



Dear ASA, Sex Ads are Not OK in Newspapers

‘Sex Ads aren’t Sexually Explicit’

‘Newspapers Aren’t Targetted at Children’

Advertising Prostitution in a Newspaper is just an issue of ‘Offence’ & ‘Poor Taste’

[Not Buying It](#)¹ challenges the sexual objectification of women because of the harm this causes. We recently put in a complaint to the ASA about the advertising of the sex industry, including prostitution, in the Evening Standard with a daily circulation of 1.5 million.

The ASA is [legally required](#)² to promote good relations between women and men and promises that [child protection](#)³ ‘lies at the heart’ of all it does. Our own [straw poll](#)⁴ shows that 97% of the public think newspapers should not advertise the porn and sex industry. And [research](#)⁵ shows that 1/3 to 1/2 of under age children read newspapers, with 50% of boys saying newspapers are their *preferred* reading material.

However, despite this, the ASA considered there were ‘insufficient grounds’ to investigate the appropriateness of these ads - a ruling backed by the ASA’s Independent Reviewer. We have compiled our complaints and their decisions. We feel this perfectly illustrates the failings in the ASA’s understanding of gender equality and child protection and have put forward a series of [recommendations](#)² to help it improve.

¹ www.notbuyingit.org.uk

² www.notbuyingit.org.uk/ASARec

³ www.notbuyingit.org.uk/ASA2

⁴ www.notbuyingit.org.uk/Vote

⁵ <http://www.notbuyingit.org.uk/Newspapers4Kids>

#1 Our Original Complaint to the ASA



Complaint to ASA re Sex/Porn Ads in *Genuine* Newspapers

Submitted by Not Buying It www.notbuyingit.org.uk no@notbuyingit.org.uk

23 Sep 2016



Examples of Ads for 'Sex Chat' and even Prostitution in genuine newspapers (Evening Standard 16 Sept 2016)

The ASA recently made a sector-wide decision on how to responsibly market pornography and prostitution in newspapers. This ruled that such ads were 'responsibly placed' when inside but not when on the back cover because 'then children might see it on the shelf or if left lying around the house'.

However, this ruling was made on the basis of The Sport newspaper. The only reason ads were deemed 'responsibly placed' *inside* this publication is because it is clearly pornographic and aimed at adult men for sexual arousal. It thus is not really a newspaper at all and should not be sold as a newspaper on the bottom shelf accessible to all.

We contend that the ASA's ruling cannot possibly be applicable to *genuine* newspapers, which are clearly not pornographic and not targeted at adult men for masturbation. Genuine newspapers are non-age restricted publications understood to be appropriate for all – people from different cultural backgrounds; survivors of sexual assault; survivors of the porn and sex trade; parents and, of course, children.

Genuine newspapers are sold on the bottom shelf, alongside children's products and readily accessible to all - and may often be actively sought out and read by children.

They are also widely left lying around the house and in public places. This includes papers like the Metro and ES that are freely distributed throughout London in their millions every week and widely left lying around in public places. Any adult or child can pick up a newspaper on the tube or train and, in fact, are particularly likely to in order to alleviate the boredom of travel.

We therefore are asking you to make an industry-wide ruling on the appropriateness of ads for the porn and sex trade wherever they are placed in a *genuine* newspaper – this to include ads for stripping in all its guises including lap dancing; sex chat lines; prostitution and any of its euphemisms such as 'dates', massage parlours and escort agencies; pornography and anything of a similar nature.

Please find below some examples of such ads from the Evening Standard (ES) which seems to include a selection of both sex chat lines and even prostitution ('Gaby' and 'Sex or *Date*')

However ads such as these are found in every edition of the ES, Metro and indeed many other newspapers.

We have outlined below why such ads are unacceptable anywhere in any *genuine* newspaper and how such ads breach current CAP codes and ASA promises and commitments:

1. Lack of Social Responsibility (Breach of Code 1.3)

The porn and sex trade are deeply harmful to the women in it and to attitudes towards all women. This has been recognised for decades by research, by international (often legally binding) treaties and by countless Government and Mayoral policies to end violence against women.

Allowing any aspect of the porn/sex industry to promote itself in a newspaper promotes, normalises, condones and legitimises them and as such is deeply socially irresponsible.

2. Offence (Breach of Code 4.1)

It is self-evident that such ads are very likely to cause widespread offense and deep offense to many. This includes a great many women, including victims of abuse or victims of the industries being advertised; individuals from many different cultural backgrounds; a great many parents; and, indeed, a great many children.

3. Child Protection: 'Target Audience' is Irrelevant for Ads in the Public Domain (Code 1.3)

The advertiser is likely to argue that the '**target audience for such ads is adult men**'. However, the 'target audience' is irrelevant, its location is. Ads for the porn and sex industry should not be in the public domain, like a newspaper.

4. Child Protection: Children will see these Ads (Code 1.3 & potentially 5.1)

Children should not be exposed to the porn and sex trade. It cannot possibly be imagined that children will not see these ads in a newspaper – sold on the bottom shelf, left lying around the house or in public places. Indeed a great many children actively seek out newspapers to read,

particularly the likes of Metro and others written in plain English with a heavy emphasis on fashion, gossip and celebrities.

The advertiser will no doubt argue that '**children will not understand these ads**'. However this cannot possibly be assumed. Sadly, children are 'porn savvy' at an increasingly young age. Given the huge exposure our children now have to the porn and sex industry a large proportion will know exactly what is being advertised, particularly older children.

5. Child Protection: Sex Ads can be used in Child Grooming (Code 1.3 & 1.10)

Anything that normalises the porn and sex industry are powerful and frequently-used tools for child grooming. The child protection experts on the panel will be familiar with conversations along these lines: "**Look at that girl, don't you want to be like her? It's ok, look it's in a newspaper!**"

6. Child Protection: Children likely to try to Access the Services Advertised (Code 1.3 & 1.10 – incitement to break the law)

Children have been so saturated in pornography that nearly **10% of pre-teens** are addicted to it (NSPCC) and a much higher percentage are users. This means that children are very likely to actively seek out the sex services offered and this risk rises exponentially for older children.

If the ASA rules that ads for the porn/sex trade are appropriate in newspapers it sadly will be complicit in under age children seeking out these industries ie inciting children to break the law. In fact, children's harmful interest in these industries is almost entirely due to its normalising in the public domain, including via its advertising in newspapers.

7. Child Protection: These Ads Counter all Government Efforts to Protect Children from Porn

Allowing such ads in a newspaper counters all Government efforts to end the 'pornification' of our children. This includes making all internet porn 'opt in' and plans to make all internet porn age-restricted (as surely it should always have been).

Many of these initiatives were proposed by one of the ASA's own Leaders, Reg Bailey.

8. Sex Ads may be Illegal (Code 1.10 – complying with the law)

It is illegal to buy sexual services of any sort from anyone forced, coerced or trafficked (ie the vast majority of women in the industry). The Police and Press Association has urged newspapers for more than half a decade to cease carrying ads for the sex trade because of this.

The advertisers will no doubt argue that '**they are not advertising anything illegal**'. But how do they know? Do they check by sensitively talking to every woman and teenager on every chat line?

Women may be coerced even to sex chat work. It is also just 'the slippery' slope for women becoming trapped in a life of porn and prostitution. It equally presents a slippery slope for users of sex chat lines or those exposed to it (like children) into the world of consuming abusive, hardcore porn or paying for prostitution.

9. ASA Promises Breached

The ASA promises throughout its web site and in documents like 'A Parents Guide' that '**all ads wherever they appear must not harm or offend**'; that '**the protection of children lies at the heart of our work**', and '**ads likely to be seen by children don't contain anything that is inappropriate or harmful**'.

Ads for porn and prostitution in a newspaper breaches every single one of these promises for all the reasons outlined above. If the ASA rules such ads are appropriate anywhere in a newspaper it needs to retract these commitments as false advertising.

We have analysed how the placement of such ads in a newspaper both directly and implicitly breach ASA promises here: www.notbuyingit.org.uk/ASA2

10. Lack of Consistency across ASA Decisions

The ASA appears to recognise that the objectification of women is harmful and offensive. It has a track record of banning such ads. This has included advertising competitions in lad's mags' with the prize of a date with one of their 'glamour' models and, more recently, the Sun running a similar competition: https://www.asa.org.uk/Rulings/Adjudications/2014/11/News-UK-and-Ireland-Ltd/SHP_ADJ_276702.aspx#.V-UjdDKZOu6

How then can the ASA possibly *not* find ads for the porn and sex trade objectifying, offensive and socially irresponsible?

It is self-evident that the porn and sex trade are far more objectifying, offensive and harmful than these competition ads. They actually are *selling* women *for sex*. Although highly demeaning to offer a woman as a prize, the 'date' offered is an actual date it is not the sex industry's euphemism for a 'date' ie 'purchasing a woman for sex or masturbation'

11. Lack of Consistency with Promotion in other Media

The presence of such ads in a newspaper introduces huge discrepancies as to how the porn and sex trade are advertised. In other media where they are promoted it is done in a way to ensure child protection. For instance such ads, where they appear on Television, are always post-watershed whilst Transport for London have introduced a blanket ban on their billboard advertising.

It is therefore totally incongruent for these industries to be advertised in the very public and accessible domain of a newspaper.

#2 ASA Response to Our Complaint

Thank you for your patience whilst we assessed your four complaints. The ASA Council was asked to adjudicate on the issue you raise in your complaint. They have now carefully considered the ads and the issues raised, but have concluded that there are insufficient grounds for further ASA intervention on this occasion.

I should explain that the ASA does not intervene where advertising is simply criticised for being in poor taste. The Code requires that ads must not contain anything that is likely to cause serious or widespread offence, but ads may be 'distasteful' without necessarily breaching this rule. Complaints about offence often require difficult judgements. Apart from freedom of speech considerations, even well-intentioned and thoughtful people will have different and sometimes contradictory opinions about what constitutes 'bad taste' or should be prohibited. We can act if the ad, in our judgement, offends against widely accepted moral, social or cultural standards.

PlusConnect: Ref:A16-361246

Although Council appreciated the concerns raised by Not Buying It!, they did not consider the Evening Standard to be a newspaper that was targeted at, or likely to appeal specifically to, children. The ad was placed within the middle of the newspaper thereby meaning the chance of children seeing the ad was reduced. Although some may consider the content of the ad to be distasteful it wasn't sexually explicit, and Council had no reason to consider that what was stated within the ad was advocating an illegal activity. Therefore, Council considered that the ad was unlikely to cause serious or widespread offence, or harm to children, and as such was not placed irresponsibly.

4D Interactive Ltd – A16-359008

Although Council appreciated the concerns raised by Not Buying It!, they did not consider the Evening Standard to be a newspaper that was targeted at, or likely to appeal specifically to, children. The ad was placed within the middle of the newspaper thereby meaning the chance of children seeing the ad was reduced. Although some may consider the content of the ad to be distasteful it wasn't sexually explicit. Therefore, Council considered that the ad was unlikely to cause serious or widespread offence, or harm to children, and as such was not placed irresponsibly.

RJ Media – A16-361234

Although Council appreciated the concerns raised by Not Buying It!, they did not consider the Evening Standard to be a newspaper that was targeted at, or likely to appeal specifically to, children. The ad was placed within the middle of the newspaper thereby meaning the chance of children seeing the ad was reduced. Although some may consider the content of the ad to be distasteful it wasn't sexually explicit. Therefore, Council considered that the ad was unlikely to cause serious or widespread offence, or harm to children, and as such was not placed irresponsibly.

Candywall Ltd – A16-361239

Although Council appreciated the concerns raised by Not Buying It!, they did not consider the Evening Standard to be a newspaper that was targeted at, or likely to appeal specifically to, children. The ad was placed within the middle of the newspaper thereby meaning the chance of children seeing the ad was reduced. Although some may consider the content of the ad to be distasteful it wasn't sexually explicit. Therefore, Council considered that the ad was unlikely to cause serious or widespread offence, or harm to children, and as such was not placed irresponsibly.

I appreciate that this may not be the outcome you'd hoped for, but we've passed on your comments to the advertisers (without revealing your identity) so that they're aware of your views. We will also continue to monitor the response to this ad.

Thank you nonetheless for taking the time to share your concerns with us. If you would like more information about us or our work, please do visit our website, www.asa.org.uk.

#3 Our Appeal to the Independent Reviewer

Dear Sir Hayden Philips

Re Case: **A16-359008**

Regarding Not Buying It's concerns over ads for porn and prostitution in the ES, Evening Standard (and similar press):



We complained specifically about these ads for sex chat lines and seemingly prostitution in Evening Standard 16 Sep 2016. Some or all of these or similar, are seen in every edition of the Evening Standard with a daily circulation of at least 1.5 million and in the Metro with a nationwide circulation of over 3 million.

We were shocked and concerned that the ASA Council refused to even investigate this complaint on the premise that there were 'insufficient grounds'.

Ads for the sex industry (including, it seems, prostitution) in a newspaper breach numerous ASA codes, guidelines and precedence and this decision reflects extremely poorly on the ASA's commitment to end sexism in advertising, tackle harmful advertising and its innumerable promises on child safeguarding

However, we also believe there has been a **substantial flaw in the process or ruling** and for that reason we are asking you to review this decision. (I should point out that our ability to call for a review was not made clear to us initially, we had to specifically ask).

We have outlined below why this informal decision is substantially flawed and urge you to review the decision making process so that the ASA finally start fulfilling its role by tackling some of the most blatantly unacceptable advertising that is in the public domain every single day.

Please also see:

Appendix 1: Our original complaint

Appendix 2: ASA's response

How there has been a Substantial Flaw in the Process or Ruling:

1. At least 40% of Children aged 8-16 Read Newspapers.

Pivotal to the ASA's rationale not to investigate newspaper advertising of the porn and sex trade is the assumption that children will not see these ads (Appendix 2):

The Council 'did not consider the Evening Standard to be a newspaper that was targeted at, or likely to appeal specifically to, children'

'The ad was placed within the middle of the newspaper thereby meaning the chance of children seeing the ad was reduced'

However:

- Children **actively encouraged to read newspapers** by schools and by educational websites such as the BBC⁶ and Scholastics⁷
- **37% of 8-9 year olds read newspapers**⁸
- **41% of 10-11 year old read newspapers**³
- **48% of older children read newspapers**⁹
- **66% of children say 'newspapers are left lying around the house'**¹⁰ and **70% of children say they have access to a newspaper**¹¹
- **50% of boys say that newspapers are their preferred reading material outside of the class room**¹²

In other words, **large numbers of children have ready access to newspapers, ARE reading newspapers and even see newspapers as a preferred reading source – regardless of whether newspapers are 'tagetted' at them, or 'likely to appeal'**. This seemed to us self-evident and was a point made in our submission to the ASA. If it was not, surely the ASA should have investigated this itself before making false assumptions and it would readily have found relevant statistics? To not do so would in legal terms probably be seen as an 'irrational decision'.

Furthermore, the London press is *dominated* by the ES. With a **circulation of 1.5 million** in London this is comparable to the *nationwide* circulation of the Mail (1.8 million). The circulation of the Metro in London, whose advertising parallels that of the ES, is even greater (at 2 million).

In fact, the easy-to-read formats of the ES and Metro alongside the sensationalised format of other porn-promoting press, like the Star, means **children are particularly likely** to read them. Indeed compared to many other newspapers they clearly *are* likely to **'specifically appeal to children'**, as opposed to the much harder-to-read broadsheets like The Telegraph, Times, Guardian or Independent.

⁶ BBC <http://www.bbc.co.uk/bitesize/ks2/english/writing/newspapers/read/1/>

⁷ Scholastics <http://www.scholastic.com/parents/blogs/scholastic-parents-raise-reader/5-reasons-to-read-newspaper-your-kids-today-and-every-day>

⁸ National Foundation for Educational Research <https://www.nfer.ac.uk/publications/RAQ01/RAQ01.pdf> p5

⁹ Literacy Trust http://www.literacytrust.org.uk/assets/0000/0577/Reading_Connects_Survey_2005.pdf p65-66

¹⁰ National Foundation for Educational Research <https://www.nfer.ac.uk/publications/PRN01/PRN01.pdf> p44

¹¹ Literacy Trust http://www.literacytrust.org.uk/assets/0000/0577/Reading_Connects_Survey_2005.pdf p30

¹² *ibid* p33

2. Not one of our points has been addressed in the response we received.

Surely a decision is flawed when not one of the points we raise is addressed? Again, in legal terms this would constitute a 'dereliction of duty', particularly when our complaint detailed how such advertising in a newspaper breaches ASA precedence and numerous codes and guidelines (Appendix 1)?

Instead we were told that:

- Ads for the sex industry 'aren't sexually explicit' – a statement we don't even understand
- That the ASA does not necessarily intervene on the 'grounds of poor taste' - a phrase not used once in our letter of complaint.
- And that such ads 'do not offend against widely accepted moral, social or cultural standards'.

However, as pointed out in our complaint our online vote ¹³ suggests that the overwhelming majority of the public (97% of respondents, with over 150 votes cast) think newspapers should *not* carry such ads.

We also explained in detail how such ads *do* offend (including a great many parents, children, women, survivors of sexual assault and harassment and many from different ethnic, religious and cultural backgrounds, a particular feature of London).

Further a 'cultural norm' has been set by the ASA itself for allowing such ads in newspapers for decades. And a 'cultural norm' is a meaningless, highly subjective term and one the ASA has not been bound by every single time the it has ruled against a sexist or objectifying ad. Indeed it has even set a precedence for ruling against very similar (and actually far less harmful ads) - such as competitions to win dates with 'Page 3 girls' or with lad's mags 'glamour models', at a time when such ads were very much part of the 'cultural norm'.

We also highlighted how such ads might be breaking the law – the Met has for years asked newspapers to cease carrying sex industry ads because of this.

We also stressed the most salient point of all: the high levels of harm associated with the porn and sex trade, both for the women in it and in the attitudes they promote towards all women in a society with such poor attitudes that 10 million UK women are assaulted by men during their life time. This is particularly the case when such harmful industries are utterly normalised in the mainstream environment of a newspaper. How can the ASA possibly not see such ads as harmful and socially irresponsible?

However, not one of these points was addressed in the response we received.

Thank you for your time and I hope you agree that there were substantial flaws in the process.

Yours

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¹³ Our online poll is available here: www.notbuyingit.org.uk/Vote

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Not Buying It

21 December 2016

By email to no@notbuyingit.org.uk

ASA Case A16-359008: Request for Review

I am now able to give you a substantive reply to your letter dated 6 December in which you asked me to review the decision by the ASA Council not further to investigate your complaints about advertising in the Evening Standard.

I have considered carefully the points you have put to me, in the light of my reading of all the previous papers on the ASA file. This letter summarises my conclusions and the reasons for them.

I note that you complained about four ads for sex chat lines in the Evening Standard – 4D Interactive Ltd; RJ Media; PlusConnect; and Candywall. Although you cited only one case reference in your review request you included all four ads so I have taken your request to be one to review the ASA Council's decisions on all four. I also note your review request makes the same points in relation to all four cases. Although you say that the decisions are substantially flawed in process terms, it seems to me that you are more concerned with the content of the ruling and your disagreement with the rationale for the ASA's decision. You mention your concern that the opportunity to request a review was not pointed out to you at the beginning but you were given the website link on 21 November, and information about the review process as soon as you asked for it. You were not therefore disadvantaged in any way.

I will now turn to the substance of the two main issues you have raised with me.

First, you say that because children do look at newspapers, they will see the ads, and therefore the underpinning rationale for the Council's decision – that their placement in the middle of the newspaper meant that "the chance of children seeing the ad was reduced" – was flawed. You have given me statistics about children reading newspapers and argue that, because the Evening Standard is available on the London transport system and is relatively easy to read (compared with broadsheets), children will see the ads and be harmed by them.

While I understand your concern, I have to say that the fact that children might see an ad placed in a medium not directly targeted at them does not mean that it is in breach of the advertising Code. There are many products and services (such as alcohol and gambling) which children see advertised from time to time and which are not suitable for different ages. In that context, the advertising rules have provisions to prevent children receiving harmful levels of exposure from ads unsuitable for them (e.g. timing restrictions or prohibitions on ads for certain products in TV programmes that are likely to have a high proportion of children in the audience). But I think you have to recognise that it is parents or guardians who have the primary responsibility for the welfare of children and the advertising regulator cannot take their place or perform the roles properly given to child protection services or the police. The fact that you refer to "harmful industries" in your review request suggest to me that it is the services themselves that

are at the heart of your complaint and the ASA has no power to determine the legality of those services.

So far as I know the services advertised in the ads you complained about are legal, and the ASA Council took the view, reasonably in my view, that they were unlikely to be of particular appeal to children. The Council also took the view that while the ads *might* be seen in newspapers by children, the fact that they were in the middle of the publication and there was nothing in the ads' content that would be likely to particularly appeal to children, meant that combination was a reasonable bulwark against potential harm. It does seem to me that there is a sharp contrast here with the positioning of similar ads on the back of the Sport newspaper, which the Council felt was more likely to be viewed incidentally without the need to pick up and open the paper. The advertising Code rules do prevent ads for legal adult services being designed to appeal to children where the services advertised are unsuitable, or appearing in places where they are difficult for children to avoid. It is therefore a proper role for the ASA to act in such circumstances but not, it seems to me, in the situation about which you complained. The decision the Council took is clearly defensible and I cannot therefore find it substantially flawed.

I turn now to your second main point of concern namely that the decision did not address the points you had raised, which I take to mean your concerns about causing offence. I have to say having considered all the points you have put to me in Part 2 of your letter I am not surprised that the ASA did not address them as most of them are not about advertising issues. The sexual content which you object to relates to the nature of the services being offered. The argument that the ads for such services are offensive seems to me to suggest that you think the ASA is responsible for 'allowing' such ads. That is not the case. In fact, the ASA has to make judgements about what ads should be prohibited not about what ads should be permitted. That would involve a totally different type of regulatory regime involving thousands and thousands of pre-clearance judgements whereas the advertising Code gives guidance on after-the-event judgements made in the light of complaints.

I might add that the question about whether an ad is likely to cause offence is necessarily a subjective one, and the ASA's job is to balance the rights of an advertiser to promote a legal service with the right of the public not to be seriously offended. You clearly find adult sex services and chat lines offensive, and I am sure there will be some people who share that view, but that does not logically imply that the ads themselves, which do no more than promote the availability of such services, should thereby be considered offensive in themselves. The ASA is just not responsible for addressing the wider social issues which obviously concern you but only those that are relevant to advertising issues themselves.

I am therefore bound to conclude that the ASA has on this occasion made a reasonable and defensible within in the proper limits of its regulatory responsibilities. The independent review process under the advertising Code has therefore been completed and I shall proceed to close my file on the case. I realise that my decision will be a disappointment to you as you are passionately opposed to the porn and sex trade; and for that I am sorry.

Yours sincerely

Hayden Phillips

(Sir Hayden Phillips GCB DL)