

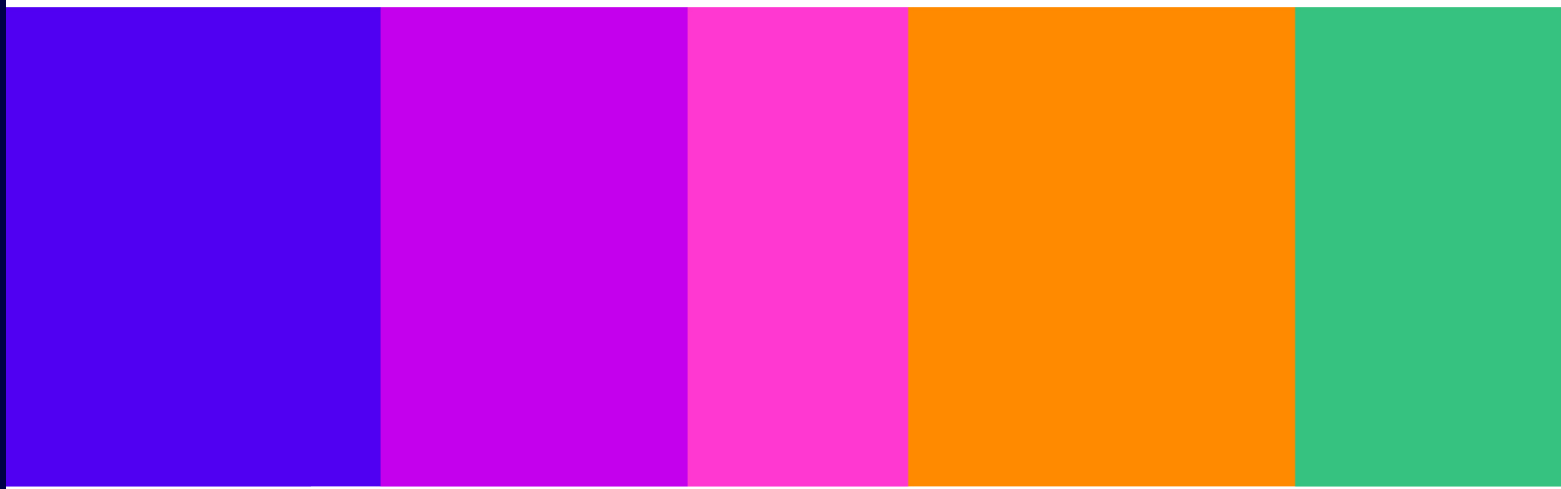
# Renewing the advertising co-regulatory arrangements

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Broadcast, on demand and video-sharing  
platform advertising

**Statement**

Published 14 October 2024



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# 1. Overview

- 1.1 Ofcom has statutory duties relating to the regulation of advertising on TV, radio, on-demand programme services (“ODPS”) and video-sharing platform services (“VSPs”)<sup>1</sup>.
- 1.2 In fulfilling these duties, Ofcom works with the Advertising Standards Authority (“ASA”)<sup>2</sup>. These co-regulatory arrangements involve the ASA regulating advertising on these services on a day-to-day basis, with Ofcom providing a statutory backstop.
- 1.3 The existing co-regulatory arrangements are due to expire at the end of October 2024 (ODPS and VSP) and the beginning of November 2024 (broadcast). Between 7 June and 19 July 2024, Ofcom consulted, via an open letter, on proposals to renew the co-regulatory arrangements<sup>3</sup>.

## What we have decided – in brief

- 1.4 Having taken the consultation responses into account, and for the reasons set out in this Statement, **Ofcom has decided to renew the co-regulatory arrangements with the ASA for broadcast, ODPS and VSP advertising for a further period of ten years, until 31 October 2034.**
- 1.5 This Statement summarises the consultation responses, as well as the reasons for Ofcom’s final decision.
- 1.6 Alongside this Statement<sup>4</sup>, we have published:
  - a) a new Authorisation (“the 2024 Authorisation”) for co-regulatory arrangements for broadcast advertising, which will commence on 3 November 2024, subject to Ofcom and the ASA entering into a Deed of Arrangement setting out the operational arrangements to be agreed between them;
  - b) a new MoU (“the 2024 MoU”) between Ofcom and the ASA, which reflects the day-to-day operation of the renewed broadcast advertising co-regulatory arrangements;
  - c) a new Designation between Ofcom and the ASA, which will commence on 1 November 2024, in relation to the regulation of advertising included in ODPS (“the 2024 ODPS Designation”); and

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<sup>1</sup> Ofcom is also responsible for enforcing the statutory restrictions on the online advertising of less healthy food and drink products. There is a separate co-regulatory arrangement in place with the ASA covering these requirements, which does not form part of this review.

<sup>2</sup> These arrangements encompass the wider ASA system, which includes the ASA as an enforcement body and the Broadcast Committee of Advertising Practice (BCAP) as the body that writes and maintains the broadcast advertising code. We have referred to the ASA throughout this document for simplicity.

<sup>3</sup> [Consultation: Renewing the co-regulatory arrangements for broadcast, on demand and video-sharing platform advertising - Ofcom](#)

<sup>4</sup> These documents will be signed and included on Ofcom’s website (at [Organisations we work with - Ofcom](#)) shortly before they are intended to come into effect.

- d) a new Designation between Ofcom and the ASA, which will commence on 1 November 2024, in relation to the regulation of audiovisual commercial communications included in VSPs (“the 2024 VSP Designation”).

## 2. Introduction

### Background

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- 2.1 Ofcom has statutory responsibility for regulating broadcast (TV and radio) advertising, as well as for advertising on ODPS and VSPs. For broadcast, our duties include setting and enforcing relevant standards to protect audiences from misleading, harmful or offensive advertising. For ODPS and VSP advertising, we are responsible for ensuring that service providers meet certain statutory requirements.
- 2.2 Ofcom has in place co-regulatory arrangements with the Advertising Standards Authority (“ASA”) in relation to these duties. Under these arrangements, the ASA has day-to-day responsibility for regulating advertising on these services, with Ofcom providing a statutory backstop.
- 2.3 These arrangements are underpinned by the principle that it is beneficial for consumers to have a single point of contact for advertising issues across all media, and that a co-regulatory approach to advertising regulation is well suited to managing the convergence of issues across advertising in different media.
- 2.4 The existing co-regulatory arrangements are due to expire at the end of October (ODPS and VSP) and the beginning of November (broadcast). On 7 June 2024, Ofcom published a consultation, via an open letter to the ASA, proposing to renew these arrangements for a further period of ten years, until 31 October 2034.

### Legal framework and existing co-regulatory arrangements

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#### Broadcast

- 2.5 Section 319 of the Communications Act 2003 (“the Act”) requires Ofcom to set, and from time to time review and revise, standards in broadcast advertising. Among other things, the objectives of this duty are to ensure that “persons under the age of 18 are protected”<sup>5</sup>, and to prevent the inclusion of advertising in television and radio services that may be misleading, harmful or offensive<sup>6</sup>. Ofcom also has a duty to establish procedures for the handling and resolution of complaints about the observance of standards set under section 319<sup>7</sup>.
- 2.6 In 2004, Ofcom contracted out certain of its functions relating to broadcast advertising to the ASA for a period of ten years under a scheme of co-regulation. Under an Authorisation (“the 2004 Authorisation”) issued by Ofcom, these functions were split between two bodies – the Broadcast Committee of Advertising Practice Limited (“BCAP”), which became responsible for setting, reviewing and revising the standards code that applied to television and radio advertising, and the Advertising Standards Authority (Broadcast) Limited

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<sup>5</sup> Communications Act 2003 Section 319(2)(a)

<sup>6</sup> Communications Act 2003 Section 319(2)(h)

<sup>7</sup> Communications Act 2003 Section 325(2)

(“ASA(B)”), which became responsible for the processing, handling and resolution of complaints about broadcasters’ compliance with that code. Also under the 2004 Authorisation, the Broadcast Advertising Standards Board of Finance Limited (“basbof”) was designated responsibility for ensuring the functions exercised by BCAP and ASA(B) were appropriately funded.

- 2.7 In addition to the 2004 Authorisation, a Deed of Regulation was agreed by the Parties (i.e. Ofcom and the Co-regulatory Parties operating under the umbrella of the ASA) and a Memorandum of Understanding (“the 2004 MoU”) was established. The 2004 MoU detailed the Parties’ understanding of the day-to-day operation of the co-regulatory system.
- 2.8 Under the terms agreed between the Parties, Ofcom would act as the back-stop regulator: conducting sanctions proceedings against broadcasters who failed to comply with ASA(B)’s rulings; supervise the co-regulators’ performance against a variety of key performance targets; approve proposed changes to the BCAP Code, and retain the right to intervene (in exceptional circumstances), to set such requirements.
- 2.9 When the 2004 Authorisation expired on 1 November 2014, and following consultation, Ofcom renewed the arrangements for a further ten-year period. The current arrangements are due to expire on 2 November 2024.

## On Demand Programme Services (“ODPS”)

- 2.10 The statutory framework for the regulation of ODPS is set out in Part 4A of the Act. Section 368B(1) of the Act confers a power on Ofcom to designate any corporate body, which satisfies criteria set out in section 368B(9) of the Act, to be (to the extent provided for in the designation) the appropriate regulatory authority for the purposes of any provision of Part 4A of the Act<sup>8</sup>.
- 2.11 Following consultation in 2009<sup>9</sup>, Ofcom designated the ASA as the appropriate regulatory authority for certain functions in relation to the regulation of advertising on ODPS. The Designation had effect for a period of ten years, from 1 September 2010.
- 2.12 The original designation expired on 31 August 2020 and Ofcom decided to renew it substantively in the same form from 1 September 2020 until 31 October 2024, in order to align the renewal date with that applying to the co-regulatory arrangements for broadcast advertising<sup>10</sup>.

## Video Sharing Platforms (“VSP”)

- 2.13 The statutory framework for the regulation of VSPs is set out in Part 4B of the Act<sup>11</sup>. Similar to the framework for ODPS, the Act confers functions on Ofcom for the regulation of VSPs and gives Ofcom the power to designate another body as the appropriate regulatory

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<sup>8</sup> For completeness, it should be noted that Section 368B(A1) of the Communications Act 2003 provides that Ofcom is the appropriate regulatory authority in relation to the BBC and that it may not designate any other body for that purpose.

<sup>9</sup> [Proposals for the Regulation of On Demand Services](#) published 14 September 2009

<sup>10</sup> [New Designation between Ofcom and the ASA in relation to the regulation of audiovisual commercial communications included in On Demand Programme Services](#) published 1 September 2020

<sup>11</sup> The statutory framework relevant to VSPs will be repealed when Section 210 of the Online Safety Act 2023 comes into force. For simplicity, Ofcom proposes to renew the VSP Designation for ten years but recognises that any Designation in force will cease to have effect at that point.

authority for the purpose of any provision of Part 4B (subject to that body meeting certain criteria).

- 2.14 The legal framework for regulating advertising on VSPs distinguishes between advertising that is marketed, sold or arranged by VSP providers and advertising that is not. Following consultation, in December 2021<sup>12</sup> Ofcom designated the ASA to administer day-to-day regulation of VSP-controlled advertising – with Ofcom as a statutory backstop regulator. The designation expires on 31 October 2024, again to align dates with those applying to the co-regulatory arrangements for broadcast and ODPS advertising.

## Statutory criteria and principles relevant to co-regulation

### Statutory criteria for designating a co-regulator

- 2.15 As noted above, sections 368B(9) and 368T(9) of the Act require Ofcom to satisfy itself that any body to which we propose to designate regulatory functions relating to the frameworks for ODPS or VSP meets a series of statutory criteria.
- 2.16 In particular, Ofcom may not designate a body unless it is satisfied that the body:
- is a fit and proper body to be designated;
  - has consented to being designated;
  - has access to financial resources that are adequate to ensure the effective performance of its functions as the appropriate regulatory authority;
  - is sufficiently independent of providers of ODPS and VSPs (as appropriate); and
  - will, in performing any function to which the designation relates, have regard in all cases—
    - i) to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
    - ii) to such of the matters mentioned in section 3(4) of the Act as appear to the body to be relevant in the circumstances<sup>13</sup>.

### Principles for analysing self-regulation and co-regulation

- 2.17 Ofcom has also set out principles for analysing self- and co-regulation<sup>14</sup>. These are intended to set a clear framework under which we can consider if and when it may be appropriate to operate a co-regulatory system. Those principles provide that an effective regulatory body should have:
- independent governance and decision-making;
  - clear public accountability;
  - clear regulatory objectives set out in a code;

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<sup>12</sup>Regulation of VSP advertising: [Statement](#) published 7 December 2021

<sup>13</sup> Section 3(4) of the Communications Act 2003 lists 15 matters to which Ofcom (or the ASA, as a designated body) must have regard in performing its duties, where those matters appear to be relevant in the circumstances.

<sup>14</sup> [Identifying Appropriate Regulatory Solutions: Principles for Analysing Self- and Co-regulation](#)

- clear and transparent processes, which are followed;
- workable membership incentives (where relevant) and/or obligations for or on those it regulates;
- secure and sufficiently independent funding and budget control;
- accessibility to those seeking redress;
- genuine powers of investigation; and
- effective powers of enforcement and sanction.

## Remainder of this document

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- 2.18 In **Section 3** of this document, we briefly summarise our proposal to renew the existing co-regulatory arrangements for a further ten years, and relevant stakeholder responses to our consultation.
- 2.19 In **Section 4**, we set out our final decision, including our detailed reasoning.



# 3. Proposal to renew the co-regulatory arrangements

- 3.1 As set out above, the existing co-regulatory arrangements are due to expire at the end of October 2024 (ODPS and VSP) and the beginning of November 2024 (broadcast).
- 3.2 In this section, we provide details of Ofcom’s recent consultation on renewing these co-regulatory arrangements and summarise responses to that consultation.

## Ofcom’s recent consultation

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- 3.3 On 7 June 2024<sup>15</sup>, Ofcom wrote an open letter to Guy Parker, Chief Executive of the ASA, proposing to renew the co-regulatory arrangements for a further ten years.
- 3.4 As well as seeking the ASA’s comments, the letter was published on Ofcom’s website and invited comments on the proposal from interested stakeholders, including members of the public.
- 3.5 The consultation set out the basis for Ofcom’s proposal, noting:
- a) that the co-regulatory arrangements are underpinned by the principle that it is beneficial for consumers to have a single point of contact for advertising issues across all media;
  - b) that a co-regulatory approach to advertising regulation is well suited to managing the convergence of issues between advertising in different media;
  - c) the established co-regulatory system was designed to minimise complexity, and to ensure that statutory regulation and the self-regulatory system complement each other; and
  - d) that Ofcom’s experience of co-regulation with the ASA has been productive and worked effectively to date.
- 3.6 The consultation also included Ofcom’s provisional assessment of the ASA against the statutory criteria for designating a co-regulator (as set out in sections 368T(9) and 368B(9) of the Act) and Ofcom’s Principles for Analysing Self- and Co-regulation.
- 3.7 Ofcom explained in its consultation that, while we were not proposing to make any substantive changes to the current co-regulatory arrangements, we were proposing to update the relevant documents that underpin the arrangements to:
- a) ensure consistency of language and, where appropriate, structure;
  - b) update references to legislation, dates etc; and

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<sup>15</sup> [Proposed renewal of the co-regulatory arrangements for the regulation of broadcast advertising, on demand programme service advertising, and video-sharing platform advertising](#) published 7 June 2024

- c) clarify regulatory processes, and reduce unnecessary administrative burden etc.

Annex 2 to the consultation set out the most notable changes to the ODPS designation, VSP designation, broadcast authorisation and broadcast MoU, alongside an explanation of the proposed changes.

## Overview of consultation responses

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### The ASA

- 3.8 In response to Ofcom’s letter, the ASA said it welcomed Ofcom’s provisional assessment that the current arrangements continue to meet the relevant criteria for co-regulation and that it had “no detailed comments on Ofcom’s proposals...” and looked “forward to [Ofcom’s] decision...”.

### Stakeholder views

- 3.9 Ofcom received submissions from the following stakeholders: The Advertising Association (AA), Channel 4, Cinema Advertising Association (CAA), Internet Advertising Bureau, Incorporated Society for British Advertisers (ISBA), The Institute of Practitioners in Advertising, ITV, Royal National Institute of Blind People (RNIB) and STV.
- 3.10 Respondents overwhelmingly supported the renewal of the co-regulatory arrangements for broadcast, ODPS and VSP advertising. It was clear from responses that the ASA is well-respected and viewed as a competent regulator of advertising standards. Stakeholders highlighted the high level of industry “buy-in” to the ASA system<sup>16</sup>, while noting that the governance and funding structure ensure the ASA is sufficiently independent of industry<sup>17</sup>.
- 3.11 In particular, respondents considered the current system has proven to be an effective, efficient and responsive regulatory framework<sup>18</sup> over the last ten years and that in regulating advertising across broadcast, on-demand and VSPs (and other media), the ASA provides a "one-stop shop" for consumers and a consistent regulatory approach for advertisers operating across multiple channels<sup>19</sup>.
- 3.12 No respondents disagreed with Ofcom’s assessment of the ASA against the statutory criteria and the principles for co-regulation, nor did Ofcom receive any comments specifically on the proposed changes to the documents that underpin the co-regulatory arrangements.
- 3.13 The AA noted that “the ASA has successfully regulated broadcast advertising since 2004 and on-demand advertising since 2009. Its extension to video sharing platforms in 2021 demonstrates the system's ability to adapt to new media environments. This long-standing experience provides continuity and stability for both consumers and the advertising industry”.
- 3.14 Respondents highlighted that the ASA’s focus on advertising regulation has allowed it to develop significant expertise. ISBA commented that the co-regulatory system has “an

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<sup>16</sup> AA

<sup>17</sup> ISBA, STV

<sup>18</sup> AA

<sup>19</sup> AA, CAA

inbuilt flexibility which allows it to be agile and adapt to meet the challenges of a rapidly evolving and innovative market. We see this dynamism is one of the strengths of the current world-leading ASA self- and co-regulatory system”.

- 3.15 The RNIB did not object to the renewal of the co-regulatory arrangements but highlighted the requirements of the Equality Act 2010. It submitted that the provision of accessibility guidance should be a requirement of the co-regulatory arrangements.

## 4. Ofcom's decision

- 4.1 For the reasons set out below, Ofcom has decided to renew the co-regulatory arrangements with the ASA for broadcast, ODPS and VSP advertising for a further period of ten years.
- 4.2 The arrangements will commence on 1 November 2024 (ODPS and VSP) and 3 November (broadcasting), and expire on 31 October 2034, unless terminated earlier.

### Ofcom's statutory criteria for designating a co-regulator

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- 4.3 Ofcom remains of the view that the ASA satisfies each of the statutory criteria set out in sections 368T(9) and 368B(9) of the Act. No respondents challenged Ofcom's provisional view on this point, and overwhelmingly endorsed Ofcom's proposal to renew the existing co-regulatory arrangements.
- 4.4 Taking each of the statutory criteria in turn:
- a) **Fit and Proper:** the ASA has extensive experience in co-regulating advertising with Ofcom, which we consider demonstrates that it is fit and proper to be designated. We also note the ASA's experience of regulating advertising under the self-regulatory system, which we consider further demonstrates that it is fit and proper to be designated.
  - b) **ASA Consent:** the ASA has indicated its willingness for the co-regulatory arrangements to continue.
  - c) **Adequate finance:** the ASA's funding for advertising regulation is primarily from levies on advertising collected by the independent bodies, basbof and the Advertising Standards Board of Finance (asbof). This levy funding enables the ASA's regulatory activities, including complaints-handling and investigations, as well as supporting its pre-publication advice service to advertisers, agencies and the media. The ASA also receives some income from seminars and advice services it offers. Under the existing co-regulatory arrangements between Ofcom and the ASA, the ASA reports regularly to Ofcom on its performance, including its financial position.
  - d) **Independence:** the ASA is a limited company, independent of the Government and the advertising sector. The Chair of the ASA, who leads the ASA Council (the ASA's adjudicating body) is appointed by asbof and basbof and is also unconnected with Ofcom, industry and Government. All ASA Council members sit as individuals and are recruited through an open recruitment process, for a maximum of two three-year terms. A majority of members are independent of industry and the remaining members have a recent or current knowledge of the industry.

In addition, ASA Council decisions are subject to an independent review process under which an Independent Reviewer can be asked to reconsider a ruling. This process is

open to advertisers, complainants, broadcasters, ODPS and VSP providers. The Independent Reviewer is not part of the ASA Executive or the ASA Council.

In considering the ASA's independence, we also take into account the ASA's funding structure. As set out above, the ASA is funded through an arm's length arrangement based on charging a levy on the cost of advertising space, to ensure that it is sufficiently independent of industry and Government. As the levy is collected by asbof and basbof, the ASA is unaware of who is paying the levy or how much they are paying.

- e) **Adherence to regulatory principles:** the ASA's experience of co-regulating broadcast, ODPS and VSP advertising demonstrates that it is clearly capable of having regard to appropriate regulatory principles.
- 4.5 Further to the above, we are not aware of any substantive changes over the period since the ASA was last designated that could lead to concerns over the ASA's fitness and properness, willingness to be designated, access to adequate financial resources (including for regulating ODPS or VSP services), independence (including from ODPS and VSP providers), or adherence to the relevant regulatory principles.
- 4.6 The ASA has reported to Ofcom annually on its regulation of broadcast, ODPS and VSP advertising and neither Ofcom nor the ASA has, since the last renewal of the relevant co-regulatory arrangements, identified any issues which have warranted statutory intervention by Ofcom.
- 4.7 In light of the above, we are satisfied that the ASA meets the statutory designation criteria.

## Principles for analysing self-regulation and co-regulation

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- 4.8 Some of these principles overlap with the statutory designation criteria considered above but, for completeness, we conducted an assessment of our proposal to renew the co-regulatory arrangements for broadcast, ODPS and VSP advertising against these principles.
- 4.9 Taking each of the principles in turn:
  - a) **Independent governance and decision-making:** as reflected under the statutory criteria considerations above, the ASA is independent of both Government and industry and has a transparent governance structure. The ASA Council is appointed by the ASA Chair and has a majority of members who are independent of industry. The Council will consider the recommendations of the ASA but is free to come to its own conclusion.
  - b) **Clear public accountability:** the ASA publishes details of its rulings (i.e. the outcome of its investigations) into broadcast, ODPS and VSP advertising (as well as advertising in other media, on a self-regulatory basis). It also publishes an annual statement that includes an evaluation of its performance under key performance indicators ("KPIs"), such as the number of complaints received and resolved. Renewed co-regulatory arrangements would include requirements that:
    - i) The ASA will continue to report its rulings on a regular basis and that this information will be publicly available.

- ii) The ASA will continue to provide Ofcom with performance data against a range of KPIs regarding its complaints-handling arrangements, which are set out in the MoU for broadcast advertising and in the ODPS and VSP Designations.
- iii) The co-regulatory arrangements be reviewed in ten years (2034) and provide scope for review before that time if appropriate.
- c) **Clear regulatory objectives set out in a code:** under the renewed arrangements, the ASA would ensure that the relevant statutory requirements are reflected appropriately in the CAP and BCAP Codes.
- d) **Clear and transparent processes, which are followed:** the ASA's current processes for investigating and adjudicating on complaints about advertising are described in its Complaint Handling Procedures available on its website<sup>20</sup>. The ASA's website also contains information for consumers on how to complain.
- e) **Workable membership incentives (where relevant) and/or other obligations for or on those it regulates:** the ASA system has a high level of buy-in from the advertising industry, as well as involvement from online platforms. As noted in our recent consultation, Ofcom recently consulted on designating the ASA as co-regulator for the regulation of online advertising of less healthy food and drink products, which involved a careful assessment of the ASA against the relevant criteria. There was a high level of support from stakeholders for this proposal.
- f) **Secure and sufficiently independent funding and budget control:** as set out above in relation to the statutory designation criteria, the ASA's funding system is structured so as to ensure its independence.
- g) **Accessibility to those seeking redress:** the ASA's public profile as the established regulator for advertising across all media makes it a suitable body to continue to regulate broadcast, ODPS and VSP advertising. It provides information to consumers on how the regulatory system works via its website, including setting out its current processes for investigating and adjudicating on complaints in its published Complaint Handling Procedures. As noted above, the ASA retains an Independent Reviewer<sup>21</sup>, who reviews decisions made by the ASA Council, and considers appeals about the conduct of ASA investigations.
- h) **Genuine powers of investigation:** renewing the co-regulatory arrangement for broadcast advertising and the ODPS and VSPs designations would provide the ASA with the ability to find the regulated party in breach of the relevant rule(s).
- i) **Effective powers of enforcement and sanction:** the ASA has established approaches to compliance including prohibiting adverts and particular advertising techniques. Based on the ASA's experience, Ofcom is confident that it operates appropriate enforcement processes. In any event, Ofcom would retain the power to carry out its own investigations, where appropriate, as well as the power to issue enforcement

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<sup>20</sup> ASA's [Broadcast Complaint Handling Procedures](#) and [Non-Broadcast Complaint Handling Procedures](#)

<sup>21</sup> [ASA's Independent Review Process](#)

notifications or impose financial penalties on regulated parties who failed to comply with the relevant restrictions. This model, where the ASA acts as the frontline regulator and Ofcom provides a statutory backstop, has proven to work well in our broadcast, ODPS and VSP co-regulatory arrangements to date. Neither Ofcom nor the ASA has, since the last renewal of the relevant co-regulatory arrangements, identified any issues which have warranted statutory intervention by Ofcom.

- 4.10 Again, no respondents disagreed with Ofcom’s assessment that the co-regulatory arrangements align with the Principles. Ofcom remains of the view that the current co-regulatory arrangements satisfactorily reflect each of Ofcom’s principles for analysing self-regulation and co-regulation.

## Other matters

- 4.11 A set out in paragraph 3.15, the RNIB highlighted the accessibility of advertising. It called on Ofcom to require the ASA to make the provision of accessibility guidelines a requirement of the co-regulatory arrangements.
- 4.12 The RNIB’s response does not call into question our proposed renewal of the co-regulatory arrangements between Ofcom and the ASA but relates specifically to accessibility requirements for advertising.
- 4.13 Ofcom does not agree with RNIB’s suggestion that it would be a failure by Ofcom to comply with its public sector equality duty if it renews the co-regulatory arrangements without requiring the ASA to provide accessibility guidance. Although we are required – when exercising our functions – to have regard to the needs of persons with disabilities<sup>22</sup> and the need to advance equality of opportunity<sup>23</sup>, these do not provide Ofcom (or the ASA through co-regulatory arrangements) with a duty (or power) to impose accessibility requirements for broadcast, VSP or ODPS advertising. Further, although Ofcom has specific statutory duties in relation to TV access services, these exclude advertising<sup>24</sup>.
- 4.14 Notwithstanding the above, we are keen to support accessibility and will engage with the ASA on how the co-regulatory system might help promote greater access for people with sight loss and people with a hearing impairment.

## Impact Assessment

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- 4.15 The consultation document and this Statement set out our view as to why renewal of the co-regulatory arrangements will have a positive impact on Ofcom's statutory functions and duties, particularly as compared to the alternative of Ofcom (or another body) taking over day-to-day regulation of advertising on broadcast, ODPS and VSP.
- 4.16 We consider that there are clear benefits for citizens and consumers, as well as other stakeholders (such as advertisers, broadcasters, ODPS and VSP providers); not least by the provision of an effective and single point of contact for advertising matters, which is well suited to manage the convergence of issues across advertising in different media. Our

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<sup>22</sup> Communications Act 2003 Section 3(4)(i)

<sup>23</sup> Equalities Act 2010 Section 149

<sup>24</sup> Communications Act 2003 Section 303(13)

decision will maintain the status quo, on which consultation responses have been overwhelmingly supportive.

- 4.17 We also do not consider our decision to renew the co-regulatory arrangements will have any equality implications or different impacts on specific groups of persons. We note that Ofcom received no representations from stakeholders concerning issues of equality or other impacts<sup>25</sup>.

## Final documents

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- 4.18 As noted in Section 3, Ofcom explained in its consultation that – while we were not proposing to make any substantive changes to the current co-regulatory arrangements – we were proposing to update the relevant documents that underpin the arrangements. Annex 2 of the consultation set out the most notable changes to the ODPS designation, VSP designation, broadcast authorisation and broadcast MoU, alongside an explanation of the proposed changes.
- 4.19 As no stakeholders commented on the changes summarised in Annex 2 of our consultation (and in light of our decision to renew the co-regulatory arrangements), we have decided to proceed to make these updates to the relevant documents.
- 4.20 Alongside this Statement, Ofcom has published:
- a) a new Authorisation for co-regulatory arrangements for broadcast advertising, which is subject to the Parties entering into a Deed of Arrangement setting out the operational arrangements to be agreed between them;
  - b) a new MoU, which reflects the practices agreed by Ofcom and the ASA on the day-to-day co-regulation of broadcast advertising;
  - c) a new Designation between Ofcom and the ASA in relation to the regulation of advertising included in ODPS; and
  - d) a new Designation between Ofcom and the ASA in relation to the regulation of audiovisual commercial communications included in VSPs.

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<sup>25</sup> As discussed above, RNIB drew Ofcom’s attention to the needs of partially sighted and blind people in its consultation response, and called for Ofcom to require the ASA to make the provision of accessibility guidelines a requirement of the co-regulatory arrangements. RNIB did not however call into question our proposed renewal of the co-regulatory arrangements, nor did it suggest that the renewal itself would have an adverse impact on disabled persons.