



Advertising Standards Authority
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Email enquiries@asa.org.uk
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Email: phil.sumner@ofgem.gov.uk

2 April 2013
By email

Dear Mr Sumner,

Re: Consultation: GEMA gaining enforcement powers under The Business Protection from Misleading Marketing Regulations 2008 (SI 2008/1276)

The Advertising Standards Authority (ASA) is the UK's self-regulatory body for ensuring that all advertisements, wherever they appear, are legal, decent, honest and truthful for the benefit of consumers, business and society.

We do not have any detailed comments on the proposals for GEMA to gain certain enforcement powers under the Business Protection from Misleading Marketing Regulations 2008 (SI 2008/1276).

The ASA is committed to protecting businesses from potentially misleading advertising, and would suggest that, if GEMA does gain enforcement powers, it may wish to consider recognising the ASA as the 'established means' for bringing about compliance with the advertising-related elements of the BPRs in the first instance.

Such recognition would mirror that of the ASA system by the Office of Fair Trading (OFT), which recognises the ASA as the 'established means' for regulating misleading and comparative advertising in non-broadcast media in the UK. On the rare occasions when we are unable to secure compliance with the Codes, we can ask the OFT to consider taking action under the Consumer Protection from Unfair Trading Regulations (CPRs) or the Business Protection Regulations (BPRs). The OFT can seek undertakings from a company that it will change its ads; it can also seek injunctions from the Court to prevent companies from making misleading claims in their ads.

Whilst we recognise that there will be some businesses that do require statutory intervention, such as rogue traders, the ASA was established to regulate the vast majority of advertisers who operate within legal and regulatory limits. We believe that self-

regulation should continue to be encouraged and recognised as part of an effective regulatory landscape.

Please do not hesitate to get in touch if you have any questions about this response, or would like to discuss any of the points raised in further detail.

Contact details

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