

## ADVERTISING UPDATE MARCH-MAY 2017



### Supreme Court refuses to hear appeal by tobacco suppliers

The Supreme Court has blocked a tobacco supplier from petitioning the Court of Appeal's decision to uphold the High Court's rejection of their judicial review application challenging the Standardised Packaging of Tobacco Products Regulations 2015. The Regulations introduced standardised tobacco packaging and substantially limited product branding. The Supreme Court considered that the application did not raise a point of law of general public importance that should be considered, bearing in mind the case had already been the subject of judicial decision and reviewed on appeal. The court emphasised that the lower courts had "thoroughly considered" the issue.

### Gambling Commission issues first fine

The Gambling Commission has issued its first fine for advertising failures, fining Guernsey based company BGO £300,000. The fine was issued for nine misleading advertisements by BGO on its own website between July 2015 and July 2016, as well as 14 others on affiliates' websites. The Gambling Commission requires all gambling operators to avoid misleading consumers about promotions. They found that BGO's advertisements were "potentially misleading to consumers" as they did not suitably outline the conditions surrounding BGO's promotions.

### UK advertising spend hits record £21.4 billion

Figures released by the Advertising Association and WARC has shown that UK advertising spend reached a record £21.4 billion during 2016, marking the seventh consecutive year of growth. Digital advertising formats continue to boom, with internet advertising spend growing by 13.4% to £10.3 billion.

### CAP guidance on online affiliate marketing

The Advertising Standards Agency (**ASA**) has published new guidance on affiliate marketing, looking to protect consumers by forewarning them that content is promoting a product. Affiliate marketing is where an affiliate promotes another's products on its own website/social media page in order to receive a commission on sales. The guidance provides detailed suggestions for

identifying marketing on differing social media sites. It also emphasises that affiliate advertising is still advertising and that both the business and the affiliate marketer are responsible for compliance with the CAP code.

## Parliamentary report slams social media sites over unacceptable content

A parliamentary report has said that social media firms are "shamefully far" from dealing with illegal and dangerous content, including hate speech, extremist material and sexual images of children. The Home Affairs Select Committee Report said it was "unacceptable" that the companies relied on their users to report unacceptable content, saying that they were "outsourcing" the role. The report recommended that: (1) social media companies contribute to the cost of the police's internet counter-terrorism unit; (2) meaningful fines should be implemented; and (3) social media companies should review their standards and how they are enforced.

The President of Google EMEA, Matt Brittin, had previously said that he wants Google to "raise the bar" for safe advertising by improving its policies and controls and improving its enforcement. This follows concerns that adverts have run on sites which promoted hate and extremism, across Google platforms, including its search engine and YouTube. Brittin commented that whilst "within 24 hours, 98% of flagged content is reviewed", Google can "go further and faster".

A number of high profile brands including HSBC, McDonald's, L'Oreal, the BBC and Lloyds have pulled their advertising spend from Google's platforms amid these concerns. Havas UK has also become the first major worldwide marketing company to pull its advertising spend from the Google platforms.

## Adidas steps away from TV advertising

The Adidas chief executive Kasper Rorsted has told news sources that the brand is turning away from TV advertisements and will instead prioritise mobile-based marketing to capture younger audiences. He told CNBC "It's clear that the younger consumer engages with [Adidas] predominantly over the mobile device. Digital engagement is key for us – you don't see any TV advertising anymore". Digital retail sales are at the centre of the brand's strategy, which aims to grow revenues from \$1.06 billion in 2016 to \$4.25 billion by 2020.

The preference for digital advertising however is a view not shared by Marcos de Quinto, the chief marketing officer of Coca-Cola, who said that TV advertisements are "critical" to their brand and generate better sales than digital advertisements.

## LinkedIn begins targeted advertising

LinkedIn has rolled out its "Matched Audiences" program, providing advertisers with access to new ad-targeting options. Matched Audiences allows individuals to be targeted based on: their e-mail addresses (many use work addresses on the site); the companies they have worked for; and by different websites they have visited. Marketers are also able to be extremely specific, using LinkedIn's standard targeting options, such as location or job title, together with the Matched Audiences options. LinkedIn's testing showed an increased click-through rate of around 33% through the use of Matched Audiences.

## CAP guidance on media placement restrictions

The Committee of Advertising Practice has issued new guidance to protect children from being targeted with marketing for unsuitable products. The guidance is intended to help the marketers of age-sensitive products to show that they have acted

reasonably and taken appropriate steps to limit the exposure of children to their marketing of age-sensitive products. Age-sensitive products include alcohol, gambling, e-cigarettes and, from July 2017, food and soft drinks high in fat, salt and sugar.

## ASA to review fibre broadband advertising

The ASA is scoping an investigation into the marketing of "fibre broadband" services. This has been prompted by complaints that ISP's advertise services as fibre, when they rely on slower copper wires as the final link to the consumer's home. The ASA has said it will investigate whether the use of the term "fibre broadband" will cause people to be materially misled. The government's view is that the term should only be used to describe services that rely on the faster cables from end to end.

## Who to contact

### JAMES WHITTAKER

Partner

+44 (0)161 934 6329  
07764211276



### REBECCA MOORE

Legal Director

+44 (0)161 934 6673  
07912395558



### DOMINIC MCLEAN

Associate

+44 (0)161 934 6529  
07710857922



10-10504023-1

[addleshawgoddard.com](http://addleshawgoddard.com)

Doha, Dubai, Hong Kong, Leeds, London, Manchester, Muscat, Singapore and Tokyo\*

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