

Annex B

Company number 733214

The Companies Acts 1948, 1985 and 1989

Company limited by Guarantee  
and not having a Share Capital

**MEMORANDUM OF ASSOCIATION**

of

**THE ADVERTISING STANDARDS AUTHORITY LIMITED**

(as amended by Special Resolutions passed on  
14 December 1962 and 11 June 2004)

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- 1 The name of the Company (hereinafter called the **Authority**) is "THE ADVERTISING STANDARDS AUTHORITY LIMITED".
  - 2 The registered office of the Authority will be situate in England.
  - 3 The objects for which the Authority is established are:
    - (a) <sup>1</sup>The promotion and enforcement (including by the handling, adjudication and resolution of complaints) throughout the United Kingdom, the Isle of Man and the Channel Islands of the highest standards of marketing communications in all media so as to ensure in co-operation with all concerned that such communications do not contravene or offend against these standards, having regard inter alia to the British Code of Advertising, Sales Promotion and Direct Marketing and other relevant codes.
    - (b) To purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Authority may think necessary or convenient for the promotion of its objects, and to construct, maintain and alter any buildings or erections necessary or convenient for the work of the Authority.
    - (c) To sell, let, mortgage, dispose of or turn to account all or any of the property or assets of the Authority as may be thought expedient with a view to the promotion of its objects.
    - (d) To undertake and execute any trust which may lawfully be undertaken by the Authority and may be conducive to its objects.
    - (e) To borrow or raise money for the purposes of the , Authority on such terms and on such security as may be thought fit.
    - (f) To invest the moneys of the Authority not immediately required for its purposes in or upon such investments, securities or property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided.

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<sup>1</sup> Amended by Special Resolution passed on 11 June 2004

Annex B

Company number 733214.

Companies Acts 1948, 1985 and 1989

Company limited by guarantee  
and not having a share capital

**MEMORANDUM OF ASSOCIATION**  
(as amended by Special Resolutions passed on  
14 December 1962 and 11 June 2004)

and

**ARTICLES OF ASSOCIATION**  
(adopted by Special Resolution passed on 11 June 2004)

of

**THE ADVERTISING STANDARDS AUTHORITY LIMITED**

Incorporated on 22 August 1962

**ADDLESHAW GODDARD**

Annex B

(g) To establish and support or aid in the establishment and support of any charitable associations or institutions and to subscribe or guarantee money for charitable purposes in any way connected with the purposes of the Authority or calculated to further its objects.

(h) <sup>2</sup>To do all such other things as are incidental or conducive to the attainment of the above objects or any of them provided that the Authority shall not support with its funds any object, or endeavour to impose on or procure to be observed by its members or others any regulation, restriction or condition which if an object of the Authority would make it a trade union or employers' association as those terms are defined in the Trade Union and Labour Relations (Consolidation) Act 1992.

4 <sup>3</sup>The income and property of the Authority however derived, shall be applied solely towards the promotion of the objects of the Authority as set forth in this Memorandum of Association, and no portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the members of the Authority.

Provided that nothing herein shall prevent the payment, in good faith, of reasonable and proper remuneration to any officer or servant of the Authority, or to any member of the Authority, in return for any services actually rendered to the Authority, nor prevent the payment of interest at a rate not exceeding the Bank of England base rate per annum on money lent or reasonable and proper rent for premises demised or let by any member to the Authority; but so that no remuneration or other benefit in money or money's worth shall be given by the Authority to any director or member of the Council, apart from the Chairman, except an honorarium, payable annually being in such amount as shall from time to time be determined by the Authority in general meeting, and except repayment of actual travelling expenses and reasonable out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Authority; provided that the provision last aforesaid shall not apply to any payment to any company of which a director or member of the Council may be a member, and in which such member shall not hold more than one hundredth part of the capital, and such member shall not be bound to account for any share of profits he may receive in respect of any such payment.

5 The liability of the members is limited.

6 Every member of the Authority undertakes to contribute to the assets of the Authority, in the event of the same being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the Authority contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding £1.

7 If upon the winding up or dissolution of the Authority there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the Authority, but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Authority, and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Authority under or by virtue of Clause 4 hereof, such institution or institutions to be determined by the members of the Authority at or before the time of dissolution, and if and so far as effect cannot be given to such provision, then to some charitable object.

<sup>2</sup> Amended by Special Resolution passed on 11 June 2004

<sup>3</sup> Amended by Special Resolutions passed on 14 December 1962 and 11 June 2004

Annex B

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this Memorandum of Association.

NAMES, ADDRESSES AND DESCRIPTIONS OF SUBSCRIBERS
R.A. BEVAN, Boxted House, Colchester, Essex, Chairman S H Benson Ltd., Incorporated Practitioners In Advertising
A.C. BUCK, Mill Farm, Burton Pidsea, E Yorks, Director Reckitt & Sons Ltd
CHARLES W.V. TRUEFITT, Merrywood, Windlesham, Surrey Director Associated Newspapers Ltd
JOHN HAWTON, Friars, Rustington, Sussex, Retired (Formerly Permanent Secretary, Ministry of Health)
ARNOLD PLANT, 19 Wildwood Road, London NW11, Professor in the University of London
H.W.F. FRANKLIN, Epsom College, Surrey, Headmaster
ALIX MEYNELL, 11 Clive House, Connaught Place, London W2, Retired (Formerly Under Secretary, Board of Trade)

Dated this 8th day of August 1962

Witness to the above signatures:

ANTONY HEALD  
5 New Court, Lincoln's Inn  
London, WC2

Solicitor

Annex B

**ARTICLES OF ASSOCIATION**

of

**THE ADVERTISING STANDARDS AUTHORITY LIMITED**

<b>Clause</b>	<b>Contents</b>	<b>Page</b>
	INTERPRETATION .....	1
	MEMBERS .....	3
	GENERAL MEETINGS.....	4
	NOTICE OF GENERAL MEETINGS.....	4
	PROCEEDINGS AT GENERAL MEETINGS .....	5
	VOTES OF MEMBERS .....	6
	DIRECTORS .....	7
	POWERS OF DIRECTORS .....	8
	DELEGATION OF DIRECTORS' POWERS .....	8
	APPOINTMENT AND RETIREMENT OF DIRECTORS.....	8
	DISQUALIFICATION AND REMOVAL OF DIRECTORS .....	9
	REMUNERATION OF DIRECTORS .....	9
	DIRECTORS' EXPENSES .....	10
	DIRECTOR GENERAL AND SENIOR MANAGERS .....	10
	DIRECTORS' INTERESTS .....	10
	DIRECTORS' GRATUITIES AND PENSIONS.....	10
	PROCEEDINGS OF DIRECTORS.....	10
	COUNCIL OF ADJUDICATION.....	12
	SECRETARY.....	13
	MINUTES, RECORDS AND REGISTERS OF INTERESTS .....	13
	THE SEAL .....	14
	ACCOUNTS AND RECORDS.....	14
	NOTICES.....	14
	INDEMNITY AND INSURANCE .....	15

Annex B

Companies Acts 1985 and 1989

Company limited by guarantee  
and not having a share capital

**ARTICLES OF ASSOCIATION**

of

**THE ADVERTISING STANDARDS AUTHORITY LIMITED**  
(adopted by Special Resolution passed on 11 June 2004)

**INTERPRETATION**

1 In these Articles:

**Act** means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force

**Advertising director** means a director who is appointed in such capacity by the Chairman or elected in such capacity by the Members in accordance with the provisions of the Articles and who is engaged or was engaged in the business of marketing communications by virtue of current or previous employment by or directorship of or the provision of services to an advertiser, agency or media company in marketing communications work

**Advertising Member** means a Member of the Authority who is appointed in such capacity by the Chairman and who is engaged or was engaged in the business of marketing communications by virtue of current or previous employment by or directorship of or the provision of services to an advertiser, agency or media company in marketing communications work

**Articles** means the articles of association of the Authority

**ASA(B)** means Advertising Standards Authority (Broadcast) Limited (company number 5130991)

**ASBOF** means The Advertising Standards Board of Finance Limited (company number 1195756)

**Authority** means The Advertising Standards Authority Limited (company number 733214)

**BASBOF** means The Broadcast Advertising Standards Board of Finance Limited (company number 5017678)

**CAP** means The Committee of Advertising Practice, an unincorporated association

**The CAP Code** means The British Code of Advertising, Sales Promotion and Direct Marketing published by CAP

**Chairman** means the Member of the Authority who is chairman of the Authority and chairman of its board of directors

Annex B

**clear days** in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect

**communication** (save in the expression "marketing communication(s)") means the same as in the Electronic Communications Act 2000

**Council Meeting** means a meeting of the Council of Adjudication of the Authority pursuant to any of articles 62 to 75 and described as such in those articles

**Council of Adjudication** means the board of directors acting to adjudicate on complaints and disputes pursuant to articles 62 to 75 and described as such in those articles

**director** means a director of the Authority;

**Director General** means the director and employee of the Authority appointed to the office of Director General by the Chairman pursuant to article 46

**electronic communication** means the same as in the Electronic Communications Act 2000

**executed** includes any mode of execution

**Independent director** means a director who is appointed in such capacity by the Chairman or elected in such capacity by the Members in accordance with the provisions of the Articles and who is not and has not been engaged in the business of marketing communications by virtue of current or previous employment by or directorship of or the provision of services to an advertiser, agency or media company in marketing communications work

**Independent Member** means a Member of the Authority who is appointed in such capacity by the Chairman and who is not and has not been engaged in the business of marketing communications by virtue of current or previous employment by or directorship of or the provision of services to an advertiser, agency or media company in marketing communications work

**Member** means a member of the Authority

**non-broadcast** means other than on television, radio and text services licensed by Ofcom under the Broadcasting Acts 1990 and 1996

**Ofcom** means the Office of Communications established by the Office of Communications Act 2002 one of the functions of which is the licensing of television, radio and text services

**office** means the registered office of the Authority

**seal** means the common seal of the Authority

**secretary** means the secretary of the Authority or any other person appointed to perform the duties of the secretary of the Authority, including a joint, assistant or deputy secretary

**Senior Independent director** has the meaning ascribed to it in article 31

**"Three Year Term"** means, in respect of any director, the period from one annual general meeting of the Authority to the third annual general meeting following that annual general meeting and shall include any period during which the director ceases to be a director of the Authority but is a director of ASA (B) provided that there is during such period no time when the director is a director of neither the Authority nor ASA (B).

**United Kingdom** means Great Britain and Northern Ireland.

Unless the context otherwise requires, words or expressions contained in these regulations bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these regulations become binding on the Authority.

Annex B

**MEMBERS**

- 2 The subscribers to the Memorandum of Association and such other persons as shall be admitted to membership in accordance with the provisions hereinafter contained shall be Members of the Authority.
- 3 (a) There shall be three classes of Members:
- (l) The Chairman
  - (i) Independent Members
  - (ii) Advertising Members.
- (b) The Chairman shall from time to time be appointed by ASBOF and BASBOF acting jointly, for such period and upon such terms as they may think fit, after they have consulted the appropriate United Kingdom Government Department, The Advertising Association (company number 211587) and the Chairman or, if, in the opinion of ASBOF and BASBOF held in good faith and for reasons relating specifically to the Chairman, it would be inappropriate to consult the Chairman, the Senior Independent director and if no Independent director shall be appointed as Senior Independent director, with any Independent director of their choice.
- (c) Without prejudice to article 42 the Chairman may from time to time be removed from office and the period and terms of his appointment may from time to time be varied by ASBOF and BASBOF acting jointly, after they have consulted the appropriate United Kingdom Government Department and The Advertising Association and subject to the prior approval by ordinary or written resolution of the Members. Any such removal or variation shall be without prejudice to any claim for damages that the Chairman may have against the Authority for breach of contract or unfair dismissal.
- (d) The Chairman shall not be nor have been engaged in the business of marketing communications by virtue of current or previous employment by or directorship of or the provision of services to an advertiser, agency or media company in marketing communications work.
- (e) The Independent Members and the Advertising Members shall be appointed by the Chairman from time to time.
- (f) The Chairman shall select the following number of Advertising Members for their experience of marketing communications in the following businesses:
- (i) at least two in businesses which use marketing communications to promote the businesses;
  - (ii) at least one in the business of an advertising agency; and
  - (iii) one in the business of non-broadcast media.
- (g) Independent Members shall be appointed by the Chairman only following advertising for the post of Member and director in such media and manner as the Chairman shall consider appropriate.
- (h) Every person (other than the subscribers to the memorandum of association of the Authority) who wishes to become a Member shall deliver to the Authority an application for membership, in such form as the directors require, executed by him.
- (i) Subject to article 3(j), the number of Members, including the Chairman, shall be not less than thirteen, of which more than one half but not more than two thirds of the Members other than the Chairman shall be Independent Members and of which at least one third but less than one half of the Members other than the Chairman shall be Advertising Members.



Annex B

- (j) The Chairman shall seek to maintain the number of Members and the proportions in accordance with article 3(i) but the Authority may continue to operate and the Members may continue to act notwithstanding that that number and those proportions are not complied with save that if the number of Independent Members is less than eight or the number of Advertising Members is less than four for a period of six months or more, the powers of the Chairman and the powers of the directors pursuant to these Articles shall cease until the number and proportions are restored to the number and proportions specified in article 3(i).
- (k) The Chairman shall be responsible for maintaining a balanced membership of the Authority with a view to the Authority providing competent fair and efficient adjudication pursuant to articles 61 to 74 and for this purpose and in parallel with the Chairman's similar function in respect of ASA(B) the Chairman shall be entitled to remove any Member at any time.
- (l) Every Member shall be appointed a director and any Member who ceases to be a director shall forthwith cease to be a Member.
- (m) Any Member may terminate his membership by giving not less than three months' (or such lesser period as the directors shall authorise) prior written notice to the directors in which event his membership shall terminate on the expiry of the notice.
- (n) If the activities of an Independent Member shall change so that he would qualify for appointment as an Advertising Member he shall immediately inform the directors and shall cease to be a Member on notice being given to him in writing by the directors at his address appearing in the register of Members.

**GENERAL MEETINGS**

- 4 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 5 The directors may call general meetings and on the requisition of Members pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after receipt of the requisition. If there are not within the United Kingdom sufficient directors to comprise a quorum to call a general meeting, any director or any Member may call a general meeting.

**NOTICE OF GENERAL MEETINGS**

- 6 An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least 21 clear days' notice. All other extraordinary general meetings shall be called by at least 14 clear days' notice but a general meeting may be called by shorter notice if it is so agreed:
  - (a) in the case of an annual general meeting, by all the Members entitled to attend and vote thereat; and
  - (b) in the case of any other meeting by a majority in number of the Members having a right to attend and vote.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such.

Subject to the provisions of the Articles, the notice shall be given to all the Members and to the directors and auditors.

- 7 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

Annex B

**PROCEEDINGS AT GENERAL MEETINGS**

- 8 No business shall be transacted at any general meeting unless a quorum is present. Three persons, one of whom is an Advertising Member and two of whom are Independent Members, entitled to vote upon the business to be transacted, being present either in person or by proxy shall be a quorum.
- 9 If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine.
- 10 The Chairman or, in his absence, another director nominated by the directors shall preside as chairman of the meeting, but if neither the Chairman nor such other director (if any) be present within 15 minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman.
- 11 If no director is willing to act as chairman, or if no director is present within 15 minutes after the time appointed for holding the meeting, the Members present and entitled to vote shall choose one of their number to be chairman.
- 12 The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for 14 days or more, at least 7 clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
- 13 A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands, a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:
- (a) by the chairman of the meeting; or
  - (b) by at least two Members having the right to vote at the meeting
- and a demand by a person as proxy for a Member shall be the same as a demand by the Member.
- 14 Unless a poll is duly demanded, a declaration by the chairman of the meeting that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 15 The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman of the meeting and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- 16 A poll shall be taken as the chairman of the meeting directs and he may appoint scrutineers (who need not be Members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 17 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to any other vote he may have.
- 18 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than 30 days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the

Annex B

transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

- 19 No notice need to be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case, at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
- 20 A resolution in writing executed by or on behalf of each Member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effective as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by one or more Members.

VOTES OF MEMBERS

- 21 On a show of hands every Member who is present in person shall have one vote and on a poll every Member shall have one vote.
- 22 A Member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may not vote.
- 23 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- 24 On a poll, votes may be given either personally or by proxy. A Member may appoint more than one proxy to attend on the same occasion.
- 25 The appointment of a proxy shall be executed by or on behalf of the appointer and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve):

[name of the Authority] (the "Authority")

I,/We, ♦, of ♦, being a member/members of the Authority, hereby appoint ♦, of ♦, or failing him, ♦, of ♦ as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Authority, to be held on ♦ 20 ♦, and at any adjournment thereof.

Signed on ♦ 20 ♦ .

- 26 Where it is desired to afford Members an opportunity of instructing the proxy how he shall act, the appointment of a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the directors may approve):

[name of the Authority] (the "Authority")

I,/We, ♦, of ♦, being a member/members of the Authority, hereby appoint ♦, of ♦, or failing him, ♦, of ♦, as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Authority, to be held on ♦ 20 ♦, and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 \*for \*against \*abstain  
Resolution No. 2 \*for \*against \*abstain

\*Strike out whichever is not desired.

Annex B

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed ♦ 20 ♦ .

27 The appointment of a proxy and any authority under which it is executed or a copy of such authority certified notari ally or in some other way approved by the directors may:

- (a) in the case of an instrument in writing be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Authority in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- (b) in the case of an appointment contained in an electronic communication, where an address has been specified for the purpose of receiving electronic communications:
  - (i) in the notice convening the meeting; or
  - (ii) in any instrument of proxy sent out by the Authority in relation to the meeting; or
  - (iii) in any invitation contained in an electronic communication to appoint a proxy issued by the Authority in relation to the meeting

be received at such address not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote;

- (c) in the case of a poll taken more than 48 hours after it is demanded, be deposited or received as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or
- (d) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman of the meeting or to the secretary or to any director;

and an appointment of proxy which is not deposited, delivered or received in a manner so permitted shall be invalid. In this article and the next, "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.

28 A vote given or poll demanded by proxy shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Authority at the office or at such other place at which the instrument of proxy was duly deposited or, where the appointment of the proxy was contained in an electronic communication, at the address at which such appointment was duly received before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

**DIRECTORS**

29 The number and identity of the directors shall be the same as the number and identity of the Members.

30 The Chairman shall ex officio be a director and chairman of the board of directors.

31 The Chairman shall nominate an Independent director (the "Senior Independent director") to perform the duties ascribed to the Senior Independent director in the Articles, and shall be able to remove from that position and replace any director so appointed. The Chairman shall promptly notify the directors and the Director General, either in writing or at a meeting of the directors, of every such nomination, removal and replacement.

Annex B

**POWERS OF DIRECTORS**

- 32 Subject to the provisions of the Act, the memorandum of association of the Authority and the Articles and to any directions given by special resolution, the business of the Authority shall be managed by the directors who may exercise all the powers of the Authority. No alteration of the memorandum of association of the Authority or Articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the directors by the Articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.
- 33 The directors may, by power of attorney or otherwise, appoint any person to be the agent of the Authority for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

**DELEGATION OF DIRECTORS' POWERS**

- 34 The directors may delegate any of their powers to any committee consisting of one or more directors. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

**APPOINTMENT AND RETIREMENT OF DIRECTORS**

- 35 Subject to the provisions of articles 3 and 29, the Chairman may appoint a person who is willing to act to be a director, to fill a casual vacancy or as an additional director. A director, so appointed, shall hold office only until the next following annual general meeting at which he shall retire from office and at which he may, if eligible, offer himself for election as a director for a first Three Year Term. If he is not so elected, he shall cease to be a director at the end of that meeting.
- 36 Subject to the provisions of articles 3, 29, 38 and 39, the Members may by ordinary resolution passed at an annual general meeting elect a person, who is not immediately before the meeting an Independent director or an Advertising director, to either such office for a first Three Year Term.
- 37 At every annual general meeting every Independent director and every Advertising director who was elected for his first Three Year Term at the annual general meeting immediately before the preceding two annual general meetings shall retire from office and he may, if eligible, offer himself for re-election at that meeting as a director for a second and final Three Year Term. If he is not so re-elected, he shall cease to be a director at the end of that meeting.
- 38 At the end of the third annual general meeting after the annual general meeting at which a director was re-elected pursuant to article 37 he shall retire from office and not be eligible for re-election either at an annual general meeting or otherwise or for appointment by the Chairman in accordance with article 35 or for election in accordance with article 36.
- 39 No person other than a director retiring pursuant to article 35 or 37 shall be elected a director at an annual general meeting unless:
- (a) he is recommended by the directors; or
  - (b) not less than 14 nor more than 35 clear days before the date appointed for the meeting, notice executed by a Member qualified to vote at the meeting has been given to the Authority of the intention to propose that person for election stating the particulars which would, if he were so elected, be required to be included in the Authority's register of directors together with notice executed by that person of his willingness to be elected

Annex B

and unless the Chairman shall have notified the Company in writing that the person has applied to be a Member pursuant to article 3(h).

- 40 Not less than 7 nor more than 28 clear days before the date appointed for holding an annual general meeting, notice shall be given to all who are entitled to receive notice of the meeting of any person (other than a director retiring at the meeting pursuant to article 35 or 37) who is recommended by the directors for election as a director at the meeting or in respect of whom notice has been duly given to the Authority pursuant to article 45(b) of the intention to propose him at the meeting for election as a director. The notice shall give the particulars of that person which would, if he were so elected, be required to be included in the Authority's register of directors.
- 41 At the first meeting of the directors following the adoption of these Articles the Independent directors and the Advertising directors shall agree an order of retirement on the basis that each is deemed to have been elected for a first Three Year Term at a particular previous annual general meeting and so that no more than two Independent directors and no more than one Advertising director retires at any annual general meeting in accordance with article 37.

**DISQUALIFICATION AND REMOVAL OF DIRECTORS**

- 42 The office of a director shall be vacated if:
- (a) being an Independent director, his activities shall change so that he would qualify for appointment as an Advertising director, in which case he shall immediately inform the Chairman and shall cease to be a director on notice being given to him in writing by the Chairman at his address appearing in the register of directors; or
  - (b) he ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director; or
  - (c) he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
  - (d) he is, or may be, suffering from mental disorder and either:
    - (i) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
    - (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, *curator bonis* or other person to exercise powers with respect to his property or affairs; or
  - (e) he resigns his office by written notice to the Authority; or
  - (f) he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated; or
  - (g) being a director other than the Chairman, he is removed from office by notice in writing addressed to him at and delivered to his address as shown in the Authority's register of directors and signed by all the other directors; or
  - (h) he ceases to be a Member.

**REMUNERATION OF DIRECTORS**

- 43 The Chairman shall be entitled to such remuneration as is determined in accordance with articles 3(b) and (c). The Independent directors and Advertising directors shall be entitled to such remuneration as the Authority may by ordinary or written resolution determine. The

Annex B

remuneration shall accrue from day to day unless, in the case of Independent directors and/or Advertising directors, the relevant ordinary or written resolution provides otherwise.

**DIRECTORS' EXPENSES**

- 44 The directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings of the Authority or otherwise in connection with the discharge of their duties.

**DIRECTOR GENERAL AND SENIOR MANAGERS**

- 45 The Chairman shall appoint a Director General of the Authority (who shall also be the Director General of ASA(B)) but the Director General shall not be a director and the Chairman shall on behalf of the Authority, negotiate and enter into an agreement with the Director General for his employment by the Authority.
- 46 The Director General may, after consultation with the Chairman, appoint such senior managers as he shall consider necessary in the best interests of the Authority and he shall, on behalf of the Authority, negotiate and, subject to the prior approval of the directors, enter into agreements with them for their employment by the Authority.

**DIRECTORS' INTERESTS**

- 47 Subject to the provisions of the Act, and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Authority or in which the Authority is otherwise interested;
  - (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Authority or in which the Authority is otherwise interested; and
  - (c) shall not, by reason of his office, be accountable to the Authority for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
- 48 For the purposes of article 47:
- (a) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified; and
  - (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

**DIRECTORS' GRATUITIES AND PENSIONS**

- 49 The directors may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any director who has held but no longer holds any executive office or employment with the Authority and for any member of his family (including a spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

**PROCEEDINGS OF DIRECTORS**

- 50 Subject to the provisions of the Articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of

Annex B

the directors. It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes the chairman of the meeting shall have a second or casting vote.

- 51 The quorum for the transaction of the business of the directors may be fixed by the directors and unless so fixed at any other number shall be three of which two shall be Independent directors and one shall be an Advertising director.
- 52 The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number, but, if the number and classes of directors is less than the number and classes fixed as the quorum, the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.
- 53 Unless he is unwilling to do so, the Chairman shall preside at every meeting of directors at which he is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.
- 54 All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.
- 55 A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each signed by one or more directors.
- 56 Save as otherwise provided by the Articles, a director shall not vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Authority unless his interest or duty arises only because the case falls within one or more of the following clauses:
- (a) the resolution relates to the giving to him of a guarantee, security, or indemnity in respect of money lent to, or an obligation incurred by him for the benefit of, the Authority or any of its subsidiaries;
  - (b) the resolution relates to the giving to a third party of a guarantee, security, or indemnity in respect of an obligation of the Authority or any of its subsidiaries for which the director has assumed responsibility in whole or part and whether alone or jointly with others under a guarantee or indemnity or by the giving of security;
  - (c) the resolution relates in any way to a retirement benefits scheme which has been approved, or is conditional upon approval, by the Board of Inland Revenue for taxation purposes.

For the purposes of this regulation, an interest of a person who is, for any purpose of the Act (excluding any statutory modification thereof not in force when this regulation becomes binding on the Authority), connected with a director shall be treated as an interest of the director.

- 57 A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.
- 58 The Authority may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the articles prohibiting a director from voting at a meeting of directors or of a committee of directors.



Annex B

59 Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the Authority the proposals may be divided and considered in relation to each director separately and (provided he is not for another reason precluded from voting) each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.

60 If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

**COUNCIL OF ADJUDICATION**

61 The Authority will carry out its object of adjudication on standards in non-broadcast marketing communications in accordance with the following articles. It will adjudicate on complaints and disputes which relate to the interpretation and/or application of the CAP Code as amended from time to time and any future codes, rules and guidance which replace part or any of the CAP Code and any other codes, rules and guidance that it considers relevant to the above objective.

62 The adjudication will be carried out by the directors acting as the board of directors (described as "the Council of Adjudication" when acting in this capacity) subject to the provisions of the Articles relating to the conduct of meetings of the directors save as otherwise provided in articles 61 to 74.

63 On the direction of the Chairman the secretary of the Authority shall and any director may on his own initiative call a Council Meeting on not less than seven days' notice provided that a Council meeting held on less than seven days notice shall be validly called if all the directors have, prior to the meeting, agreed in writing that it be held.

64 The chairman of any Council Meeting shall not have a vote at that meeting save in the case of an equality of votes, when the chairman shall have a casting vote.

65 The Chairman shall, in the case of a decision in writing pursuant to article 69, not have a vote save in the case of an equality of votes, when the Chairman shall have a casting vote. If the Chairman is for any reason (save as provided in article 71 but including conflict which he acknowledges) unable to exercise his casting vote in the case of a decision in writing pursuant to article 69 and there is an equality of votes on that decision, the Director General shall select an Independent director by the drawing of a lot from the names of all the Independent directors who voted on the decision in writing and the Independent director so selected shall, in relation to the relevant decision in writing, have a second or casting vote.

66 The quorum for the transaction of business at a Council Meeting shall be six of which at least four shall be Independent directors and at least two shall be Advertising directors. A director shall not be counted in the quorum present at a meeting in relation to a decision on which he is not entitled to vote.

67 Unless he is unwilling to do so, the Chairman shall preside at every Council Meeting at which he is present. But if there is no Chairman, or if the Chairman is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.

68 All acts done by a Council Meeting shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.

69 An adjudication decision in writing (which, for the purpose of this article 69 shall include fax, e-mail and any other form of electronic written communication) made (and, in the case of a decision in writing not by e-mail or other form of electronic written communication, signed) by such number of directors as would comprise a majority at a Council Meeting attended by all

Annex B

the directors shall (provided that, in the case of an adjudication, all directors entitled to receive notice of a Council Meeting shall have been provided with the relevant papers and other material which would have been provided if the adjudication had taken place at a Council Meeting) be as valid and effective as if it had been passed at a Council Meeting duly convened and held and may consist of several documents in the like form each signed by one or more directors.

- 70 A director shall not vote on any decision at a Council Meeting concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with that matter. Any director who has or considers that he may have such an interest or duty in relation to any relevant matter shall promptly inform the Chairman.
- 71 If a question arises at a Council Meeting or in connection with a decision in writing pursuant to article 69 as to the right of a director to vote, the question may, in the case of a meeting, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling, in relation to directors other than himself, shall be final and conclusive and in the case of a decision in writing the ruling of the Chairman, unless the question arises in respect of him, shall be final and conclusive. If such question arises in respect of the chairman of a meeting the ruling of a majority of those directors present at the meeting other than the chairman of the meeting shall be final and conclusive. If such question arises in respect of the Chairman in the case of a decision in writing (and the Chairman considers that he does not have any relevant conflict) the Chairman shall immediately notify the Director General who shall select an Independent director by the drawing of a lot from the names of all the Independent directors who voted on the decision in writing and the Independent director so selected shall rule on the matter and his ruling shall be final and conclusive. That Independent director shall, in relation to the relevant decision in writing, if there is an equality of votes, have a second or casting vote.
- 72 If the Chairman (or, in the circumstances described in article 73, the Senior Independent director or, in the circumstances described in article 74, an Independent director) is notified of a complaint relating to a non-broadcast marketing communication which in his bona fide judgement requires the taking of immediate steps to prevent or discourage publication or future publication, he shall have the power, following consultation with one Independent director, one Advertising director and the Director General (and in his absence a senior manager appointed pursuant to article 46), to make any decision in relation to the complaint that the directors at a duly convened Council Meeting could make provided that such complaint shall subsequently be considered by the directors at a Council Meeting in the ordinary course of its business and the decision of the directors shall, if different from that of the Chairman (or the Senior Independent director or Independent director acting pursuant to article 73 or article 74 (as appropriate)), replace that of the Chairman (or the Senior Independent director or Independent director if such be the case).
- 73 The Senior Independent director shall perform the duties of the Chairman as set out in article 72 if the Chairman is by reason of absence, illness, injury or conflict unable to exercise the power vested in him pursuant to article 72.
- 74 If each of the Chairman and the Senior Independent director is by reason of absence, illness, injury or conflict unable to exercise the power vested in him pursuant to articles 72 and 73 in respect of a particular complaint, the Director General shall select an Independent director by the drawing of a lot from the names of all the Independent directors and the Independent director so selected shall, in relation to the particular matter, have the same power in relation to that complaint as the Chairman is stated to have pursuant to article 72.

**SECRETARY**

- 75 Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

**MINUTES, RECORDS AND REGISTERS OF INTERESTS**

- 76 The directors shall cause:

Annex B

- (a) records to be made in books kept for the purpose of all appointments and removals of officers made by the directors and all appointments made pursuant to articles 31 and 46 and the terminations of such appointments;
- (b) minutes to be made in books kept for the purpose of all proceedings at meetings of the Authority, and of the directors, and of committees of directors, including the names of the directors present at each such meeting the results of the voting on all matters considered by the meeting, save that in relation to adjudication decisions pursuant to articles 61 to 74 it shall not be recorded how individual directors voted;
- (c) minutes to be made in such books of all written decisions made pursuant to articles 56 and 70 including the names of all directors who participated in the making of each decision and the result of the voting on the decision but not, in the case of article 69, how individual directors voted;
- (d) a record to be made of the exercise of the powers specified in article 72; and
- (e) a register of the directors' interests to be maintained, which shall, taking into account the nature and activities of the Authority, be in such form as, in the reasonable opinion of the Chairman, conforms with generally accepted standards of governance in public life in the United Kingdom.

**THE SEAL**

- 77 If the Authority has a seal, it shall only be used by the authority of the directors or of a committee of directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or by a second director.

**ACCOUNTS AND RECORDS**

- 78 All Members shall have the right to inspect any accounting records or other book or document of the Authority.

**NOTICES**

- 79 Any notice to be given to or by any person pursuant to the Articles shall be in writing or shall be given using electronic communications to an address for the time being notified for that purpose to the person giving the notice. In this article 84 and in article 85 "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.
- 80 The Authority may give any notice to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at his registered address or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the Authority by the Member. A Member whose registered address is not within the United Kingdom and who gives to the Authority an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, shall be entitled to have notices given to him at that address, but otherwise no such Member shall be entitled to receive any notice from the Authority.
- 81 A Member present, either in person or by proxy, at any general meeting of the Authority shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 82 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

Annex B

**INDEMNITY AND INSURANCE**

- 83** Subject to the provisions of the Act but without prejudice to any indemnity to which a director or secretary of the Authority may otherwise be entitled, the directors may indemnify every director and secretary of the Authority out of the assets of the Authority against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Authority.
- 84** The directors may arrange and the Authority pay the premiums on insurance for the benefit of (i) the Authority and its employees in relation to all aspects of its business; and (ii) the directors in relation to their activities and liabilities as directors.