

Another step backwards for the ad industry

 By [Chris Brewer](#)

5 Jun 2017

I know the Advertising Standards Authority (ASA) has come under a lot of flak over the years and perhaps rightly so. However, it seems grossly unfair that they seem to have attracted such massive amounts of bad press for a relatively small proportion of their decisions.



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There's something wrong when a major company can drag the ASA into court, because no matter which way the decision goes our self-regulatory watchdog will always lose because of ridiculously high legal fees.

When an inappropriate advertisement is challenged and told it has broken the agreed tenets of the advertising code, the advertiser can (and often will) threaten legal action. That kind of behaviour is going to frighten even the most distinguished and honourable members of the ASA into thinking that, perhaps, they should let this one go.

Years ago I was told by a well-known adman that they sometimes deliberately “stepped over the edge,” just so their advertisement would be banned. At that stage, their public relations division stepped in and flooded the media with news releases about “the unfairness” and “matronly” attitude of the only body standing between us and depraved advertising or, perhaps worse, government intervention.

Well, that's business I suppose. But we seldom hear about the ads banned by the ASA that were blatantly making fraudulent

offers and stealing from our citizens.

It's bizarre.

Consider diet control product advertisements, for example. You've seen them and I've seen them and many are absolute rubbish. It takes time for them to be banned because the ASA takes action on complaints from the public. (In a way, it's rather like the Press Ombud).



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They're not malicious about banning ads – all they do is insist that standards are maintained, which includes honesty.

A major supplier of dietary products took the ASA to court and claimed it had no authority to rule on advertisements because it had no statutory power. What does that mean? Our own ethical standards committee has to get **approval** from government and/or courts? It's crazy.

In that case, the High Court found that the ASA did not have legal power to rule on advertising merely because someone had complained about them. Now **that** is completely missing the point! For example, if someone were to advertise a fashionable young couple sharing a pipe of crack then it hardly requires anyone to complain about it being inappropriate, no?

The court ruled that it was a voluntary body for self-regulation by the media and could rule on advertisements only of companies that had agreed to be self-regulated.



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Anyway, that was effectively the end of the ASA. *Exactum eam. Klaar.*

Or, as Katharine Child reported in *The Times*: "This left the ASA toothless."

The body has been in business rescue since last year (thanks again to all those lawyers – I hope you enjoy your ill-gotten gains) and it desperately needs to raise funds. Actually, they have had some help – thanks to donations from respectable businesses (I don't want to mention anyone specifically, but they are household names). It's fired staff and cut expenses to the bone – which, of course, leaves it in an even more precarious position when a company (like the diet one mentioned above) can basically create any kind of advertising with just about any kind of claim/statement and cleanly get away with it.



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1 Jun 2017



Well, let's see if the industry can save itself because it would be nice to see the good guys winning for a change.

Good luck to [Gail Schimmel](#) who is acting CEO of the Authority – you're going to need it.

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