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By email

Ref: A16-366038/EE/ts

Dear Ms Rannie

Complaint about your advertising – “Shame or Glory?” video and website claims

We have received a complaint about your advertising and we welcome your help to resolve it. We are enclosing with this letter a summary of the complaint and all the necessary information about it to enable you to provide a full, relevant response.

Who we are

The ASA investigates complaints to ensure that non-broadcast marketing communications comply with The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (The CAP Code), prepared by the Committee of Advertising Practice (CAP). We also investigate complaints to ensure that TV and radio advertising complies with The UK Code of Broadcast Advertising (The BCAP Code). The Government and the Courts recognise the ASA as the “established means” of regulating non-broadcast advertising.

The investigations process

We will consider the complaint under rules 1.3 (Social responsibility), 3.1 (Misleading advertising), 3.7 (Substantiation), 3.33 (Comparisons with identifiable competitors), 4.1, 4.2 (Harm and offence), 11.3 and 11.4 (Environmental claims) of The CAP Code (attached). Marketing communications must comply with all other relevant rules, among which are the underlying principles (also attached). You can read or download the full Code on the CAP website, www.cap.org.uk. A copy of our complaints procedure, ‘*Complaint about your ad. What happens now?*’ is enclosed; you can download the leaflet from our website www.asa.org.uk/Industry-advertisers/Complaint-about-your-ad.aspx, where you can also view our detailed complaints handling procedure for both broadcast and non-broadcast advertising.

Legal, decent, honest and truthful

Chairman Rt Hon Lord Smith of Finsbury Chief Executive Guy Parker
ASA Council (Non Broadcast) Reg Bailey, Kate Bee, Alan Bookbinder, Rachel Childs, Roisin Donnelly, Wesley Henderson, David Hepworth, Suzanne McCarthy, Sir Martin Narey, Shireen Peermohamed, Hamish Pringle and Sam Younger

The Advertising Standards Authority Limited, registered in England No 733214, Mid City Place, 71 High Holborn, London WC1V 6QT.

We intend to deal with the complaint as a formal investigation, which means it will be considered by the ASA Council. We will then draft a recommendation for the Council based on your response to us. Once the Council has made a decision, the ruling will be published on our website.

What you need to do

We need you to respond to the points listed in the Complaint Notification:

1. The CAP Code requires marketers to avoid causing serious or widespread offence and to ensure advertising is prepared with a sense of responsibility to consumers and to society. The complainants objected to the “shaming” tone of the video ad and the statement “fuck plastic bottles”. Please comment on your rationale for the use of these elements and the fact that the ad was served untargeted on Facebook, and with a Youtube video likely to appeal to children. We will be happy to receive anything else you think is relevant.

2. The complainants challenged whether the claim “One SodaStream BPA free PET carbonating bottle saves the average household 2,190 bottles from being landfilled or ending up in our parks and beaches, over its 3 year lifespan” was misleading and could be substantiated. The Natural Hydration Council understand that the average per capita consumption of sparkling water in the UK is 6.3 litres, and have therefore questioned what this figure is based on. The complainants also raised questions around what happens to SodaStream’s reusable bottles after the end of their three year life cycle, and the environmental cost of production, transport and re-gassing the CO2 cartridges used in SodaStream. The CAP Code requires marketers to hold documentary evidence for their claims before submitting an ad for publication. So, please give us all the relevant substantiation and information you would like us to have. It is for you to decide what to submit, but we will need to see robust documentary evidence to back the claim and a clear explanation from you of its relevance and why you think it substantiates the claim. It is not enough to send references to or abstracts of documents and papers without sending the reports in full and specifically highlighting the relevant parts explaining why they are relevant to the matter in hand. We have enclosed a copy of the CAP AdviceOnline entry on [Environment claims](#), which you may find useful when responding.

Furthermore, although the ads do not explicitly identify specific brands, we consider that consumers would understand that SodaStream was being compared against bottled sparkling water products and would be able to identify individual brands within this market. The CAP Code requires that comparisons with identifiable competitors must not mislead, or be likely to mislead, consumers. The complainant has challenged whether the comparison in your ad was compliant with the Code. Please outline the basis of your comparison and provide the relevant comparative evidence. We have enclosed a copy of the CAP Advice Online entry [Comparisons: General](#), which you may find useful when responding.

3. Further to the above, the complainants have challenged whether the ads exaggerate the extent of the environmental benefit that could be achieved by using a SodaStream rather than purchasing bottled sparkling water. We will assess this point in part based on the evidence you provide to substantiate the claim challenged in point two, but you should also provide any additional evidence you consider relevant.

4. The Natural Hydration Council challenged whether the ads misleadingly implied that the sparkling water produced by SodaStream was equivalent to bottled natural sparkling water. They state that 90% of bottled sparkling water sold in the UK is naturally sourced, which means it is safe to drink at source and has a unique mineral content and taste. They believe that the ads imply that the sparkling water produced by SodaStream will be superior to what consumers will actually receive. As outlined in point 2 above, please describe the basis of the comparison and provide the relevant comparative evidence.

We strive to ensure that the rulings reached by the ASA have proper regard to consistency, which we believe is best achieved through open communication with businesses, consumers and other regulators. With that in mind we ask that you submit any advice you may have received from another regulator in relation to this advertising. Specifically, if you have a Primary Authority partnership, please provide us with copies of any relevant assured advice you have received and provide contact details for the person who provided that advice. Should you have reason to contact your Primary Authority regarding this or similar advertising during the course of our investigation, please let us know in advance and ensure that the Primary Authority is made aware of our investigation.

As well as addressing the complaint, please cover the following points when you prepare your response:

- Check that your company's legal name and address are listed correctly at the top of the complaint notification. If they are incorrect, please let us know. Please also provide us with your Companies House number.
- Let us know what plans you have for future use of your advertising. A media schedule would be especially useful.
- Let us know the name of your advertising agency or any other company that prepared the advertising on your behalf.
- If the ASA Council upholds the complaint, its ruling might affect the acceptability of similar ads in other media, including broadcast. We are telling you this now so you are aware of the potential ramifications of this investigation. Let us know now if you are using (or intend to use) similar claims, images or ads in other media.

Submission limits

The ASA reserves the right to apply submission limits and or limits on the number of times you respond in exceptional circumstances, for example if you are submitting unjustifiably lengthy or repetitious correspondence. The limits will depend on the nature of the issue and the stage of the investigation, and will not have the effect of restricting unreasonably your opportunity to defend your ad.

Your response deadline

The ASA's effectiveness depends on resolving complaints fairly and swiftly. An unreasonable delay in responding to our enquiries may be considered a breach of The CAP Code. So that we can conclude this matter as soon as possible, please respond in writing, preferably by email to elisabete@asa.org.uk within SEVEN working days. If you need more time, we may be able to agree to one short extension, but you will need to

contact us within the deadline to explain why you are unable to respond sooner and agree a timetable for your response.

If you are not the right person to deal with this letter please tell us and pass the letter on to someone who is. If we do not receive a reply from you by **13 January**, we may add your lack of response to the other issues that we are investigating which will form part of any formal published ruling.

We are also sending a copy of this correspondence to Facebook and Youtube and will be asking for their comments on point 1 of the complaint.

Thank you for your co-operation. We look forward to hearing from you.

Yours sincerely



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Investigations Executive
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020 7492 2147

cc: Facebook
Youtube

We shall use your contact details, together with other information from or about you, to deal with the complaint. We may contact you to assess the quality of our services or to give you information about our activities, which might interest you. If you do not want to be contacted for that purpose, please let our Data Protection Officer know at the above address or by e-mail at data.protection@asa.org.uk. For further information about our Data Protection Policy please refer to our website www.asa.org.uk.