;*
  - 98% would recommend it to someone else;*
  - 97% knowledge/professionalism of staff*
- Help to avoid future problems with the ASA (it will support our case to the ASA)

***“No advice is better informed about how the ASA (Council) will interpret the Code”***

[http://www.cap.org.uk/cap/copy\\_advice/](http://www.cap.org.uk/cap/copy_advice/)

# Help Notes

- Provide a comprehensive guide to a given sector or issue, for example:
  - Substantiation for Health, Beauty & Slimming Claims
  - Claims that Require Qualification

[http://www.cap.org.uk/cap/advice\\_online/help\\_notes/](http://www.cap.org.uk/cap/advice_online/help_notes/)

[http://www.cap.org.uk/cap/advice\\_online/broadcast\\_help\\_notes/](http://www.cap.org.uk/cap/advice_online/broadcast_help_notes/)

# Advice Online

- A regularly updated searchable database of advice for non-broadcast marketing communications.
- Entries will change with landmark decisions by ASA.

[http://www.cap.org.uk/cap/advice\\_online/advice\\_online\\_database/](http://www.cap.org.uk/cap/advice_online/advice_online_database/)



Committee of Advertising Practice, AdviceOnline: Anti-Ageing: General - Microsoft Internet Explorer provided by ASA (pluto)

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Address

"cosmetic" claims.

See also entry on 'Medicinal Claims'

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**Relevant Code Clauses:**

- 3.1 - GENERAL RULES - Substantiation
- 7.1 - GENERAL RULES - Truthfulness
- 50.1 - OTHER SPECIFIC RULES - HEALTH & BEAUTY PRODUCTS AND THERAPIES - General
- 50.7 - OTHER SPECIFIC RULES - HEALTH & BEAUTY PRODUCTS AND THERAPIES - General
- 50.11 - OTHER SPECIFIC RULES - HEALTH & BEAUTY PRODUCTS AND THERAPIES - Medicines
- 50.12 - OTHER SPECIFIC RULES - HEALTH & BEAUTY PRODUCTS AND THERAPIES - Medicines
- 50.24 - OTHER SPECIFIC RULES - HEALTH & BEAUTY PRODUCTS AND THERAPIES - Cosmetics
- 50.25 - OTHER SPECIFIC RULES - HEALTH & BEAUTY PRODUCTS AND THERAPIES - Cosmetics

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**Adjudications:**

- [Johnson & Johnson Ltd t/a RoC - 14th February 2001](#)
- [Chanel - 18th July 2001](#)
- [Christian Dior UK Ltd - 8th August 2001](#)

Relevant adjudications shown may have been made under the current edition of the CAP Code or previous editions. If you would like to see an adjudication that was made before January 1999, please contact the [ASA Communications team](#)

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**Help Notes:**

- [Substantiation for Health, Beauty and Slimming Claims](#)  
Guidance on the standard of data that the ASA or CAP might expect marketers to provide to back up a variety of different categories of claim.

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Want more information on this or another subject? The Copy Advice team can offer you fast, free and confidential advice. Give us a call on **020 7492 2100**

Last updated: 25/10/2006 11:41:15

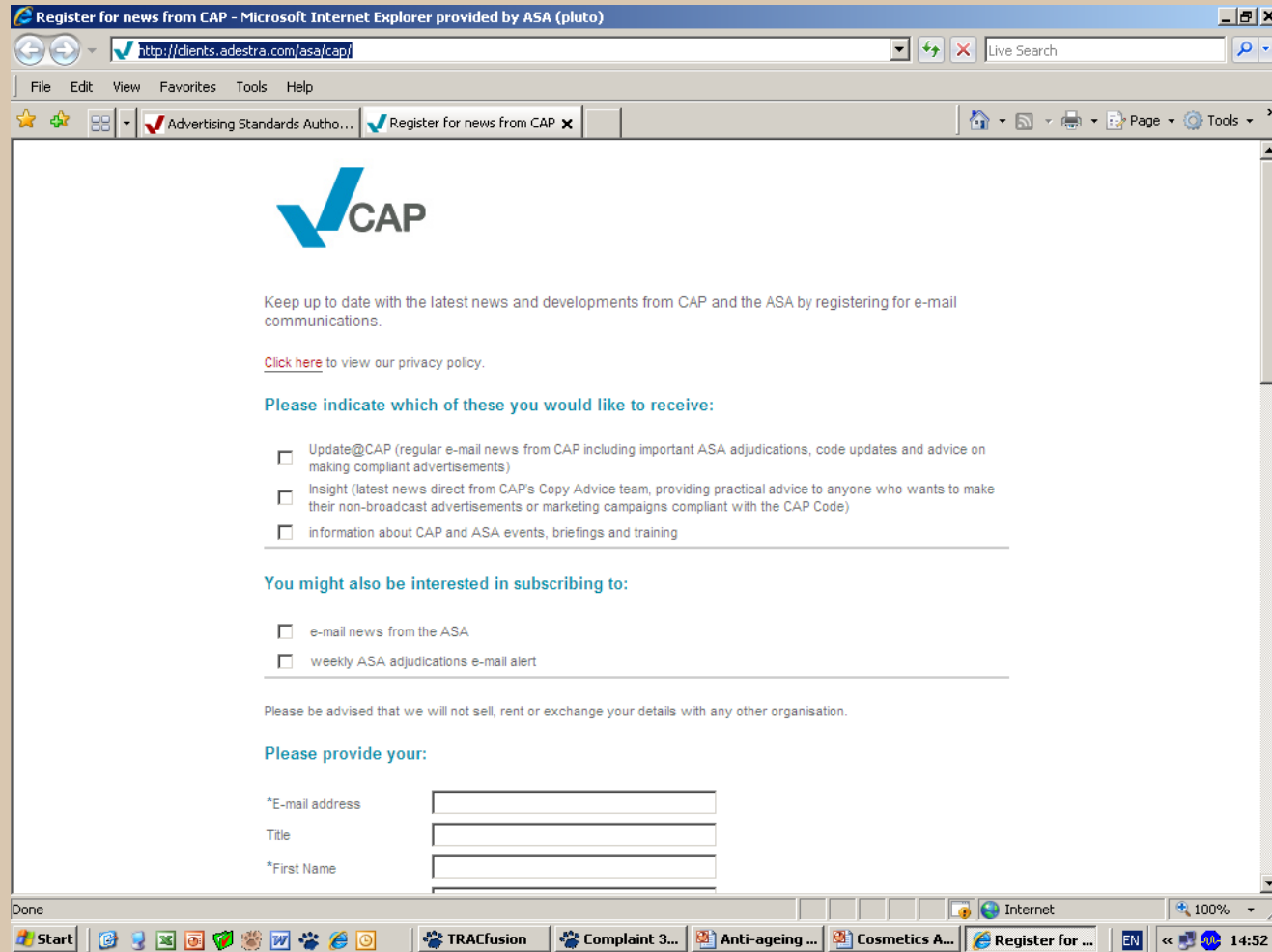
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