

IAB UK response to DCMS review of online advertising call for evidence

1 May 2020

Background

IAB UK is the trade association for digital advertising, made up of over 1,200 of the UK's leading media owners, advertising technology providers, agencies and brands. We have a [Board](#) comprised of 25 leading businesses in the sector. Our purpose is to build a sustainable future for digital advertising, a market that was worth £15.69bn in the UK in 2019.

The IAB is actively engaged in working towards the optimal policy and regulatory environment to support a sustainable future for digital advertising. We also develop and promote good practice to ensure a responsible medium.

A note on COVID-19

The COVID-19 pandemic began impacting businesses from March 2020 in the UK. The global outbreak is likely to have significant impact on all industries, particularly ones like digital advertising that are cross-border in their nature and highly susceptible to global economic trends.

The majority of the information provided in this consultation response, setting out the structures of regulation that exist in the online advertising industry, will not be altered by the pandemic. However, it is worth noting that this consultation response has been written before the likely significant domestic or global impacts of the pandemic on the industry or the economy have been fully realised or measured.

Benefits and challenges of online advertising

Paid for / non-paid for advertising

1. It is worth clarifying that 'online advertising' is a broad term that refers to both 'paid for' advertising and 'non-paid for' advertising. 'Paid for' advertising includes much of what would most obviously be considered online advertising, such as banners, pre-rolls, 'pay per click' ads on search engines, 'promoted' social media posts and 'preferential' listings on independent price comparison websites. In contrast, 'non-paid for' advertising online includes claims on a brand's own website or in other non-paid for space online under the brand's control (e.g. their social media accounts and apps).
2. The IAB's membership is primarily made up of organisations operating in the paid-for advertising space. Whilst the IAB's consultation response will therefore primarily focus on paid-for advertising, it is worth being aware of the distinction between this and non-paid for

advertising, such as claims made by advertisers on their own websites or through social media accounts that they control.

Q1. Is there any evidence that you would like to provide on the overall benefits, and/or challenges, associated with online advertising to individuals, businesses and/or society, which you believe is not being considered as part of the CMA Market Study into Online Advertising and Digital Platforms, the CDEI reviews into online targeting and bias in algorithmic decision-making, or any other recent reviews that are relevant?

Benefits to individuals

Value of the internet

3. Advertising-funded online models allow consumers the ability to access products and services they value highly without paying to access them. Whether it's using an online map, reading a newspaper app or communicating with friends or family, the internet is an intrinsic and invaluable part of most people's daily lives in the UK: in 2019, 91% of the UK population recently used the internet, rising to 99% amongst 16-44 year olds¹. Those consumers also view the internet as crucial to their lives. In a poll of 1,013 UK adults carried out by Sparkler for IAB UK in November 2018, 69% of respondents said they are dependent on online services and apps, 74% agreed that the internet has made their lives better and 60% of 25-35 year olds believed the internet is as essential to them as utilities like electricity or running water². Research firm Kantar Public in 2017 found that 71% of all adult internet users in the UK had used price comparison websites within the last year³, selecting or switching to the most competitively-priced service, product or utility, and helping them make significant savings to their household budget. Websites like this and vast numbers of others providing digital services and content to consumers for free are able to do so because of the advertising-funded model through which they are operating. It is the bedrock of the free internet; unlimited access to a wealth of resources in exchange for being served advertising.

Value of a free-to-access internet

4. Evidence indicates that consumers are comfortable with that value exchange. In the same 2018 Sparkler poll, 89% of people said that they would prefer to have free access to an ad-funded internet than have to pay for online services, with 84% saying they would be "furious" if they had to pay every time they used an online service. Of the things that consumers find

¹ Internet users, UK: 2019, Office of National Statistics

<https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2019>

² Consumer attitudes towards digital advertising, 2018, IAB UK <https://www.iabuk.com/research/consumer-attitudes-towards-digital-advertising>

³ Digital Comparison Tools: Consumer Research - Final report, 2017, Kantar Public

<https://assets.publishing.service.gov.uk/media/58e224f5e5274a06b3000099/dcts-consumer-research-final-report.pdf>

annoying online, the research suggested slow connection speeds topped the list, with only 4% mentioning advertising⁴.

Value of targeted advertising

5. While being comfortable with the existence of advertising online, various studies have shown that consumers also value seeing advertising that is relevant to them over that which is not. The 2018 Sparkler research showed that 50% of respondents agreed that online advertising can be useful to them. Research conducted by consumer group Which? has suggested that people prefer targeted advertising to non-targeted advertising, and personalised discounts to generic discounts, because they feel they are more likely to use and benefit from them⁵. A survey carried out by Harris Interactive suggested that 54% of UK adults questioned preferred to see adverts on websites that were relevant to them rather than seemingly random adverts⁶.
6. Research by Which? in 2018 found that ‘most people feel that the targeting and tailoring of adverts and recommendations is positive, as it enhances services by increasing the relevance of the content they are shown’, and that most consumers felt that ‘targeted adverts and recommendations were innocuous’ rather than irritating or overly intrusive⁷.
7. Finally, polling done by the Centre for Data Ethics and Innovation suggests that, whilst consumers desire more understanding and control of how online targeting operates, there remains ‘broad support for a range of uses of online targeting, with 54% of respondents finding the personalisation of online adverts acceptable’⁸.

Benefits to businesses

Audience targeting and exclusion

8. Digital advertising enables advertisers to deliver the right advert, to the right audience, at the right time. ‘Behavioural’ or ‘interest-based’ advertising provides brands with the ability to reach for audiences that are likely to find the content of their advert of interest, irrespective of where the user is online (for example, a consumer whose browsing activity suggests they may be in the market for a holiday despite currently reading content on a recipe website). Online advertising allows brands to both target and reach wider or more specialist audiences that would be difficult to reach in a targeted way through other media.

⁴ ‘Which of the following is the most annoying to you when you’re online?’, Q27, Consumer attitudes towards digital advertising, 2018, IAB UK https://www.iabuk.com/system/files/member_files/consumer-attitudes-to-digital-advertising.pdf

⁵ Control, Alt or Delete? Consumer research on attitudes to data collection and use, 2018, Which? <https://britainthinks.com/pdfs/Consumer-Data-Research-report.pdf>

⁶ Adtech Market Research Report, 2019, Harris Interactive https://www.ofcom.org.uk/__data/assets/pdf_file/0023/141683/ico-adtech-research.pdf

⁷ Control, Alt or Delete? The future of consumer data, 2018, Which? <https://www.which.co.uk/policy/digitisation/2659/control-alt-or-delete-the-future-of-consumer-data-main-report>

⁸ Review of online targeting: Final report and recommendations, 2019, Centre for Data Ethics and Innovation https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864167/CDEJ7836-Review-of-Online-Targeting-05022020.pdf

9. Digital advertising and digital technology offer sophisticated methods for advertisers to target and also to exclude people from seeing particular adverts using a combination of first party, third party and inferred data. These techniques are used for both commercial purposes, to deliver relevant advertising to the right audience in the most effective and efficient way for brands, and also to meet the relevant regulatory or legislative requirements. The more accurately a brand is able to target or exclude a specific audience from seeing its advertising, the more efficient and effective their advertising campaigns are likely to be.

Effectiveness

10. This ability to reach broad audiences in a targeted manner means digital advertising is effective at delivering value for businesses. A study of 440 companies by McKinsey in 2012 found that digital media provided many benefits for the average company, contributing 16% to profitability, 25% to revenue growth, and 30% to gains in market share⁹. The research found that 55% of the increased revenue resulting from digital advertising came from an increase in market share, with the remainder coming from new business or better margins.
11. In 2018, IAB UK commissioned analysis to be carried out of 675 digital advertising campaigns over a nine-year period, to test the average effectiveness of online ad campaigns, via four different metrics. The resulting analysis showed that on average, online display advertising was effective across all the metrics measured: raising brand awareness by up to 12%, positively shifting brand perceptions by 2%, educating people about a brand by 2% and driving purchase intent by 3%¹⁰. The analysis also showed that digital banners and digital videos are both effective formats, and campaigns can be effective using either single or multiple creatives.
12. Separately, in 2017 the IAB also published the findings of a year-long study testing the effectiveness of the digital advertising campaigns of nine consumer goods brands, comparing the purchasing behaviour of consumers who received online advertising for the brands to the purchasing behaviour of consumers who did not. The results of the study showed that every £1 spent on online display advertising delivered an average of £1.94 in sales across all supermarkets, with one brand seeing a £3.38 return¹¹. Digital advertising has been shown to provide value to advertisers, both on its own and as one part of cross-media advertising campaigns.

Lower barriers to entry for advertisers

13. As noted by the Advertising Association, small and medium-sized enterprises (SMEs) generate nearly 40% of UK economic turnover but they contribute only 18% of advertising spend, with

⁹ Advertising as an economic-growth engine: The new power of media in the digital age, 2012, McKinsey & Co https://www.iab-austria.at/wp-content/uploads/2013/03/2012_McKinsey_advertising-role-in-growth.pdf

¹⁰ IAB UK analysis demonstrates digital display is effective across all metrics, 2018, IAB UK <https://www.iabuk.com/press-release/iab-uk-analysis-demonstrates-digital-display-effective-across-all-metrics>

¹¹ Sainsbury's, Unilever and Nestlé study reveals ROI of online ads, 2017, IAB UK <https://www.iabuk.com/press-release/sainsburys-unilever-and-nestle-study-reveals-roi-online-ads>

many choosing to limit their advertising expenditure ‘because of concerns over cost’¹². Digital advertising can be less costly than advertising through many other forms of media, and therefore has lower barriers to entry for small businesses. This is partly due to an infinite supply of inventory online bringing costs down, the ability to run very small campaigns for small audiences without the need to buy a fixed or minimum amount of media, and some forms of digital advertising such as performance or affiliate marketing only requiring payment if the advertising delivers results. These low costs enable SMEs to access a far larger audience than they would otherwise be able to reach, with a 2010 study of the effectiveness of targeted online advertising concluding that, when bidding for targeted advertising impressions, ‘small advertisers are generally better off under behavioral targeting’¹³.

14. The low barriers to entry for advertising online have also enabled new business models to emerge and flourish in the UK, with ‘direct to consumer’ (DtC) brands being one notable example examined recently by IAB UK¹⁴. Many new DtC businesses rely on digital sales and have built their brands through online advertising, which allows them to reach a wide and often specialist customer base and scale rapidly, especially in the early stages of their growth. The flexibility offered by online advertising allows these companies to take a fiercely data-driven approach to their marketing, measuring the impact of their online advertising and letting the results lead their product development decisions. Leading DtC brands test all advertising creative, copy and promotions on a small scale before committing spend to those that are most successful at achieving their goals. Online advertising channels, with their targeting capabilities and ability to adjust spend quickly, are an ideal testbed for new messages and ideas before they are committed to.

Value to publishers

15. ‘Programmatic’ trading employs data and technology to streamline and simplify the process of buying and selling digital advertising placements and to help make advertising more efficient and effective. This includes, but is not limited to, trading that uses real-time bidding auctions (RTB).
16. Publishers can choose whether or not to sell their ad inventory programmatically, and within that, whether to sell their inventory directly or indirectly.
17. There are, however, several benefits to selling programmatically. One of the most significant benefits is that publishers are able to monetise inventory that they weren’t able to before, or wouldn’t otherwise be able to manage selling manually. It also makes inventory available to a far larger number of buyers and more bids per impression drives up yield. Programmatic technology enables publishers to make more inventory available for sale and in real time, according to supply levels, rather than having to forecast how much they may have available

¹² Advertising Pays 2: How advertising can unlock UK growth potential, 2014, Advertising Association
<http://www.adassoc.org.uk/wp-content/uploads/2014/09/Advertising-Pays-2-How-advertising-can-unlock-UK-growth-potential.pdf>

¹³ An Economic Analysis of Online Advertising Using Behavioral Targeting, MIS Quarterly, 38(2), 429-449, 2014, p.35 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1787608

¹⁴ Born Online: Unwrapping the Direct to Consumer brands reshaping retail, 2018, IAB UK
<https://www.iabuk.com/bornonline>

and sell it in advance, thereby helping them to monetise short-term spikes in traffic (that might arise from a big breaking news story, for example).

18. Managing the selling of all inventory manually would be extremely difficult, and would require large physical sales teams, all of which would carry significant costs – greater costs than the cost of selling programmatically.
19. Selling programmatically also enables publishers to sell inventory that they may not have been able to previously because it wasn't considered to be valuable (e.g. because of its position on the page), whereas through the programmatic supply chain such ad space can be sold on the basis of how well the audience of that space meets buyers' criteria, rather than being left empty. Similarly, through RTB publishers can monetise the inventory they haven't otherwise been able to sell by making it available on the open market to buyers who are looking to target on the basis of the audience, rather than the publisher or the content, which again means that publishers can sell ad space on this basis that the buyer may not have otherwise bought on the basis of other factors.
20. A further innovation in the digital advertising market has helped to ensure that publishers are being paid the right price for their advertising inventory. Header Bidding is a process that allows marketers to bid for inventory that would have previously been reserved for direct bookings only, for example because it is considered to be premium and therefore of high value. If the publisher can make a better price selling an impression programmatically, then their ad server will make the decision automatically to do so, rather than using the space for the lower-value direct booking.
21. There are some drawbacks to news publishers from selling their inventory programmatically, which are largely based on the fact that inventory is priced and bought on a wider range of factors than the perceived 'value' of a quality news environment to an advertiser, which in the past would have been a key selling point and something that advertisers would have a premium for. There is clearly also more competition, as buyers can look across a huge number of sources of supply of advertising space at one time.

Benefits to society

Economic benefit

22. The UK digital advertising market is a huge success story, which was worth £15.69 billion in 2019¹⁵ (n.b. these figures do not take into account the huge impact that the COVID-19 pandemic is already having on the market). The market contributes directly to the economy; every £1 spent on advertising contributes £6 to GDP¹⁶. The UK ad tech sector comprises of more than 300 UK-headquartered companies, attracting more than £1 billion in investment since 2013 and employing over 19,000 UK workers, almost four times as many as the largest

¹⁵ 2019 IAB / PwC Digital Adspend Study, 2020, IAB UK <https://www.iabuk.com/adspend>

¹⁶ Advertising Pays 6: World class talent, world class advertising, 2018, Advertising Association <https://www.adassoc.org.uk/wp-content/uploads/2019/01/p222-15108-advertising-pays-6-world-class-talent-world-class-advertising.pdf>

advertising tech platforms in the UK combined¹⁷. McKinsey research has estimated that digital advertising contributed 10% to economic growth in the G20 countries from 2008-2010¹⁸.

23. Crucially, advertising also helps to fund digital content and services, such as news. Over half of all advertising spend in the UK is now spent online¹⁹, and the UK leads Europe: our digital advertising market is larger than the next three combined²⁰.

Free-to-access information, services and content

24. As mentioned above, most people now rely on digital services every day, and they are able to access many of these for free because of advertising. Alternative funding models for many digital services or products include paid-for subscriptions or requesting contributions. Some people can afford to pay for multiple subscriptions for online information, products or services, but many people are unable to afford this and IAB research shows that the vast majority don't want to pay for them: as referenced above, a Sparkler survey found that 89% people prefer to have free access to an ad-funded internet than have to pay for online services²¹.
25. Advertising therefore has a democratising impact on the internet. It allows all users to access a limitless breadth of information for free, as well as products and services on which they rely and often, according to the same Sparkler research, consider to be as essential to them as utilities like electricity or running water²².

Challenges for online advertising

26. The IAB shares the Government's ambition to make the UK the best and safest place for online advertising. Following the launch of the Government's Digital Charter, the IAB worked with industry, under the auspices of the Advertising Association, to identify areas where the Government could support industry efforts to tackle some of the issues that threaten to undermine consumer and business trust in digital advertising. These are set out fully in the Advertising Association's 'Proposals to Government' report²³, but can be summarised as:

¹⁷ Advertising Pays 7: UK advertising's digital revolution, 2019, Advertising Association

<https://www.adassoc.org.uk/wp-content/uploads/2019/06/Ad-Pays-7-UK-Advertisings-Digital-Revolution-compressed.pdf>

¹⁸ Advertising as an economic-growth engine: The new power of media in the digital age, 2012, McKinsey & Co

https://www.iab-austria.at/wp-content/uploads/2013/03/2012_McKinsey_advertising-role-in-growth.pdf

¹⁹ 2018 UK advertising spend hits £23.6bn following nine years of growth, 2019, Advertising Association

<https://www.adassoc.org.uk/resource/2018-uk-advertising-spend-hits-23-6bn-following-nine-years-of-growth/>

²⁰ Advertising Pays 7: UK advertising's digital revolution, 2019, Advertising Association

<https://www.adassoc.org.uk/wp-content/uploads/2019/06/Ad-Pays-7-UK-Advertisings-Digital-Revolution-compressed.pdf>

²¹ Consumer attitudes towards digital advertising, 2018, IAB UK <https://www.iabuk.com/research/consumer-attitudes-towards-digital-advertising>

²² Consumer attitudes towards digital advertising, 2018, IAB UK <https://www.iabuk.com/research/consumer-attitudes-towards-digital-advertising>

²³ Digital Charter: Advertising Association proposals to Government, 2017 https://www.adassoc.org.uk/wp-content/uploads/2017/12/AA_Digital_Charter_2017_SinglePages_15.11.17.pdf

- *Ad fraud*: ensure appropriate law enforcement action is taken against criminals who abuse the digital advertising ecosystem for financial gain
- *Ad misplacement*: support existing initiatives and encourage compliance with industry standards and good practice (e.g. the JICWEBS DTSG Brand Safety Good Practice Principles)
- *Ad blocking*: maintain equivalence with the EU ‘net neutrality’ rules post-Brexit; recognise the value of the ad-funded business model, which supports the development and provision of digital services, content, and apps; support publisher efforts and wider industry work to improve the ad-funded experience online through the Coalition for Better Ads
- *Data privacy*: prioritise an EU data adequacy decision to safeguard the free flow of personal data from the EEA to the UK

Data regulation harmonisation

27. Additionally, IAB UK is keen to develop industry approaches to data protection and privacy compliance that can be applied in a harmonised way at EEA level, to maintain the consistency envisaged by the GDPR. At the present time, there is fragmentation and competing interpretations of key elements of GDPR among national Data Protection Authorities (DPAs), which slows down and holds back standard-setting initiatives, especially in such a highly interconnected ecosystem as digital media and its supporting technologies.
28. Harmonising regulatory approaches across the UK and the EEA will make it easier for companies that operate across Europe and globally to comply with the GDPR and to reduce non-compliance. Conversely, fragmentation will have the opposite effect and has the potential to be exploited by less scrupulous market participants.

The existing system of oversight and regulation

Q2. To what extent are consumers exposed to harm by the content and placement of online advertising?

29. Consumers can be exposed to harm by scam advertising used by criminals and bad actors. Scam or malicious advertising often takes the form of presenting itself as legitimate advertising when in fact it exists as advertising that has been created and paid for by criminals, often with the intention of scamming consumers into phoney and fraudulent financial investments, or to push malware attacks to consumers.
30. Ads of this nature are highly likely to be symptomatic of underlying illegal activities (for example, financial fraud or contravening consumer protection law). While self-regulation engages responsible companies, this illegitimate advertising ultimately presents a law enforcement issue, as the activities that the ads are being produced to advance are criminal and the ads themselves are a tool or by-product of this criminal activity. The Financial Conduct Authority’s (FCA) ScamSmart tool advises consumers to ensure investment opportunities are legitimate by taking various precautions including checking the FCA register of authorised

firms, Companies House and the FCA Warning List²⁴. The IAB is actively considering actions that its members could take to help reduce the occurrences of financial scam ads where they are identified by the ASA. However, the advertising industry cannot itself prevent the underlying unlawful activity.

Q3. How effective are the current governance and regulatory system for online advertising in the UK, including:

a. the self-regulatory system governing content and placement standards, which operates through the provision of a complaints system and technology-assisted monitoring and enforcement interventions;

Statutory regulation

31. Online advertising in the UK is not only governed by an extensive set of self-regulatory initiatives, but is also subject to various pieces of statutory regulation. In the UK, the use of data is regulated by the Information Commissioner's Office (ICO), which enforces the statutory requirements set out in the General Data Protection Regulation (GDPR), Privacy and Electronic Communications Regulations (PECR) and the UK's Data Protection Act 2018. The Competition and Markets Authority (CMA) enforces the statutory requirements of the Consumer Protection from Unfair Trading Regulations 2008, and Trading Standards acts as the legal backstop for the industry's formal system of self-regulation of advertising content and placement (the CAP/ASA system)²⁵.
32. Additionally, brands must comply with legislation specific to the products or services they are advertising. For instance, the Financial Services and Markets Act 2000 includes requirements for the marketing communications of various financial products and services, and brands' compliance with these requirements is enforced by the FCA²⁶. For the advertising of medical or pharmaceutical products, the Medicines and Healthcare Products Regulatory Agency (MHRA) is the regulator²⁷.
33. Self-regulation and industry initiatives supplement this legislation and are effective at filling the gaps where the law does not or cannot reach, often going beyond what the law requires.

Self-regulation

34. The UK's self-regulatory framework for advertising is based on the rules set out in the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing.

²⁴ FCA ScamSmart <https://www.fca.org.uk/scamsmart/online-trading-scams>

²⁵ Making ads responsible: How we enforce the advertising rules, ASA <https://www.asa.org.uk/asset/447A954A-A36D-4FEE-A9DCCC72DB35E66F/>

²⁶ Financial promotions and adverts, FCA <https://www.fca.org.uk/firms/financial-promotions-adverts>

²⁷ Marketing authorisations, variations and licensing guidance, MHRA <https://www.gov.uk/topic/medicines-medical-devices-blood/marketing-authorisations-variations-licensing>

35. This Code is written and maintained by the Committee of Advertising Practice (CAP) which is made up of representatives of advertisers, agencies, media owners and other industry groups. IAB UK is a member of CAP, representing the digital advertising industry.
36. The CAP Code's scope covers advertising in all non-broadcast media (the equivalent rules for broadcast advertising are set out in the BCAP Code) including digital advertising in paid-for space or non-paid for space under a marketer's control (e.g. display, search, content and native and out-of-home). The Code must be followed by all advertisers, agencies and media. The CAP Code covers what can (or cannot) be advertised, to whom, where and how. It includes general rules that require advertising to be responsible and not cause offence or fear, mislead or exploit a consumer, as well as specific rules for certain products and services. There are also strict rules covering advertising to children. The Code is regularly updated to reflect new legislation, concerns and technology, something which its non-statutory footing enables it to do with far more speed and agility than a statutory Code would allow. This is particularly valuable in a fast-moving industry like digital advertising, with where new technologies, companies and business models develop swiftly.
37. The Advertising Standards Authority (ASA) is the independent body that enforces the CAP Code and deals with complaints about advertising. Established by CAP in 1962, the ASA aims to ensure that advertising across all media is 'legal, decent, honest and truthful'. Its remit was extended in 2011 to cover online marketing communications on organisations' own websites and in other non-paid-for space under their control, such as social media.
38. The CAP Code assigns primary responsibility for advertising content and decisions about targeting to the advertiser, whilst engaging media owners, for example, to help enforce ASA adjudications and terminate non-compliant advertising campaigns where an advertiser fails to act, or engaging advertising intermediaries to surface evidence to aid investigations into breaches of the Code. The system ensures that industry has a strong stake in maintaining a robust and effective system to ensure a high level of consumer trust.
39. Unlike a statutory regulator that would be paid for by the public via government, this system is free to the taxpayer, funded instead by industry itself, through a levy on UK ad spend which is collected by the Advertising Standards Board of Finance (ASBOF).
40. This system of self-regulation, funded by industry and recognised as effective by government, has a strong history of developing and adapting quickly to new challenges created by emerging technologies and advertising formats.

Effectiveness of the ASA

41. The Government has repeatedly stated its view that the UK's current system of advertising self-regulation is effective and admired across the world. As Matt Hancock said in his oral evidence to the House of Lords Communications Committee in 2017 when he was Digital, Culture, Media and Sport Secretary, the advertising industry's system of self-regulation is "one

of the best examples of successful self-regulation in the UK,” adding that there are “huge benefits to the industry remaining self-regulating” because “it is a model that works”²⁸.

42. The ASA’s independent and self-regulatory status allows it the flexibility to be at the forefront of worldwide regulation, looking at how best to regulate new advertising technologies and mediums such as influencer, native and affiliate advertising early, as well as how ads are targeted online. This flexibility also allows CAP and the ASA to be continually working to update its rules and guidance, far quicker than it would be possible to do under statutory regulation. In an industry like digital advertising, which innovates extremely rapidly, it is the ASA and CAP’s self-regulatory basis that has allowed it to ensure regulation keeps up with and caters for new developments effectively. In 2017 the ASA introduced tough new amendments to the CAP Code which banned adverts for foods or drinks that are high in fat, salt or sugar (HFSS) in children’s non-broadcast media. CAP has also introduced standards that require advertisers to use all the tools that social media platforms make available to them to ensure their adverts are not targeted at children²⁹.
43. More recent innovation includes the ASA developing and using new monitoring technology in the form of child ‘avatars’ – online profiles which simulate children’s browsing activity – to identify adverts that children see online. The avatar technology was utilised in 2019 and found that the majority of advertisers were complying with the CAP Code rules. However, it also enabled the ASA to identify and take quick action to ban adverts from five gambling operators which were served to child avatars on children’s websites, in breach of the UK CAP Codes³⁰. Techniques like this being developed means the ASA does not need to rely wholly on consumer complaints to identify advertising that is not complying with the CAP Code. The ASA is currently looking at expanding this avatar work, and as part of its current five-year strategy it has committed to exploring ways of deploying machine learning for evidence gathering like this and improving its regulation³¹.
44. With the help of the IAB, CAP is also working proactively to engage directly with some of the largest social media companies and online platforms, informing them of regulatory developments in the online advertising space and discussing new ways and opportunities of ensuring the self-regulatory regime is operating as effectively as possible with respect to digital advertising.
45. The ASA and CAP publish reports annually which set out the body of casework they have dealt with. The most recent of these reports indicates that in 2018 the ASA was responsible for 10,850 ads being amended or withdrawn across all media, demonstrating its considerable

²⁸ Select Committee on Communications - Corrected oral evidence: The Advertising Industry, 19 December 2017, Matt Hancock

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communications-and-digital-committee/the-advertising-industry/oral/76147.html>

²⁹ Protecting children online: Guidance to support responsible targeting

<https://www.asa.org.uk/news/protecting-children-online-guidance-to-support-responsible-targeting.html>

³⁰ Harnessing new technology to tackle irresponsible gambling ads targeted at children, April 2019, ASA

<https://www.asa.org.uk/news/harnessing-new-technology-gambling-ads-children.html>

³¹ More Impact Online - launching our new five-year strategy, November 2018, ASA

<https://www.asa.org.uk/news/more-impact-online-launching-our-new-five-year-strategy.html>

'teeth' and willingness to take action³². The regulator received 16,059 complaints about online advertising, of which 14,257 were dealt with as cases.

46. It is worth noting that the vast majority of these cases (78%) related to non-paid for, or 'advertiser-owned' advertising, such as claims made on a brand's own website. Only 22% of all the ASA's online casework in 2018 dealt with paid-for advertising, despite this often attracting the most attention from the media and policy-makers. Customer satisfaction with the ASA also remains high, with 80% satisfaction for its handling of informal cases and 71% satisfaction for formal cases in 2018.
47. The available evidence of the ASA's effectiveness indicates that industry compliance with the CAP Code is high, and the ASA is both willing and able to act where non-compliance is identified. An important part of the value of industry self-regulation is that, because it is industry-led, the industry is necessarily 'bought-in' to actively engaging and complying with it.


b. industry-led voluntary initiatives set up to guide or regulate good practice, including, but not limited to, the Internet Advertising Bureau's Gold Standard or Better Ad Standards;

European Interactive Digital Advertising Alliance (EDAA) self-regulatory programme for online behavioural advertising and the AdChoices initiative

48. In 2011, building on an US initiative and the development of good practice in the UK, EU advertising and media trade bodies published good practice for all EU and EEA markets to enhance transparency and user control for online behavioural advertising (OBA): the EDAA AdChoices Programme. This framework applies to advertising targeted at any user, in both mobile and desktop web-browsing environments, and to both display and video ads.
49. The EDAA launched in 2012 with 54 companies participating, and as of 31 December 2020 it has 155 currently participating³³.
50. The initiative is based upon seven key principles for responsible OBA: notice, user choice, data security, sensitive segmentation (for example, it requires participating businesses to agree not to create 'interest segments' to specifically target children 12 and under), education, compliance and enforcement, and review. A copy of the EU industry Framework and the full set of principles can be found at: <http://edaa.eu/european-principles/>. The principles are supported by self-certification criteria for complying companies

³² More impact online: Advertising Standards Authority Committees of Advertising Practice Annual Report 2018 <https://www.asa.org.uk/uploads/assets/uploaded/1f9d1f1b-8f2b-4dbf-bed0b5dc7bf8d57e.pdf>

³³ 2019 Activity Report, EDAA <https://www.edaa.eu/wp-content/uploads/EDAA-Activity-Report-2019.pdf>

51. At the heart of this work is a symbol or icon (see right – often known as the ‘AdChoices’ icon) that appears in or around the advertisements on sites, as well as on site pages themselves. The AdChoices Icon is a consumer-facing, interactive symbol. When a user clicks on the icon he or she will be able to find out more about the information collected and used to show them the ad and which companies are processing their data for this purpose. In 2019, over 162bn icons were delivered by approved providers across Europe, giving consumers significant opportunities to manage or control their online advertising preferences, such as via privacy dashboards or ad preference managers.³⁴
- 
- The AdChoices icon is a blue triangle pointing to the right, with a white lowercase letter 'i' inside it.

52. The icon also links to a pan-European website – www.youronlinechoices.eu – where in clear and user-friendly language consumers can find out about their online ad choices, how online advertising is used to support the sites and services they use and how they can safeguard their privacy. It also provides a control page (the Consumer Choice Platform) where users can ‘turn off’ behavioural advertising by some or all companies involved in the EDAA Programme. In 2019 traffic to the www.youronlinechoices.eu website reached 18.5 million pageviews³⁵. The UK version of the website is at www.youronlinechoices.eu/uk.

53. Companies wishing to participate in the initiative can do so in different ways, depending on their business model. See <https://www.edaa.eu/what-we-do/for-companies/> for more details. Under the self-regulatory initiative, companies shall **self-certify their compliance** within 6 months of committing to the programme. In order to demonstrate compliance and be granted the corresponding Trust Seal, signatory companies acting as Third Parties must, within one month of their self-certification, undergo an independent certification process with an EDAA-approved Independent Certification Provider. Certification Providers will grant successful companies a renewable Trust Seal, owned by EDAA, which will act as a representation to the market that the company is fully compliant with the AdChoices programme. This trading seal is envisaged to have a significant market value to compliant businesses, conveying a sense of trust and good standing from consumers and business partners towards the company that receives it.

54. The EU industry initiative is administered by the European Interactive Digital Advertising Alliance (EDAA) www.edaa.eu. The EDAA programme is integrated with national advertising self-regulatory organisations who handle complaints. In the UK, the ASA administers OBA consumer complaints and in 2013 **rules on OBA** were introduced to the CAP Code. These were updated in 2018 to reflect the introduction of the GDPR.

55. It should be noted that a number of the aspects covered by the Framework (such as notice, choice, and sensitive segmentation) are also covered by the GDPR and the EDAA is reviewing the Framework to ensure it is up to date and remains effective.

³⁴ *ibid.*

³⁵ *ibid.*

56. The EDAA is well placed in the digital advertising ecosystem as it is governed by EU-level organisations, which make up the value chain of data-driven advertising within Europe and acts to ensure consistency in the European self-regulatory approach. The EDAA's pan-European consumer awareness and education efforts aim to provide information about online behavioural advertising (OBA), or data-driven advertising, in order to provide transparency to and empower internet users across Europe.

57. In 2019 the EDAA conducted valuable consumer research in France, Germany, Poland, Spain and the UK, exploring consumer attitudes and perceptions towards online advertising and identifying how these may have changed since the introduction of GDPR. The research showed that users of the AdChoices icon feel more informed, have a better understanding of data use and are more receptive towards OBA and site personalisation³⁶. The results informed the EDAA's assessment of shifts in consumer perspectives as it looks to further develop the industry's self-regulatory programme for the benefit of consumers and industry alike.

58. Further information on the initiative is available:

- IAB UK Factsheet <https://www.iabuk.com/policy/iab-factsheet-may-2014-online-behavioural-advertising>
- the EDAA's explanatory video at <https://www.youtube.com/watch?v=4ZwP2zDSOEY&feature=youtu.be>
- EDAA overview and activity update (2018) <https://www.iabuk.com/policy/edaa-2018-activity-report>

Infringing Website List (IWL)

59. The IWL is the culmination of years of work by the City of London Police, the rights holder community and the ad industry, to find an effective and legally robust solution to the problem of copyright-infringing websites generating revenue from legitimate digital advertising.

IWL Background

60. In 2012 Google, in conjunction with PRS for Music, conducted a study into the different business models that can facilitate infringing copyright on websites. Of the six identified business models that support these sites, advertising was identified as a significant revenue generator. The report also found that companies that were involved in industry-agreed best practice, using the EU self-regulation of behavioural advertising programme ('AdChoices') as a test, were less likely to facilitate advertising on copyright infringing sites.

61. In its 2013 paper "Connectivity, content and consumers: Britain's digital platform for growth", the UK Government identified the 'follow the money approach' arguing that stemming the flow of advertising revenue to sites is one of a number of effective ways of tackling the worst offending sites. The Government allocated funding to a new City of London 'Police Intellectual

³⁶ Perceptions and attitudes towards digital advertising post-GDPR, 2019, EDAA
<https://www.edaa.eu/consumer-research-how-eu-citizens-perceive-digital-advertising-since-gdpr/>

Property Unit' (PIPCU, a specialist police unit dedicated to protecting the UK industries that produce legitimate, high quality, physical goods, online and digital content from intellectual property crime. The Unit is funded via The Intellectual Property Office (IPO).

Establishing the IWL

62. In the majority of instances, the appearance of display advertising next to infringing material is not intended by the advertiser, its agency or intermediary companies involved in the trading of advertising. Whereas tools were readily available to identify words or images that a brand may not want to appear next to, determining copyright infringement is not always as simple to achieve because of the dynamic nature of these sites and the sophisticated techniques employed by those behind copyright infringement to evade detection. In many instances, infringing sites may use advertising to mimic a veneer of credibility to the consumer, particularly when it is associated with household brands. They may employ tactics to 'spoof' advertising and committing fraudulent activity that brands, agencies and technology intermediaries are unable to control or prohibit.
63. At that time, the digital advertising industry had difficulty in identifying infringing sites because of a lack of common understanding of what an infringing site actually is, how it behaves or what it looks like. This problem was compounded by different interpretations of what infringement is, and the lack of a single credible authoritative source for the industry to rely on.
64. Working together with rights-holders and the advertising industry, PIPCU developed a framework to identify sites whose primary purpose is the infringement of copyright and compile them into the so-called 'Infringing Website List' (IWL). The IWL was piloted in 2013 (under 'Operation Tradebridge') and the results showed it could be effective. Following the pilot PIPCU then established the 'Operation Creative' initiative rolled out the IWL more widely in 2014
65. Subsequently, PIPCU introduced an API – an automated interface – to help ensure the IWL was easily usable and accessible by ad tech providers.
66. The IWL provides the digital ad industry with a single authoritative point of contact for identifying sites under investigation for copyright infringement. It works in real time, to ensure that trading partners are receiving up to the minute information about sites under investigation for IP Crime. The list is made available to buyers and others in the digital advertising industry to inform buying decisions and can serve as a 'blacklist' or 'inappropriate schedule' which is compatible with tools developed by technology providers as part of the DTSG framework.

IWL Effectiveness

67. The IWL serves two purposes. First, it improves brand safety, minimising the risk of advertisers' branding appearing on pirate sites, which can damage a brand's reputation and lend the sites unwarranted credibility. Second, it can be used by buyers to halt the flow of advertising revenue to structurally infringing websites that have been deemed unlawful, which both helps buyers avoid funding illegal activity, and acts as a disruptive tactic in terms

of law enforcement. The IWL is an authoritative source of information for the advertising industry because PIPCU determines, through a robust process, which sites are added to the list on the basis of evidence provided to them by rights-holders and a legal assessment of alleged infringing behaviour.

68. The number of organisations using the IWL stands at 538 as of March 2020, with an average of six new users per month.
69. In August 2015, following a full year of monitoring, research was conducted that found a 73% reduction in advertising from the UK's top spending brands. In 2016, similar research showed a 64% reduction in brand advertising on IWL sites. An analysis of the types of ads found on IWL sites identified that gambling advertising were prevalent following which, PIPCU worked together with the UK regulator, the Gambling Commission to build in conditions to UK gambling licences, which resulted in a 36% decrease in gambling ads appearing on the IWL.
70. More recently, in 2019, the Intellectual Property Office reconvened industry stakeholders to review the continued effectiveness of the IWL. This demonstrated that since the IWL was introduced, there has been a huge reduction in the appearance of mainstream UK brand advertising on IWL sites, and in the involvement of IAB UK member companies in facilitating the placement of ads on IWL sites. The IWL, together with the DTSG good practice principles, and other measures taken by digital advertising companies to address risks around ad misplacement and fraud, have effectively addressed the issue of mainstream companies being involved in ads appearing on copyright infringing sites. This is an excellent example of industry self-regulation in action. As a consequence of this action, the nature and origin of ads on copyright infringing sites has changed over time and a different approach is needed to tackle those actors who operate outside of responsible industry bodies and who cannot be engaged or influenced by industry self-regulatory initiatives, including the site operators themselves who are engaged in illegal activity.

Joint Industry Committee for Web Standards (JICWEBS)

71. JICWEBS is the cross-industry independent body, representing all sides of the digital advertising industry, that is responsible for developing standards for online 'display advertising' trading. JICWEBS was established and is owned by IAB UK (representing digital advertising companies), ISBA (representing advertisers), the IPA (representing agencies) and AOP (representing online publishers). JICWEBS oversees the independent development of good practice and standards for digital ad trading, against which companies can be independently verified, that aim to increase transparency and trust in how digital advertising is bought and sold by reducing the risk of online fraud, reducing the risk of ad misplacement ('brand safety') and maximising ad viewability. Companies that register with JICWEBS and become signatories can then be independently verified to show how they meet these standards. Once verified they'll received JICWEBS certification.
72. JICWEBS standards are as follows:

- 1. Ad fraud**

73. Ad fraud is an issue for advertisers as it means that they are at risk of paying for ads on the basis of fraudulent online ‘traffic’ as opposed to a genuine, human audience.
74. JICWEBS has worked on initiatives to help promote confidence by reassuring advertisers and media agencies that their digital campaigns are reaching the intended audience and to minimise non-human traffic in web analytics. To help tackle ad fraud and create a safer, more transparent supply chain, JICWEBS has developed and published:

- **Industry guidance on risk reduction**
- **Ad fraud definitions** that describe illegitimate, non-human traffic sources (such as malicious ‘bots’ that have been intentionally created to make profit for criminals by, for example, deliberately inflating traffic numbers and skewing analytics results or fraudulently clicking on ads), and outlines when they are fraudulent (not all ‘non-human’ traffic is fraudulent – e.g. some bots index webpages to improve search results and declare themselves to the page in question so their browsing activity is not counted towards viewership figures). The definitions help ensure that the industry has a common understanding of what constitutes fraud and therefore how to address it.
- **Good practice principles** for **reducing the risk** of exposure to fraud that businesses can sign up to. The principles cover fraud education and policies, setting correct campaign returns on investment targets (ROIs), ad inventory sources and anti-fraud technology and vendors.
- **Independent certification processes** with accompanying ‘seals’ for businesses that apply the good practice principles (certification introduced in 2016) and for anti-fraud vendors/ad verification suppliers who provide solutions that aim to **detect and reduce fraud** (certification introduced in 2017).

2. Brand safety

75. Advertisers need to have confidence their brand is placed in safe online environments that are in keeping with the aims of their campaigns. Giving advertisers the necessary transparency and control to allow them to make informed decisions of where their advertising is displayed is at the heart of this challenge. This makes brand safety more than just a reputational issue; it can also help remove a source of income for criminals and help ensure that advertising promotes and pays for original content and journalism.
76. Advertisers and their suppliers have acted collectively to take steps to give buyers control over the sites where their ads are placed to help keep their brands safe online by establishing the Display Trading Standards Group (DTSG). This initiative provides the tools to enable buyers to actively manage campaigns and minimise the risk of ad misplacement.
77. The DTSG comprises good practice principles for all business models involved in buying, selling and facilitating digital display advertising.

78. In signing up to the DTSG's Good Practice Principles, businesses are committing to minimise the risk of advertising misplacement and therefore injecting greater transparency into the market for advertisers when purchasing digital display advertising. In doing so, these businesses are differentiating themselves in the market, showing buyers and sellers what tools are in place.
79. The DTSG provides the framework through which the advertisers can require the [Infringing Website List](#) to be used by their agencies and intermediaries to avoid their ads being placed on sites that are infringing copyright (see page 12).

History of display trading good practice in the UK

80. The current DTSG framework has evolved as a result of sustained efforts since 2005 by the digital advertising industry to address challenges relating to display trading. In 2005, display advertising 'inventory' was sold by publishers, and bought by advertisers and their agencies, through a fairly straightforward process using an intermediary ad network or sales house. Between 2005 and 2011, a Code of Practice for advertising networks was in place in the UK, known as 'IASH'. In simple terms, this governed how display advertising was traded, including what could or could not be traded. At the time, 26 advertising networks were involved. These businesses were subject to an audit and, if successful, were awarded a trading seal. Advertisers and agencies were encouraged to work with these compliant businesses.
81. By 2011, the evolution and growth of programmatic trading mean that IASH was outdated and a new industry-wide approach was required. The Digital Trading Standards Group (DTSG) was therefore established in 2012 as a self-regulatory initiative with the aim of minimising the risk of ad misplacement and helping to protect brand safety, as well as brands' – and the industry's – reputation. In December 2013, DTSG published the first Good Practice Principles to minimise ad misplacement. The DTSG has continued to evolve and is now at its strongest with the highest ever number of participating companies, reflecting the majority of advertising traded in the UK market.

3. Viewability

82. Advertisers need to know that the measurement information they receive about which ads had the opportunity to be seen, when, where and for how long reflects ads that were in view (versus those that may have been delivered to a site, but did not have the opportunity to be seen by a user – for instance, because they appeared "below the fold" of the rendered page on screen).³⁷

³⁷ Viewability is not synonymous with a claim that the ad has definitely been seen. In much the same way as a TV ad may be aired while you're making a cup of tea, or you might walk straight past a billboard without noticing it, no ad can provide such a guarantee.

83. JICWEBS works to deliver transparency and guidance to the market with the aim of facilitating the trade of viewable impressions, i.e. ads that have the opportunity to be seen.³⁸ To provide advertisers with greater transparency and minimise discrepancies between measurement providers, JICWEBS has:

- Developed consistent **standards** (good practice principles) for measuring ad viewability
- Adopted **industry-wide viewability standards**³⁹ for desktop display and video advertising, announced by the IAB UK in 2014, which are exactly the same as those in the U.S.
- Developed an **independent certification** process for viewability vendors that any brand can use to measure the viewability of their campaigns.

84. The agreed industry viewability standards are **minimum benchmarks** to work from, i.e. where the stopwatch starts when measuring online advertising delivery. Brands and agencies in partnership with their publisher partners and other suppliers need to work together to understand what viewability is required for effectiveness, and negotiate and discuss appropriately.

JICWEBS success and evolution

85. As of March 2020, there are 106 companies certified with JICWEBS across all three of its standards, with a further 18 that are registered but not yet certified⁴⁰ reflecting the majority of the mainstream companies in the UK market.

86. Having a consistent, global approach to fraud, brand safety and viewability is important and in 2017, a new joint initiative was announced between JICWEBS and its US equivalent, the Trustworthy Accountability Group (TAG). The bodies have committed to working together to on transfer learnings between their respective initiatives to improve their effectiveness and create a united and consistent approach across markets to tackle criminal activity and clean up the digital ad supply chain.

IAB UK Transparency FAQs

87. The digital advertising industry is complex, because the ecosystem involves a network of companies providing different services that partner together to buy, sell, deliver and measure advertising, as well as to provide other services designed to deliver the advertising services that brands want, e.g. efficient, effective, responsible, safe and protected from fraud. It is important that all players in the ecosystem fully understand this ecosystem and use their role in it to drive high standards and accountability.

³⁸ 'Viewability' is about whether an ad is in-view and therefore has the opportunity to be seen by a human. Viewability standards are not metrics or proxies for engagement with ads, or ad effectiveness.

³⁹ 50% of the ad in view for one second for standard display formats; 30% of the ad in view for one second.

⁴⁰ JICWEBS signatories, <https://jicwebs.org/certification-process/signatories/>

88. Programmatic advertising has had a disruptive effect on the market. It has introduced new technologies and processes that create value but that also present challenges in areas including transparency (e.g. of advertising placement or of intermediaries and third parties involved in the supply chain), data use, and for organisations internally. For news brands in particular, the majority of which have a print legacy, there can be misunderstandings and conflicts between different parts of the organisation that both benefits from, and is threatened by, the growth in the digital ad market.
89. The IAB recognises the challenges that the complexity of the digital advertising supply chain presents and has developed initiatives to deepen understanding and engagement from the different parts of the ecosystem. As well as running a programme of workshops, seminars, training courses, conferences and research projects to educate the market and simplify digital advertising for advertisers, the IAB has developed a ‘Transparency FAQs’⁴¹.
90. This initiative, welcomed by Dame Cairncross’ 2019 review into the sustainability of UK journalism, is helping to build understanding about the role of each player in the ad buying chain is doing.
91. IAB members from different parts of the industry worked together to produce 20 common questions that can be asked of digital advertising businesses. The aim is to equip brands and agencies with the right questions to ask in order to help them understand more about the companies’ business models and provide an indication of their attitude towards transparency.
92. The questions cover three main areas - Pricing, Placement and Data Usage and include questions from ‘What is your business model and how do you make money’ to ‘What brand safety measures do you use’ and ‘Under GDPR, what legal basis are you providing your services under’? The results are displayed within the Members’ Directory of the IAB website⁴².
93. The initiative launched in January 2019 and has 34 companies participating as of March 2020.

Transparency and Consent Framework (TCF)

TCF overview

94. The Transparency and Consent Framework is the global cross-industry effort to help publishers, technology vendors, agencies and advertisers meet the transparency and user choice requirements under the General Data Protection Regulation⁴³. It has been developed by IAB Europe (the European trade association for digital advertising) in collaboration with organisations and professionals in the digital advertising industry (from both national IABs and corporate members), representing the only GDPR consent solution built by the industry for the industry, creating a true industry-standard approach.

⁴¹ IAB UK Transparency Hub <https://www.iabuk.com/transparency>

⁴² Transparency FAQs members, IAB UK https://www.iabuk.com/member-directory?title=&company_type=All&company_badges%5B%5D=transparency_faqs

⁴³ Transparency and Consent Framework <https://iab europe.eu/transparency-consent-framework/>

95. The TCF facilitates digital advertising and content companies' compliance with the principles of the GDPR – including lawfulness, fairness and transparency, purpose limitation and data minimisation – and with the consent requirements of the ePrivacy Directive (ePD) (PECR in the UK). It is the result of an unprecedented collaboration over nearly three years between buy-side, intermediary and sell-side actors (e.g. agencies, advertising technology companies and media owners and publishers) to achieve a common solution that works for all players. The long-term goal is that this standard will be adopted widely by all players that process personal data used in the third-party digital advertising ecosystem.

96. The TCF creates an environment where website publishers can tell visitors what data is being collected and how they and the companies they partner with intend to use it. The TCF gives the publishing and advertising industries a common language with which to communicate consumer consent for the delivery of relevant online advertising and content.

97. The purpose and benefits of the TCF are to:

- Enable vendors (i.e. data controllers) to establish an appropriate GDPR lawful basis to process personal data. No consent signal must be generated prior to an 'affirmative act'
- Implement GDPR-defined consent for ePD (PECR) compliance
- Provide full transparency into which vendors are seeking to access devices and process personal data, and for what purposes
- Provide control to publishers over the vendors operating on their sites and apps, so that processing can be proportionate
- Create standardised signals to enable accountability
- Establish minimum criteria for the consent and transparency user interface, including disclosure of vendors and purposes, plus privacy policy links and information about legal bases relied on

How the TCF works

98. The TCF is a protocol comprising a set of policies and technical specifications, and underpinned by terms and conditions for registered companies. It was conceived as an open-source, cross-industry standard to support organisations that process personal data in order to deliver advertising on their sites or to personalise content. The TCF provides a mechanism that enables first parties (digital media and other websites) and third parties (vendors acting as data controllers or processors) to establish a GDPR legal basis for that processing, and (in accordance with PECR requirements) to obtain prior consent to store information on a user device or access already stored information.

99. In the case of the consent legal basis, the TCF works by giving users the opportunity to provide prior approval to a limited set of third parties ('vendors') whom they are comfortable to have process their personal data or access information on their devices, for a limited set of defined, disclosed purposes and with all the rights and obligations that accrue to users under the GDPR. In the case of legitimate interests legal basis, the TCF provides a standardised means of making the required information disclosures and, as from version 2, integrates "right to object" functionality that is a condition for legality of the legitimate interests legal basis. It provides users with information and control over how their data may be used, and by whom. The information disclosures must be made using standardised wording. Similarly, the TCF provides a standardised means for recording the user's choices and communicating them to other

parties in the delivery chain so that those parties understand their own prerogatives and can appropriately protect and process the user's personal data and access user devices, as the case may be.

100. There are three broad types of participants in the TCF: Consent Management Platforms/Providers (CMPs), 'vendors' and publishers. Both CMPs and vendors are required to register with IAB Europe to participate in the TCF. The registry of vendors, known as the Global Vendor List (GVL), enables vendor participation in the TCF and can be used by digital property operators, such as publishers, to see whether the vendors they work with participate in the TCF, the purposes for which they process personal data, and the legal bases on which they do so, plus any features they use and as a link to their privacy policy. All vendors including Sell Side Platforms (SSPs), Demand Side Platforms (DSPs), ad servers and data management platforms used on a publishers' site can apply to be part of the GVL.

101. A CMP is a company or organisation that centralises and manages transparency for the consent and objection of the users of a website. The CMP can read and update the legal basis of a company that participates in the delivery of digital advertising (a 'vendor') within a publisher's website, app, or other digital content. Vendors declare their legal basis and purpose for accessing a user's device or browser, or processing their personal data in the Global Vendor List (GVL). IAB Europe maintains a list of registered CMPs who are permitted to use a CMP ID within the TCF.

Evolution: version 2.0

102. TCF version 2.0 was released to the market in August 2019 and contains a number of improvements that will benefit individuals as well as those companies that are using the TCF. The TCF has always been designed to be an evolving, iterative standard and TCF policies and specifications could be adapted to address other areas of data protection and privacy issues as the common interpretation of GDPR evolves. Companies are currently in the process of investing significant resource and engineering commitments required to implement version 2.0 of the TCF, due to go live by summer 2020.

103. TCF v2.0 delivers a number of improvements for consumers and publishers. These include more granular and user-friendly descriptions of data processing 'purposes' to help consumers to make and exercise informed choices. New functionality enables consumers to exercise their 'right to object' to data being processed, in addition to granting or withholding consent. Consumers also gain more control over whether and how vendors may use certain features of data processing, for example, the use of precise geolocation.

104. Publishers employing TCF v2.0 gain greater control and flexibility with respect to how they integrate and collaborate with their technology partners. New publisher functionality allows them to restrict the purposes for which personal data is processed by vendors on a publisher's website on a per-vendor basis.

Compliance

105. In 2019, IAB Europe developed a 'CMP Validator' tool and compliance-checking programme for all registered CMPs. The programme uses both automatic and manual checks to check

whether a CMP is operating in accordance with TCF Policies and Technical Specifications. All registered CMPs (188 at the time) were checked in 2019 and an official TCF v1.1 Compliant seal was awarded to CMPs who had rolled out compliant versions. Some CMPs were removed from the CMP list for failing to meet the checks.

106. IAB Europe released its version 2.0 validator in March 2020. Now, all newly-registering TCF CMPs must pass the Validator test before they can be issued with a CMP ID that allows them to participate in either TCF v1.1 or v2.0. IAB Europe is also continuing its enforcement work through actively spot-checking CMPs on top 50 sites in Europe by traffic and suspension warnings will be issued to CMPs in breach of core v 1.1 policies.

Participation

107. The TCF is a world-leading initiative and the only advertising industry transparency and consent framework built to respond to GDPR. In the two years since its launch in April 2018 it has become the industry standard. The total number of organisations currently registered and implementing the TCF across Europe is 664. Of these, 134 are consent management platforms which are currently implementing TCF v1 (these will switchover to v2.0 progressively between April-June 2020), and 530 are adtech vendors.

108. Of those 530 adtech vendors, 288 are currently registered and implementing only TCF v1, and 242 are currently registered for TCF v2.0 while also implementing TCF v1⁴⁴.

IAB UK Gold Standard

109. The IAB wants the UK to represent a gold standard in digital for other countries to admire, follow and emulate and to ensure that the UK retains its leading role in ecommerce and digital advertising.

110. The IAB UK Gold Standard aims to drive up standards in the industry, addressing three key industry challenges by bringing together existing cross-industry initiatives which successfully tackle them.

111. Certified companies commit to best practices that:

- **increase brand safety** (through obtaining JICWEBS DTSG certification);
- **reduce ad fraud** (via implementing IAB's ads.txt initiative);
- **improve digital advertising experiences for users** (by requiring them to comply with the Coalition for Better Ads principles)

112. Compliance criteria are tailored to each part of the supply chain and companies who are successfully certified commit to upholding these best practice guidelines. After the IAB confirms that a company has completed its registration process for the Gold Standard, the company has six months to submit evidence that it has fulfilled the criteria for its company

⁴⁴ Figures correct as of March 2020

category. After this evidence has been reviewed by the IAB the company will be issued with a Gold Standard 'Certified' seal that it can use on its website and marketing materials.

The Gold Standard's three initiatives:

Increasing brand safety: JICWEBS DTSG

113. Advertisers need to have confidence their brand is placed in safe online environments that are in keeping with the aims of their campaigns. Giving advertisers the necessary transparency and control to allow them to make informed decisions of where their advertising is displayed is at the heart of this challenge. This makes brand safety more than just a reputational issue; it can also help remove a source of income for criminals and help ensure that advertising promotes and pays for original content and journalism.

114. Advertisers and their suppliers have acted collectively to take steps to give buyers control over the sites where their ads are placed to help keep their brands safe online by establishing the Display Trading Standards Group (DTSG). This initiative is overseen and governed by JICWEBS, bringing together advertising intermediaries who collectively commit to providing a range of tools that enable buyers to actively manage campaigns and minimise the risk of ad misplacement. Their compliance with the scheme is certified by a third party auditor to build confidence in the scheme.

115. The DTSG has published good practice principles for all business models involved in buying, selling and facilitating digital display advertising. In signing up to the DTSG's Good Practice Principles, businesses are committing to address the risk of advertising misplacement and therefore injecting greater transparency into the market for advertisers when purchasing digital display advertising. In doing so, these businesses are differentiating themselves in the market, showing buyers and sellers what tools are in place.

116. As of March 2020 there are 103 intermediaries certified for JICWEBS DTSG, covering a significant proportion of the market⁴⁵.

117. As described on page 12, the DTSG provides the framework through which the advertisers can deploy the Infringing Website List in their campaigns to avoid their ads being placed on sites that are known to infringe copyright.

Reducing ad fraud: ads.txt

118. Advertising fraud is an issue for advertisers as it means that they are at risk of paying for ads on the basis of fraudulent online 'traffic' as opposed to a genuine, human audience. The ads.txt initiative developed by IAB Tech Lab aims to tackle this, preventing various types of counterfeit inventory across the ecosystem by improving transparency in the digital programmatic supply chain⁴⁶.

⁴⁵ JICWEBS signatories <https://jicwebs.org/certification-process/signatories/>

⁴⁶ ads.txt <https://iabtechlab.com/ads-txt/>

119. Ads.txt is a simple, flexible, and secure method for publishers and distributors to declare who is authorised to sell their inventory, improving transparency for programmatic buyers.
120. It allows publishers to list the vendors authorised to directly and indirectly sell inventory on their behalf and publicly display this on a simple file attached to their URL (e.g. example.com/ads.txt). Buyers can use this list to ensure that the vendors they buy from are legitimate sellers who have been authorised to sell a publisher's inventory.
121. The initiative supports transparent programmatic digital media transactions and can remove the financial incentive from selling counterfeit and misrepresented media. Ads.txt can only be posted to a domain by a publisher's webmaster, making it valid and authentic. As a text file, ads.txt is easy to update, making it flexible. The data required to populate the file is readily available in the OpenRTB protocol, making it simple to gather and target.
122. Ads.txt addresses the issue of 'domain spoofing' which is a type of fraud in digital advertising. Domain spoofing is when a fraudulent vendor falsely claims to be selling inventory for a legitimate website and instead serving the ad on a different, often fraudulent website. An example would be for a vendor to claim they are selling ad space on thetelegraph.co.uk when in fact the ad will end up on fraudulentwebsite.com. Ads.txt addresses issue this by providing buyers a list of legitimate sellers selling inventory on their behalf, directly and or indirectly.
123. Ads.txt has been adopted by over a million publishers globally.
124. In 2018 Pivalate data demonstrated that on average websites with ads.txt have a consistently lower overall ad fraud rate than sites without ads.txt⁴⁷. More recent Pivalate research shows that mobile apps with app-ads.txt register 11.4% less invalid traffic than those without the standard⁴⁸.

Improving digital advertising user experience: Coalition for Better Ads (CBA)

125. The Coalition for Better Ads⁴⁹ is a global coalition of digital advertising entities that develops standards to improve the digital advertising experience for consumers. The CBA conducted consumer research to find which ad units are 'annoying' and likely to drive users to download an ad blocker. The CBA established the Initial Better Ads Standards, a list of 12 'bad ad formats' for desktop and mobile web, based on this. Additionally, publishers who breach the Standards are blocked from serving ads on Google Chrome by default.
126. The CBA's goal is to reduce feelings of annoyance and interruption among consumers caused by digital advertising. Research has shown that extreme annoyance and interruption has led to ad avoidance strategies among consumers like downloading ad blockers and the objective

⁴⁷ Ads.txt reduces ad fraud by 10%, but double-digit ad fraud rates persist, 2018, Pivalate

<http://blog.pivalate.com/does-ads-txt-reduce-ad-fraud>

⁴⁸ App-ads.txt reduces fraud by 11%, 2020, WARC <https://www.warc.com/content/paywall/article/warc-datapoints/appadstxtreducesfraudby11/131980>

⁴⁹ Coalition for Better Ads <https://www.betterads.org>

of the Better Ads Standards is achieve less interruption and annoyance and therefore a reduced prevalence of ad blockers.

127. The Better Ads Standards have not existed as a global initiative long enough to have had an impact outside of North America and Europe but the research on ad blocking behaviour in North America and Europe shows that industry attention to this issue is yielding results. Ad blocker usage rates peaked at approximately the same time that the Better Ads Standards were launched and have been declining since⁵⁰. Even more importantly, the downloading of ad blockers on new devices has gone down over 60% since the Standards were released⁵¹. This implies that as consumers continue to refresh their devices that the percentage of consumers using ad blockers will continue to decrease, and IAB UK's own research shows ad blocking levels have been relatively stable for the past four years – 23.7% of online adults in the UK claim to be currently using ad blocking software⁵².

128. To be clear, the CBA and the Better Ads Standards are only part of the solution. Many companies made independent decisions, based on their own research, to improve user experience and it is the aggregate weight of the CBA's work, all of those independent decisions, and the promotion of global Standards like this by organisations like IAB UK, WFA, and other industry trade bodies that have come together to begin improving user experience with online advertising and reducing the need that consumers feel to download ad blockers.

Gold Standard success

129. IAB UK's Gold Standard has grown successfully since certification opened in January 2018, following its launch to the market in October 2017. By April 2018 it had 12 companies certified and 40 registered awaiting certification. As of March 2020, it has 105 participating companies; 97 certified and 8 registered awaiting certification⁵³. Leading UK advertisers and agencies have made a public commitment to drive adoption of IAB Gold Standard and move "towards 100% market conformity to the IAB UK Gold Standard" through phase 1 of the Advertising Association's 2018 Trust Action Plan⁵⁴.

130. The IAB has 300 paying member organisations. Of these, certification for the Gold Standard is applicable to 156, as the remainder are companies that do not have operations that the three Gold Standard initiatives apply to (e.g. data management platforms, content verification vendors, affiliates, etc). With 96 of that 156 certified against the Gold Standard, the adoption rate among applicable IAB members currently stands at 62%, which includes all the largest players in the market. It is also worth noting that the IAB employs a rigorous evaluation process and has denied companies Gold Standard certification where they have been unable

⁵⁰ CBA data drawn from publicised information about AdBlocking measurement from local IABs, and companies from: US, Canada, UK, Germany, France, Poland, Austria, Greece, Ireland, Italy, Romania and Spain

⁵¹ CBA data drawn from Google internal data, based on Chrome Browser plugin downloads

⁵² Ad Blocking 2020, IAB UK <https://iabuk.com/news-article/ad-blocking-2020>

⁵³ Gold Standard Certified and Registered, IAB UK <https://www.iabuk.com/goldstandard/certified-and-registered>

⁵⁴ Arresting the Decline of Public Trust in UK Advertising, 2019, Advertising Association https://www.iabuk.com/sites/default/files/public_files/AA_Public_Trust_Paper.pdf

to fulfil the necessary criteria, or worked with them to amend their practices or processes until they were able to fulfil the criteria.

131. The value of the Gold Standard has been recognised by members of the House of Lords Communications and Digital Committee, including Lord Gordon of Strathblane who described the initiative as “what the internet industry has to aim for”⁵⁵.
132. The Gold Standard has had a demonstrable impact in driving industry adoption of the three initiatives it consists of, and its role in growing JICWEBS participation particularly has been noted by Lord Gordon and the House of Lords Communications and Digital Committee Chairman Lord Gilbert of Panteg in Parliament.

Gold Standard 1.1 update

133. In April 2019 the IAB introduced a series of updates to the criteria that must to be met in order to receive IAB UK Gold Standard certification. Where previously companies needed only to be registered with JICWEBS and to complete an audit within six months, it became a requirement that companies have obtained full certification against the JICWEBS Digital Trading Standards Group (DTSG) principles for Brand Safety before they can receive Gold Standard accreditation. New thresholds were also introduced for support of both ads.txt and the ‘Better Ads Standards’. It became a requirement for both buy-side and sell-side platforms to ensure 90% of the traffic they deliver includes a valid ads.txt file. A new criterion was also introduced to demonstrate a minimum of 99 percent of the domains that platforms work with conform to the Coalition for Better Ads standards, and for companies to demonstrate of how non-compliant inventory is filtered as part of the Gold Standard certification audit. Further updates include a requirement for companies to undergo IAB UK Gold Standard training, which the IAB supported through the launch of a dedicated online training platform, and for companies who trade in-app inventory to raise awareness and encourage adoption of the recently launched app-ads.txt protocol.

Gold Standard Advertiser Supporters

134. The Gold Standard benefits advertisers’ businesses and their consumers by improving the digital advertising experience, and since December 2019 the IAB has been encouraging brands to play their part in creating a better advertising ecosystem online by pledging to actively support the Gold Standard’s principles.
135. Advertisers’ commitment to support Gold Standard companies marks a landmark step in ensuring its best practice principles are met within the industry. By prioritising Gold Standard companies, advertisers can effectively drive change downstream in the digital supply chain, crucial to cementing its effectiveness.

⁵⁵ UK Advertising in a Digital Age (Communications Committee Report), 25 April 2019, Lord Gordon of Strathblane [https://hansard.parliament.uk/lords/2019-04-25/debates/A6DEB31F-F748-44F2-8D8E-A4BBB1583848/UKAdvertisingInADigitalAge\(CommunicationsCommitteeReport\)](https://hansard.parliament.uk/lords/2019-04-25/debates/A6DEB31F-F748-44F2-8D8E-A4BBB1583848/UKAdvertisingInADigitalAge(CommunicationsCommitteeReport))

136. Brands can become ‘Advertiser Supporters’ of the Gold Standard by:

- Committing to working with Gold Standard-certified companies, publishers and media owners
- Questioning suppliers about their Gold Standard status and encouraging them to certify
- Educating their teams internally about the benefits of using Gold Standard-certified suppliers. This can be done by ensuring they complete the Gold Standard e-learning tool and by inviting the IAB to help them put the principles into action

137. Launched in December 2019, there are six Gold Standard Advertiser Supporters as of March 2020: Asda, Coca-Cola, Just Eat, McDonald’s, Nationwide and Tesco.

138. The Digital Senior Manager at Coca-Cola has stated that “the aim of the IAB Gold Standard reflects what we consider to be one of the most important challenges in digital advertising today for all brands”⁵⁶ and the Head of Media and Campaign Planning at Tesco has said the IAB Gold Standard “is a clear start to building better standards across the industry”⁵⁷.

139. As an illustration of how impactful advertisers can be in their support of the initiative, one Advertiser Supporter has started providing bonuses to its agency based on the percentage of campaign activity is booked using Gold Standard-certified companies. Driving adoption through the procurement process in this way is key to Gold Standard’s future growth.

Gold Standard 2.0

140. Recognising that the Gold Standard must evolve if it is to remain relevant, IAB UK has recently announced an update to the initiative, set to be launched later in 2020, bolstering the certification process and incorporating steps to address privacy concerns within the digital supply chain.

141. Following a process of industry consultation to agree the compliance criteria, the Gold Standard 2.0 will require companies to adopt IAB Europe’s Transparency & Consent Framework version 2 (TCF v2.0). It will also require certified companies to use sellers.json and supplychainobject, both of which are initiatives developed as an extension of ads.txt. Sellers.json and supplychainobject are tools used to increase the transparency of all vendors involved in the selling of an ad impression, beyond just the final seller which is stated in the ads.txt file.

142. Additionally, in February 2020 IAB UK employed an independent third-party auditor, Audit Bureau of Circulations (UK), to audit the IAB’s Gold Standard certification process, ensuring the robustness of the industry standard. The audit included a detailed examination of the end-

⁵⁶ Supporting the IAB UK Gold Standard, James Donovan, Digital Senior Manager, Coca-Cola
<https://www.iabuk.com/goldstandard-advertisers>

⁵⁷ Supporting the IAB UK Gold Standard, Nick Ashley, Head of Media and Campaign Planning, Tesco
<https://www.iabuk.com/goldstandard-advertisers>

to-end Gold Standard certification procedure and evaluation of the IAB's controls against potential risks. Outcomes from this audit include the IAB creating more prescriptive descriptions of evidence required from companies to achieve Gold Standard certification, introducing a five-month deadline in which companies must provide that evidence, and aligning the IAB's re-certification timescales and processes with those required for JICWEBS DTSG.

143. This is a significant development for an already important initiative, making certification criteria for the Gold Standard more robust and further driving standards in the industry.

Q4. How would you assess levels of compliance with the current regulatory system as you have outlined above?

144. Participation and take-up levels for the respective industry initiatives indicate compliance from their organisational participants, with the majority of them including a form of certification for participation that demonstrates adherence to the standard. As mentioned above, available evidence indicates that compliance with the CAP Code is also high. It is also worth noting that many online platforms have their own tools, policies and reporting capabilities in place to demonstrate their compliance with the CAP Code, best practice initiatives and standards over and above the CAP Code. Where these are in place they add another level of safeguarding for users around the placement and content of online advertising.
145. There is no single or standardised measure for compliance with 'the current regulatory system', not least because regulation is comprised of a strong combination of a range of standards and initiatives which make up the whole 'system'. Equally, not all aspects of the regulatory framework apply, or apply in the same way, to every organisation. An important part of the value of industry self-regulation is that, because it is industry-led and designed to respond to industry demand, the industry is necessarily 'bought-in' to actively engaging and complying with it.
146. The DCMS should use the opportunity of this review to identify relevant evidence gaps and commission further research, where necessary, to ensure that there is a sufficiently robust and comprehensive evidence base to inform its policy considerations.

Q5. What, if any, gaps do you consider there to be?

147. Engagement between law enforcement and industry could be increased, using the industry's existing fraud detection and prevention mechanisms, to help tackle 'malvertising' and other forms of ad fraud and to understand persistent and organised actors and their links to other crime.

Q6. To what extent do you consider issues relating to harm to advertisers - including brand safety, ad fraud and reliable indicators of viewability - are effectively dealt with, and what further role, if any, do you consider that government could play?

148. The digital advertising industry has a strong history of taking proactive action to tackle both business-to-business and business-to-consumer issues via the well-established initiatives listed above, led by the industry trade bodies, including via JICWEBS and IAB Tech Lab. Government could further help by formally supporting these self-regulatory industry initiatives, including encouraging brands to make efforts to use companies in the supply chain that are signed up to best practice initiatives. Ultimately the advertisers can drive the market and adoption of standards, as they can exert influence through their budgets to favour those companies that are operating to best practice standards. Brands have the ability to instruct or incentivise their agencies to work with companies that have implemented best practice initiatives, of which IAB UK's Gold Standard and the associated advertiser supporter scheme is a good example. Collaboration across the value chain is essential to 'network' compliance in such a highly interconnected ecosystem as digital advertising.

Q7. Is there any further evidence that you would like to provide on how effective the current regulatory system is at preventing instances of the exploitation of vulnerabilities / vulnerable people, manipulation, or discrimination through the use of targeting (whether direct or indirect), which you think is not being considered by existing reviews?

149. Digital advertising and digital technology offer sophisticated methods for advertisers to target or exclude people using a combination of first party, third party and inferred data. These techniques are used for both commercial purposes, to deliver relevant advertising to the right people in the most effective and efficient way and this is often, rightly, the subject of much attention amongst policy-makers. However, it is important to recognise that the use of demographic and interest-based data online also provides a sophisticated and accurate way of *excluding* certain vulnerable audiences – most notably children – from being targeted with advertising, enabling advertisers to ensure they are meeting the requirements of the CAP Code (and other relevant regulatory/legislative requirements).

Q8. There are some differences in the way that broadcast and non-broadcast advertising, including online advertising, is regulated. What effect do you consider any regulatory disparities have on individuals, businesses and/or society?

150. Broadcast and non-broadcast are fundamentally different media formats, and the differences in the way they are regulated reflect this. However, CAP/ASA system applies equally to broadcast and non-broadcast advertising. Consumers are able to lodge complaints to the ASA about misleading or offensive adverts wherever they see them, and the ASA then applies the relevant regulations equally in its investigations and judgements, irrespective of what media the advert appeared through.

Further action

Q9. Considering the benefits and challenges you have identified above, what additional actions / measures / initiatives could be proposed that would help ensure that the online advertising sector can continue to innovate and grow?

151. As mentioned above, anything that can be done to encourage brands to support the self-regulatory industry initiatives in place would be welcome, including encouraging brands to prioritise the use of advertising partners that are committed to and invested in best practice initiatives. As noted above, at least one of the Advertiser Supporters of IAB UK's Gold Standard is already incentivising its agencies to prioritise working with companies that are Gold Standard certified. With brands controlling the flow of money this is an important step to drive up standards in the industry and to incentivise and reward the investment and resources that responsible companies have – and continue to put in to developing and committing to these standards. To the extent that this clarification is needed, government should make clear that supporting standards schemes in this way is not a breach of competition law.

Q10. What further role, if any, should government play?

152. As mentioned above, the Government could use the DCMS review of online advertising to acknowledge the significant commitment and investments that have been made by leading companies in each part of the ecosystem – advertisers, agencies, ad platforms, media owners/publishers and technology providers. This investment is significant and should be celebrated. Where government identifies poor practice or gaps, it should take a targeted approach to consulting on potential solutions. The findings of the CMA's final report from its market study into online platforms and digital advertising market, due to be published in July 2020, should also be taken into account before any government interventions. The call for evidence may identify relevant evidence gaps, and government should commission further research, where necessary, to ensure that there is a sufficiently robust and comprehensive evidence base to inform its policy considerations.

153. Additionally, the Government could focus on exploring appropriate approaches to dealing with the 'bad actors' operating in the online advertising space. For instance, when looking at the issue of advertising fraud, the Government could explore what appropriate action could be taken – such as by law enforcement – that cannot be addressed via self-regulation, which by its nature is only effective at ensuring the 'good actors' are operating according to given rules or standards.