

# A call to amplify the voices of people complaining against an ad

*Offensiveness in advertising is both an individual and subjective experience for audiences. This is the case of advertising from the non-profit sector, which often needs to address difficult social, health or environmental issues in a bold and shocking way. Despite this, the regulatory process privileges advertiser justifications over the complaint itself. **Kristina Auxtova** argues that those who complain about ads should have more involvement throughout the complaint investigation process and should be consulted in the development of new codes.*

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*Even when laws have been written down, they ought not always to remain unaltered.*

Aristotle (*Politics*, Book II, 1269a.9)

Questions about how social media can and should be regulated for harmful content have been at the centre of many recent advertising debates. And while these questions are important in and of themselves, they cannot be separated from the longstanding debate of whether advertising itself can cause harm. Advertising is continuously scrutinised by consumers, media, competitors, regulators, and academics. It has long faced accusations of being unethical, offensive, stereotypical, deceptive, harmful, distasteful, irritating, or irresponsible. Advertising regulation exists to protect the public from that and to guide advertisers in creating more responsible ads. That said, no system is perfect and even the most praised advertising regulators, such as the Advertising Standards Authority (ASA) UK, can and should do more. Our [research](#) demonstrates that the very regulatory norms and procedures put in place to consider complaints actively de-individualise the subjective experiences of those who complain about specific advertising campaigns they find offensive or harmful, instead privileging advertisers and normalising controversial practices adopted by some organisations.

My co-authors [Mary Brennan](#) and [Stephen Dunne](#) and I have delved deeply into the world of advertising regulation by studying the ASA's codes and processes involved in regulating offensive and harmful advertising. Our research focused on not-for-profit and public sector advertising, where many complainants related their personal experiences of being cancer patients or family of road accident victims for whom it is particularly difficult and distressing to see the often shocking and/or offensive ads produced in an attempt to raise donations or change people's behaviours. ASA could include such target audiences in their code formulation, revision, or clarification to acknowledge the impact such campaigns might have on these specific groups.

If you've ever seen a campaign you personally found offensive or thought could be harmful if your child saw it, you might imagine that this experience is what you want the advertiser and the advertising regulator to carefully consider and take into account when reaching a final decision. Your complaint might trigger an investigation, but that is more or less the extent of your role as a member of the public exposed to an ad who wants to do something about it.

Could the complainants be empowered to be at the centre of the debate? Yes, they could. We observed that people who complain are given little opportunity to represent their cases relative to the rights of the advertisers who can join the debate and argue their case, or the rights of the regulator who settles the case. The complaints are stripped of emotion and presented as brief statements of non-compliance debated only by the advertiser and regulator. But complainants could easily be elevated to a participant in this debate. They could be granted greater levels of involvement throughout the investigative process, at the very least by being given an opportunity to support their complaints and counter-argue the advertiser's justifications. To level the playing field with advertisers who are backed up by their legal and compliance teams, consumer organisations such as 'The Citizens Advice Bureau' and 'Which?' could be involved in supporting or representing the complainants, in a similar way that the Human Rights Committee [takes up cases](#) on behalf of individuals.

Clarification of certain codes that guide the conduct of advertisers is needed and the complainants could be more included in this process too. In particular, terms like ‘unjustified reason’, or ‘serious offence’ and ‘widespread offence’ are currently unexplained in the codes, making them difficult to work with and follow. And while the Advertising Standards Authority engages in audience research (e.g. [research](#) on public perceptions of harm and offence in UK advertising) and wider stakeholder consultations (e.g. on [gender stereotypes](#)), there could be more targeted inclusion of complainants and the specifically targeted public groups that are most likely affected by the studied advertising issue.

With the not-for-profit and public sectors in mind, the advertising authority could also develop new sector panels, similar to the existing [industry panels](#) to address the nuances of certain sectors, such as the ‘end justifies the means’ attitude found in how not-for-profit and public sector advertising is developed and regulated. This approach from the advertisers and from the regulator in fact normalises the use of shocking and/or offensive tactics. And to navigate the moral complexity of navigating potential audience offence and harm with social betterment goals of such campaigns, ASA could enlist the expertise of not-for-profit sector bodies such as the Charity Commission and the National Council for Voluntary Organisations.

This is not to suggest that the Advertising Standards Authority doesn’t deserve the global acclaim they receive for their work. Rather, it is to say that even good codes of conduct and processes can cloud or constrain ethical judgement in cases of controversy, especially when dealing with fast changing moral and ethical issues. This research thus offers some suggestions that could help the ASA address the existing power imbalance in their processes by giving voice to the complainants, thus elevating the audiences, whom they are there to protect, to the same level of the advertisers, whom they regulate.



#### Notes:

- This blog post is based on [To Be or Not to Be Governed Like That? Harmful and/or Offensive Advertising Complaints in the United Kingdom's \(Self-\) Regulatory Context](#), with Mary Brennan and Stephen Dunne, *Journal of Business Ethics*, Vol. 172.
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