

# Contents

Icons Key .....	ix
Foreword .....	xi
<b>Chapter 1: Getting started</b> .....	<b>1</b>
What is advertising law in this book?.....	1
The Advertising Standards Authority and the Code of Advertising Practice .....	1
The Preface to the Code .....	2
Putting the ASA in its international context .....	3
The ASA and the Constitution.....	4
What is self-regulation?.....	5
Does the ASA live up to the promise of self-regulation?.....	6
<i>Self-regulation is cheaper</i> .....	6
<i>Self-regulation is faster</i> .....	7
<i>Self-regulation is adaptable</i> .....	7
<i>Self-regulation applies to the spirit as well as the letter of the law</i> .....	7
<i>Self-regulation addresses issues that defy legal definition</i> .....	8
<b>Chapter 2: The Structure of the Advertising Standards Authority</b> .....	<b>9</b>
Introduction .....	9
The Directorate – general information .....	9
<i>The Directorate's power to refer</i> .....	10
<i>The People of the Directorate</i> .....	10
The Advertising Standards Committee .....	11
Advertising Industry Tribunal.....	11
The Final Appeal Committee.....	12
<b>Chapter 3: Reading the Code of Advertising Practice</b> .....	<b>13</b>
Introduction .....	13
The Preface .....	13
The Sections .....	13
<i>Section I Introduction</i> .....	13
<i>Section II General principles</i> .....	14
<i>Section III Specific categories of advertising</i> .....	14

<i>Section IV Identification of editorial style print advertisements</i> .....	15
Appendices .....	15
Guidelines .....	16
Procedural Guide .....	17
<b>Chapter 4: The ASA Procedure</b> .....	19
Introduction .....	19
The ASA only acts on receipt of a complaint .....	19
Drafting a complaint .....	20
(1) <i>Information about yourself or your company</i> .....	20
(2) <i>Information about the advertiser</i> .....	20
(3) <i>Information about the advertisement</i> .....	20
How to Draft a Complaint .....	21
Other provisions and ending your complaint .....	22
The ASA assesses the complaint .....	24
The ASA asks for a response .....	25
<i>Response times</i> .....	25
Vague complaints .....	26
Giving a voluntary undertaking .....	27
Responding on the merits .....	29
<i>Address the issues raised in the complaint</i> .....	29
<i>Structuring your response</i> .....	29
<i>Structuring your response by claims</i> .....	30
<i>Structuring your response by issues</i> .....	30
<i>Other factors to consider</i> .....	30
The Directorate might refer the complaint .....	31
The ASA Directorate issues a ruling .....	31
<i>When should you expect a ruling?</i> .....	31
<i>A ruling is binding until overturned</i> .....	31
Appealing a ruling .....	32
<i>General information on appeals</i> .....	32
<i>Condonation for late filing</i> .....	33
<i>What should go in an appeal?</i> .....	34
<i>Responding to an appeal</i> .....	35
The appeal process .....	36
Appealing to the Final Appeal Committee .....	37

Sanctions and removal of advertising .....	38
<i>Removal of advertising</i> .....	38
<i>Further sanctions</i> .....	39
<b>Chapter 5: Section I of the Code</b> .....	41
Section I – binding or guidance only? .....	41
Clause 1 – Preamble .....	42
Clause 2 – Scope.....	42
<i>The ASA mandate includes</i> .....	42
<i>The ASA mandate excludes</i> .....	42
<i>Clause 2.4</i> .....	42
Clause 3 – Interpretation .....	45
Clause 4 – Definitions .....	47
<i>The definition of advertising</i> .....	47
Definitions – some further considerations.....	50
Clause 5 – Confidentiality .....	51
<b>Chapter 6: Section II of the Code</b> .....	53
Introduction .....	53
Clause 1 of Section II – Offensive advertising .....	53
<i>Sexually explicit advertising</i> .....	55
<i>Racist advertising</i> .....	56
Clause 2 of Section II – Honesty .....	57
Clause 3 of Section II – Unacceptable advertising.....	58
<i>Clause 3.1 – Fear</i> .....	58
<i>Clause 3.2 – Violence</i> .....	59
<i>Clause 3.3 – Legality</i> .....	60
<i>Clause 3.4 – Discrimination</i> .....	63
Where discrimination is not offensive .....	64
Where discrimination is offensive .....	66
<i>Clause 3.5 – Gender</i> .....	67
Clause 4 of Section II –Truthful presentation.....	73
<i>Clause 4.1 – Substantiation</i> .....	73
<i>Interpreting Clause 4.1</i> .....	74
<i>Clause 4.2.2 of Section 11 tells us that puffery is acceptable</i> .....	74
<i>Clause 4.2.3 of Section 11 tells us that hyperbole is acceptable</i> .....	76
Aspirational or subjective claims are also not subject to Clause 4.1.....	77
<i>Do your research before you make a claim</i> .....	77
<i>Use an independent, credible expert</i> .....	78

<i>The nature of the documentary evidence</i> .....	79
So what does this mean for you? .....	82
<i>The procedures around substantiation</i> .....	82
<i>Clause 4.2.1 – Misleading claims</i> .....	83
<i>Clause 4.3 – The value of goods</i> .....	86
<i>Clause 4.4 – Use of the word ‘free’</i> .....	86
<i>Clause 4.5 – ‘Up to ...’ and ‘from ...’ claims</i> .....	88
<i>Clause 4.6 – Direct supply</i> .....	90
<i>Clause 4.7 – Wholesale</i> .....	91
<i>Clause 4.8 – Fresh</i> .....	91
Clause 5 – Price comparisons.....	92
Clause 6 – Disparagement .....	94
Clause 7 – Comparative advertising .....	101
<i>Acceptable Comparative Advertising</i> .....	102
Clause 8 – Exploitation of advertising goodwill .....	106
Clause 9 – Imitation .....	107
Clause 10 – Testimonials .....	124
Clause 11 – Protection of privacy and exploitation of individuals .....	127
Clause 12 – Identification of advertisements .....	129
Clause 13 – Safety .....	130
Clause 14 – Children .....	133
Clause 15 – Guarantees .....	138
Clause 16 – Money-back undertakings .....	139
Clause 17 – Use of the word ‘new’ in advertising .....	140
Clause 18 – Use of animals in advertising .....	141
Clause 19 – Pricing policy .....	143
<b>Chapter 7: The ASA Code: Section III, Section IV, The Appendices</b> .....	147
Introduction .....	147
Section III – Specific categories of advertising .....	147
Section IV – Identification of editorial style print advertisements .....	148
The Appendices .....	148
<b>Chapter 8: Summary</b> .....	155