

## **The new advertising rule tackling harmful gender stereotypes: two years on**

The 14 June 2021 marked the two-year anniversary of the introduction of the Advertising Standards Authority's (ASA) new advertising rule targeting 'harmful gender stereotypes' in marketing communications in the UK. What progress has been made since its implementation?

### **The new rule and the first ads to be banned**

The new rule, which came into force on 14 June 2019 and is enforced by the ASA, the UK's advertising regulator across all media, states that advertisements must not include 'gender stereotypes that are likely to cause harm, or serious or widespread offence'.

It is housed under the Harm and Offence principles of the broadcast and non-broadcast advertising codes (BCAP Code, [Rule 4.14](#) and CAP Code, [Rule 4.9](#)). The new rule prohibits marketing communications featuring stereotypical gender roles or characteristics which, through their content and context, may be harmful to consumers by reinforcing negative assumptions and normative expectations of how one should look or behave based on their gender. In order to support compliance with this rule, the ASA developed some guidelines to illustrate how it should be interpreted.

In August 2019, we [reported](#) on the background of the introduction of the rule and the first ads that were banned for breaching it in the first year of its implementation. These included Volkswagen's eGold ad, which directly contrasted images of men carrying out adventurous activities with images of women appearing passive or in a care-giving role, and the Philadelphia ad involving two clumsy dad characters who became distracted while caring for their infants.

In 2020, a few more ads were caught in the regulator's net. Notable examples included the PC Specialist ad, which implied that the fields of technology and computer-related tasks (e.g., coding or producing music) are the preserve of men; and the [PeoplePerHour 'girl boss' ad](#) for search engine optimisation services which was found in breach of the new rule because it implied that women are less competent with technology and less suited to business-leading roles than men.

More recently, the ASA upheld on 9 June 2021 a [complaint](#) against a television ad (which had been broadcast since 2017) for a Hurricane Spin Scrubber. The advert showed several women using the cleaning tool in different home environments, suggesting that cleaning duties were a responsibility uniquely associated with women: 'the cumulative effect of the four testimonials, the prominence of people cleaning who were easily identifiable as women, and the lack of easily identifiable men, perpetuated the stereotype that it was a woman's responsibility to take pride in the appearance and cleanliness of their home, and to clean up after other people', the regulator held.

The inclusion in the commercial of the shot of a man cleaning patio furniture (which is often seen as a household chore stereotypically carried out by men) did little to mitigate the breach of the BCAP Code: 'the contrast between that shot and the remainder of the ad reinforced the stereotype that cleaning the home was a woman's responsibility'. The ruling is a useful reminder that the overall structure of the ad, its context and impact as a whole take centre stage when assessing its compliance with the new gender-stereotyping rule.

### **Our research**

On 18 June 2020, we published [an article in the Journal of Media Law](#) (Vol 12, Issue 1) in which we evaluated the ASA's regulatory responses to stereotypical gender portrayals in advertising in the UK before and after the 2019 changes to its harm and offensiveness framework. We systematised for the first time the ASA's rulings in this territory and brought a new perspective in its modern practice by examining it within Deaux and Lewis' theoretical framework on the multicomponent structure of gender stereotypes. We argued that the ASA's new rule and guidelines represent a missed opportunity to take bolder steps against ads that objectify or inappropriately sexualise individuals and are not sufficiently attentive to the multifaceted nature and fluidity of modern gender identities.

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Whilst the complaints considered so far by the regulator have been predominantly concerned with the depiction of contrasting stereotypes and the use of humour drawing on stereotypes for comic effect, there are also other stereotypical depictions which constitute a cause for concern and are analysed in our [article](#) with a critical eye, including: depictions insensitive to the potential vulnerability of individuals (e.g., women new to motherhood) who may come under pressure to conform to certain gender stereotypes; depictions of unrealistic or unhealthily thin body images; portrayals mocking individuals who deviate from gender norms and expectations; and finally, ads featuring (or targeted at) minors.

In our article we showed that, despite the implementation of the new rule, a string of cases that came before the ASA after June 2019 (i.e. after the implementation of the new rule) and concerned issues around sexualisation and objectification continued to be examined through an offensiveness framework instead of the harm lens of gender stereotypes. We argued that, if continued, this trend could undermine the potential negative social effects arising from such representations.

### **The ASA's 12-month review**

Feeding into its ongoing work in this area, the ASA's 12-month review of the rule and associated guidance [concluded](#) that they "are meeting their policy objective in preventing harmful gender stereotypes". The Authority did, however, recognise that there may still be some uncertainty in relation to the scope of the new rule.

We are pleased to see that the regulator's review mirrors some of the recommendations we made in our article. One of our suggestions is reflected on page 3 of its revised [guidelines](#), in which explanatory text was inserted to clarify that the new rule may apply in cases concerning sexualisation, objectification and body image which can also involve harmful and/or offensive gender stereotypes.

### **Recent developments**

This shift in approach became apparent for the first time in the ASA's ruling on [Babyboo Fashion Pty Ltd t/a Babyboo Fashion](#) (14 April 2021). The ad in question was a Halloween themed paid-for Instagram post by an online clothing retailer which featured women modelling lingerie with angel wings and animal ears. Although most of the models' poses were not deemed overly sexualised, one shot depicted the models posing suggestively on a bed. A voiceover stated: 'Halloween is the one night a year when a girl can dress like a total [bleeped out] and no other girls can say anything about it. The hard-core girls just wear lingerie and some form of animal ears'. The bleep censor was seemingly used to obscure the word 'slut'.

The portrayal itself was found to be gratuitously sexual with the effect of objectifying women. But, in the context of the accompanying voiceover and bleeped out word, viewers were likely to understand that women presenting themselves in a similar way were 'sluts'. This term is, however, perceived as an instance of a gendered insult associated with a negative stereotype of women whose sexual conduct is not in line with so-called 'virtuous' femininity or accepted standards of sexual propriety.

The ASA held:

'While there was nothing inherently wrong with dressing in the way shown in the ad, or having multiple sexual partners, we considered that linking those things with the denigrating term "slut", and implying women should aspire to being objectified, was problematic. Overall, we considered that the ad was likely to cause serious offence and *included a gender stereotype in a way that was likely to cause harm*' (our emphasis).

The ad was therefore found in breach of the harm and offence principles of the CAP Code under Section Four, including the new rule on harmful gender stereotypes (Rule 4.9), recognising the adverse social effects associated with such portrayals.

The same approach was adopted by the ASA in its rulings on [SWAG MASHA LLC](#) and [GOAT Company Ltd t/a Goat Games](#) (both issued on 19 May 2021). The former concerned an in-game ad for a dating simulation game that contained sexual connotations and alluded to non-consensual sexual activity. It was found in breach of Rule 4.9 on the grounds that it 'stereotyped women by presenting them as objects in a scenario designed for the purposes of titillating viewers'. The latter concerned a YouTube pre-roll

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ad for an online game about medieval royal life. It featured sexually suggestive content and was banned for similar reasons. The ruling specifically mentioned that the ad included ‘a gender stereotype in a way that was likely to cause harm’.

However, this trend seems to have been disrupted by the ASA’s ruling on [Max Mara Fashion Group Srl](#) (5 May 2021). The ad in question promoted a clothing retailer and appeared in *The Sunday Times* ‘Style’ magazine. It attracted complaints for featuring a female model who [appeared](#) unhealthily thin. Although she was fully clothed, the photograph’s overall effect accentuated the model’s ‘very thin’ frame and her face and posture gave her ‘a gaunt appearance.’ The ad was banned on the grounds that it was socially irresponsible in breach of Rule 1.3 of the CAP Code, but not on the grounds that it promoted stereotypical unrealistic ideals about body image. The ASA’s own [Depictions, Perceptions and Harm](#) report specifically highlighted the potential harm that may be caused as a consequence of pressure to achieve certain idealised standards of beauty and yet it did not see this case through the lens of its new rule.

### **Where to next?**

Since the implementation of its new rule, the advertising watchdog has sent strong messages that marketers need to filter everything on an ad storyboard through the gender-aware spectacles that the ASA now wears. In the latest rulings involving portrayals of sexual objectification, the ASA had no difficulty concluding that harm was likely and upheld complaints specifically in relation to gender stereotyping (even though this issue did not explicitly form the basis of the complaints). In order for gender stereotyping to remain in focus, the ASA needs however to approach this serious matter in a unified and coherent manner, and place more emphasis on the potential harm caused by other stereotypical depictions, including portrayals of distorted body image.

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