

OVERALL COMPLIANCE REPORT

2008

Food and non alcoholic beverages advertising compliance monitoring



**Report on the results of EASA SRO monitoring of TV, print, pop-ups and
banners captured by Xtreme from 10 January to 09 April 2008**

July 2008

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Report compiled in June 2008 by
Laure Alexandre, Project coordinator



Independent reviewer's foreword

Once again this year, at the request of WFA, EASA has carried out a monitoring exercise on advertisements for food and non-alcoholic drinks. Self Regulatory Organisations (SROs) in eight countries reviewed ads which appeared between January and April 2008. Despite the inclusion this year of advertisements from Greece instead of Spain, the total volume of ads during the relevant period is comparable to that of the previous year (2957 compared with 2866 – 1459 television, 1123 print and 375 internet banners and pop-ups). The Xtreme database picked up an estimated 99% of television ads, and 95 - 98% of print ads, as well as banners and pop-ups on 1400 websites, collected 3 times a day on 3 page levels.

It is worth noting that contrary to widely-held beliefs, advertisements appearing in the new media gave rise to virtually no comments as regards compliance with legislation and self-regulatory rules.

As regards complaints, on the basis of more or less comparable numbers of advertisements, there is a decrease in the number of complaints received (73 compared to 98) but an increase in the percentage of complaints upheld (27% compared to 12%); this reflects the increasingly serious attention paid by SROs to consumers' reactions. On 16th May 2008, at which date the results were closed, 9 complaints were still under investigation.

The following product categories gave rise to the greatest number of complaints from consumers or competitors (irrespective of outcome):

1. dairy products;
2. snacks, chocolate and confectionery;
3. mineral water;
4. fruit juices and smoothies;
5. cereals

The main headings for complaint were:

- Misleading advertising (51%);
- Offensiveness (27%);
- Dangerous or irresponsible behaviour (14%).

By comparison, the main headings under which advertisements were found by SROs or their complaints committees to be in breach of the codes were:

- Misleading advertising (58%);
- Denigration of competitors (13%);
- Failure to identify the advertiser, or to identify the advertisement clearly as such (11%).

The main product categories for which advertisements were found to contravene the codes were:

1. Dairy products;
2. Snacks, chocolate and confectionery;
3. Fruit juices and smoothies.

In view of current concerns about the risk of obesity as a result of advertisements encouraging over-consumption of certain products, it is worth noting that codes are

shown to be complied with and complaints to be non-existent. Only in the area of health claims is there evidence of a need for particular care.

Regarding the application of rules specific to one country, there is a low level of compliance in the Netherlands with the national rule requiring the mandatory inclusion of a toothbrush icon in advertisements for children's confectionery, to warn young viewers about dental caries. Failure to observe this technical rule has resulted directly in a significant reduction of the European average compliance rate.

Having once again undertaken the role of independent reviewer of this monitoring exercise, I can confirm that I have had full access to all the information necessary and have received answers to all my queries; this enabled me, , to have sight of advertisements whenever I wished.

With the trend towards 'Europeanisation' in advertising, I am sure that not only advertising practitioners, but also those concerned with consumer protection will see in these results the benefits of a self-regulatory system capable of, applying its codes wherever necessary, as well as ensuring that breaches of them are corrected.

I am grateful to the EASA team, in particular Laure Alexandre, and the Director General, Dr Oliver Gray, for the professionalism which they have shown throughout this monitoring exercise.

Lucien Bouis



2008 MONITORING RESULTS

1. Introduction

SRO members were asked to monitor food and non-alcoholic drinks advertising for the first 3 months of 2008. The objective was to assess the compliance of TV and press advertising in 8 countries and paid-for Internet ads (pop ups, banners, flash, gif and jpeg ads).

	I	NL	GR	HU	PL	SK	S	UK	Total
TOTAL n° of ads on the database	442	259	484	93	167	81	379	1052	2957
TV	238	184	203	65	97	63	141	468	1459
Print	126	37	269	16	38	17	171	449	1123
Paid-for Internet	78	38	12	12	32	1	67	135	375

Table 1. number of ads per participating country

The benchmark for assessment was the new ICC Consolidated Code on Advertising and Marketing Communication Practice (2006) and the new ICC Framework for responsible food and non-alcoholic beverage marketing communications (ICC Food framework 2006), as well as national self-regulatory provisions.

How is the advertising captured?

For this exercise, Xtreme Information captured:

- The first appearance of new TV ads on over 90 European channels monitored 24 hours/day (covering 99% of the creative on TV).
- Print ads were captured from a broad range of consumer, business and specialist newspapers and magazines (95 to 98% of print ads captured).
- Over 1,400 European Internet sites were monitored 4 times per day on 3 levels using spider technology to capture banners and pop-ups displayed on those pages. Special technology ensures that ads are not captured twice.

Independent reviewer

For reasons of impartiality and due process, an independent reviewer, knowledgeable in both advertising regulation and consumer protection issues, was appointed to perform the following functions:

1. Verify that the appropriate criteria have been set up;
2. Check SRO responses are made correctly by accessing the EASA-approved results online and viewing responses at random;
3. Testify to the correctness of the monitoring procedure and ensure the processes were transparent, participative and accountable.

How did the SROs conduct the monitoring exercise?

SROs were asked to view the ads and indicate:

- whether the ad included a claim
- whether there had been a breach of the codes
- whether copy advice had been sought
- whether a complaint had been made and if so, the outcome of the complaint

Note: Xtreme considers each ad as a single execution. The same ad cut into different length formats will, each time, be considered as a new execution.

2. Compliance results for 2008

2.1 Ads withdrawn from the compliance results.

Out of the 2,957 ads captured by Xtreme, 240 fell out of the remit of the exercise i.e. the ads were not classified as advertising (e.g. sponsorship) or they were not reviewable for technical reasons. A further 13 complaints received by the SROs are still under investigation and have therefore been withdrawn from the basis of calculation.

Out of the 2,704 ads remaining, 1000 were flagged by the SROs as containing a claim. Ads were classified as 'claims' when further evidence would be required from the advertiser in order for the SROs to fully comment on the compliance of the ads. Therefore, for the sake of consistency and clarity, claims not further investigated as the result of a complaint have been withdrawn from the basis of calculation. Those claims investigated as the result of a complaint and adjudicated by the SRO were included in the compliance figures in accordance with the decision given.

The compliance results have therefore been calculated on the basis of 1,704 ads.

Total no. of ads captured	2,957
Out of remit	240
Ads with complaints under investigation	13
Ads with claims not investigated	1000
Total no. of ads included in compliance monitoring	1,704

Table2. Basis for calculation of compliance results

2.2 Compliance results

Results for the 2008 food monitoring exercise are as follows:

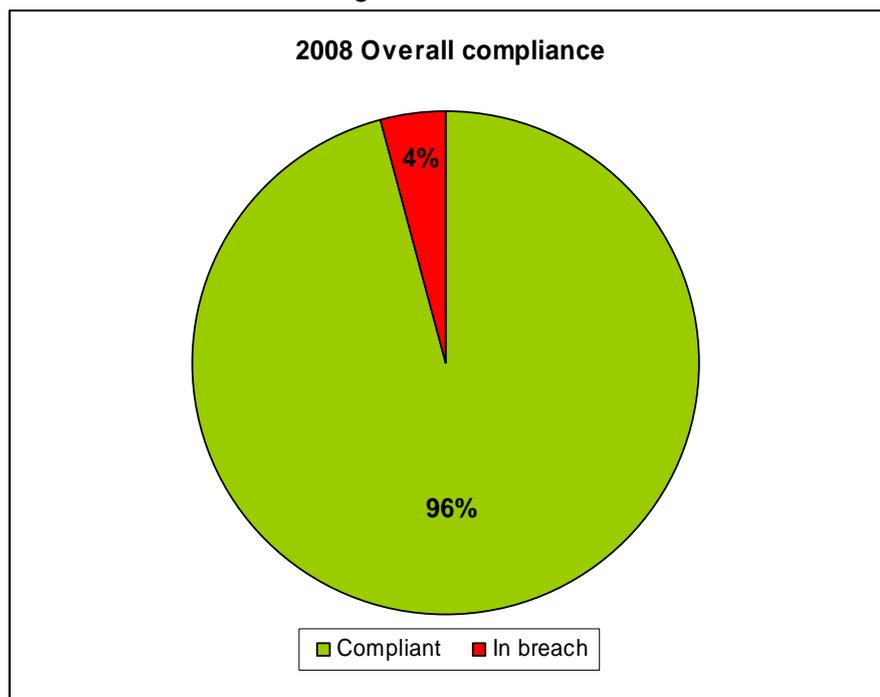


Fig 3. Overall compliance results 2008

	TV	Print	Internet	Total
Compliant	863	550	218	1631
In breach	39	17	17	73
Total	902	567	235	1704

Table 4. Overall compliance results

2.3 Overview per country

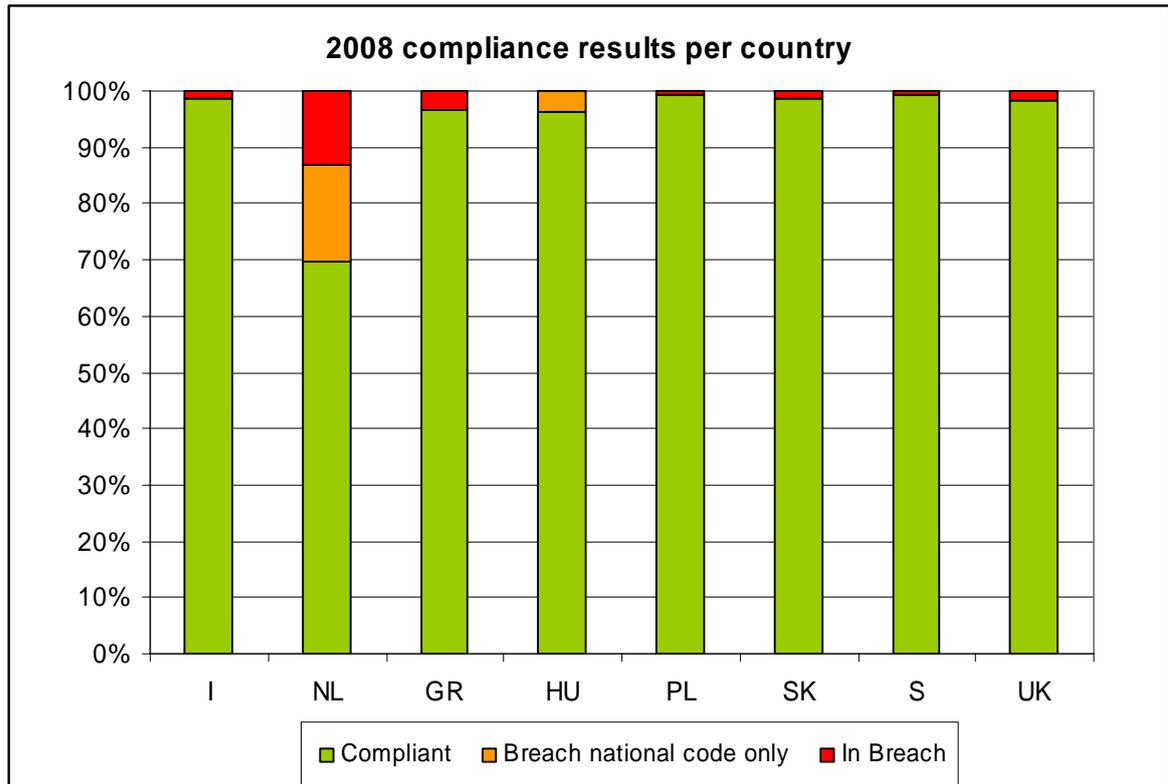


Fig 5. Compliance results per country for 2008

2.4 Detailed Results

	I	NL	GR	HU	PL	SK	S	UK	Total
Total n° of ads on database	442	259	484	93	167	81	379	1052	2957
Compliant	422	101	326	79	156	70	149	328	1631
CLAIMS	10	110	145	9	9	5	144	568	1000
Heath and nutrition	10	54	86	5	7	3	65	158	388
Superlative	0	3	12	1	1	2	0	25	44
Multiple	0	39	44	0	1	0	20	218	322
Other	0	14	3	3	0	0	59	167	246
BREACH TOTAL	6	44	11	3	1	1	1	6	73
Breach both ICC and national code	1	18	0	0	1	1	1	5	27
Breach national code only	0	25	0	3	0	0	0	0	28
Complaint upheld	5	1	11	0	0	0	0	1	18
COMPLAINT TOTAL	8	10	11	0	0	0	3	40	72
Complaint upheld	5	1	11	0	0	0	0	1	18
Complaint not upheld	0	0	0	0	0	0	2	17	19
under investigation	3	3	0	0	0	0	0	7	13
complaint rejected	0	6	0	0	0	0	1	15	22
Not included	4	4	2	2	1	5	85	150	253
Technical problem	0	0	1	2	0	0	3	8	14
out of remit	1	1	1	0	1	5	82	135	226
under investigation	3	3	0	0	0	0	0	7	13
copy advice received	2	0	0	16	0	0	0	40	58

Table 6. Detailed compliance results 2008

The results in the Netherlands for breaches of the National code are explained by the non respect of the rule imposing a stylized image of a toothbrush on confectionary and snacks ads, or the non-mention of the super “advertising” on internet banners or pop-ups.

2.5 Type of breach

In 2008, misleadingness accounted for 58% of the breach of the code registered by the SROs. This is related to non-substantiation of claims in most cases. Denigration of competitors or products in the same range ranks second, and lack of identification of the advertiser or as an advertisement ranks third.

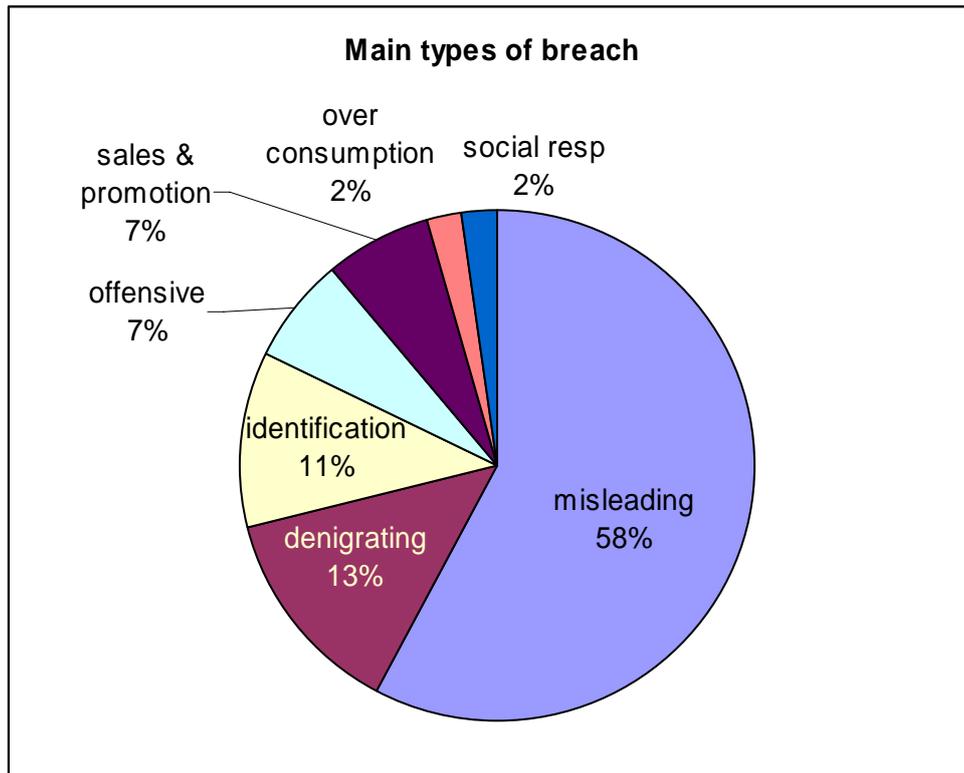


Fig 7. Type of breach in 2008 (not including National code breach)

For comparison, in 2007, the main reason for breaches of the codes was the following:

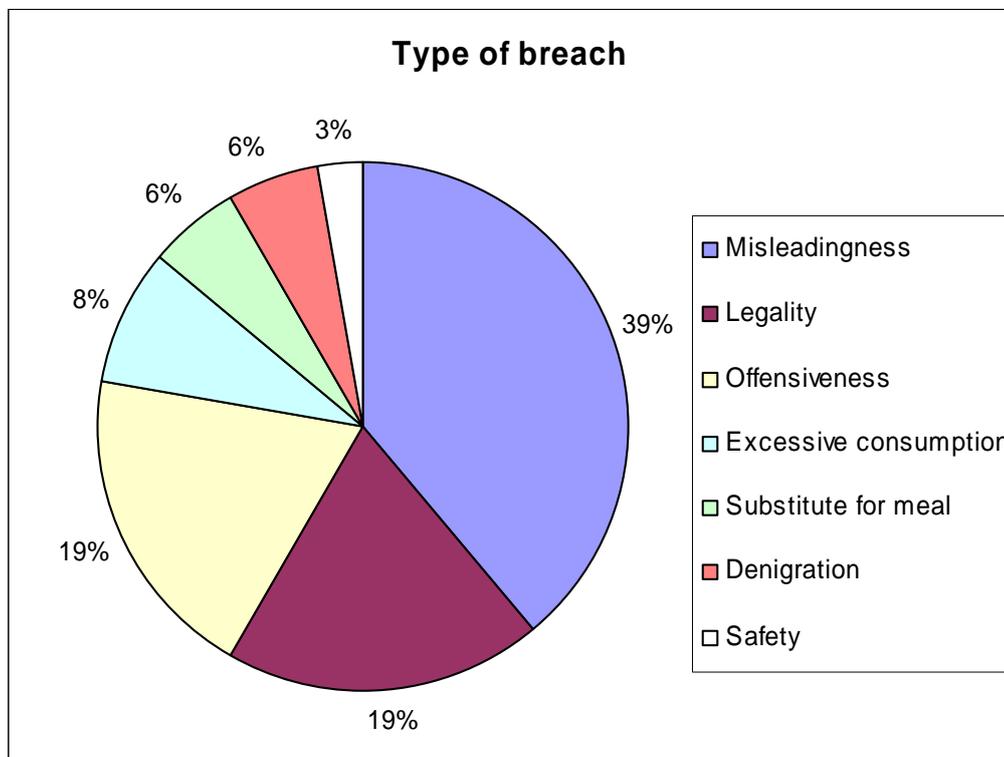


Fig 8. Type of breach in 2007 (not including National code breach)

2.6 Claims

In 2008, 1000 claims were flagged by the SROs i.e. meaning further substantiation would be required from the advertiser in order for the SROs to fully assess the ads for compliance.

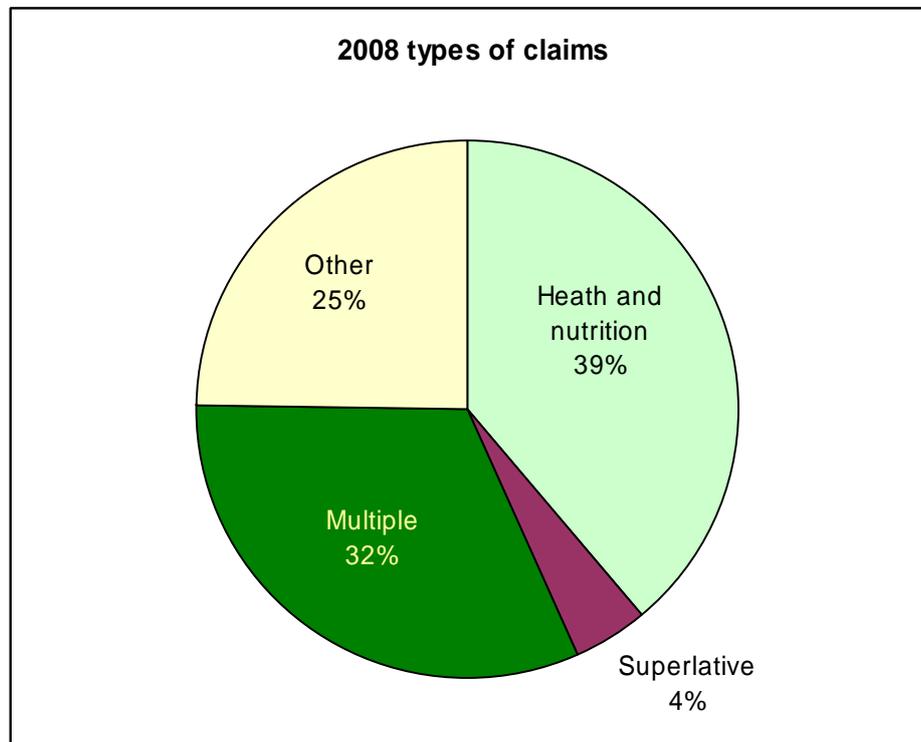


Fig 9. Types of claims flagged by the SROs in 2008

Definitions

- Health and nutritional claims: The ad contains a health or nutritional claim that would require scientific evidence to substantiate it (e.g. “Only 149 Kcal per serving”).
- Superlative claims: The ad contains a superlative such as “the only”, “the best”, “the biggest”... (e.g. “The best snack for active kids”).
- Multiple claims: The ad contains a multiple claims such as “now with more fruits and no additives for a taste better than ever”.
- Other claims: The ad contains a claim that does not fall within one of the categories above (e.g. “Since 1889”).

3. Results per media

3.1 Results for TV

The following results show the compliance level for TV ads only.

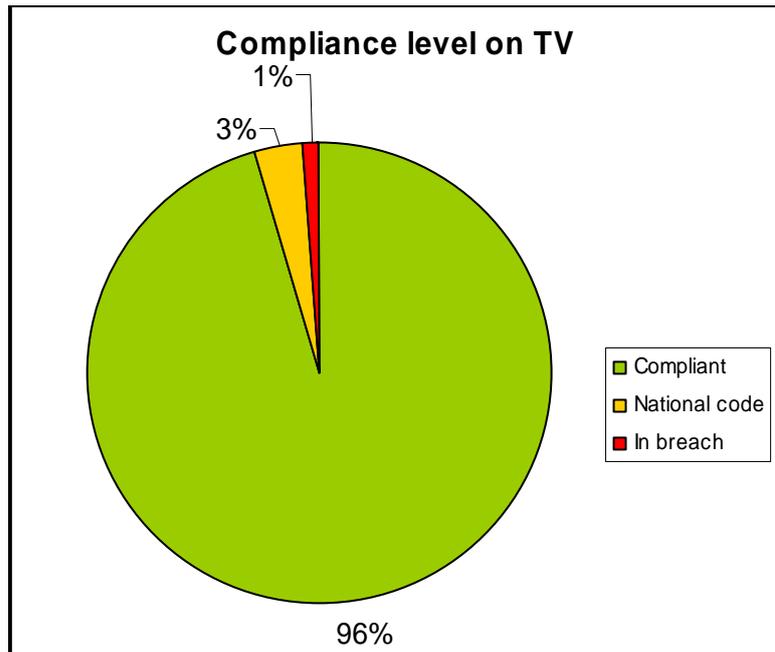


Fig 10. Overall compliance for TV ads only in 2008

	N° of ads	%
Compliant	863	95.68
In breach	39	4.32
Total	902	100

Table 11. Overall compliance for TV ads only in 2008

TV ads accounted for 402 claims out of 1000 flagged by the SROs (40.2%). TV ads also represented 46 complaints out of the 72 received by the SROs over the monitoring period (63.8%).

3.2 Results for Print

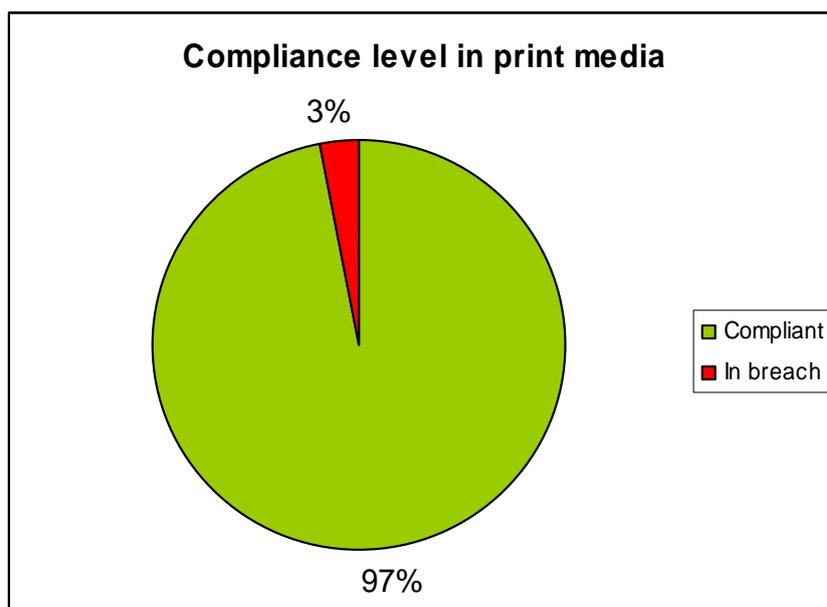


Fig 12. Overall compliance for print ads only in 2008

	N° of ads	%
Compliant	550	97.1
In breach	17	2.9
Total	567	100

Table 13. Overall compliance for print ads only

Press ads accounted for 506 claims out of 1000 flagged by the SROs (50.6%). Press ads also represented 18 complaints out of the 72 received by the SROs during the monitoring period (25%).

3.3 Results for Paid-for Internet (banner and pop-ups)

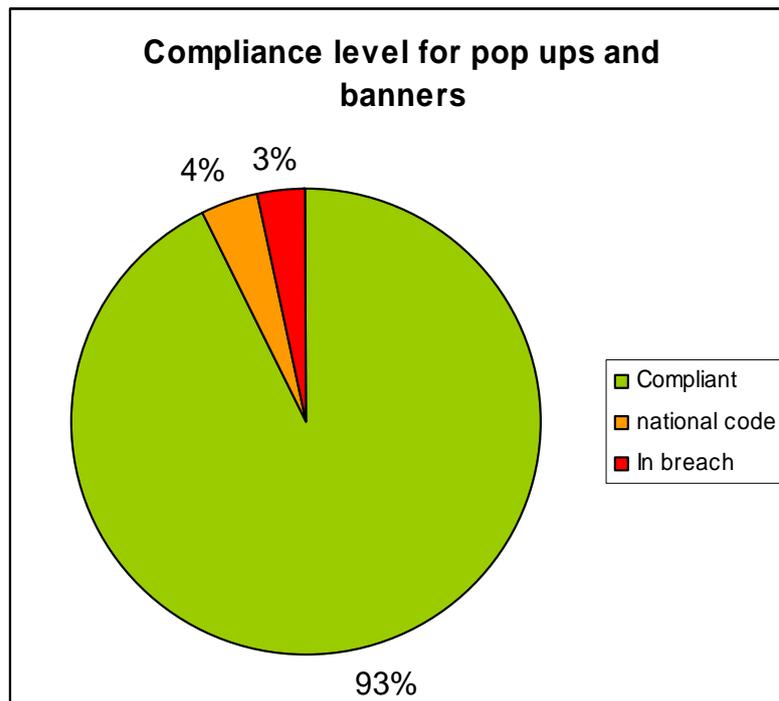


Fig 14. Overall compliance for paid-for Internet ads only

91 claims were identified by the SROs on paid-for internet ads out of the 1000 ads flagged (4.25%).

	N° of ads	%
Compliant	218	
In breach	17	
Total	235	100

Table 15. Overall compliance for paid-for Internet ads only

4. Complaints

72 complaints were received, of which 18 were upheld.

The complaints still under investigation have been withdrawn from the compliance basis. The complaints upheld are included in the breach figures, and the complaints not upheld or rejected are included in the main compliance figures (See page 17).

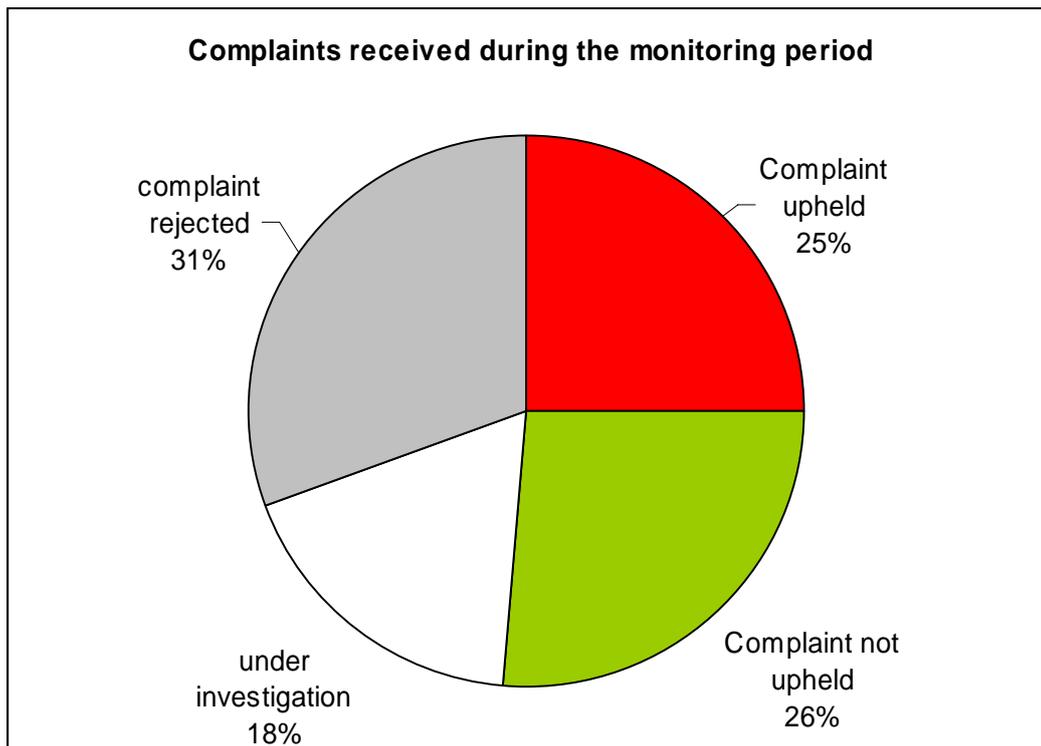


Fig 16. Overview of treatment given to complaints received

Complaints upheld	18
Complaints not upheld	19
Complaints under investigation	13
Complaints rejected	22
Total n° of complaints	72

Table 17. Overview of treatment given to complaints received

Definitions:

- Complaint upheld: The ad was complained about, transferred to the jury and the complaint was upheld.
- Complaint not upheld: The ad was complained about, transferred to the jury and the complaint was not upheld.
- Complaint under investigation: The ad was complained about and the case is still under investigation by the SRO.
- Complaint rejected: The ad was complained about, but the complaint was rejected by the SRO secretariat (out of remit, complaint not on the ad but on the product itself etc.)

Misleadingness remains, as in 2007, the main reason for juries to uphold complaints.

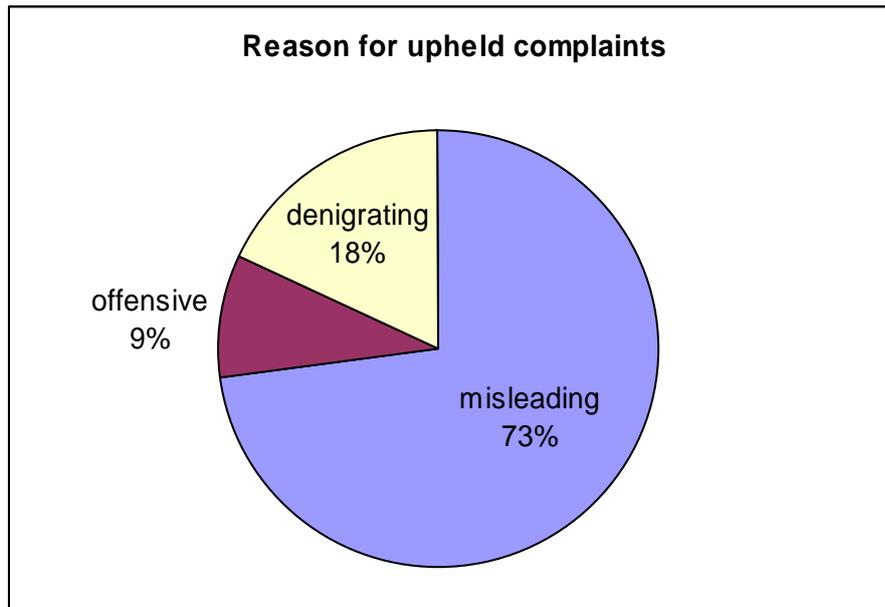


Fig. 18 Main reasons for upholding complaints in 2008

Out of all the complaints registered (whatever the outcome of the complaint was) dairy products, snacks and confectionaries and mineral water are the products most complained about.

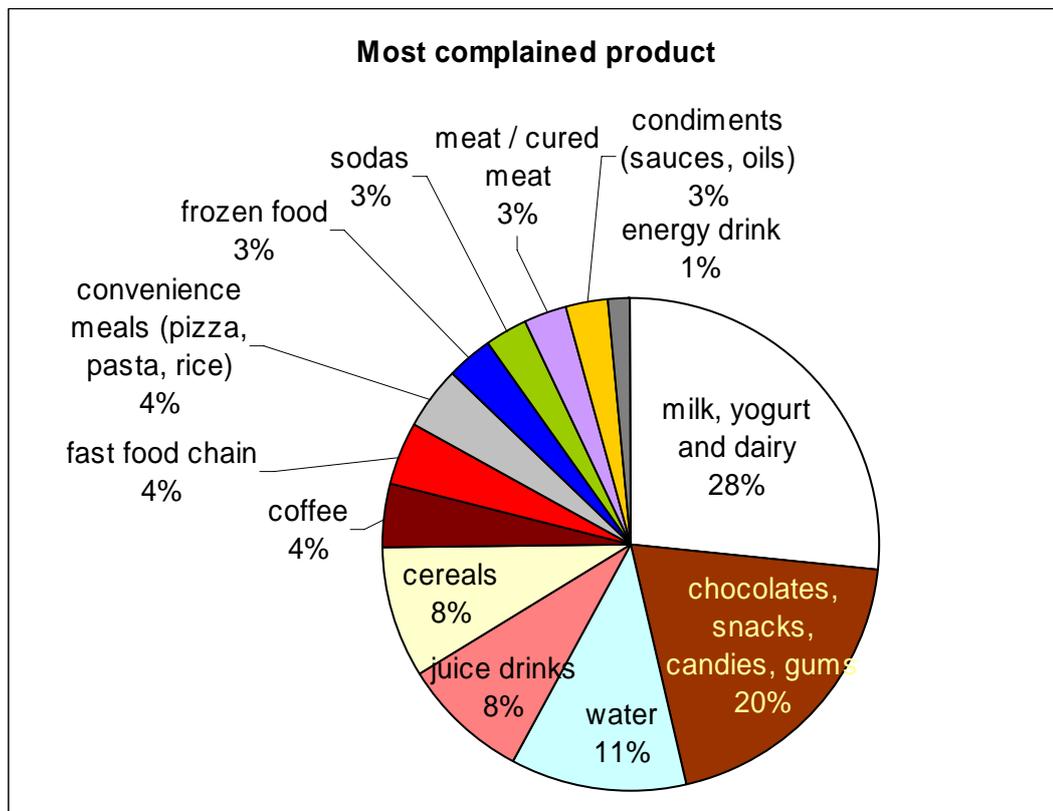


Fig. 19 Products most complained about in 2008

The main reasons for consumer or competitors to complain (whatever the outcome of the complaint was) are misleadingness, offensiveness and irresponsible or dangerous behaviour.

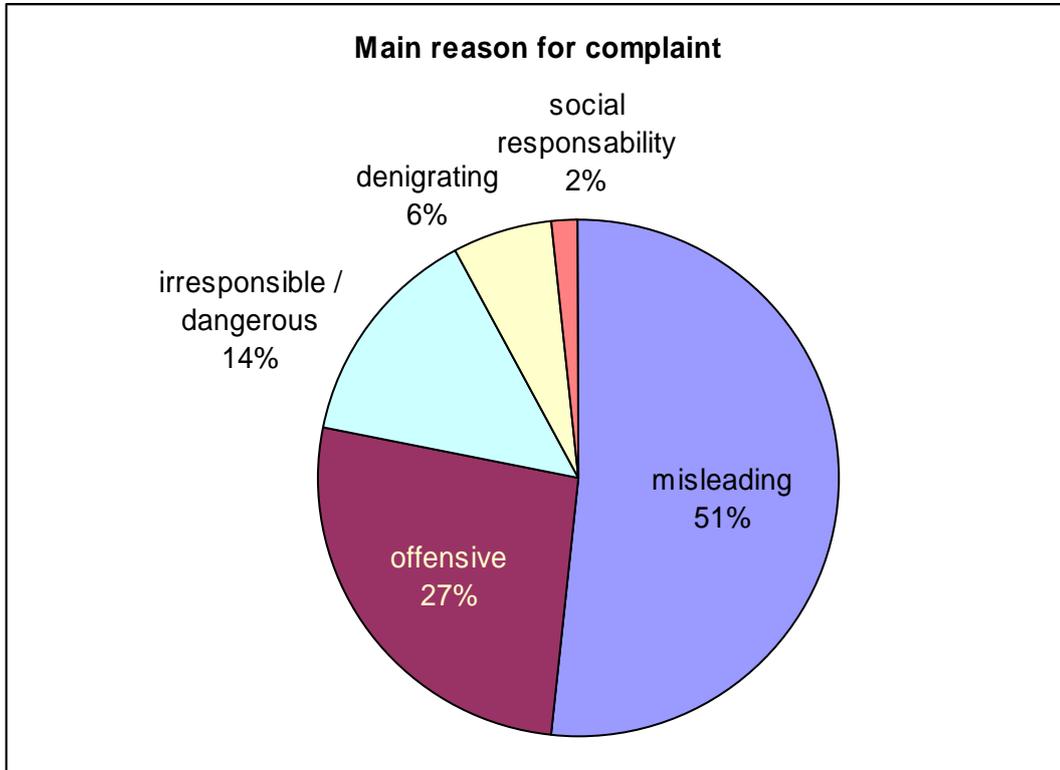


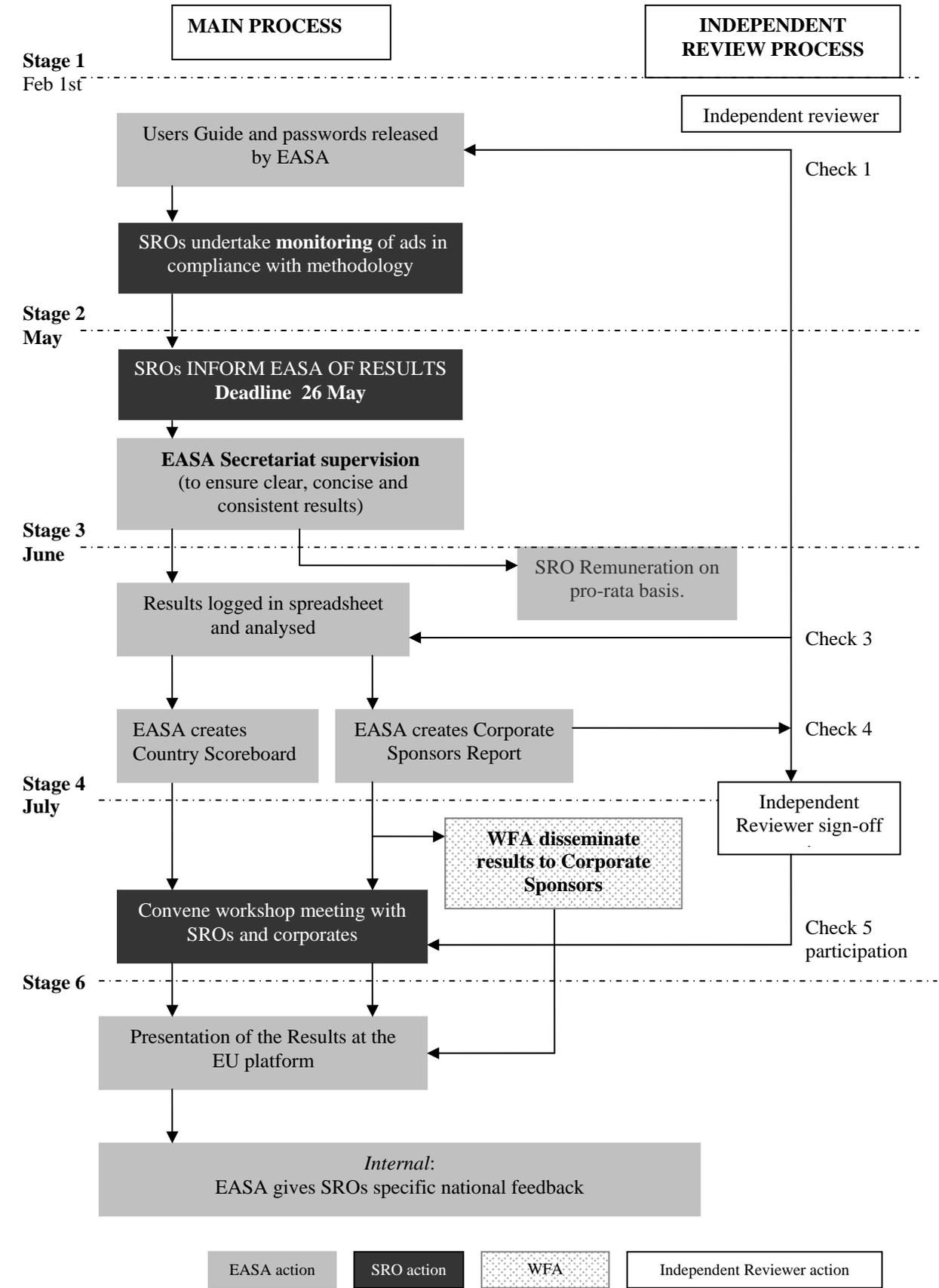
Fig 20. Main reasons for complaint in 2008

5. Copy advice¹

58 ads of the 2631 ads monitored in 2008 (claims included) had received copy advice.

¹ Copy advice is a service provided by SROs, on request, to advertisers and agencies on the acceptability of proposed advertising campaigns. Copy advice is provided free of charge to SRO members in many countries and is non-binding.

ANNEX 1 : Flowchart of Monitoring Process



ANNEX 2: Detailed results per media

	I	NL	GR	HU	PL	SK	S	UK	Total
TOTAL on database	442	259	484	93	167	81	379	1052	2957
TV	238	184	203	65	97	63	141	468	1459
Print	126	37	269	16	38	17	171	449	1123
Internet	78	38	12	12	32	1	67	135	375
ALL OK	422	101	326	79	156	70	149	328	1631
TV	228	78	140	58	88	57	69	145	863
Print	116	9	178	12	36	12	58	129	550
Internet	78	14	8	9	32	1	22	54	218
CLAIMS	10	110	145	9	9	5	144	568	1000
TV	5	80	56	5	7	3	63	183	402
Print	5	24	85	3	1	2	74	312	506
Internet	0	6	4	1	0	0	7	73	91
H&N	10	54	86	5	7	3	65	158	388
TV	5	45	32	4	6	1	32	53	178
Print	5	8	51	0	1	2	29	93	189
Internet	0	1	3	1	0	0	4	12	21
SUP	0	3	12	1	1	2	0	25	44
TV	0	3	4	0	0	2	0	1	10
Print	0	0	8	1	1	0	0	24	34
Internet	0	0	0	0	0	0	0	0	0
MULTI	0	39	44	0	1	0	20	218	322
TV	0	22	19	0	1	0	7	79	128
Print	0	16	24	0	0	0	13	129	182
Internet	0	1	1	0	0	0	0	10	12
OTHER	0	14	3	3	0	0	59	167	246
TV	0	10	1	1	0	0	24	50	86
Print	0	0	2	2	0	0	32	66	102
Internet	0	4	0	0	0	0	3	10	17
BREACH TOTAL	6	44	11	3	1	1	1	6	73
TV	2	24	7	2	1	1	1	1	39
Print	4	4	4	0	0	0	0	5	17
Internet	0	16	0	1	0	0	0	0	17
BREACH BOTH	1	18	0	0	1	1	1	5	27
TV	0	6	0	0	1	1	1	0	9
Print	1	4	0	0	0	0	0	5	10
Internet	0	8	0	0	0	0	0	0	8
BREACH NC only	0	25	0	3	0	0	0	0	28
TV	0	17	0	2	0	0	0	0	19
Print	0	0	0	0	0	0	0	0	0
Internet	0	8	0	1	0	0	0	0	9
COMPLAINT UP	5	1	11	0	0	0	0	1	18

TV	2	1	7	0	0	0	0	1	11
Print	3	0	4	0	0	0	0	0	7
Internet	0	0	0	0	0	0	0	0	0
COMPLAINT TOTAL	8	10	11	0	0	0	3	40	72
TV	4	8	7	0	0	0	2	25	46
Print	4	0	4	0	0	0	1	9	18
Internet	0	2	0	0	0	0	0	6	8
COMPLAINT UP	5	1	11	0	0	0	0	1	18
TV	2	1	7	0	0	0	0	1	11
Print	3	0	4	0	0	0	0	0	7
Internet	0	0	0	0	0	0	0	0	0
COMPLAINT NU	0	0	0	0	0	0	2	17	19
TV	0	0	0	0	0	0	1	12	13
Print	0	0	0	0	0	0	1	5	6
Internet	0	0	0	0	0	0	0	0	0
COMPLAINT UI	3	3	0	0	0	0	0	7	13
TV	2	1	0	0	0	0	0	1	4
Print	1	0	0	0	0	0	0	3	4
Internet	0	2	0	0	0	0	0	3	5
REJECTED	0	6	0	0	0	0	1	15	22
TV	0	6	0	0	0	0	1	11	18
Print	0	0	0	0	0	0	0	1	1
Internet	0	0	0	0	0	0	0	3	3
OUT	4	4	2	2	1	5	85	150	253
TV	3	1	0	2	1	2	8	139	156
Print	1	0	2	0	0	3	39	3	48
Internet	0	3	0	0	0	0	38	8	49
Technical problem	0	0	1	2	0	0	3	8	14
TV	0	0	0	2	0	0	0	3	5
Print	0	0	1	0	0	0	1	0	2
Internet	0	0	0	0	0	0	2	5	7
out of remit	1	1	1	0	1	5	82	135	226
TV	1	1	0	0	1	2	8	135	148
Print	0	0	1	0	0	3	38	0	42
Internet	0	0	0	0	0	0	36	0	36
COMPLAINT UI	3	3	0	0	0	0	0	7	13
TV	2	1	0	0	0	0	0	1	4
Print	1	0	0	0	0	0	0	3	4
Internet	0	2	0	0	0	0	0	3	5
CA YES	2	0	0	16	0	0	0	40	58
TV	2	0	0	16	0	0	0	0	18
Print	0	0	0	0	0	0	0	35	35
Internet	0	0	0	0	0	0	0	5	5