

Advertising Association response to OFT request for comments on "Business leadership in consumer protection - A discussion document on self-regulation and industry-led compliance" (OFT1058)

Many thanks for your e-mail of 27 April 2009 requesting comments on the discussion document published by the Office of Fair Trading (OFT) entitled "Business leadership in consumer protection" (OFT1058). Thank you also for inviting the Advertising Association to the conference on the same topic on 18 March 2009, at which several member bodies of the organization were also present. It is undoubtedly the case that OFT1058 together with the parallel paper "The economics of self-regulation in solving consumer quality issues" (OFT1059) very much aided discussions on the day.

On the back of the discussion document, I have recently been in contact regarding the OFT's "established means" consultation, to which the Advertising Association responded. In that response (link below), the Advertising Association set out in some detail its views on the importance of "established means" status not becoming diluted.

<http://www.adassoc.org.uk/jr-27-02-09-oftestablishedmeansconsultation.pdf>

Immediately following the March conference, I was also in contact with Dr Amelia Fletcher providing her with a copy of the paper "Advertising Regulation and Co-Regulation: The challenge of change" by Andrew Brown (then Director-General of the Advertising Association), which was published in the journal of the Institute of Economic Affairs in 2006. The paper helps set out some of the factors that motivated the advertising sector to seek out alternatives to statutory regulation - I would imagine that these motivations will have more general application across the wider business sector.

The Advertising Association also welcomes the references made in OFT1058 to the highly effective codes operated by two of its member organizations - namely the Direct Selling Association and the Direct Marketing Association - which are aimed at enhancing the protection afforded to consumers. In discussing the DSA Code (which has been approved under the Consumer Codes Approval Scheme), the OFT identifies the importance of not diluting CCAS standards.

The Advertising Association considers that the conclusion drawn by the OFT in respect of CCAS standards applies equally in the "established means" context - a status which the Advertising Standards Authority enjoys under the Consumer Protection from Unfair Trading Regulations 2008 and the Business Protection from Misleading Marketing Regulations 2008.

With regards to the Advertising Standards Authority, the Advertising Association welcomed the relatively detailed analysis conducted by the OFT in drawing up OFT1058 and its description of advertising self-regulation in the UK, which as the Office will be aware is widely regarded as the gold standard in this area across Europe and beyond.

In conclusion, the Advertising Association very much welcomes the continued support of the OFT for effective industry-led self-regulatory solutions - including in the fields of advertising, direct selling and direct marketing - now and into the future. The Advertising Association also trusts that the OFT will continue to see beyond the skepticism expressed by some in the current economic environment (whatever their motivation) that self-regulation *per se* cannot provide consumers with the necessary degree of protection. The Advertising Standards Authority, which recently published its Annual Report, is demonstrably of benefit to

consumers: the existence of that body provides a useful and effective antidote, at which the OFT can point, to the claims of those skeptical of the benefits of self-regulation.

Please do not hesitate to contact me if I can be of any further assistance.

Yours sincerely,

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