



ADVERTISING
STANDARDS
BUREAU

REVIEW OF OPERATIONS

2013

15 years of operation

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REVIEW OF OPERATIONS

2013

15 years of operation

Who we are 2013

The Advertising Standards Bureau (ASB) administers Australia's national system of self-regulation in relation to both public and competitor complaints.

This is achieved through the independent complaints resolution processes of the Advertising Standards Board and the Advertising Claims Board respectively.

The Bureau was established for the purposes of:

- establishing and monitoring a self-regulatory system to regulate advertising standards in Australia
- promoting confidence in, and respect for, the general standards of advertising on the part of the community and the legislators
- explaining the role of advertising in a free enterprise system
- running other regulatory systems as contracted from time to time.

Funded through a levy paid by Australian advertisers, this proven system of advertising self-regulation has operated since 1998 following extensive consultation within the industry and with government and consumer representatives.

In 2013 the ASB administered the following codes of practice:

- AANA Advertiser Code of Ethics
- AANA Code for Advertising and Marketing Communications to Children
- AANA Food and Beverages Advertising and Marketing Communication Code
- AANA Environmental Claims in Advertising and Marketing Code
- Federal Chamber of Automotive Industries (FCAI) Voluntary Code of Practice for Motor Vehicle Advertising
- Australian Food and Grocery Council Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry
- Australian Food and Grocery Council Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children

The ASB also works with the Alcohol Beverages Advertising Code (ABAC) management scheme, and accepts, and forwards to the ABAC administrator, all complaints about alcohol advertisements.

Public complaints about particular advertisements in relation to the issues below are considered cost-free to the community by the Advertising Standards Board:

- health and safety
- use of language
- use of sexual appeal in a manner that is exploitative and degrading images
- discriminatory portrayal of people
- concern for children
- portrayal of violence, sex, sexuality and nudity
- advertising to children
- advertising of food and beverages
- advertising of cars under the FCAI Voluntary Code of Practice for Motor Vehicle Advertising

An Independent Review process continues to provide the community and advertisers a channel through which they can appeal decisions made by the Advertising Standards Board. Established in 2008 to consider consumer and advertiser disagreement with Board determinations, the process is reviewed regularly with a view to maintaining and leading international best practice in delivery of the advertising self-regulation system in Australia.

Competitor claims between advertisers in relation to truth, accuracy and legality of particular advertisements are considered on a user-pays basis by the Advertising Claims Board.



Strategic intent

Our purpose


We exist so that the community, industry and government have confidence in, and respect the advertising self-regulatory system and are assured that the general standards of advertising are in line with community values.

Our values

- Transparency in decision making.
- Accountability to advertisers and the community.
- Responsive to complaints.
- Independent – diverse Board membership making decisions without being influenced by vested interests and stakeholders.

Our vision

The Advertising Standards Bureau (ASB) is the foremost authority in Australia for adjudication of complaints about advertising and marketing communications.





The Advertising Standards Board

The Advertising Standards Board determines public complaints about individual advertisements, through a panel of public representatives from a broad cross-section of the Australian community.

The Advertising Standards Bureau

The ASB administers the advertising self-regulation system, accepting complaints about advertisements for determination by the Advertising Standards Board and the Advertising Claims Board.

The Advertising Claims Board

The ACB resolves complaints between competing advertisers, through a panel of legal specialists.



AANA

The Australian Association of National Advertisers is responsible for the development of the AANA Advertiser Codes which are administered by the ASB.

AFGC

The Australian Food and Grocery Council is responsible for the Responsible Children's Marketing Initiative of the Food and Beverage Industry and the Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children. Complaints for both initiatives are administered by the ASB.

ABAC

The Alcohol Beverages Advertising Code is the code for alcohol advertising self regulation by the ABAC Complaints Panel. All complaints about alcohol are received by ASB and forwarded to ABAC. Both ASB and ABAC may consider complaints about alcohol advertising.

FCAI

The Federal Chamber of Automotive Industries is responsible for the FCAI Voluntary Code of Practice for Motor Vehicle Advertising which is administered by the ASB.

Funding of self-regulation

Who funds the self-regulation system?

Responsible advertisers assist in maintaining the self-regulation system's viability and support its administration by agreeing to a levy being applied to their advertising spend. Since the establishment of the advertising self-regulation system in Australia, the levy has been set at 0.035 per cent, just \$3.50 per \$10,000 of gross media expenditure.

During the first half of 2013, a significant amount of work was directed into reviewing and assessing the levy collection and remittance framework to address gaps in the system. Following this review the ASB sought and received key industry stakeholder support for an increase of the levy rate. The levy rate had remained unchanged since 1997 despite a significant increase in the number of codes, complaints, cases and media touch points between 1997 and 2013. The self-regulation levy will increase to 0.05% (\$500 per \$1m of media buying) from 1 April 2014.

Funding of the Advertising Standards Bureau (ASB) and its secretariat support of the Advertising Standards Board and Advertising Claims Board is provided through the voluntary levy – the ASB receives no government funding. The levy is paid to and administered by the Australian Advertising Standards Council (AASC).

How levy is collected

The levy is collected mainly through media buying agencies but also directly from advertisers and advertising agencies that buy their own media space.

The levy is remitted quarterly through the Australian Advertising Standards Council (AASC), the funding body of advertising self-regulation. The AASC holds the industry funds in an account which is drawn upon to pay the costs involved in administering and operating the self-regulatory system.

Management of the funds is outsourced, the financial accounts are prepared by chartered accountants and audited by an independent audit firm.

What the levy is used for

All levy monies are applied exclusively to the maintenance of the self-regulation system and are used to finance activities such as:

- general ASB administration and operation of the self-regulation system, including maintenance of complaints management
- recruitment of Advertising Standards Board members, and attendance of 20 Board members from diverse geographical backgrounds at regular meetings
- Advertising Standards Bureau meetings and teleconferences with industry and government as appropriate throughout the year
- research to assist Advertising Standards Board members and the community to understand self-regulation and specific Code related issues, including research into community standards and levels of awareness of the ASB
- ASB contribution to AANA Code reviews.

Confidentiality of levy collected

The amount of levy collected from individual advertisers is kept confidential from the Board and Directors of both the ASB and the AASC. This ensures appropriate commercial confidentiality about the expenditures of individual advertisers on particular products and services.

Snapshot

2013 complaint snapshot

Number of complaints received	2773
Number of complaints made about matters within ASB jurisdiction	1503
Number of complaints made about matters outside ASB jurisdiction	1078
Number of complaints about ads previously considered by the Board	520
Number of complaints about ads already withdrawn	17
Number of complaints assessed as consistently dismissed complaints	170
Number of complaints unassessed at year end	22

2013 breach or not snapshot

Number of ads the Board found consistent with Code and Initiatives	348
Number of complaints about ads that did not breach Code or Initiatives	1123
Number of ads the Board found breached a Code or Initiatives	61
Number of complaints about ads that were found to breach the code	225

2013 ad snapshot

Number of ads complained about	440
Number of cases created but were not put forward for consideration by the Board for variety of reasons	16
Number of ads withdrawn by advertiser before consideration by Board	17
Number of ads which were NOT modified or discontinued after a complaint was upheld	8*

* For a more detailed discussion about compliance with Board determinations see the ACHIEVEMENTS SECTION - Our key result areas - Beneficiaries/ Stakeholders - Self-regulation system has effective compliance outcomes.

Most complained about ads in 2013

1 0398/13 Lion

TV ad featuring a man at a party whose mouth detaches from his face, jumps onto the bench and talks to him.

Board decision – Dismissed

Number of complaints – 66

2 0338/13 Vodafone Network Pty Ltd

TV ad where kiddults are shown going to nightclubs in glittering dresses.

Board decision – Dismissed

Number of complaints – 42

3 0361/13 Bonds Industries Ltd

Billboard with plain black background, with white wording “boobs”.

Board decision – Dismissed

Number of complaints – 36

4 0186/13 Yellow Brick Road Super

TV ad opens with female with a child in pram – child slaps woman.

Board decision – Upheld- modified or discontinued

Number of complaints – 32

5 0230/13 Nissan Motor Co (Aust) Pty Ltd

TV ad with Nissan Pulsar racing through streets to get pregnant woman to hospital and recording their fastest time – second version.

Board decision – Upheld- modified or discontinued

Number of complaints – 31

6 0166/13 Chrysler Australia Pty Ltd

TV ad where woman is taking her dog to a dog training class led by a male teacher.

Board decision – Dismissed

Number of complaints – 24

7 0331/13 Windsor Smith Pty Ltd

TV ad where men with tattoos and women in underwear walk around against a white background and contemporary music playing.

Board decision – Dismissed

Number of complaints – 24

8 0151/13 Australian National Preventive Health Agency

TV ad shows a man struggling to breathe. A voiceover suggests that this happens to people who smoke and that emphysema is a dreadful way to die.

Board decision – Dismissed

Number of complaints – 23

9 0274/13 Target Australia Pty Ltd

TV ad where designer calls breasts “bangers”.

Board decision – Dismissed

Number of complaints – 23

10 0117/13 SSAA

Large outdoor poster showing a man posing with a large rifle. Wording reads “Electrician by Day - Hunter by Choice”.

Board decision – Dismissed

Number of complaints – 22



Executive reports

Chairman's report

CEO's report

Advertising Standards Bureau Board of Directors

Chairman's report

In 2013, the ASB again achieved a great deal in its constant pursuit of the highest levels of administration of advertising self-regulation in Australia. This work has involved work with community, industry, government and international bodies, as well as management of a never-ending range of issues.

I was also pleased again to see that the outcomes of research showed continued community support for the complaints administration arm of Australia's advertising self-regulation system, which has only become stronger, more effective and more efficient in its 15 years of operation.

This support of the system is also reflected by industry in its willing and timely responses to Bureau requests and Board determinations. During 2013, I was also pleased to work with industry members who supported ASB in producing a new public awareness campaign which is being rolled out in 2014.

As always the support of industry through cooperation and payment of levy continues to be a vital component to the effective administration and continued improvement of the advertising self-regulation system as a whole. During the year I took part in a consultation process with all key industry stakeholders regarding an increase in the rate of the self-regulation levy. All stakeholders

endorsed this increase. The levy has been set at a very modest 0.035% of media expenditure –since 1998 despite a significant increase in the number of codes, complaints, cases and media touch points during the past 15 years. The levy will increase to 0.05% (\$500 per \$1m of media buying) from 1 April 2014. I urge all advertisers to continue to contribute.

As always I would like to express my appreciation and respect of all members of the Advertising Standards Board for their work. The Board has continued to face constant challenges in making sometimes unpopular determinations, but determinations nevertheless that apply community standards to the ever-growing advertising and marketing communication mediums.


I also want to express my appreciation to the Bureau Board of Directors who voluntarily and willingly offer their time to assist with corporate and strategic matters. This year I also make a special mention of Mr Michael Duncan who retired from the Board after 12 years of service. His dedication, integrity and input has been valuable to the work of the Bureau Board of Directors.

My appreciation also goes to retiring company secretary Ms Laura Hartley. Her exceptional and dedicated services to the ASB since its inception in 1998 and the Australian Advertising Standards Council (AASC) will be remembered.

Thank you also to Independent Reviewers Ms Victoria Rubensohn AM and Dr Dennis Pearce AO for the important role they play in providing impartial assessment of the appropriateness of Board decisions and Bureau process.

I commend Fiona and reiterate her gratitude of the quality of the work and high levels of output by the small team at the Bureau. This team continues to work at a relentless pace in adapting to new processes and the constantly changing advertising environment, while also promoting the service and providing information and training to the community, industry and advertisers.

Ian Alwill



CEO's report

ASB celebrated 15 years of operation in 2013. We are a relatively youthful self-regulatory organisation in comparison with many of our international counterparts – with the Advertising Standards Authority of New Zealand having celebrated its 40th year, and the ASA UK celebrating its 50th year. I am very proud however of the achievements that our organisation has made – and continues to make – in our pursuit of an advertising self-regulatory system that exceeds best practice and meets the needs of all of the Australian community.

The total number of complaints received by ASB dropped to their lowest since 2007. Why? There are a number of possible reasons for a drop in complaints.

- A long federal election campaign fills media with election advertising (which is not subject to ASB consideration) reduces commercial advertising for a period,
- Perhaps advertisements are less offensive in 2013 – certainly a figure of 66 complaints being the most complained about advertisement for the year indicates that there were not as many controversial campaigns during the period,
- Lack of awareness of ASB as the place to complain is not a factor (with awareness rates confirmed again in 2013 at 63 per cent) – but a continued high level of ‘can’t be bothered’ needs to be addressed. Our proposed education campaign in 2014 will hopefully go some way to address this potential issue,

- Perhaps the increase in online advertising and in particular a rise of social media (up to just over 10 per cent of complaints) suggests that the community (or high social media use sector of the community anyway) are more likely to raise concerns about advertising or marketing with the advertiser directly using that media?

Whatever the reason – a consideration as we go into 2014–15 is for ASB is to ensure that we continue to be providing a relevant service to industry, government and the community.

A highlight for 2013 was the community standards research into the Board’s application of section 2.2 of the Code. Introduced in 2012 by AANA, this provision provides an important expansion of the Code to prevent the use of sexual appeal in an exploitative and degrading manner. The research confirms the importance of the provision and confirms that the Board is applying the Code in line with community views.

Best practice awards from EASA (two in 2013) for our work on complaints handling in the social media environment and our work in mentoring and assisting the growth of self-regulation with our Asia Pacific neighbours, are celebrated. But of most importance to us is the continued support we receive from the Australian community – advertisers, government and real people – for our work in maintaining high advertising standards.

Thank you to all those who support ASB in all areas of our work. Thank you especially to our small team in Canberra who keep on smiling!

Fiona Jolly

Advertising Standards Bureau Board of Directors

The Advertising Standards Bureau is a limited company headed by a Board of Directors. Under the Constitution of the Advertising Standards Board, there must be between three and six directors of the company that is the Advertising Standards Bureau (the ASB).

The Bureau Board is responsible, with the CEO, for the corporate governance of the Advertising Standards Bureau. With strategic, financial and operational concerns within its purview, the Board works to continually improve the operation of the ASB in its role as the complaints resolution body for advertising in Australia.

The Bureau Board has the integrity of the advertising self-regulation system at heart. It insists on absolute separation between the work of the Bureau Board and that of the Advertising Standards Board.

In October 2013, Mr Michael Duncan retired from the Board after 12 years of service. Mr Simon Talbot, Director Corporate Affairs Australia/New Zealand, Mondelez International was appointed as a member of the Bureau Board in October 2013. Ms Rebecca Boustead, Director Corporate Relations and Regulatory Affairs, Kellogg (Aust) Pty Ltd was appointed as an alternate director of the Bureau Board in October 2013. Ms Boustead attends for Mr Talbot on occasions he is not available.

At 31 December 2013, the Board of Directors included six directors and alternate director.

The Board of Directors noted the exceptional and dedicated services to the ASB and the Australian Advertising Standards Council (AASC) of

retiring company secretary Ms Laura Hartley who held the position since inception of the ASB in 1998. Ms Hartley retired from the role in June 2013. The position was taken on as an internal staff position by Ms Simone Carton.

Board of Directors

Ian Alwill

Chairman, ASB
Principal, Alwill Associates

Michael Duncan

Director, ASB (retired October 2013)
Group Yield and Inventory Manager, DMG Radio Australia

Hayden Hills

Director, ASB
Senior Manager, Advisory, Ernst & Young

Victoria Marles

Director, ASB
Chief Executive Officer – Trust for Nature, Victoria

John McLaren

Director, ASB
Managing Director, Black Sheep Advertising

John Sintras

Director, ASB
Chairman, Starcom Media Vest Group Australia

Simon Talbot

Director, ASB
Director Corporate Affairs Australia/New Zealand, Mondelez International

Rebecca Boustead

Alternate Director, ASB
Director Corporate Relations and Regulatory Affairs, Kellogg (Aust) Pty Ltd

Meetings

The Board of Directors met six times during 2013.

Board member	Position	Number of meetings attended	Period of Board membership
Ian Alwill	Chairman	6/6	December 2004 (continuing)
Michael Duncan	Director	1/4	November 2001 (retired October 2013)
Hayden Hills	Director	5/6	December 2004 (continuing)
John McLaren	Director	4/6	March 2009 (continuing)
Victoria Marles	Director	5/6	November 2011 (continuing)
John Sintras	Director	2/6	December 2005 (continuing)
Simon Talbot	Director	0/1	October 2013 (continuing)
Rebecca Boustead	Alternate Director	1/1	October 2013 (continuing)

The background of the page is a teal-colored image featuring a close-up of two hands shaking in a firm grip. A large, semi-transparent, light blue '15' is overlaid in the upper right corner. The text '15 years of operation' is centered in white, with horizontal lines above and below it. Two thin white diagonal lines cross the lower half of the image.

15 years of operation

15 years of operation

15 years of operation

Since it began operations in 1998, the Advertising Standards Bureau has continued to make milestone achievements which highlight the benefits of advertising self-regulation to the community, Australian business and Government.

Growth of self-regulation

One of the most obvious examples of the growth of self-regulation is the number of Codes and Initiatives now administered by the ASB. In 1998 there was just one—the AANA Code of Ethics. Today there are seven industry Codes and Initiatives which cover general advertising, and more specific sectors such as food and automotive advertising.

- AANA Advertiser Code of Ethics
- AANA Code for Advertising and Marketing Communications to Children
- AANA Food and Beverages Advertising and Marketing Communication Code
- AANA Environmental Claims in Advertising and Marketing Code
- Federal Chamber of Automotive Industries (FCAI) Voluntary Code of Practice for Motor Vehicle Advertising
- Australian Food and Grocery Council Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry
- Australian Food and Grocery Council Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children

In the first year of its operation, the ASB received just under 1400 complaints about 267 ads. In the past year, 2773 complaints were received about 440 ads.

In its 15 years of operation the ASB has received a total of 43,570 complaints. The number of cases dealt with during that time totals 7042. Of all cases considered since operations began, the Board has found just over seven per cent to breach the Code.

While the vast majority of advertisements complained about receive just one complaint, the highest number of complaints about any single ad in the past 15 years is 359.

15 most complained about ads in 15 years

1 - 156/07 TV

Nando's Australia Pty Ltd

A woman in a business suit describes how she can't afford to have cravings at work. She is then seen wearing a g-string and pole-dancing.

Issues raised Discrimination or vilification
Gender - 2.1, Portrayal of sex/sexuality/
nudity - 2.4

Board decision Dismissed
Number of complaints 359

2 - 450/09 Outdoor

GASP Denim

Five images of a young topless woman with long blonde hair wearing different pairs of tight fitting jeans.

Issues raised Portrayal of sex/sexuality/
nudity - 2.4

Board decision Dismissed
Number of complaints 297

3 - 410/06 TV

Stuart Alexander & Co Pty Ltd

A man's nipples get longer as he eats Mentos and he walks around town using them to do various things.

Issues raised Discrimination or vilification
Gender - 2.1, Portrayal of sex/sexuality/nudity -
2.4, Health and safety - 2.6

Board decision Dismissed
Number of complaints 283

4 - 20/07 Outdoor

Advanced Medical Institute

This outdoor advertisement features red words on a yellow background, which read "Want longer lasting sex? Nasal Delivery Technology. Call the doctors at Advanced Medical Institute."

Issues raised Portrayal of sex/sexuality/nudity -
2.4, Language - 2.5, Other - Social values

Board decision Dismissed
Number of complaints 265

A re-examination of this ad was conducted in 2008 at which time the Board upheld complaints and the ad was discontinued (case 0278/08 - 113 complaints).

5 - 0284/10 TV

Advanced Medical Institute

A woman tries to reach a cookie jar in a cupboard but cannot reach. She calls to her husband to help. He opens his robe and she looks at him with awe. She then appears to stand on his erect penis to reach the jar.

Issues raised Portrayal of sex/sexuality/
nudity - 2.4

Board decision Dismissed
Number of complaints 227

6 - 0176/11 Billboard

Queensland Association for Health Communities

The words "Rip & Roll" are written in large letters across the centre of the Billboard. Underneath in smaller writing it reads, "A safe sex message from Health Communities." To the left is a large image of a red condom in its wrapper, and to the right is a large image of two men: one man is embracing the other man from behind while holding a red condom wrapper in his right hand.

Issues raised Discrimination or Vilification
Sexual preference - 2.1, Portrayal of sex/sexuality/
nudity - 2.4

Board decision Dismissed
Number of complaints 222

7 - 284/05 TV

Advanced Medical Institute

Two men in tuxedos stand behind a grand piano and they drop pants and undies and start playing the piano with their penises.

Issues raised Portrayal of sex/sexuality/nudity – section 2.4

Board decision Dismissed

Number of complaints 217

8 - 313/06 TV

Quit Victoria

The advertisement opens on a cigarette pack showing a photo of a mouth ravaged by mouth cancer. The mouth says "Smoking causes mouth cancer." The camera zooms out to show a woman who continues "If it didn't I wouldn't be needing radiotherapy and chemotherapy. If looking at mouth cancer on your cigarettes makes you uncomfortable...look at another part of the pack".

Issues raised Other - Causes alarm and distress

Board decision Dismissed

Number of complaints 207

9 - 95/08 TV

Kimberly-Clark Aust Pty Ltd

A young woman walks down a street holding a beaver under her arm. The young woman takes her beaver through her everyday activities, at a beauty salon, having her hair and nails done. A voiceover advises "You've only got one. So for the ultimate care down there, make it U".

Issues raised Discrimination or vilification
Gender - 2.1

Board decision Dismissed

Number of complaints 195

10 - 214/08 TV

Inghams Enterprises Pty Limited

A parody of a scientific presenter releases the outcomes of studies to assist people who don't eat chicken. The tagline 'there's something wrong with you if you don't like chicken' is used.

Issues raised Discrimination or vilification
Other – 2.1

Board decision Dismissed

Number of complaints 181

11 - 0305/12 TV

Johnson & Johnson Pacific Pty Ltd

An out of focus image of a woman aged mid 20s walks in the distance before she moves behind white flowers which cover her chest and lower body. The woman talks about how amazing bodies are and about the health of a vagina.

Issues raised Language – 2.5, Sex/sexuality/nudity – 2.4, Exploitative and degrading – women – 2.2, Discrimination or Vilification – Gender – 2.1

Board decision Dismissed

Number of complaints 169

12 - 242/05 TV

Holden Ltd

A young couple leave their house wearing nothing but footwear and are shown getting into their new car. The breasts and genitals of the man and woman have been pixelated.

Issues raised Portrayal of sex/sexuality/nudity – 2.4

Board decision Dismissed

Number of complaints 168

13 - 259/02 Outdoor

Levi Strauss (Aust) Pty Ltd

At first impression it seems four women are in a female restroom, with two involved in a passionate kiss. In reality, the advertisement is a composite image of the same woman, with one portraying astonishment at the two seen kissing, and the fourth seemingly oblivious to anything other than her own reflection in a mirror.

Issues raised Portrayal of sex/sexuality/nudity - 2.4

Board decision Dismissed

Number of complaints 167

14 - 338/00 TV

LG Electronics Aust Pty Ltd

Young boys watch a woman undress through a window. She puts on air conditioning which fogs up windows.

Issues raised Other – miscellaneous, Discrimination or Vilification – Gender – 2.1, 2.4 – Sex/sexuality/nudity, Health and Safety – 2.6

Board decision Dismissed

Number of complaints 166

15 - 459/08 TV

Quit Victoria

A mother and child walk into a train station holding hands. The mother then disappears leaving the child standing alone who becomes increasingly distressed and begins to cry. A voice over then says: "If this is how your child feels after losing you for a minute, just imagine if they lost you for life."

Issues raised Violence–2.3

Board decision Dismissed

Number of complaints 156

Coverage of all mediums

The growth in mediums has been rapid in the past few years, and the ASB systems keep pace. At its inception, the self-regulatory Codes covered only advertising on traditional media (TV, radio, print, cinema and outdoor) which was shown to broad national audiences. This is now extended to digital media (internet, mms, sms), outdoor (from transport to sports stadiums to sky banners), social media (YouTube, Facebook,) with everything from local to national advertisers included in the self-regulation remit.

The continued expansion of the definition of advertising and marketing communications during the past 15 years has also impacted on ASB responsibilities.

The *original AANA Advertiser Code of Ethics* did not include community service announcements, internet, direct mail or point of sale. Advertisements were also required to be broadcast on a national scale.

1998

In this Code the term advertisement shall mean matter which is published or broadcast, other than via internet, direct mail or point of sale, in all of Australia, or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.

An expansion of the remit of the Code in 2006 meant internet, direct mail and point of sale advertising was included, but still did not include community service announcements.

2006

In this Code, the term "advertisement" shall mean matter which is published or broadcast, in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.

The Australian Association of National Advertisers (AANA) conducted an in depth review of the Code during 2010 and 2011 resulting in a widening of the definition of advertising to also include marketing communications. This expansion of the definition to *advertising and marketing communications* meant all mediums were covered and the term *any activity* was added which meant all advertisers were now required to meet the standards set, including non-profit, government and other organisations which traditionally had been treated as community services.

2012

Advertising or Marketing Communications means any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and

- *over which the advertiser or marketer has a reasonable degree of control, and*
- *that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct, but does not include Excluded Advertising or Marketing Communications.*

Constant improvement of complaints procedures

To maintain pace and set benchmarks in complaints administration, the ASB is constantly working to implement initiatives which improve the complaints system and benefit the community, advertisers and self-regulation in general.

At the outset the ASB had only a manual system of complaint lodgement. Over the years this has been improved, with web based complaints accepted since 2006 and a mobile and tablet friendly complaint lodgement facility added in early 2013.

In line with best practice, in 2008 the ASB increased Board member numbers from 12 to 20 and increased meeting frequency from once a month to two meetings each month.

Training and awareness sessions for Board members over the years, has involved a variety of guest speakers from government organisations, community groups, academic and research institutions and industry organisations. These sessions are held to ensure Board members have an understanding of current trends and perceptions in the broader community.

As part of the ASB's commitment to international best practice an independent review process was implemented in 2008. This process, as with all ASB processes is reviewed regularly.

As guides for industry and the community the ASB has prepared determination summaries and set international and national benchmarks with ongoing community perceptions research.

Speedy resolutions

The procedures and systems implemented by the ASB over the past 15 years have helped in achieving speedy complaint resolution. In 2013, the average time taken to finalise all cases—from receipt of complaint to publication of a finalised case report—was 36 calendar days.

A review in 2009 showed that, only two per cent of cases were completed within 30 calendar days, 63 per cent were completed within 31 to 60 days and the remaining 35 per cent were completed in over 61 days.

System improvements since that time have resulted in a reversal of those figures. In 2013 performance figures showed that from the receipt of a complaint to finalisation of a case 37 per cent were completed within 30 days, 58 per cent were completed within 31-60 days and only four per cent took over 60 days.

Timeliness performance is also now easily reported with workflows and other processes able to be identified through system reporting functions. These functions highlight blockages and delays which can be acted on to ensure ASB provides a timely complaint resolution service.

Determination summaries

- Discrimination and vilification in advertising
- Sexual appeal in an exploitative and degrading manner in advertising
- Portrayal of gender in advertising
- Violence in advertising
- Health and safety in advertising
- Language in advertising

Research

- 2013 Research Report – Exploitative and degrading advertising
- 2012 Research Report – Community perceptions research
- 2010 Research Report - Community perceptions of sex, sexuality and nudity in advertising
- 2009 Research Report Community perceptions of violence in advertising
- 2009 - Discrimination and Vilification Research Report

Awareness raising

Regular research conducted by the ASB has shown a higher level of awareness of the ASB and its role in resolving complaints about advertising. Since the ongoing research program began in 2006 the spontaneous awareness of ASB has climbed dramatically from 10 per cent to hold steady at around 64 per cent.

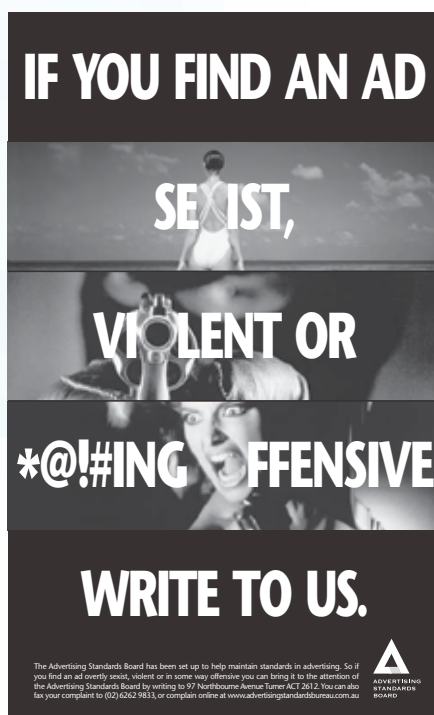
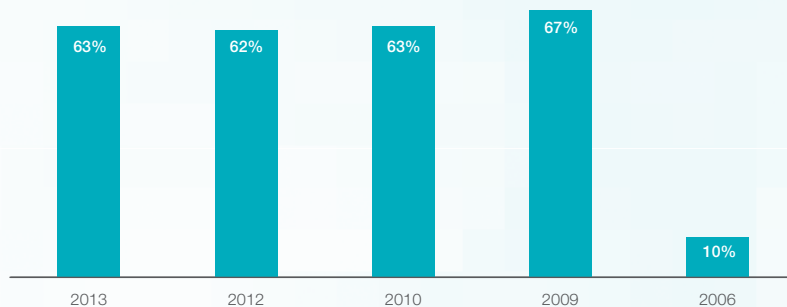
The ASB has worked with industry and has received support from industry in several public awareness campaigns. The initial campaign which served to launch the complaint service provided by ASB in 1999, resulted in a large increase in complaint numbers.

The next campaign was launched with television radio and print ads in ASB's tenth year of operation (2008) and invited people to "Tell someone who cares". This campaign was extended to outdoor advertising in 2011.

Work on a new public awareness campaign began in the latter half of 2013. This campaign is due to be released in early 2014.

The ASB also instigated an ongoing proactive media engagement strategy in 2007 which has evolved in line with information distribution practices. In addition to the media engagement strategy, ASB creates community and industry awareness through the ASB website (launched 2001, revised 2005, fully redesigned 2010), a quarterly newsletter (since 2006), an electronic bulletin (since 2009) and the Ad Standards blog (launched 2012).

Awareness of the ASB





Government and industry cooperation

Importantly, during the past 15 years, ASB has worked closely and cooperatively with industry organisations, government and the community to ensure the systems in place are robust, transparent, efficient and accessible.

Internationally

During the past 15 years ASB has worked to achieve best practice in complaints administration, applying world's best practice principles. ASB has developed international affiliations through its membership of the European Advertising Standards Alliance (EASA).

This membership has provided a range of benefits to the ASB such as allowing for an international network of colleagues, information sharing about best practice principals and processes, and an invaluable resource to obtain views on emerging issues and on work being conducted in key areas. A broad scope of information and work covered in recent years includes alcohol and food advertising, digital marketing communications, compliance mechanisms for online behavioural advertising, environmental sustainability and portrayal of gender.

The ASB assesses its complaints administration achievements against benchmarks set by EASA best practice principles. Each year EASA recognises its members in its Best Practice Awards. Since becoming a member of EASA in 2006, ASB has received awards for:

- expansion of its remit to include social media (2013)
- its exemplary role in the promotion of advertising self-regulation best practice through its delivery of the APEC dialogue on standards in advertising (2013), and
- overhaul of complaints system allowing speedy resolution of complaints (2011)

Working with Australian Government to introduce and strengthen advertising self-regulation in the Asia-Pacific region and benefit trade in APEC economies has been a feature of ASB's work during the past three years.

Over this time ASB CEO, Ms Jolly, as Deputy Chair of the EASA International Council on Advertising Self-Regulation (ICAS), has worked on a project investigating options to promote advertising self-regulation in the Asia/Pacific region. Prior to 2012, work undertaken on this project included development of an APEC project, in consultation with New Zealand, Canada and Peru SROs and relevant officers in the Australian Department of Foreign Affairs and Trade. In 2012 this part of the project was realised with a Dialogue on Advertising Standards-Principles and Practice held in Hanoi, Vietnam, involving 17 of the 21 APEC economies.

In early October 2013 APEC Leaders announced that they are 'looking forward to the progression of work on advertising standards', effectively endorsing the work accomplished during the past year.

APEC leaders announced support for the project and the ASB and its international partners are working to identify the next steps. The International Chamber of Commerce and the ASB continue to work together to promote the development of regional advertising standards and have placed this work as a 2014 priority.





Achievements

Strategic plan

Key result areas

Achievements in 2013

Our strategic plan

The Board of Directors of the Advertising Standards Bureau, along with the CEO, govern the strategic direction of the Bureau. Through its strategic, financial and operational dealings, the Board aims to position the ASB as the foremost complaints resolution body for advertising in Australia.

Our strategic plan covers four key result areas.

Our key result areas

Financial

The ASB is financially viable and sustainable

A core role for the Advertising Standards Bureau is to promote the benefits of Australia's advertising self-regulation system to advertisers and encourage participation in the levy system.

Levy is collected by media buyers and remitted directly to the administering body the Australian Advertising Standards Council (AASC). The AASC in turn provides funding to cover the operations of the ASB.

During the first half of 2013, a significant amount of work was directed into reviewing and assessing the levy collection and remittance framework to address gaps in the system. This work culminated in the ASB Board of Directors identifying strategies to address gaps and also in a confirmation that the current levy system with collection by media buying companies remains the most suitable model for the levy.

During the second half of 2013, following the review of the levy collection model, the ASB revisited the question of the levy rate. A consultation process with all key industry stakeholders regarding an increase in the rate of the self-regulation levy resulted in key industry stakeholders endorsing a levy increase and agreeing to support the process of notification and implementation of the increase. As part of its reasoning for an increase of the levy rate, ASB highlighted that the levy rate had remained unchanged since 1997 despite a significant increase in the number of codes, complaints, cases and media touch points between 1997 and 2013.

The self-regulation levy will increase to 0.05% (\$500 per \$1m of media buying) from 1 April 2014. The implementation of the levy increase will be a major part of ASB's work for the first quarter of 2014 as will targeting large advertisers who do not contribute.

The ASB continued to administer the complaint adjudication functions on behalf of the Federal Chamber of Automotive Industries (FCAI) and Australian Food and Grocery Council (AFGC - for the Responsible Children's Marketing Initiative and Quick Service Restaurant Initiative). ASB receives a fee for the provision of these services.

Following on from the work undertaken in late 2012 the ASB continued its Activity Based Costing exercise for a further period in early 2013. The data was collated and analysed by ASB's contract accountants (BDO). As a result, ASB can more accurately identify costs involved in undertaking the complaint adjudication service in respect of the Codes and Initiatives under its administration. The data was instrumental in ASB negotiating a more realistic fee for administration of the RCMI and QSRI by the AFGC and similarly for ASB's assistance with administration of the ABAC system.

Revenues are in line with media expenditure

The financial administration and control of the Advertising Standards Bureau is overseen by an independent internationally recognised accounting firm (BDO) with accounts audited by an independent national audit firm (Grant Thornton). The audit report for the financial year 2012-13 confirmed that the financial management of the ASB was in accordance with current law and accounting standards.

The overall level of financial support provided by advertisers was slightly lower than the level of the previous year, reflecting a reduction in overall advertising expenditure across particularly the first half of 2013.

As well as striving to increase levy income, ASB has maintained a firm control of expenditure to ensure that financial administration is prudent and effective.

Beneficiaries/Stakeholders

The ASB is valued by the community as a reputable, credible, trustworthy service

General community perceptions and opinions tested during research conducted during 2013 indicated a significant majority (74%) of respondents saw the work of the ASB as important.

This research also indicates the majority of community members (75%) would make a complaint to the ASB if they were extremely offended or concerned by an advertisement.

The research also indicated that the spontaneous awareness of the ASB as a complaints organisation continues to remain high at 63%. Other results showed the community has a strong agreement with each section of the Code of Ethics, ranging from 81% to 86% agreement and that the general public with no concern about paid advertising standards significantly increased from 59% in 2012 to 64% in 2013.

During 2013 the ASB continued to invite complainants and advertisers feedback about the advertising complaint adjudication process. Response to the survey invitation was modest, with just over 65 complainants and less than 10 advertisers completing the survey.

The majority of complainants indicated a neutral or positive degree of satisfaction with the overall complaint adjudication process, the standard of correspondence received, the timeliness of the process, and the explanation of the Board's decision in the final case report. Respondents, whose complaints were upheld, were satisfied with the Board's decision, but the majority of respondents whose complaints were dismissed were dissatisfied with the Board's decision. Feedback from complainants indicated a broad range of concerns around matters such as the limited scope of the advertiser Codes, the Board not being able to fine or sanction advertisers, the fact that a high number of complaints should result in an ad being banned and that all specific concerns raised by all complainants are not addressed in final case reports.

Self-regulation system has effective compliance outcomes

The overall high compliance rate with Board determinations is encouraging and demonstrates that the vast majority of advertisers take a responsible approach and are willing to adhere to community standards. Responsible advertisers continue to comply with Board determinations at an extremely high rate of more than 98 per cent.

In the year 2013 the ASB received fewer complaints than in the previous seven years, suggesting a greater knowledge of Code of Ethics provisions and understanding of community standards within the advertising industry and in Australian businesses in general. In 2012 the ASB received 3,640 complaints in total, but in 2013 only 2,773 complaints were received.

During 2013 a total of 8 cases were recorded as Upheld – Not modified or discontinued. Seven of these cases relate to complaints about advertising and marketing communications on

vehicles owned by a Queensland based campervan hire company. This company has a history of complaints about slogans and wording on its campervans along with a more recent history of non-compliance in some, but not all cases. Where an advertiser does not comply with the Board's decision the ASB has sought assistance from industry bodies and Federal, State, and Local Government authorities. In relation to this company, Queensland authorities have responded to ASB requests, explaining they do not have the power to assist in removing the slogans that were found to be offensive by the Board. This company was highlighted by the ASB in its submission to a Queensland Government inquiry as one of the few which do not voluntarily apply or comply with the self-regulation system's Code of Ethics. The ASB is continuing its work to achieve compliance.

Including this company in compliance figures takes the final compliance rate down from previous years to about 98 per cent – without it the compliance rate is well over 99 per cent.

In the case of the other two advertisements, following confirmation from each advertiser that they would not comply with the Board's decision, the ASB will continue to attempt to reach agreement with the advertisers to remove the offensive advertising and marketing communications. As these cases relate to advertisements that are not shown on third party media (eg television, radio or newspaper) there is no industry agency to assist the ASB in achieving agreement.

The majority of non-compliance cases are small and medium size businesses with local and own premises signage. Expansion of ASB jurisdiction to cover this form of advertising and marketing communication presents challenges, but most advertisers act responsibly and comply with Board determinations.

Shareholder recognises value provided by the ASB

During 2013 the AANA was invited to nominate an additional AANA board member to the Bureau Board, consistent with the usual practice of having two AANA Board members on the ASB and AASC Boards. Following the nominations, a new director (Simon Talbot) and alternate director (Rebecca Boustead) were appointed in October. The presence of additional AANA representation on the Board contributes to improved awareness and understanding by the AANA of the ASB's environment.

Early in the year the AANA extended an invitation to the ASB CEO to attend shareholder meetings with AANA Board to directly update the Board on key issues relating to the adjudication component of the self-regulatory system.

In the second half of 2013 ASB and AANA worked very closely to assess, analyse and consider the industry implications of increasing the rate of the advertiser self-regulation levy. The AANA fully supported the ASB's rationale and justification for the levy increase. The subsequent collaborative approach was accepted by the broader industry stakeholder group.

In August 2013, ASB hosted incoming AANA CEO Sunita Gloster, providing a comprehensive briefing and introduction to the complaint adjudication component of the national system of advertising self-regulation.

The ASB participated in the quarterly Advertising Media Marketing Industry Forum meeting chaired by AANA. Issues covered included government regulatory liaison topics such as Code of Practice reviews by ACMA, Privacy Act reviews, and the Classification Review. This

forum includes representatives from all key industry organisations.

Industry stakeholders understand, support and endorse the ASB

Throughout the year, the ASB continued to work with industry organisations to further promote responsible advertising. Primarily through presentations and training sessions and in 2013 included ASB's CEO being invited to speak at Kellogg's, Nestle, and at Aegis Media offices around Australia.

A highlight during the latter part of 2013 was the support of industry in assisting and producing a new public awareness advertisement for the ASB. The public awareness campaign will focus on raising awareness levels about the Advertising Standards Board composition – being “People like you”. The advertisement is to be released early in 2014.

The ASB prepares a regular report identifying system or procedural improvements for the Board of Directors. These improvements are partly identified from feedback provided by complainants and advertisers. During 2013 the ASB continued to invite complainants and advertisers feedback about the advertising complaint adjudication process. Response to the survey invitation was modest, with just over 65 complainants and less than 10 advertisers completing the survey.

The ASB has continued its proactive response to media which has resulted in the maintenance of a high level of interest in Board determinations. Throughout the year, information provided on the website, the blog and through the bulletins were covered by general news, social affairs and marketing reporters. Regular requests were received for interviews and information about

issues relating to ASB operations for print, internet, radio and television media.

Monitoring of the open rates of media releases and the monthly *Ad Standards Bulletin*, show high levels of interest in the information content, across all stakeholder groups – industry, community, media, and government. The bulletin allows readers to access the ASB website and other relevant information through links. It covers issues of the moment as well as highlighting recent Board determinations.

The Bureau sponsored the Media Federation Awards which rewards collaborative work done in producing campaigns that reach target markets, and also the ‘Long term effects’ category of the Communications Council Effie awards.

The ASB collaborated with several agencies in suggesting improvements to advertising Codes and Initiatives in areas such as food and beverages, alcohol and vehicle advertising, as well as with industry partners the Outdoor Media Association and AANA in developing submissions to government inquiries.

Following work on an APEC project with international advertising regulatory bodies the ASB received and accepted an invitation to speak at a seminar *Media Ethics in the Views of the Media and International Media Regulation Organisations* hosted by the National Broadcasting and Telecommunication Committee in Thailand. Requests to provide further mentoring to some of these bodies have also been received and work with these bodies continues.

Government stakeholders understand, support and endorse the ASB

The ASB maintains its relationship with federal, state and local government authorities

and representatives through regular meetings, presentations and information sharing activities.

With support from the Department of Foreign Affairs and Trade, the ASB continued to work with the Australian Government and representatives from APEC economies to develop a further project proposal for establishing a uniform regulatory framework for advertising standards within APEC economies. Work in this project will continue into 2014 and possibly beyond.

The ASB was invited to speak at the Australian Communications and Media Authority (ACMA) relating to its Issues Paper on Contemporary community safeguards inquiry, with a presentation to the Decency Forum held as part of the inquiry.

Several submissions were made to local, State and Federal Government inquiries and issues papers including to the:

- Australian National Preventative Health Agency (ANPHA) *Frameworks for monitoring children's exposure to food marketing on television* issues paper
- ANPHA's issues paper *Alcohol Advertising: Effectiveness of Current Regulatory Codes in Addressing Community Concerns*
- Queensland Government Health and Community Services Committee into sexually explicit outdoor advertising.

The ASB continues to work and liaise with the Australian Competition and Consumer Commission, referring complaints and collaborating on issues raised about truth and accuracy generally and, in particular in relation to food and environmental advertising.

Following the 2013 Federal election, ASB began meeting with relevant Government Ministers,

Senators and Opposition Members. Meetings were requested to discuss issues relevant to portfolios which relate to the work of the ASB. The ASB will continue to pursue meetings with Parliamentary members during 2014.

Internal business processes

Advertising Standards Board decision-making is independent, effective, and robust

According to research conducted during 2013, the Board's decision making reflects community standards.

This research indicated that Board decisions in relation to the use of sexual appeal in an exploitative and degrading manner were aligned with community standards in the majority of the ads tested during the project.

In response to community concern regarding the objectification of men, children and women in advertising Section 2.2 of the Code of Ethics was introduced in January 2012. Almost 14 per cent of all complaints considered in 2012 and about 8 per cent in 2013 were related to this section of the Code. ASB research in 2013 focused on this new section, with the aims of the research to provide a valuable resource for advertisers, the Board and community members, and to test general community perceptions and opinions of the complaints handling system.

Other research findings suggested:

- factors considered by the community in determining advertisement acceptability included the medium in which the ad appeared, audience restrictions and relevance of the imagery to the product or service being advertised.
- particular concern about images which are

able to be viewed by children in the public domain such as billboards, as opposed to other media forms such as internet where the audience may be restricted.

- consistent variations in acceptability in response to the advertisements shown depending on gender and age. Respondents aged 45 years and over were more likely to consider advertisements unacceptable compared to 18-44 year olds. Females were also more likely to consider these advertisements unacceptable as opposed to males.
- concerns about advertisements depicting actors, particularly women, who appear to be under 18 years of age.
- the use of sexual appeal in advertising to be unacceptable when ads were able to be viewed by children, if the ad showed sexual acts, if the product was aimed at younger people, children or families, and if there was no direct relevance to the product being advertised

To ensure Board members have an understanding of current trends and perceptions in the broader community, a regular program of training days and awareness sessions are conducted. In 2013 two training days were held with guest speakers including Charmaine Moldrich, Chief Executive Officer of the Outdoor Media Association, with a presentation to explain who sees outdoor advertising, Denita Wawn, Chief Executive of the Brewers Association with Margaret Zabel, CEO Communications Council, discussing alcohol advertising issues. The Hon Susan Ryan AO, Age Discrimination Commissioner, discussed recent research into age discrimination with particular reference to advertising.

The ASB complaints handling service applies across all media and meets established industry benchmarks and best practice

The listing of media types considered under the AANA Code of Ethics grew again in 2013, with a new category “flying banner” officially added to properly identify the advertising format in relation to a complaint relating to Case 0275/13 – Sexpo. The format has been considered in the past as outdoor advertising (see Case 0005/13 – Nova 969).

The ASB’s decision to include social media sites such as Facebook and User Generated Content as an advertising medium was supported in research conducted during 2013. In the quantitative stage of the research, some members of the community were uncertain whether the Code of Ethics would apply to advertising material on the internet and social media websites such as Facebook. Subsequently, in the qualitative stage, focus group results showed that the community was in agreement that social media advertising, including advertiser and user generated content on Facebook pages, should be considered under the Code of Ethics. Focus groups agreed that the same standards in advertising should apply

to all forms of media—both traditional and social media.

The majority of advertisers indicated a high level of satisfaction with their interaction with the ASB.

In line with feedback received the ASB made improvements to its complaints lodgement system to accommodate complaints from mobile and tablet devices.

During the second half of 2013, the ASB undertook an extensive internal assessment of its systems and processes against the International Standard ISO 10002 – complaint handling for organisations – as well as an assessment against the ASIC Regulatory Guide 139 (which is framed on the Australian Government’s benchmarks for industry based consumer dispute resolution schemes).

Assessment of ASB’s activities against both the ISO 10002 and RG 139 were a valuable exercise providing ASB with measurable assessment criteria against which its systems, processes and operations could be benchmarked.

RG 139 is based on the ‘Benchmarks for Industry-Based Customer Dispute Resolution Schemes’ (DIST Benchmarks), published by the then Department of Industry, Science and Tourism in 1997. These principles remain in force.

Another element of the complaints handling process includes the option of complainants seeking an independent review of Board determinations. During 2013 the Independent Reviewers considered 7 cases recommending that Board decision in two cases be confirmed and that the Board decision in five cases be reviewed. Independent Reviewers complete these reviews in an average of 26 business days. These cases are available from the ASB website.

The ASB also continued work to improve its complaints administration and procedures resulting in an excellent complaint resolution timeframe of an average of 36.4 calendar days throughout 2013.

Benchmark	Description	ASB compliance
Accessibility	The scheme makes itself readily available to customers by promoting knowledge of its existence, being easy to use and having no cost barriers.	Very High
Independence	The decision-making process and administration of the scheme are independent from scheme members.	Very High
Fairness	The scheme produces decisions which are fair and seen to be fair by observing the principles of procedural fairness, by making decisions on the information before it and by having specific criteria upon which its decisions are based.	Very High
Accountability	The scheme publicly accounts for its operations by publishing its determinations and information about complaints and highlighting any systemic industry problems.	High
Efficiency	The scheme operates efficiently by keeping track of complaints, ensuring complaints are dealt with by the appropriate process or forum and regularly reviewing its performance.	Very High
Effectiveness	The scheme is effective by having appropriate and comprehensive terms of reference and periodic independent reviews of its performance.	High

A committed, appropriately skilled and sustainable workforce

The ASB endeavours to provide a rewarding and challenging work environment while also maintaining a flexible family-friendly workplace.

Training for staff is available on request and is also promoted in relation to skills and qualifications required. As well as attendance at a variety of industry workshops and conferences to maintain a current knowledge of industry trends, staff training was undertaken in presentation skills, company secretary responsibilities and governance practices.

In 2013 a new position of project and communications assistant was created, following the successful trial of the role in 2012. The position provides research, administrative, technical, and general communications support to several members of staff.

The ASB maintained an employee assistance program (EAP) through an external service provider which provides advice, counselling and support to all Bureau staff.

In terms of specific staffing information, for the calendar year ended 31 December 2013, ASB had:

- nine staff members, seven who work part-time hours
- a full time staffing equivalent of 6.56 people
- an average staff tenure of 5.60 years
- a staff gross attrition rate of 11.2% (one separation) for 2013.

Long term development

The ASB capitalises on opportunities to administer all advertising and marketing communications complaints codes

The Bureau made the decision in 2013 to resume in-house administration of the Claims Board, which had been outsourced almost since its inception. It is hoped bringing the procedures back in-house and some minor changes to the Procedural Guidelines for participants will provide the Bureau with the starting point to reinvigorating this avenue for alternative dispute resolution between competitors in 2014.

In 2013, the ASB made submissions to the *ANZTPA* in relation to its consultation document, *Possible Joint Regulatory Scheme for therapeutic products for Australia and New Zealand and to the Therapeutic Goods Administration Consultation RIS: Regulating the advertising of therapeutic goods to the general public*. In both submissions, the ASB proposed that it take on the complaint resolution process for therapeutic goods advertising, bringing therapeutic goods advertising into line with other Australian advertising. The consultation outcomes were yet to be released at the end of 2013.

Company secretarial responsibilities were brought in-house in 2013, leveraging off skills available internally and providing an opportunity for further professional development and reduced costs.

High standards in governance

Board of Directors members attended a strategic planning exercise with an external facilitator in March. This exercise was held to harness the expertise and skills of the Directors in development of the Strategic Plan 2013-2015.

A new policy was endorsed by the Board on the appointment of Alternate Directors, providing greater flexibility for future appointees. Following the policy's endorsement, the Board approved the appointment of new director (Simon Talbot) with an alternate (Rebecca Boustead) in October.



Board report

The Board's view

Issues attracting complaint

Board members

Advertising Claims Board



The Board's view

Applying the Codes and Initiatives

When considering complaints about advertising, the Advertising Standards Board is bound by section 2 and 3 of the AANA Code of Ethics. This Code determines what issues the Board can look at when considering complaints. These issues fall broadly into 10 categories:

- discrimination
- exploitative and degrading images
- violence
- portrayal of sex, sexuality and nudity
- use of language
- health and safety
- advertising to children (including the AANA Code for Advertising and Marketing to Children)
- motor vehicle advertising (the FCAI Voluntary Code for Advertising of Motor Vehicles)
- food and beverages advertising (including the AANA Food and Beverages Marketing and Communications Code, the Quick Service Restaurant and Australian Food and Grocery Council Initiative)
- environmental claims (Environmental Claims in Advertising and Marketing Code)

The most complained about issue in 2013 was the portrayal of sex, sexuality and nudity accounting for 23.2 per cent of the complaints. This is a change from the previous year where discrimination and vilification was the most complained about issue.

Complaints about violence almost tripled from 5.9 per cent in 2012 to 16.1 per cent in 2013 and were at the highest they have been since 2008 when they represented 17.7 per cent of complaints.

Complaints concerning health and safety also increased, from 9.5 per cent in 2012 to 15.6 per cent in 2013.

Vehicle advertisements were the most complained about product in 2013, being the subject of 13.9 per cent of complaints. This is the first time that vehicle complaints has been the most complained about product since data was first collected in 2005.

Issues declining in complaint in 2013 included objectification (8.3 per cent in 2013, down from 14 per cent in 2012) and language (7.1 per cent in 2013, down from 12.2 per cent in 2012).

Complaints about food advertising including the food and beverage code and the AFGC and QSR food advertising initiative represented 1.7 per cent of complaints.

Issues attracting complaint

Discrimination or vilification (Section 2.1, AANA Code of Ethics)

Section 2.1 is a broad category which includes discrimination or vilification on the basis of age, gender, race, ethnicity, nationality, physical characteristics, mental illness, disability, occupation, religion, sexual preference or lifestyle choice. It is important for advertisers to note that depictions of any section of society may raise concerns of discrimination, especially if groups are presented in a stereotypical manner. Although the use of humour and a light hearted nature in advertisements has in certain cases lessened the impact of the overall message, if the Board views the advertisement as discriminatory against any group it will breach Section 2.1.

The issue of discrimination and vilification attracted just over 18 per cent of complaints in 2013.

Discrimination against age

In 2013 the Board received complaints for a billboard advertisement which featured an elderly gentleman expressing surprise at a cider called *dirty granny* (Fosters – 0046/13). Complaints for this advertisement surrounded the implication that a grandmother had done something dirty. The Board considered that the gentleman's surprised look was ambiguous and did not directly discriminate or vilify on the basis of age.

The driving ability of aged citizens was questioned in a campaign broadcast on TV (IAG Insurance – 0093/13) and billboard (IAG Insurance – 0081/13). The advertisements feature an elderly woman driving a car with a younger man expressing concern over her driving skills. The

Board considered that in each scene something humorous is taking place, not just in the scene with the elderly lady. Both advertisements were considered by the Board to be light hearted and humorous rather than discriminatory towards aged citizens, and therefore dismissed complaints.

An advertisement featuring references to a plastic hip and a hairy lip raised concern of discrimination towards elderly people (Volkswagen – 0401/13). The Board noted the light hearted tone of the advertisement and considered that the reference to common signs of aging are made in the context of a celebration of all members of a family. The Board considered that the advertisement does not present any of the older members of the family in a negative manner and that overall the advertisement was not discriminatory towards people based on their age.

Discrimination on the ground of disability or mental illness

Although advertisers are generally careful to avoid discriminating or vilifying on the basis of disability, the Board considered five cases under this topic in 2013 and found one to be in breach of Section 2.1 on these grounds.

An advertisement for Hotels Combined (0386/13) raised concerns of discrimination against people with a disability. The advertisement featured a man who had stayed up all night researching hotel deals behaving erratically with the final line *you'd be crazy not to use Hotels Combined*. The Board determined the man's behaviour was clearly depicted as being due to his lack of sleep and not directly linked to any particular disability or mental illness. The Board dismissed complaints as the advertisement did not discriminate or vilify against any group.

A cinema advertisement for Westpac (0414/13) attracted complaints of discrimination against people with a disability. In the advertisement, an unwanted house guest joins a couple in daily activities and the couple show discomfort at the man's presence. The man is intended to represent the couple's home loan, and the Board considered this representation was made clear throughout the advertisement. Although the complainant claimed the behaviour of the man suggests an intellectual or learning disability, the Board determined that most members of the community would agree that the man is not presented as having a disability. The Board considered that this advertisement did not discriminate against or vilify any section of society, and dismissed complaints.

Similarly, the Board dismissed complaints over a car advertisement (Ford – 0141/13 & 0142/13) which included people twirling a finger next to their head and whistling. In this instance the Board determined the gesture was being used to mock the inventions and their likelihood to succeed and not mocking mental illness. The Board noted that the overall tone of the advertisement is humorous and considered that most members of the community would consider that the advertisement is not presenting material which discriminates against people who suffer from mental illness.

A radio advertisement (Eskander Betstar – 0392/13) considered in 2013 featured a voiceover using a normal pitch, a higher pitch for people with hearing difficulties and finally a description of hand signals used in sign language for those who cannot hear. The Board considered that the advertisement is attempting to be humorous but that the humour could be seen to be in poor taste as it is clear that a deaf person would not be able to hear the advertisement. The Board determined that the advertiser's intent was to be tongue in

cheek in an attempt to demonstrate that the deal on offer is such good value that everyone should hear about it. The Board considered that the advertisement is insensitive to people with hearing problems but that it is not discriminatory or demeaning.

An advertisement for Murray Goulburn (0362/13) was found in breach of Section 2.1 of the Code for vilifying a section of society on the grounds of disability. The TV advertisement featured a woman in the kitchen trying to separate cheese slices to make sandwiches as a young girl watches her. The girl is holding a doll that is missing an eye. The woman explains to the girl that the sandwiches are not ready and says to the girl that she should go outside for a while. A young boy arrives next to the girl and he has one eye covered with a patch. The woman in the advertisement speaks to the young girl about taking her one eyed doll outside until the sandwiches are ready, and the woman refers to the doll as a freaky little Cyclops. The entire room seemed horrified by her actions as they did not understand the context of the comment and misinterpreted the comment as directed to the one eyed boy.

In this case, the Board recognised that there is a genuine community concern regarding the vilification of children and adults who have physical disabilities. The majority of the Board considered that this depiction, even if seen as accidental, can contribute to negative attitudes towards people with an eye condition or disability. The Board considered that although the woman did appear embarrassed, her comment, taken in the context of the young boy with an eye patch was a negative comment about a child with a physical disability and did amount to a depiction that vilified a section of the community on account of a disability.

Discrimination against men

Complaints concerning discrimination or vilification against men commonly refer to the level of acceptability the advertisement would have if roles were reversed and women were in the spotlight. The Board's role is to consider each advertisement on its own merit and as such, addressing hypothetical alternatives is not part of

their role. Complaints against this provision in 2013 concerned the portrayal of men as children, inactive or incompetent at performing certain domestic tasks.

An advertisement by Pfizer Australia (0134/13 & 0176/13) attracted complaints in 2013 with concerns raised about the implication that women are more active than men. The Board considered the promotion of the calcium supplement was apparent as the reason the woman appeared more active in the advertisement, and did not discriminate or vilify against men. A man with his shirt off being admired by women (Coca Cola - 0200/13) was also cleared by the Board as the man appeared to enjoy the attention and the advertisement was presented in a light hearted manner.

Advertisements cleared by the Board in 2013 include a woman implying her husband is a child (Toyota Motor Corp Australia - 0207/13) a man inadequately attempting to fit a child seat in a car (Virgin Money - 0065/13) and the inference that men do not help with cooking (Baiada Poultry - 0320/13). In these cases, the Board's view was that the advertisements were mildly humorous and not negative or demeaning to men and dismissed complaints.

Discrimination against women

Complaints concerning discrimination against women generally attract a higher number of complaints. Complaints about imagery of women presented in a sexualised manner can be considered under Sections 2.1, 2.2 and 2.4 of the Code depending on the content of the advertisement and nature of the complaint. Cases dismissed under Section 2.1 in 2013 include the portrayal of women bending and stretching in a Pilates class (Yum Restaurants - 0111/13), cheerleaders dancing (Dapco - 0307/13) and an image of a female umpire's behind (Sportingbet - 0175/13). In these cases the viewing of women's bodies was not considered predatory or objectifying.

A billboard which attracted complaints in 2013 for Boardroom of Melbourne (0110/13) featured a woman looking suggestively at the camera with the text, *you may not be the first, but really...*

do you care? The Board noted the complainant's concerns that the billboard was misogynistic and not appropriate for outdoor display. However, in the Board's view the advertisement suggests that the women who work at the Boardroom of Melbourne may have had other clients. They considered that as their job is to entertain clients, this suggestion does not in itself discriminate against or vilify women.

Another billboard considered by the Board featured a woman sipping beer with the tagline *she is a thing of beauty* (Lion - 0011/13). Community members raised concerns over the terminology and interpreted the text as describing women and beer as a similar commodity. In the Board's view however, the phrase was positive, and not discriminatory towards women.

A complaint for Schwartzkopf (0418/13) concerned the harassment of women and sexism. The advertisement featured a ute pulling up at traffic lights and a passenger calling out, *hey sexy* in order to attract a woman in the next car's attention. When she turns round it is evident that the person is actually a man with long hair. In this case, the Board considered the overall tone and theme to be lighthearted and humorous. The men in the ute who called out were made to appear foolish rather than condoning such behaviour. The Board considered the advertisement did not discriminate on account of gender, and dismissed the complaint.

Trivialising childbirth was the focus of complaints for an advertisement by AAMI (0270/13) where a woman is seen to be multitasking; working and taking phone calls while in labour giving birth to her child. The Board considered this advertisement was unrealistic, humorous and that most members of the community would recognise that this was highly unlikely, and accordingly dismissed complaints.

Stereotypes of women in advertising caused concern in 2013 with cases raising issues of gender inequality. These advertisements include the depiction of a woman on a male poker night (Yum Restaurants - 0080/13), a woman in the kitchen doing what her husband had labelled domestic affairs (Virgin Money - 0285/13), a woman being presented as a gold-digger (Virgin

Money – 0412/13) and a woman who missed her date and became an unmarried woman with several cats (RACQ – 0309/13). In these cases the Board's view was that the advertisements were presented with a humorous and light hearted tone and found they did not discriminate or vilify against any person or section of society.

Discrimination on the ground of ethnicity, race or nationality

Discrimination against certain ethnic or racial groups or nationalities is considered under Section 2.1 of the Code. Concerns generally surround the use of stereotypical portrayals.

In 2013 the Board considered two advertisements for General Mills Australia (0311/13 & 0323/13) which raised concerns of discrimination against Mexican people. Complaints raised issues of stereotyping the accent and dress of Mexicans, and implying Mexican people did not know how to use forks. The Board considered this was a light hearted suggestion with no negative overtones and dismissed complaints.

Stereotypical speech, clothing and behaviour was also considered by the Board with cases for Radio Rentals Group (0003/13) with a Japanese karate chop, Sunshine Coast Daily Newspaper (0198/13) with a reference to Russian expatriates and Oporto Franchising (0214/13) with the depiction of a North Korean officer. In these cases, the Board dismissed complaints due to advertisements being presented in an exaggerated and unrealistic manner and not demeaning or discriminating against any group.

The inference that workers or products from Australia are superior to other countries raised community concern in 2013. These advertisements suggested Australian call centre staff (Choosi – 0035/13 & Centrecom – 0143/13) and products (Dick Smith Foods – 0067/13) were preferable. The Board's interpretation of these advertisements was that the call centres based in Australia would be better able to answer local concerns. In these cases, no specific race or nationality was mentioned in comparison, and the Board dismissed complaints.

Discrimination against religion

A radio advertisement for Heaven's Hell Industries (0359/13) was found in breach of Section 2.1 for depicting material discriminatory towards religion. The advertisement describes a vodka product while a chant plays in the background. The background chant was found to have a strong likeness to the Islamic call to prayer, the adhan. The backing music together with the promotion of an alcoholic beverage was found to be inappropriate as Muslims are enjoined by their religion to abstain from eating certain foods including intoxicating beverages. The Board found this advertisement to be in breach of Section 2.1 of the Code as they believed it was disrespectful and offensive to the Muslim community.

Discrimination against sexual preference

Four cases of note were considered in 2013 under Section 2.1 for discrimination against sexual preference. The first, a Cam River Signs (0196/13) billboard depicted female and male gender symbols with wedding bands. Complaints concerning discrimination against same-sex couples were dismissed as the Board found this to be an expression of an opinion and open to interpretation. The second case in 2013 depicted a vehicle with the text I'm straight, don't rear end me (Wicked Campers – 0079/13). The Board determined that this phrase presented homosexuality in a negative light and found the advertisement in breach of Section 2.1 in regard to sexual preference.

A campaign by Norco (0408/13 & 0409/13) featured an ice coffee product with the text and voiceover stating not for men named Nancy. The complaints concerned discrimination against sexual preference as the reference to *Nancy* can be derogatory slang for gay men. The Board noted that *nancy boy* is an old-fashioned slang term which refers to gay men or men or boys who are not as *manly* as their peers. A minority of the Board considered that this reference to homosexuality, for an older group of Australians has a very negative and derogatory inference to both weak men and to homosexuals. However, the majority of the Board considered that this type of reference is a common part of Australian culture and in this instance the advertisement is

light-hearted and teasing in its tone rather than aggressive or negative. The Board noted that bullying is a very serious issue but considered that the advertisement uses a light-hearted play on an old-fashioned term to suggest that the product contains a level of caffeine that is not for the faint-hearted. The Board considered that the overall tone and theme of the advertisement is intended to be humorous and does not depict material that discriminated against or vilified any person or section of the community.

Discrimination on the ground of physical characteristics

Discrimination on the ground of physical characteristics can include aspects such as height, weight, hair colour and perceived attractiveness. Advertisements depicting overweight people (Haggle Co – 0097/13, Kellogg – 0131/13 & Kia Automotive – 0313/13 & 0322/13) were considered and dismissed by the Board due to their intended humour, actor's reaction to comments and not portraying weight in a negative manner.

Red hair colour was also the subject of complaints in 2013 with cases for Guys Grooming (0089/13) and Nissan Motor Co (0372/13 & 0379/13) being dismissed for not discriminating or vilifying against any group. A case for Man with a Van (0038/13) was also considered under this provision in 2013. Complaints concerned the physical appearance of men being disgusting. The Board noted the woman's disgust was not directed at the physical appearance of the men, but rather their unprofessional presentation and lack of ability, and dismissed complaints.

A complaint concerning discrimination against height was considered in a case for Meat & Livestock Australia (0427/13). In this case, the term shrimp was used to describe people of shorter stature. The Board considered that in this instance the way in which short people are presented in conjunction with the overall theme and tone of the advertisement amounts to a celebration of short people and there are no negative depictions. This case was dismissed by the Board as it did not present material that discriminated against or vilified any section of society.

Exploitative & degrading (Section 2.2, AANA Code of Ethics)

Section 2.2 of the Code concerning the use of sexual appeal in a manner which is exploitative and degrading was introduced in 2012. This section takes into account the objectification of children, men and women and requires that the advertisement use sexual appeal in a manner that is exploitative and degrading. Common complaints under Section 2.2 of the Code surround imagery of women's bodies omitting their head implying they are sexual objects, and concerns over relevance images may have to the product or service advertised. Although the majority of complaints in this section surround the portrayal of women, the Code applies to images of women, men and children.

Children

The AANA Code of Ethics Practice Note provides the following additional guidelines for advertisers regarding exploitative and degrading content concerning children; *in advertisements where images of children are used, sexual appeal is not acceptable and will always be regarded as exploitative and degrading*. In 2013 the Board did not find any advertisements in breach of Section 2.2 in relation to images of children and very few complaints raised this issue.

Concerns of exploitative and degrading imagery of children were raised with a lingerie advertisement for Bonds (0177/13) which featured a girl skipping in underwear with the underwear design changing with each skip of the rope. Complaints expressed concern over the model's age particularly with her hair in plaits and engaging in a childlike activity; skipping. The majority of the Board determined that the model looked like a young woman engaging in a youthful, fun and energetic activity but it was not sexual or suggestive. The Board found that this advertisement was not exploitative and degrading to children.

Another advertisement which attracted complaints concerning children in Section 2.2 featured adults with superimposed baby heads (Vodafone – 0338/13). In a particular scene, three adult women with superimposed baby heads walk down a street dancing which raised concerns over the sexualisation of children. The Board's view was that the children were not presented as sexual beings or having sexual appeal, and dismissed complaints.

Men

In 2013 there were no cases considered by the Board concerning exploitative and degrading imagery of men. Complaints regarding discrimination or vilification of men are captured under Section 2.1 of the Code and the use of sex, sexuality and nudity is considered under Section 2.4.

Women

Images which breached Code

The Board has found several advertisements in breach of Section 2.2 of the Code for the use of sexual appeal in a manner which is exploitative and degrading to women.

An advertisement for Tremonti Jewellery (0030/13) featured overhead shots of three pairs of women's legs. At the beginning of the advertisement, the women's legs are crossed and the women are then presented with a jewellery box. When the closed jewellery box is presented, the women's legs remain crossed. A second box is presented and is open with jewellery inside and this time the women uncross and spread their legs. The voiceover says *Tremonti, always gets you what you want*. The Board considered that the image depicts the women in a position that is sexually suggestive as their legs are uncrossed only upon seeing the contents of the jewellery box. The Board also considered that the image depicts the women as objects, without heads or faces, which increased the suggestion that the women have no value other than their bodies. The Board considered that the representation of the women as simply pairs of legs was irrelevant to the service advertised, a jewellery store. The parting of their legs only upon the revealing of jewellery was considered degrading. The Board considered that the impact of the advertisement as a whole is exploitative of women and is also degrading, which breached Section 2.2 of the Code.

A case which breached both Section 2.2 and 2.4 in 2013 featured a woman lying on the beach with the contents of a burger including lettuce, tomato, cheese and a meat patty were between the cheeks of her backside (Good Time Burgers - 0416/13). The text in the advertisement stated *the freshest fun between the buns*. The Board considered that although the advertiser intended the image to be a humorous depiction, the close up image of the woman's bottom and the portrayal of her bottom as a burger likened the woman to a piece of meat or object for consumption and objectified women. The Board also considered that this depiction of a woman as a burger is exploitative of women and degrading.

Another case found in breach of Section 2.2 was for Pelvis (0104/13). The advertisement featured a line drawing of a naked woman beneath a table positioned in a manner which makes it seem that the desserts on top of the table are her breasts. In this instance the image of a naked, albeit cartoon, woman is exploitative as it has no relevance to the product advertised. The Board considered that most members of the community would agree that it is also degrading to depict a woman in this position under a table with her breasts displayed as edible objects and apparently naked.

In 2013, the Board received complaints concerning the objectification of women in an advertisement for Santa Fe Gold (0252/13). The large billboard featured a woman leaning forward so that her cleavage is visible with the words, *I'm waiting*. The majority of the Board considered that in connection with the text *I'm waiting*, the sexual nature of the business and the sexualised image of the woman was subservient and degrading. The Board considered that the depiction of her waiting to serve or provide sexual gratification to others was degrading to her and to women. The Board determined that the advertisement did employ sexual appeal in a manner which is exploitative and degrading and did breach Section 2.2 of the Code.

Relevance to product

Advertisers should use caution depicting sexualised or nude images when there is no direct relevance to the product. An advertisement for Metropolitan Motorcycle Spares (0316/13) featured an image of a motorbike and a young woman in a bikini bottom and high heels cupping her naked breasts with her hands. The Board considered that the image bore no relevance to the product and that the woman was presented purely as an object to be looked at by readers. The Board considered this advertisement to be exploitative and degrading and it breached the Code.

Similarly, an advertisement featuring a woman's chest and part of her face along with the text, *expose yourself* (aBillboard – 0370/13) was found to be in breach of Section 2.2. The Board found the use of a woman's breasts not relevant to the service being advertised, a billboard company. In this case, the Board noted the woman's breasts are visible through a ripped hole and considered that this depiction is both exploitative and degrading as it reduces a woman to a part of her body and then uses that part to attract the attention of viewers.

Although the Board noted that there was no direct relevance between the imagery and product, other less sexualised advertisements were dismissed under Section 2.2. For example, images of near-nude women promoting extension leads (Extension Leads Australia – 0113/13) and water (Coca Cola Amatil – 0135/13) bore no relevance to the product, but were dismissed. In these cases, the Board found the imagery not exploitative or degrading despite the lack of relevance to the product sold.

The Board also considered imagery of women that was directly related to the product advertised. In cases for Erotic Nights Pakenham (0223/13) for an adult venue and BIC Australia (0282/13) for a lady's razor, the product advertised had direct relevance to the nudity displayed in the advertisement. The Board determined these cases did not display imagery that exploited or degraded any group of people, had direct relevance to the product advertised, and did not breach Section 2.2 of the Code.

Fashion and lingerie

The Board has consistently noted that advertisers have the right to use images of women in lingerie in order to sell their underwear products as long as it is not done in a manner which is exploitative and degrading. In 2013, the Board dismissed complaints under Section 2.2 for Cotton On (0277/13 & 0317/13), Honey Birdette (0281/13) and Bonds Industries (0304/13). In these cases, the Board noted that it is reasonable to expect an underwear advertisement to feature imagery of underwear and considered that the manner in which it is presented in the advertisement is appropriate and does not exploit or degrade any group of people.

A fashion advertisement for Windsor Smith (0331/13) attracted several complaints concerning the portrayal of women in a men's shoe range advertisement. Women in white lingerie danced around men in this advertisement. The Board considered that while some members of the community would find the use of women in this advertisement as sexualised and inappropriate, in the Board's view the advertisement presents the women as equal partners in the fashion scene and does not lower women in character. The Board determined that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading to women and that the advertisement did not breach Section 2.2 of the Code.

Violence (Section 2.3, AANA Code of Ethics)

Violence is unacceptable in advertising unless it is justifiable in the context of the product or service advertised. The advertising of very few products or services realistically justifies the depiction of violence. In 2013 the Board considered advertisements that portrayed bullying, domestic violence, weaponry, cruelty to animals, graphic depictions, and imagery that may cause alarm or distress under Section 2.3 of the Code.

Complaints about violence almost tripled from 5.9 per cent in 2012 to 16.1 per cent in 2013, although this percentage is skewed by a higher number of complaints about two advertisements.

Community awareness

Each year the Board receives numerous complaints for advertisements providing community awareness for a public health or safety message. The Board has consistently stated that a higher level of graphic imagery is recognised as being justifiable in public education campaigns because of the important health and safety messages that they are intended to convey. Further, compelling detail and shock may be necessary to be effective in these types of advertisements.

Anti-smoking campaigns dismissed in 2013 include a man struggling to breathe in an image akin to a coffin (Australian National Preventive Health Agency – 0151/13 & 0163/13), an image of pried open eyes (Australian National Preventive Health Agency – 0056/13) and a picture of a sick child (Cancer Institute of NSW – 0068/13). In these cases, the Board empathised with complainants witnessing distressing imagery, however viewed each advertisement as factual and presenting an important message to the community and as such dismissed complaints.

A Worksafe campaign across internet (0206/13) and TV (0197/13) attracted complaints in 2013. The advertisements depicted a recreated work accident with a man losing his hand by incorrectly handling machinery. A minority of the Board considered that although we do not see the man's hand in the machine, the splattering of blood on the machine and the agonised scream of the young man is a very graphic depiction which is not justifiable in any circumstance. After considerable debate a majority of the Board considered that although the depiction of blood may not be necessary, in the Board's view the advertisement does present material which is justifiable in the context of the advertised message which is aimed at an 'M' rated audience.

Humour and depictions of pain

Humour in advertising does not minimise the impact of violence where a person is clearly depicted in pain. In a radio case (Gleamous – 0149/13) a man describes the features of a hot water system and towards the end of the advertisement a woman screams as her hand is

placed in the water to test how hot it is. Although the advertiser's intent was to be humorous, it depicts a scenario that sounds as if someone is in pain. With an additional comment that the woman is now suing the man, this suggests that the woman was actually harmed. The Board found this advertisement to breach community standards of violence.

A TV advertisement for Solahart (0201/13) was in breach of Section 2.3 for presenting violence in a manner which was not justifiable. The advertisement featured a young woman dressed as an older woman watching sport on TV. When the power dies during a vital part of the game she smacks her 'grandson' with a newspaper so that he continues pedaling his bike which is generating the power to run the TV. The boy's general appearance coupled with the sound effect of the paper hitting him and his resigned reaction to it amounted to a depiction of hitting a child which the Board considered to be inappropriate and could be considered assault.

Advertisers should take care or reconsider using violence in advertisements if violence is not directly related to their product or service. Section 2.3 of the Code states that violence should not be presented unless it is justifiable in the context of the product or service advertised. Although advertisers may intend for their advertisements to be humorous, if a person is depicted in pain the Board can find this to be a breach of community standards of violence.

Relevance to the product or service

The provisions of the Code are specific in that violence can be portrayed only where it is justifiable in the context of the product or service advertised. A campaign by Boost Tel featuring scenarios people may face in a zombie apocalypse was considered by the Board in 2013. In the context of a mobile phone service provider, the Board noted that there was no direct relevance between violent acts and the service being promoted. In one case (Boost Tel – 0215/13) the Board found the advertisement in breach of the Code for its use of unnecessary violence including blood splatter and parts of zombies' lower limbs lying on the street. The Board dismissed the other two cases (Boost Tel – 0262/13 & 0263/13) as

they did not show violent acts and violence was only implied.

An advertisement featuring different actors leaning into a pram to receive a slap on the cheek from a baby (Yellow Brick Road Superannuation – 0186/13) was considered in breach of violence standards. The Board noted that there is genuine community concern regarding violence and the portrayal of violence in advertising. The use of slapping in an advertisement to promote a superannuation product had no relevance and is not justifiable in the context of the product being advertised and it therefore breached Section 2.3 of the Code.

Movies and games

Advertisements promoting movies and games using a headless man (Roadshow Film Distributors – 0169/13), a vampire (FOXTEL Management – 0332/13) and a man with no jawline (Universal Pictures – 0329/13) were dismissed by the Board in 2013. In these cases, the violence shown was not overly graphic, did not promote unjustified violence and was directly relevant to the product sold.

An advertisement featuring two girls holding hands with bloodstains on their clothing and blood on their faces and arms (Planet Video – 0358/13) was considered by the Board in 2013. The Board considered that the image, when presented as a print advertisement in a television guide or in proximity to children's cartoons in a paper is likely to cause a level of alarm to children. The advertisement was found to be in breach of Section 2.3 of the Code.

Weaponry

Advertisements using images of weapons are considered under Section 2.3 of the Code. In 2013 the Board dismissed complaints where advertisements featured an axe and sword (Sony Computer Entertainment – 0239/13), a sharpened credit card (Global Shop Direct – 0153/13), a gun (John Simpson – 0389/13) and a rifle (SSAA – 0117/13). In these cases the weapon was directly relevant to the product being advertised, the advertisements did not display characters which were menacing or threatening

and the Board determined they did not depict material contrary to community standards of violence.

Graphic depictions

Imagery implying suicidal acts has attracted several complaints in 2013. The Board dismissed a TV advertisement featuring a noose around a girl's neck (Sussex Media – 0096/13) as it was highly stylised and due to time restrictions was unlikely to be viewed by children. An advertisement by All Interactive Entertainment (0125/13) featured characters deliberately causing an explosion which appears to lead to their deaths. The final scene shows the logo of the game which features a figure hanging by a noose from a palm tree. The Board considered that although the advertisement had fantastical elements and was stylised in nature, the issue of suicide is a depiction of violence which is not justifiable even in the context of an advertisement for a computer game aimed at adults.

Under Section 2.3 the Board also considers advertisements which feature graphic depictions that may cause alarm and distress to viewers. Images of a devil (Unilever Australia – 0074/13) and a hand with nails prodding the skin (Pfizer – 0303/13) did not breach violence standards. The Board determined that the images were not graphic or realistic and the advertisements did not present material inappropriate for children to view. The use of a grim reaper image in an advertisement for a theme park (Adventure World – 0395/13) generated community concern that the imagery was not suited for a billboard. The Board's view was that the image of the hooded figure is not suggestive of violence and is not inappropriate for an outdoor advertisement which could be viewed by children.

The most complained about advertisement for 2013 (Lion – 0398/13) was considered under several provisions of the code- Sections 2.3, 2.4, 2.6 and other. The TV advertisement featured a mouth leaving a man's face and then telling him it deserves a reward for all that it has been put through, for example sucking toes, being licked by a dog and having a tattoo. The Board considered that while some members of the community may find the depiction of the mouth repulsive

and visually offensive, it is not an image which is suggestive of violence. The Board noted the overall theme of the advertisement of rewarding your mouth and considered that in this context the depiction of the mouth leaving a man's face is not a depiction that portrays violence and is not inappropriate for the relevant 'M' rated audience, and dismissed the case.

Cruelty to animals

Concern for the welfare of animals was raised in 2013 with the Board considering several advertisements under Section 2.3 for violence towards animals. Dismissed complaints concerning animal welfare include the suggestion of swinging a cat (Addbuild – 0102/13), plucking a chicken (South Australian Tourism Commission – 0194/13 & 0217/13), a vacuum cleaner sucking up a cat (Miele Australia – 0173/13) and showing a giraffe in a car approaching a narrow bridge (Roadshow Film Distributors – 0168/13). In these cases, the depiction was found to be humorous and light hearted and did not show the animal in pain or distress.

A woman holding a large lizard above her head (Freemantle Arts Centre – 0013/13, 0014/13 & 0015/13) in an advertisement attracted complaints of animal cruelty as the woman appeared to be preparing to kill the lizard. The Board considered this depiction to be reflective of indigenous culture; the depiction of the imminent death of the lizard was seen to be an accurate and realistic portrayal of how animals are killed. The image accurately reflected the most humane, quick and effective method used by Aboriginal people to kill a goanna, and the advertisement was dismissed by the Board.

Bullying

Behaviour which may be considered bullying is considered by the Board under Section 2.3 for violent acts or Section 2.6 (health and safety) for non-violent bullying. An advertisement for Nokia Mobile Phones (0367/13) featuring an exaggerated slapstick fight was cleared by the Board as it was clearly exaggerated and humorous.

The Board considered an advertisement by Cougarlife (0349/13) under the violence provision

of the Code. The Board particularly noted two scenes in which acts of violence are depicted. In the first scene an older woman shoves a burger into a younger woman's face. In the second scene the older woman pushes a girl off a chair and, although she is not seen to hit the floor, the sound of breaking glass is heard. The majority of the Board considered that these scenes depicting a woman committing a violent act against another woman is not considered humorous or acceptable and the advertisement breached Section 2.3 of the Code.

Imagery attractive to children

Advertisements with the potential of causing alarm and distress to children have been considered by the Board in 2013. Cartoon images in an advertisement by Metro Trains (0245/13) attracted complaints due to the fascination children may have to this style of advertisement. The Board determined in this instance that the image might be frightening to some children but considered that it was a very unrealistic image and the text referred to situations that were improbable and unlikely to be understood by children.

A toy doll TV advertisement (Mattel – 0157/13) was also considered under Section 2.3 which depicted dolls in ghoulish fashionable clothing and make-up. The Board determined the advertisement did not depict violence as the images are clearly depicted as dolls and was not unnecessarily frightening.

A case found in breach of Section 2.3 of the Code featured various scenes of children playing, including scenes showing a young boy being duct taped to a wall and children painting a vehicle (Murray Goulburn – 0400/13). In the scene where children are shown painting a vehicle the Board considered that this behaviour is portrayed in a manner which suggests that the children know that what they are doing is wrong and that they are trying not to get caught. The Board determined the advertisement presented vandalism in the form of graffiti and that this is in breach of Section 2.3 of the Code.



Sex, sexuality and nudity (Section 2.4, AANA Code of Ethics)

The use of sex, sexuality and nudity in advertising generally attracts the most complaints compared to any other section of the Code. In 2013, the issue of sex, sexuality and nudity was the most dominant issue raised by complainants attracting 23.2 per cent of the complaints.

The Board considers the relevant audience with Section 2.4 and particularly distinguishing between acceptability of content within public domains which children may be exposed to (such as billboards) as opposed to other forms of media which may be more restrictive, such as internet sites and TV advertisements with timing restrictions. In considering cases under Section 2.4, the Board will also consider the relevance the sex, sexuality or nudity has on the product or service being promoted. In general, using these themes to promote sex shops or lingerie products will be more understandable as the imagery relates to what is sold. This section of the Code also requires the Board to be informed by the media placement plan and audience measurement data.

Product relevance

Each year the Board consistently receives complaints regarding the use of sex, sexuality and nudity in the promotion of lingerie. The Board continues to note that it is reasonable for an advertiser to depict its products, particularly lingerie, being modelled in its advertising.

In 2013, the Board dismissed complaints under Section 2.4 for models in lingerie (Myer – 0072/13, Pacific Brands – 0022/13, Target – 0266/13, Bras n things – 0020/13 & Woolworths Supermarkets – 0267/13). In these cases, the Board considered the imagery of models in lingerie to be appropriate considering the product sold, not overly sexualised and did not use inappropriate nudity or exposure. Similarly, the Board dismissed complaints for Cotton On (0044/13 & 0045/13), Missguided (0225/13) and Fusion Retail Brands (0122/13) for promoting fashion in a manner which did not contravene community standards of sex, sexuality and nudity.

Advertisements for sex products and services generated community concern in 2013 under Section 2.4. The Board continues to note that advertisers are legally able to advertise their product, so they must only consider the content of the advertisement and not address concerns that sex products and services should not be advertised altogether. The Board has dismissed complaints for sex product or service advertisements for Adultshop.com (0344/13), Advanced Medical Institute (0145/13, 0158/13 & 0192/13), Erotic Nights (0384/13), Sexpo (0109/13, 0116/13, 0210/13 & 0275/13) and Sexyland (0083/13 & 0290/13). In these cases, the Board found the level of sex, sexuality and nudity used to be not inappropriate and directly relevant to the product advertised.

Although relevant to the product or service being advertised, advertisements can still cross the line of acceptability if the use of sex, sexuality and nudity is too explicit. A mail pamphlet for Sydney Luxury Massage (0082/13) included an image of a woman in lingerie on one side, and her mouth on the other side with her finger against her lips. The imagery on this pamphlet was considered to be highly sexualised by the Board and inappropriate for viewing by children who may be exposed to this advertising.

Broadcasting restrictions

When considering advertisements which appear on television, the Board considers the classification they are given and the time restrictions which apply to its broadcasting. Advertisements deemed suitable for a PG audience include BSQ Productions (0224/13) and Coca-Cola (0120/13). In both cases, while some of the scenes were sexualised the Board noted they were very brief and overall the advertisements were relatively mild and did treat sex, sexuality and nudity with sensitivity to a PG audience. Close-up images of people's bottoms working out in an exercise routine (Brand Developers – 0222/13) were cleared by the Board as the product advertised and length of advertisement would not appeal to children.

A TV advertisement for Innerware Lingerie (0347/13) given an M rating was found in breach of the Code for displaying sexualisation which was not sensitive to this classification. The advertisement featured a woman walking in to a tyre fitting workshop wearing lingerie and asking the man behind the counter if he can fit her. The Board's view was that there was a strong focus on her lingerie and body, and the images were too sexually suggestive for the relevant audience.

Humour and sexual innuendo

Advertisers should take note that although their intent is to portray humour in their advertisement, sometimes this humour can be misunderstood. In a case for Yum Restaurants (0199/13), the depiction of women in bikinis was deemed acceptable due to the light hearted and humorous nature of the advertisement, and since the women's actions were not overly sexualised. In contrast, a case for Chrysler Australia (0053/13) was found in breach of Section 2.4 of the Code for depicting an overly sexualised scene which was not sensitive to the PG audience on TV. Although the advertiser's intent was to convey a humorous and fantastical situation, the Board considered the content was not appropriate for a broader audience which may include children.

Sexual innuendo considered by the Board in 2013 generally raises questions of whether children would understand the sexual message,

or whether it is subtle enough to be interpreted only by an adult audience. Cases dismissed under Section 2.4 for mild sexual innuendo include the terminology *shedding pussy* (Global Shop Direct – 0075/13), *hump club* (0040/13), *hole in one* (Nando's Australia – 0220/13), *saggy ball sacks* (Sportsbet – 0001/13) and *amazeballs* (Retail Food Group – 0234/13). The phrases you can't get it up referring to getting websites up the ranking list on search engines (The SEO Company – 0221/13) and the phrase something's going down on me referring to his tyre were in the Board's view mild sexual innuendo in the context of each particular advertisement which was unlikely to be understood by children.

Sexualisation of children

In 2013, research into community perceptions of exploitative and degrading advertising explored the use of children in advertising. The Board and the community continue to hold strong concerns over any imagery in advertising which may exploit or sexualise children. All complaints concerning the sexualisation of children are taken seriously and considered carefully by the Board.

In this research, the community found that it was unacceptable to use children in advertising for adult products such as sex, drugs or alcohol, or when the product advertised was not related to children or to family use. The use of children in advertising was considered acceptable if the product was relevant to the child, when children were undertaking childlike activities, and when parents have consented to using their children in the advertisements. Sexualisation of children in advertising is not acceptable and will always be regarded as exploitative and degrading under the Code of Ethics.

In 2013, a poster advertisement for I Am Duckeye (0090/13) was found in breach of Section 2.4 for presenting material contrary to community standards on sex, sexuality and nudity with respect to children. The advertisement featured an image of a naked man with vine leaves covering his genitals. The man is standing next to three clothed children and his hands are around two of the children. Although the advertiser's intent was to depict an awkward situation, the Board's view was that the image was inappropriate to

display in a public place where the broad audience could include children. The Board determined the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant audience and upheld complaints in this instance.

Images of children modelling clothing were considered in advertisements for Kotton Kandy (0138/13), Mambo (0424/13) and Witchery (0340/13). Complaints received concerned the sexualisation of children with particular note of the poses, clothing choice and make-up worn by children. The Board determined that these images were not sexualised or inappropriate, but noted that advertisers should take care when using images of children in advertising.

Depictions of babies in advertising also raised community concern in 2013 with complaints for Citroen Automobiles (0298/13 & 0308/13), Vodafone Network (0338/13) and Bayer Australia (0233/13). The Citroen Automobiles campaign featured a baby riding a horse and was considered unrealistic and fantastical by the Board. The advertisement for Vodafone featured three women with superimposed faces of babies dancing down a street. The Board found this imagery was not sexualised or inappropriate. Finally, the Bayer Australia advertisement which featured a baby's nappy being changed was not inappropriate as the image was fleeting and a certain level of nudity in relation to young babies was considered acceptable by the community. In these cases, the Board found the advertisements did not breach Section 2.4 of the Code as they treated sex, sexuality and nudity with sensitivity to the relevant audience.

Animal themes

The Board dismissed four cases in 2013 relating to sexualised imagery with animal themes. A Burger Urge (0036/13) internet advertisement featured a woman licking the face of a cow, with the tagline get intimate with our new premium beef. Although the Board agreed that the advertisement could be considered distasteful, the Board considered that most members of the community would recognise the image was digitally manufactured and was not overly provocative and dismissed complaints.

Several complaints raised concern over a Chrysler

campaign (0165/13 & 0166/13) where a dog humps a man's leg. Some complaints raised concern over the sexualised action of dog, however the Board considered this to be a natural animal behaviour and not inappropriate to be shown on television. The Board also considered an advertisement where a koala is depicted clinging to a pole and implies it is pole dancing (WIRES – 0088/13). In this instance, the Board considered that the focus is on the koala and the need to care for koalas rather than the pole dancing aspect and that the overall sexual tone of the advertisement is not so sexualised as to be inappropriate for a PG audience.

Tasteful nudity

Certain levels of nudity can be considered acceptable by the Board if they are presented in a tasteful manner and do not expose genitalia or contain overly sexualised content. Several advertisements for toiletries products such as shower gel (Unilever Australia – 0254/13, Colgate Palmolive – 0273/13), body moisturiser (Pharmacare Laboratories – 0256/13) and skincare products (Ella Bache – 0336/13) were deemed acceptable by the Board due to tasteful nudity which was not overly sexualised.

Two cases where the use of nudity crossed the line of acceptability are a poster for Naughty But Nice (0306/13), and a transport advertisement for Nude Muse Magazine (0216/13). In the case of Naughty But Nice, the advertisement featured a woman's bottom wearing a g-string. Although genitals were not exposed, and the pose was not overly sexualised, the Board's view was that the level of nudity used in the advertisement was not appropriate for a broad audience which may include children. The Nude Muse Magazine advertisement featured naked women covering their private areas with parts of their body, their hair or the vehicle's number plate. The Board noted that the images of the women on the car are very prominent and considered that the mobile nature of the advertisement made it very likely that it would be seen by children, and found this in breach of Section 2.4 of the Code.

Other cases involving nudity which were deemed acceptable by the Board include Cupid PLC (0288/13), FOXTEL Management (0249/13),

Muk Hair (0284/13), Spiegelworld Empire (0208/13), Just Cremations (0422/13) and Live Nation Australia (0107/13). These discreet portrayals of nudity and sexuality were found by the Board to be appropriate within the context of their medium and level of sex, sexuality and nudity.

Suggestive phrases and acts

Mild suggestive acts dismissed under Section 2.4 in 2013 include a woman licking her finger (Australian Fast Foods – 0301/13), a pair of handcuffs (Broadway Homes – 0250/13) and a couple kissing on a couch (Freedom Furniture – 0004/13). If the visuals in an advertisement are subtle and unlikely to be understood by children, the Board generally finds such advertisements sensitive to the relevant audience. In a billboard advertisement for Target (0363/13), a black and white image of a reclining woman wearing black lingerie was featured, with a link to the novel *50 shades of grey*. The Board noted that this book is not targeted to children due to its adult content and considered that children would not understand the reference between the book title and the lingerie being advertised, and dismissed complaints.

In contrast, a transport advertisement by Wicked Campers (0078/13) which stated *if you've ever met a woman with crooked teeth, you've met a woman who has given Chuck Norris a blow job* was found in breach of Section 2.4. In the Board's view, the explicit reference to a sexual act was not appropriate for a broad audience and upheld complaints.

A cinema advertisement for Australian Therapeutic Supplies (0434/13) was considered by the Board in 2013 which featured a young couple in a pharmacy seeking to purchase condoms. The couple actively partake in several different sexual positions as they talk through the feel of the different condoms. Despite the advertiser's unrealistic scenes and humorous intent, the Board determined the advertisement was highly sexually suggestive and that this explicit sexual activity was not appropriate for viewing by children.

Language (Section 2.5, AANA Code of Ethics)

Research released in 2012 showed that the community was conservative in its attitude toward language, especially the use of certain words and where children may hear or view strong language. The Code requires that advertisements contain appropriate language and not include strong or obscene language.

With each case concerning language in 2013 the Board considered the medium of the advertisement and the most likely audience which may be exposed to the language. In advertisements where children may view advertisements, the Board is more conservative in respect to language acceptability.

The number of complaints concerning language has decreased by 5 per cent in 2013 compared to 2012. This decrease is due to inflated 2012 language complaints when two highly complained about advertisements for Unilever (0231/12 & 0293/12) and Johnson & Johnson (0305/12) concerning the words *balls* and *vagina* received a higher level of complaint.

Obscuring terms

When offensive terms are beeped or obscured, the Board considers the context of the advertisement and whether the term is sufficiently disguised. Beeping an obscenity in a radio advertisement was considered sufficiently inaudible in the cases of Fuller Bros (0159/13) and C-Bomb Hot Sauce (0405/13) and the Board cleared the advertisements. In the case of Billy the Tool Man (0069/13) the Board dismissed complaints as the offensive terms were not explicitly suggested and were a matter of listeners' interpretation.

The Board has also considered play on words which disguise the true profanity. For example the word *blan-fuddy-tastic* (Essential Beauty – 0228/13) was deemed acceptable as the term was obscured. Similarly, advertisements which substituted the inferred profanity *fucking* with the word *booking* (Booking.com – 0360/13) and *trucking* (Darwin Truck parts – 0371/13) were dismissed by the Board. The headline *don't drive like a...* with an image of a rooster implying the word cock (Motor Accident Commission – 0085/13) was dismissed in 2013 consistent with variations considered from this campaign in prior years. The Board's view was that the profanity was not explicitly stated and the intended word was unlikely to be understood by most children.

Obscuring the profanity *fuck* with symbols will not always guarantee its' acceptability. The obscured term *f*ck* (Spudbar – 0095/13) was cleared by the Board as the symbols sufficiently obscured the profanity. However, in another case (Neon Records – 0279/13) which stated *F*** me*, I'm famous was in breach of the Code. In this case, the Board considered while the expletive is not represented in full the suggestion of the word *fuck* is strong. The profanity was alluded to in conjunction with an image of a near naked couple and is used in a sexual context. The Board considered that a reference to *fuck me* is strong and would be considered obscene by many people and its use in outdoor media is not appropriate.

Religious expressions

Advertisements using religious themed terminology have consistently attracted

complaints concerning blasphemy or offensiveness to religious beliefs. In 2013, the Board dismissed a case where Christmas elves exclaim *what the hell* (Foxtel – 0009/13) deeming the context of the advertisement light hearted and humorous. Although hell may be considered a religious term, the Board considered it to be part of common Australian colloquial and vernacular language.

An abbreviation *OMFG* (Just Group – 0184/13) intended to stand for Oh my fucking God was found to be strong or obscene language that breached Section 2.5 of the Code in poster form. The Board considered that since the abbreviation was so well-known, it was not subtle and had clear reference to the profanity. The Board noted that there is a large portion of the community that would take offense to this term and that to refer to *Oh my fucking God* is blasphemous and inappropriate in the circumstances. The same abbreviation, however, was cleared in social media form (Just Group – 0187/13) considering the different audiences of the poster and social mediums. The advertisement in poster form had the ability to be viewed by a large audience likely to include children, however the Facebook website was restricted to users over 13 years in age and those who specifically signed up to receive updates.

Innuendo

In 2013 the Board considered sexualised innuendo and suggestive wording in advertisements with terms such as *bangers*, *pussy* and *porking*. The Board considers the audience who may be exposed to the advertisement and is more conservative with advertisements where children may hear or view such language.

A lingerie campaign referring to women's breasts as *bangers* (Target – 0265/13, 0274/13 & 0283/13) was cleared by the Board of inappropriate language claims. The Board considered the term *bangers* was not a commonly used phrase in Australia, but it was not derogatory or inappropriate in the context of this campaign.

An advertisement for a drink featuring the words *wet pussy* (Steinbok – 0314/13) was dismissed in 2013 due to a limited adult-only audience being

exposed to the advertisement. References to *porking the neighbours* (Australian Pork – 0269/13) were also dismissed consistent with previous determinations from this campaign.

Sexual references in outdoor media

In 2013 the Board considered several advertisements in outdoor media which included inappropriate language with direct connections to sex. A bus advertisement with the statement *improve your sex life* (Global Health Products – 0155/13) was found to breach standards of appropriate language. In the Board's view the statement was explicitly related to sex and was inappropriate for a transport advertisement with a large audience. Similarly, the phrase *blow job* was considered inappropriate in a Wicked Campers (0078/13) transport advertisement. The Board determined this clear reference to a sexual act was inappropriate for a van with a wide audience that could include children, and found this case to be in breach of Section 2.5.

An Advanced Medical Institute (0272/13) billboard advertisement was also found in breach of Section 2.5 for stating *making love* in conjunction with *make it bigger and last longer*. The Board considered that in the context of the product being sold the word combination would most likely be seen as a strong sexual reference. The Board considered that in this particular billboard format this language is not appropriate for a broad audience that would include children.

Obscene terms

The Board has consistently deemed the word *fuck* expressed in full to be a breach of Section 2.5 as a strong and obscene term. The phrases *fuck it dude* (Wicked Campers – 0101/13) and *fuck you too* (Wicked Campers – 0403/13) were found in breach of Section 2.5 for expressing the profanity in full on a van where children were likely to view the images.

In 2013 the Board made an exception where Prince Bandroom (0087/13) published the name of a band Holy Fuck in the entertainment section of a newspaper. Due to the placement of this advertisement the Board considered that it would

be seen by only mature viewers and was unlikely to be viewed by children. The Board dismissed complaints in this instance.

Acceptable terms

A lingerie campaign attracted several complaints for using the word *boobs* in transport (Bonds – 0368/13 & 0381/13), poster (Bonds – 0382/13) and billboard (Bonds – 0361/13 & 0373/13) form. Concerns surrounded the use of the word *boobs* in public areas where children may be exposed to the language. The Board determined that the word *boobs* was not strong, obscene or inappropriate. *Boobs*, the Board felt, was not strongly sexualised and was likely to be seen as being in the context of a brand which sells bras.

The words *ass* (Civic Video – 0057/13, Reckitt Benckiser – 0235/13 & Go Health Clubs – 0387/13), *fecking* (Universal – 0212/13), *crap* (Puratap – 0287/13) and *bastards* (CardioTech – 0390/13) when used in a non-threatening and non-aggressive format have been deemed acceptable under Section 2.5. Although these terms have been deemed acceptable by the Board in these particular cases, it is important to note that they were cleared in the context of these specific advertisements. It is possible for the Board to uphold other cases with the same language if the context of the advertisement is made stronger by menacing or threatening imagery or a more sexually explicit nature, for example.

A young boy telling his sister to *shut up* (IKEA – 0353/13 & 0355/13) was also considered acceptable. The Board noted that when the brother and sister tell each other to shut up they are not speaking in an aggressive manner and considered that their exchange is a realistic and common exchange between siblings. The Board noted that the phrase *shut up* is part of common vernacular consistent with sibling relationships and considered that in this instance the use of the words *shut up* were not inappropriate in the circumstances.

Health and safety (Section 2.6, AANA Code of Ethics)

Section 2.6 of the Code applies to health and safety issues and covers a diverse range of concerns including wearing the correct protective gear, bike and motor vehicle safety, safe practices around animals and depictions of smoking, drinking and gambling.

The Board must uphold complaints where an advertisement depicts material that is contrary to prevailing community standards on health and safety under Section 2.6 of the Code. There are no defined community standards under this section; it is the Board's role to present its views on what an appropriate community standard is considered to be in relation to a particular issue.

Complaints concerning health and safety also increased, from 9.5 per cent in 2012 to 15.6 per cent in 2013.

Depiction of smoking, drinking and gambling

There has been increasing concern over addictive activities being promoted through advertising; particularly the promotion of alcohol, gambling, smoking or drugs.

The Board has consistently found glamourised smoking imagery in advertisements in breach of the Code. In 2013 the Board also considered advertisements for e-cigarettes (Sure Deal -0092/13) unacceptable as they depicted smoking as trendy and desirable (Brand Developers - 0094/13). One case for e-cigarettes was dismissed (Logic Ecigs - 0315/13) as it presented the product factually and did not glamourise smoking.

In 2013 two cases which depicted consumption of drugs were found to be in breach of community standards of health and safety. An advertisement appearing on transport (Wicked Campers - 0106/13) which depicted a man with a blue pill on his tongue and the text *LSD Taxi* written across the vehicle was strongly suggestive of illegal drug use and deemed unacceptable. Another Wicked Campers (0099/13) advertisement on social media was found to breach health and safety standards for featuring an image of snow white snorting a substance through a straw. Both advertisements had a strong suggestion of illegal substance use and were in breach of health and safety standards.

All advertisements concerning alcohol are referred to the Alcohol Beverages Advertising Code (ABAC) committee and also considered by the Board if Code of Ethics issues are raised. In 2013 the Board received complaints that a transport advertisement was depicting scenes that encouraged drinking. The Board's view was that the advertisement (Diageo - 0108/13) depicted stylised and fanciful imagery and did not show alcohol consumption at all and therefore dismissed complaints. Similarly, a Lion (0310/13) alcohol advertisement featuring a man opening up his fridge to see Lionel Richie performing a song with the words *is it me you're looking for* was dismissed. The Board considered this to be a far-fetched situation and the advertisement did not depict or encourage the excess or unsafe consumption of alcohol.

Community concerns of gambling advertisements have been on the rise in 2013. For each case, the Board considers the genuine community concern regarding excessive gambling and notes the problems associated with gambling for certain members of society. An advertisement for Club Eastside - Alice Springs (0348/13) was found in breach of community standards. In the Board's view the use of the song that includes lyrics *all my troubles seem to fade away* in conjunction with visuals of gambling facilities and alcohol makes a strong suggestion that alcohol and gambling are a means to ease any troubles.

A community awareness advertisement by Victorian Responsible Gambling (0376/13) was considered under Section 2.6 by the Board. The advertisement featured a young boy describing a betting agency for children called KidBet and various children are shown discussing gambling and using a KidBet app on a tablet. Although the advertiser's intent was to raise awareness regarding the negative impact gambling has on children, the Board found this message to be unclear. The Board considered this advertisement to be in breach of community standards as children were unlikely to understand that gambling can have negative consequences and misinterpret the advertisement as encouraging gambling. Conversely, a gambling advertisement for Betfair (0369/13) was dismissed due to the factual promotion of the benefits of their service without encouraging excessive gambling.

Motor vehicles

As well as considering motor vehicle related complaints under the FCAI code, some advertisements may also be considered under Section 2.6 for Health and Safety concerns.

Motor vehicle related complaints that were dismissed in 2013 included depicting driving accidents (AAMI - 0073/13), leaning out of a taxi (Vodafone - 0377/13), getting lost driving (Fosters Australia - 0098/13) and driving with one high heel (Ford Motor Co - 0063/13). In an advertisement featuring a burnout (Australian Fast Foods - 0334/13), the Board noted that performing a burnout is not behaviour that should be encouraged, and on public roads is illegal. However the Board determined that in

connection with other silly behaviours of the character it is obvious that the activities are all in the context of a range of foolish behaviour leading to the need for the advertised product and dismissed complaints.

An advertisement which featured a driver reverse parking (Hungry Jacks- 0430/13) showed the driver stopping when he heard a loud noise. The noise came from the sound of a passenger biting into a chicken burger, and it is unclear as to whether seatbelts are worn when the car is in motion. On consideration of the Australian Road Rules in regard to seatbelt safety, the Board found this advertisement to breach Section 2.6 of the Code for depicting the passengers without seatbelts while the car was in motion.

Portable devices and phone usage in motor vehicles raised community concern in 2013 with several advertisements considered under Section 2.6. In an advertisement for Samsung Electronics (0028/13) a passenger in a car shows the driver the screen of a Samsung phone. The Board noted that it is not against the law to look away from the road while driving and considered that as we do not see the driver or their reaction the advertisement is not depicting material which would be contrary to prevailing community standards on safe driving practices.

An advertisement featuring a mobile phone holder for motor vehicles (Global Shop Direct – 0061/13) attracted complaints for depicting unsafe driving practices. The Board noted that in one scene the presenter of the advertisement is shown leaning out of the driver's window while driving and shaking the phone and product to demonstrate the sticking power. The Board considered that this action of leaning out of the window is illegal in some, if not all, States and Territories in Australia and is therefore contrary to prevailing community standards on health and safety. This scene was removed in a modified version of the advertisement (Global Shop Direct – 0130/13) and was then considered acceptable by the Board.

Bike safety

Safe practices on bicycles, skateboards, motorbikes and a *street strider* device used on roads were considered by the Board in 2013 acknowledging the laws regarding road and bicycle safety. A Converse (0062/13) sneakers advertisement stating *shoes are boring, wear sneakers* next to an image of a man on a motorbike was considered by the Board. The Board noted the only legal obligation for motorbike riders is to wear a helmet and found the advertisement was not in breach of community health and safety standards. Similarly, the laws regarding skateboard use were considered in an advertisement by Yum Restaurants (0388/13) where no helmets were worn. The Board noted that although wearing safety equipment on skateboards is preferable, there are no rules regarding this except for South Australia. Since the image used was fleeting and unlikely to encourage unsafe practice, the Board dismissed complaints.

The Board considered two advertisements concerning bike safety in breach of Section 2.6 of the Code. In the first, an advertisement for Street Strider Australia (0086/13), the Board considered a scene where a rider was on the incorrect side of the road dangerous and an illegal riding practice. In the second advertisement (Dads 4 Kids- 0202/13) a man is shown riding a bicycle without a helmet. The Board considered that a depiction of an adult not wearing the appropriate safety gear in an advertisement aimed at educating the community is a depiction which is not appropriate.

Safety in the home

Health and safety issues in and around the home were considered by the Board in 2013. An advertisement by House Mouse Design (0137/13) featuring a woman slicing meat with a chopping board on her lap was dismissed in 2013 due to highly stylised content and since it did not suggest you should mimic this chopping technique. A Fire & Rescue NSW (0264/13) advertisement was also considered by the Board for health and safety concerns. In the advertisement, there is a character wearing a black t-shirt near a heater and his t-shirt has the word *chance* written on it. The Board noted that this character was supposed to

represent chance and the intention was to convey that viewers should not take risks like placing socks over the heater and *leaving it to chance* as to whether this could cause a fire. The Board agreed that this portrayal was an adult concept that would not be understood by young children and that the likelihood of copycat behaviour could potentially be quite high. This advertisement was considered to be in breach of community standards on health and safety.

Water related

The Board considered several cases involving responsible activities and behaviour surrounding water in 2013. Safe practices on a boat were considered by the Board with the correct seated position for passengers (Tatts Lotteries – 0255/13) and life jacket requirements in boats (BCF – 0059/13) both dismissed. Two boys squirting each other in the eyes (OPSM – 0132/13) also raised safety issues, however the Board noted that the advertisement features a typical scene of active play that commonly takes place in homes around Australia and that there is no malice or evidence of negative play which hurt either child.

Underwater scenes (Unilever – 0064/13) also attracted complaints due to the potential for children to mimic this action of breathing underwater. The Board noted that the actors in the advertisement are depicted as being able to breathe under water without assistance; however the Board considered that the overall tone of the advertisement is clearly of a fantasy and that its unrealistic nature is not likely to be interpreted as an encouragement to try to breathe under water. The Board also dismissed complaints for an advertisement which disputed the correct floatation device usage (Hollard Financial Services – 0043/13).

Animals

Safe behaviour in interactions with animals caused significant community concern in 2013. Exaggerated fantastical imagery which was unrealistic was considered acceptable by the Board in certain cases where children would be unlikely or unable to mimic behaviour. For example, a boy feeding a monkey (Nestle – 0071/13), a man hand-feeding a crocodile (Kellogg – 0066/13), a crocodile biting a man's arm (Mars – 0218/13) and a man wrestling a shark (Unilever Australia – 0164/13) were portrayed in a light hearted manner and did not encourage or condone these activities, and were cleared by the Board.

Cleanliness concerning animals was considered in two advertisements where a dog licked a child's face (Bayer Australia – 0070/13) and where a woman and her cats drank milk out of the same carton (Murray Goulburn – 0352/13). In both cases complaints were dismissed; although these behaviours were not encouraged, the Board's view was that they were not a breach of community standards of health and safety.

Protective gear

Advertisements concerning safety equipment used by tradespeople included concerns over eye protection and hard hats (Hollard Financial Services – 0147/13), nails in a person's mouth (Fosters Australia – 0017/13, 0018/13 & 0019/13) and chainsaw usage (Bayer - 0171/13 & Stihl – 0276/13) all meeting health and safety requirements. An advertisement considered by the Board in 2013 featured a relay race (Ryobi 0328/13) to a finish line made of a piece of timber which the competitor cuts with a circular saw to finish the race. The complainant's concern was that the advertisement depicts the use of a circular saw that is unsafe and could cause harm if mimicked by others. The Board noted that the man using the circular saw is wearing safety goggles and gloves and that the piece of timber which he cuts through is not very thick. The Board considered that, while the set up may not comply with safe work practices, it does not appear unsafe and in the unrealistic and humorous context of the advertisement it is not encouraging the unsafe use of a work tool.

Fantastical elements

When considering advertisements under Section 2.6, the Board can dismiss health and safety concerns if the imagery has elements of fantasy and are obviously unlikely or fictitious. Cases with fantastical elements dismissed by the Board include people jumping from high places and bouncing down a hill (Schweppes – 0077/13), a man putting his hand into liquid gold (Ubank – 0170/13), a woman looking at a ramp that is set up as if to jump over a railway line (Hungry Jacks – 0365/13) and a man with a beard of clothes pegs (Fosters Australia – 0024/13).

Other health and safety issues

Section 2.6 of the Code encompasses a diverse range of issues which raise community concern over materials contrary to prevailing standards of health and safety. Other Section 2.6 issues considered and dismissed by the Board include sun safety for kids (Johnson & Johnson – 0119/13), self-esteem concerns (Vitaco Health Australia – 0345/13), healthy body weight (Westfield Group – 0139/13), non-violent bullying (Kimberly-Clark – 0123/13, Unilever – 0366/13) and trivialising the importance of emergency calls (Oporto – 0152/13).

An advertisement for The Professionals (0162/13) featured a man viewed from behind with his legs apart holding his coat open with the words *expose yourself* written across the image. The Board noted the use of the words *expose yourself* and the image of the man are consistent with a depiction of flashing. The Board noted that this is a depiction of behaviour which is illegal and that the text *expose yourself* was condoning if not encouraging such behaviour and determined this to be material contrary to prevailing community standards on health and safety.



Advertising to Children

AANA Code for Advertising and Marketing Communications to Children

The provisions of the Children's Code and Part 3 of the Food Code apply only to advertising which is directed primarily to children (taking into account the theme, visuals, and language used in the advertisement) and which is for products that are targeted towards or of principal appeal to children. The Children's Code applies to all products that are targeted towards or of principal appeal to children – not just food.

During 2013 there were no complaints about advertisements that specifically raised issues under the Advertising to Children Code.

Sexualisation of children

There were no advertisements directed primarily to children which raised issues regarding sexualisation of children.

Food and Beverage Advertising

There are a range of self-regulatory Codes and Initiatives which control advertising of food and beverages and advertising to children generally.

It is important to note the scope and intention of these Initiatives and of the AANA Codes which also regulate food and beverage advertising. These Codes and Initiatives do not purport to stop all advertising of food and beverages to children.

AANA Food and Beverages Advertising and Marketing Communications Code

The ASB administers the AANA Food and Beverages Code (the AANA Food Code). The AANA Food Code has provisions around advertising food and beverages generally. Part 3 of this Code has specific restrictions around advertising food and beverages to children and these are discussed below in relation to cases under the Food Code.

During 2013, 22 cases were considered under the AANA Food Code. Eight of these cases were also considered under the RCMI or QSRI and are discussed below.

The key issues to be drawn from cases considered primarily under the AANA Food Code during 2013 relate to truth and accuracy and excess consumption.

Section 2.1 - Truth and Accuracy/ Nutritional composition of the product

The truth of claims and statements made in food advertisements is an issue that the Board can consider under section 2.1 of the Food Code. During 2013 a number of complaints concerned the truthfulness of statements made in advertisements for food products including whether or not the following comments in advertising were misleading:

- whether use of images of fruit were misleading in relation to an advertisement for a slurpee product which contained only flavouring (0407/13 - 7-Eleven Stores)
- accuracy of comparative claims: for example carbohydrate content of cruskits versus bread

(0429/13 – Campbell's Australia), nutritional content of margarine that looks and tastes like butter but is "better for you" (0321/13 – Goodman Fielder)

- claims regarding kilojoule reduction in products being part of a company's contribution to fighting obesity (0268/13).

Section 2.1 – Contravenes community standards

A complaint was considered regarding a range of Magnum ice creams one of which was flavoured with and referred to as marc de Champagne (0126/13 - Unilever). The complaint that this linked alcohol with advertising to children of a children's product was dismissed on the basis that a depiction of a product named after an alcoholic beverage is not of itself a depiction which advertises alcohol to, or encourages alcohol consumption by children. The Board also considered that the advertisement was not directed to children and that a premium ice cream was not a product targeted to or of principal appeal to children.

Excess consumption and undermining balanced diets

Consistent with previous years, in the Board's view, while there are rules about HOW particular foods and beverages are advertised, there is not a community standard that treat foods cannot be advertised at all. The Food Code does not restrict the type of product (from a nutritional perspective) that can be advertised. During 2012, the Board considered that:

the advertising of a product of particular nutrient profile is not of itself undermining a balanced diet or healthy lifestyle and that the advertisement did not depict or encourage excess consumption and that there was nothing in this advertisement that would amount to the undermining of a balanced diet or healthy lifestyle (0162/12 - Mamee Noodles-, -0229/12 - Retail Food Group, -0187/12 - Stuart Alexander and Co, - 0195/12 - Kraft Foods).

This issue was again considered during 2013 with the Board consistently determining that

complaints that advertising a product of a particular nutritional quality is not of itself a breach of prevailing community standards and does not breach section 2.1 of the Food Code. Particular cases taking this approach are: 0237/13 – Kellogg’s, 0258/13 – Kellogg’s, 0190/13 – Smith’s Snackfood Co Ltd.

Depiction of a product as a meal replacement (section 2.8)

A complaint that an advertisement depicted a product as a meal replacement for women trying to lose weight was dismissed (0442/13 – Pharmacare laboratories).

Other issues raised under the Food Code

The issue of whether or not a claimed weight loss was achievable or contrary to community standards on health was referred to the Weight Management Council for consideration under the Weight Loss Code.

Technical advice

On occasions the information provided by the advertiser will be technical and it will be beneficial for the Board or Bureau to obtain independent expert advice on the information so that it is able to be presented to the Board in terms that are easy to understand and/or support, or otherwise, the statements made by the advertiser. During 2013 the Bureau did not request advice from its independent expert on any issue.

The Quick Service Restaurant Initiative

Complaints under the QSR Initiative (now under the umbrella of the Australian Food and Grocery Council) are also administered by ASB. The QSRI obliges signatories to ensure that only food and beverages that represent healthier choices are promoted directly to children and to ensure parents or guardians can make informed product choices for their children. The initiative applies to advertising to children under 14.

From 1 November 2012 the Initiative applied to advertising and marketing communication to children where:

- the communication is directed primarily to children (regardless of its placement); and/or
- the medium is directed primarily to children (in relation to children this includes all C and P programs and G rated programs that are directed primarily to children); and/or
- the medium attracts an audience share of greater than 50% children.

2013 was a quiet year for complaints under this Initiative with only three cases being considered under the QSRI compared to 15 cases in 2012. One breach of the QSR Initiative was found (0244/13 – McDonald’s).

Cases for 2013

Key issues to be drawn from cases considered by the Board during 2013 are:

- **the advertisement must be in media directed primarily to children (or with a high child audience) or be of itself directed primarily to children.** Case 0356/13 (Yum Restaurants) concerned an advertising lift out in a school holiday program publication. In this case the Board considered that the advertisement itself, while potentially attractive to children, was not directed primarily to children. The Board also determined that the publication in which the advertisement appeared was not directed primarily to children but rather to parents.
- **An interactive game** (available for download from the internet) **was determined to be a marketing communication** for KFC and for KFC products (0383/13). The Board noted that the game depicted images of some food products, and that when played it was possible to win discount vouchers for KFC products. The Board had to consider whether an App available for download is a medium directed primarily to children or has a high child audience. The Board considered:

“With regard to points 2 and 3, the Board considered that an App available for download from iTunes (or similar internet based services) is not available in a medium that is directed primarily to children or would attract an audience of greater than 50% of

children. The Board acknowledged that Apps require an account holder to be over 13 and that the age gating on the game require that the game is downloaded to only people 14 and over. The Board considered that this medium is not directed primarily to children. The Board also considered that the medium of an interactive game or App is not a medium that is directed primarily to Children as there are many Apps and games available in the modern Australian community for a wide range of age groups.”

Of course the QSRI also applies, regardless of medium, if the game itself is directed primarily to children under 14.

“The Board considered that the visuals in this game – the popcorn chicken in particular – would be attractive to children under 14. However the Board considered that there is no particular context or images that give the cartoon characters particular direction to children. The Board considered that children under 14 are unlikely to be particularly aware that the man in the game is Colonel Sanders or of his relationship with KFC given the changed marketing for KFC in the last 20 years – compared to the advertising from 1970s to 1990s where the product Kentucky Fried Chicken was inherently linked to the Colonel. The Board considered that in particular this aspect of the game is more appealing and understandable by adults. The Board also noted the popularity of ‘retro’ references to young adults and considered that the Colonel Sanders role in the game is in this vein. Overall the Board considered that the visuals in the game would be attractive to children, but considered that the visuals in the game are not of primary attraction to children.”

- Advertisements directed primarily to children, for a product which is a healthier choice product, must meet the messaging requirements of the QSRI. These require that the advertisement include messages that encourage physical activity and healthy dietary choices. In 0244/13 (McDonald’s), the Board determined that cartoon characters jumping up and down painting a wall did not

amount to a message that encourages physical activity. The Board:

“considered that the act of painting, particularly the painting of large spaces would be considered an active task, but agreed that the portrayal of cartoon characters painting was not of itself a message that was promoting or encouraging physical activity to the target audience of children.”

The Australian Food and Grocery Council Initiative

The AFGC Initiative obliges signatories to limit marketing communications to children under 12 only when it will further the goal of promoting healthy dietary choices and healthy lifestyles. The Initiative applies to advertising to children under 12. Under this Initiative the Board must determine whether an advertisement complained about is advertised to children under 12 in media.

Media is defined as: Media means television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to the theme, visuals, and language used are directed primarily to children.¹

The AFGC Initiative therefore applies to advertisements if:

1. the audience of the communication activity is predominantly children (under 12);
2. the media in which the communication activity appears is clearly directed primarily to children (under 12);
3. the communication activities are, regardless of the audience, clearly directed primarily to children under 12.

The most referenced provision in the Initiative is the requirement that where a company is advertising to children then:

1. the product must represent healthy dietary choices, consistent with established scientific

or Australian government standards; AND

2. the advertising or marketing communications must reference or be in the context of a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages (a) good dietary habits, consistent with established scientific or government criteria and (b) physical activity.

For food and grocery products the Board considered complaints against nine advertisements. Four breaches of the Initiative were found in 2012.

Placement of advertisements

Prior to 2013 cases under the RCMI all involved issues of placement of advertisements for products that did not meet the healthier choice category. Several of the advertisements considered during 2013 raised that issue again.

Both 0179/13 - Kellogg's and 0180/13 - Kellogg's were inadvertently broadcast in children's programming. The advertised product in both cases (LCM Bars) do not meet the nutrition criteria permitting advertising directly to children.

Advertisement directed primarily to children (visuals, theme and language)

The Board reiterated in several cases that for advertisements that are not shown in children's programming or in programs with a high child audience, to come within the AFGC RCMI the Board must find that the advertisement is aimed in the first instance at children. Although an advertisement may be attractive to children, the Board can determine that an advertisement is not directed primarily to children and therefore the RCMI does not apply (0190/13 - Smith's Snackfoods, 0258/13 - Kellogg's, 0289/13 - Kellogg's).

In 0247/13 (Mondelez) the Board considered initially that the advertisement was not directed primarily to children and that the advertisement could continue to be broadcast. In this matter the complainant applied for Independent Review (see discussion later). Upon reconsideration by the Board, the majority determined that the advertisement was directed primarily to children.

The Board's discussion is lengthy and is available from the ASB website but concludes:


“The majority of the Board considered however that the advertisement is more than just attractive to children and is clearly directed primarily to children. The Board considered, for the reasons outlined above regarding the characters, music and themes that the advertisement is likely to be enjoyed by a general audience but considered that it is most attractive to and clearly directed primarily to children. The majority of the Board considered that the advertisement is particularly directed to older children and not pre-schoolers. In the view of the majority of the Board this particular advertisement is clearly directed primarily to children, noting that the RCMI applies to advertising to children under 12 years and that there are various different stages of child development.’

As the advertised product did not meet the criteria for a healthier choice product it was not permitted to be advertised to children under 12 and the Board upheld the complaint.

Elements of an advertisement

- The use of cartoon characters does not of itself mean that the advertisement is directed primarily to children under 12: 0190/13 - Smith's Snackfood Co Ltd,
- However use of cartoon characters, in a setting which is from a child's perspective and has a child's voice over can amount to an overall impression that the advertisement is directed primarily to children (0179/13 and 0180/13 - both Kellogg's)
- Use of children or school yard settings does not mean of itself that the advertisement is directed primarily to children under 12 (0258/13 - Kellogg's)

¹ The RCMI was amended effective 1 January 2014 and the definition of media now includes internet.



Advertising messaging

In 2013 a Kellogg advertisement (0144/13) for Coco Pops was found to breach the RCMI even though it was a healthier choice product being marketed directly to children. In that case the Board determined that the advertisement did not meet the messaging requirements of the RCMI Initiative.

Under the RCMI the product advertised must represent a healthier dietary choice and the advertising and/or marketing communications reference, or are in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:

- good dietary habits, consistent with established scientific or government criteria, and
- physical activity.

Encourage good dietary habits

In 0144/13, the Board determined that the depiction of a child eating his bowl of cereal with skim milk, with a bowl of fruit on the bench beside him did not amount to a depiction that encouraged good dietary habits.

Similarly in 0179/13 and 0180/13 (both Kellogg's) the Board:

”noted that the advertisement showed images of a lunchbox on the lap of the young girl as well as on the kitchen bench at home that contains a sandwich, some fruit and fresh vegetables. The Board noted however, the girl is not seen consuming any of the food from the lunchbox, nor does the voiceover refer to consumption of the other contents of the lunchbox prior to eating the LCM bar. Some members of the Board considered that the

depiction of the product in association with a sandwich and the other products is sufficient to establish a context of overall good dietary habits. However the majority of the Board concluded that the depiction of a healthier choice product on a kitchen bench does not necessarily encourage good dietary habits and that this advertisement did not depict the product in the context of a healthy lifestyle that would encourage good dietary habits.”

Encourage physical activity

In 0144/13, the Board determined that the depiction of animated Coco Pops playing a popular children's game in a bowl of milk (referencing a swimming pool) was not a depiction that encouraged physical activity.

Similarly in 0179/13 and 0180/13 (both Kellogg's) the Board:

“The Board then considered whether the advertisement referenced or was in the context of encouraging physical activity. The Board noted that a possible interpretation in this instance is that the girl is sitting down to eat her lunch before being allowed to head off to play. However, in the Board's view the fact that the advertisement depicts a school playground does not amount to an implication or encouragement of physical activity by children. The Board noted that in a previous case considered by the Board (0228/12) the advertisement depicted a school playground scene where children were actively moving about and this was dismissed. The Board considered that this advertisement does not feature any characters participating in physical activity and that there are no verbal or visual references to children taking part in physical activity.”

The Board also determined that structured sport or exercise was not required and the image of children playing outside can suffice the requirement to encourage physical activity (0410/13 - Unilever).

Environmental Claims in Advertising and Marketing Code

The ASB began administering complaints under the Environmental Claims in Advertising and Marketing Code on 1 January 2010. During 2012 the Board considered two advertisements under the Environmental Code which were dismissed. There were no complaints received in 2013 which related to the Environmental Claims in Advertising and Marketing Code.

Other issues

In the interests of the advertising self-regulation system and so that complainants are not left without an entity to consider their concerns, matters raised that are not strictly within Section 2, but are unable to be referred to any other organisation are considered by the Board. Other issues may include concerns over social values, common decency and tastelessness. During 2013, five cases raised issues under the other category.

An advertisement featuring images of women exercising and being embarrassed by perspiration marks on their gym clothing around their private areas (Kimberly-Clark – 0241/13) was considered by the Board under the other provision. The Board noted the complainants' concerns that the advertisements featured references to a woman's bodily functions which could be embarrassing for women, offensive and not appropriate for viewing by children. However, in considering the audience and context, the Board considered that the advertisement presented the product appropriately and treated the subject with appropriate sensitivity and dismissed complaints.

As well as being considered under Sections 2.3, 2.4 and 2.6, the most complained about advertisement in 2013 was also considered by the Board under the other provision. The Lion

campaign running across TV (0398/13), billboard (0415/13) and pay TV (0426/13) raised concerns where a man's mouth is seen to leave a man's face and then tell him it deserves a reward for all that it has been put through.

Concerns addressed by the Board which did not specifically fall under other sections of the Code include complaints about the advertisement being distasteful, disgusting, repulsive or unnecessary. The Board's view was that while some members of the community may find the depiction of the mouth repulsive and visually offensive, it is not an image which is suggestive of violence or that would breach community standards of health and safety or sex, sexuality and nudity and dismissed complaints.

The final case considered under other in 2013 was for Vodafone Network (0338/13) where adults have a superimposed child's face. Complaints that fell under the other section included claims of bad taste and feelings of uneasiness. The Board noted that while some members of the community may feel unease over certain scenes, the advertisement did not present any material contrary to community standards.

Cars – (Federal Chamber of Automotive Industries Code of Practice for Motor Vehicle Advertising)

Motor vehicle advertisements that raised issues under the Federal Chamber of Automotive Industries (FCAI) Code increased from 23 complaints in 2011, to 80 complaints in 2012, to 105 complaints in 2013. There were 24 advertisements which were considered under the FCAI Code in 2013, with eight of these (one third of cases) breaching the FCAI Code.

Key issues in 2013

- Advertisers should note that depicting speed or even an implication of driving at excessive speed can breach the FCAI Code.
- Competitive driving in some contexts may provide a message of unsafe driving behaviour.
- Advertisements need to comply with all applicable road rules, including the use of fog lights, seatbelts and indicators.
- Regardless of where a car is depicted driving, the Board must consider whether the driving depicted would be unsafe if it were on a road or road-related area.
- Advertisers must be aware of the need to meet the intent and spirit of the FCAI Code as expressed in the Explanatory Notes, not just the substantive provisions.

Concerns raised by the community about motor vehicle advertisements in 2013 related to driving practices that may breach the law, excessive speed, bicycle safety, and unsafe driving.

Depictions of unsafe driving

Provision 2(a) of the FCAI Code outlines that advertisers should not depict unsafe driving, including reckless and menacing driving that would breach any Commonwealth law or the law of any State or Territory. Complaints under this section generally include motor vehicles travelling at excessive speed, sudden changes in direction or speed of a motor vehicle, deliberately and unnecessarily setting motor vehicles on a collision course, or the apparent and deliberate loss of control of a moving motor vehicle. In 2013, the majority of cases considered under the FCAI Code raised issues under Section 2(a), and there were eight cases found in breach of this provision in 2013.

An advertisement for Chrysler Australia (0053/13) featured footage of a vehicle being driven on roads and skidding as it turned ninety degrees. The Board noted that although there is no verification of the actual speed of the vehicle, the visuals in conjunction with the rapid gear change and roaring of the engine give an impression of speed. The Board determined that the advertisement does depict unsafe driving that would breach any law and does breach clause 2(a) of the FCAI Code.

Competitive driving practices were considered in a case for Mini Paceman (0128/13) where two cars are being driven by a man and a woman competing to see who gets home first. The Board considered the explanatory notes for the FCAI Code which state *...urges also advertisers to avoid any suggestion that depictions of.... competitive driving are in any way associated with normal on-road use of motor vehicles.* The suggestion of two cars racing each other in an urban setting was found to be inappropriate and a depiction of driving which is unsafe. This advertisement

was found in breach of Section 2(a) of the FCAI Code.

Cases cleared by the Board in 2013 include advertisements featuring a woman driving with one high heel (Ford Motor Co – 0063/13), a couple driving through a multi-storey car park (0209/13), a bicycle mounted on a motor vehicle (Mitsubishi Motors – 0343/13) and an overtaking procedure (Honda Australia – 0251/13). In these cases, the advertisements did not feature material which breached any law or safe driving standards.

Concerns were raised in a Hyundai (0294/13 & 0312/13) advertisement where a motor vehicle quickly moves in to the right hand lane to avoid pallets which fell from the back of a truck. The Board determined that it did not breach the FCAI Code since the driver appeared to be in full control of the vehicle, there was no depiction of illegal driving and the car was clear to undertake the avoidance manoeuvre safely. Similarly, a print advertisement for Hyundai (0295/13) was cleared as the overall context was not strongly suggestive of a motorbike riding on the wrong side of the road.

A campaign for Holden (0296/13, 0299/13 & 0339/13) also raised community concern due to a scene where a vehicle drives close to a cyclist, and the cyclist is seen to fall off his bicycle. The Board noted that the cyclist is shown looking over his shoulder at the vehicle before losing control of his bike and considered that the gap in time between the cyclist falling off and the car swerving to avoid debris suggests that the vehicle was not driving too close to the cyclist. In the Board's view, the most likely interpretation of this scenario is that the cyclist was too busy looking at the vehicle and not paying attention to where he was going, and the advertisement was cleared by the Board.

Most complained about campaign under FCAI Code

The most complained about campaign considered under the FCAI Code in 2013 was for Nissan Motor Co with a rush to hospital scenario. In this advertisement a man was encouraged by a female passenger to drive quickly through a suburban environment. The car then comes to a stop outside a hospital and the man announces that it was their quickest time yet. The woman removes a fake pregnancy pouch and we see the couple embracing outside the hospital with the car in the foreground. Complaints regarding this campaign concerned the vehicle being driven at high speeds, in an unsafe manner through a suburban area, and that it uses a woman's fake pregnancy as an excuse to show this dangerous driving practice.

The initial version of this campaign was found in breach of Section 2(a) of the FCAI Code on various mediums; on TV (Nissan – 0195/13), pay TV (Nissan – 0203/13), cinema (0204/13) and internet (0205/13). In these cases, the Board noted that the audio effects in conjunction with the visual images are suggestive of driving which is not appropriate for the urban environment depicted and is unsafe and reckless. The Board determined that the man's comment regarding the time it took them to drive to the hospital as their personal best is strongly suggestive of having driven the route on a number of occasions in the hope of doing it faster each time.

Following the Board's determination, a modified version of this advertisement was broadcast on TV (Nissan – 0230/13) and through the internet (Nissan – 0246/13). Nissan removed the audio of the woman encouraging the man to drive faster, lowered the volume of the engine noise and removed the noise of the tyre squealing when the car comes to a stop outside the hospital. Despite these amendments, the Board considered there was still an implication of speed, accompanied by visual footage of the car being driven down narrow streets. In the Board's view, this advertisement was still suggestive of a vehicle driving in a manner which is not appropriate for the urban environment depicted and found this version to also breach the FCAI Code.

Further amendments to this advertisement (Nissan – 0286/13) were made following the Board's decisions, including the footage of the vehicle driving through narrow streets noticeably slowed down and audio toned down. A minority of the Board considered that the depiction of the car driving through the alleyway is still suggestive of a vehicle traveling at speed however the majority of the Board considered that the vehicle does not appear to be driving in a manner which is inappropriate or unsafe for the urban environment depicted, and dismissed complaints.

Driving practice that may breach the law

Clause 2(c) of the FCAI Code requires that advertisements for motor vehicles do not portray *...driving practices or other actions which would if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation.* Common complaints under this provision include illegal use of hand-held mobile phones or not wearing seat belts in a moving motor vehicle.

A case for Chrysler Australia (0091/13) was considered in 2013 with the appropriate use of fog lights in question. The complaint concerned the use of fog lights in clear conditions, which was contrary to driving law. The Board noted that the advertiser has confirmed that the fog lights for this vehicle are situated underneath the car's number plate and are not illuminated at any stage of the advertisement, and this complaint was dismissed.

Complaints regarding a Holden (0182/13) advertisement concerned the association between competitive driving and normal on-road use of a motor vehicle. The advertisement features footage of a character who says she will drive blindfolded passengers around a race track. The team are then seen in the car with blindfolds on and helmets. The character switches places with a seemingly experienced racer and the car is driven around the race track. In the Board's view, as the vehicle is driven only in a test environment it is not condoning or encouraging driving practices that are unsafe and does not depict a driving practice

that would breach any law and does not breach the FCAI Code.

Another advertisement considered under Section 2(c) of the FCAI Code featured a man standing on the back of a ute summarising the vehicle's features (Ssangyong Motors Australia – 0124/13). There is scenery moving in the background, suggestive of the car in motion, but when the camera pulls back we see the car is stationary and is in front of a green screen. The majority of the Board were satisfied that most members of the community would recognise the unreal nature of the moving scenery and considered that the final scenes of the advertisement do make it very clear that the ute is not traveling but is stationary in a studio. The Board acknowledged that if a person were to stand in the back of a moving ute it would be dangerous however the Board considered that the advertisement does not condone this practice and does not encourage copy-cat behaviour from members of the community.

Displaying benefits and features of motor vehicles in an advertisement without depicting material contrary to the FCAI Code is acceptable. Some complaints in 2013 raised concerns over the nature of assisted braking or new technology which may be distracting. The Board's role is to assess each advertisement against the relevant codes and initiatives, but cannot address broader concerns of whether these features should be advertised. The Board cleared cases in 2013 which included demonstrations of an active city stop feature (Ford Motor Co – 0178/13 & 0280/13).

Other provisions

There were no complaints in 2013 considered under other provisions of the FCAI Code including 2(b), (d) and (e) relating to issues such as environmental damage, driving when fatigued or under the influence of alcohol or drugs.

Board member profiles



GIULIANA BAGGOLEY

Appointed August 2011

Giuliana Baggoley is an optometrist in clinical practice and is also employed as clinical policy adviser for Optometrists Association Australia.

Giuliana has previously served on the Optometrist Association of Australia Boards and currently serves on the ACT Clinical Senate and her local school board.

The majority of her professional life has been spent in rural and regional Australia and she now lives in Canberra where she is married with two young children.

Giuliana's interests include health, media and the arts. Giuliana thrives on community involvement. "I am interested in people's stories and I value how different experiences and lifestyles enrich a community."



JACK MANNING BANCROFT

Appointed August 2011

At 19 years of age and in the third year of his Media and Communications degree, Jack founded the Australian Indigenous Mentoring Experience (AIME), partnering 25 Indigenous and non-Indigenous university student volunteer Mentors with 25 Indigenous students from Alexandria Park Community School in a pilot Program.

Jack has since become the CEO of AIME and the program now has 100 staff partnered with 14 universities to engage over 2,000 high school students and 1,000 university students across Australia. The program is currently increasing the rates of school completion and university admission – to the point where some of their sites are already exceeding local and national averages.

Jack's vision is to see Indigenous high school students finishing school and entering universities at the same rate as their fellow Australians.

Jack was the 2010 NSW Young Australian of The Year, has recently been awarded the Young People's Australian Human Rights Medal and was also the University of Sydney's 2010 Young Alumni of the Year.



SIBYLLA BUDD

Appointed August 2006

Sibylla Budd grew up in Canberra and moved to Melbourne to study acting at the Victorian College of the Arts, where she graduated with a degree in dramatic art.

Since then, Sibylla has shot to prominence with her role in the Australian drama, *The Secret Life of Us*, and Australian feature film *The Bank*. Her other television work has included roles in *The Farm*, *All Saints*, *Something In The Air*, *Kath and Kim*, *Sea Patrol* and *Canal Road*.

Sibylla's film credits include *September*, *The Bank*, *The Book of Revelation*, and *The Bet*, for which she was nominated for an AFI award for best supporting actress in 2007. Sibylla has also worked solidly in theatre with the Melbourne Theatre Company, Company B (Belvoir street theatre), *The Griffin*, *Newtheatricals*, and *The Queensland Theatre Company*.



MARIA COSMIDIS

Appointed August 2011

Maria Cosmidis is currently employed by the South West Sydney Community Legal Centre as the Executive Officer. She has a long history of working in the field of multicultural affairs, being the current Chairperson of the Metro Migrant Resource Centre and sitting on that board for over 10 years.

Maria is currently undertaking her Masters of Management as part of a scholarship with the Australian Sports Commission's "Sports Leadership Grants and Scholarships for Women". She is also a member of the "Next Generation of Corporate Leaders" program initiated by Women on Boards and UBS Investment Bank.

She is also one of the producers of a movie review show on a local Sydney radio station and enjoys heated debate amongst co-reviewers on the latest film releases.

A passionate sport participant and fan, Maria enjoys watching and playing sport and spending time with her young daughter. Being of Greek heritage, Maria and her family travel to Greece regularly.



BARBARA DAVID

Appointed August 2008

Barbara David has broad experience with both young and mature-age Australians. Her career has included time spent as a high school music teacher as well as a lecturer and researcher in social and child psychology at the Australian National University.

Barbara has retired from lecturing and is currently reliving the student experience, undertaking a TAFE Diploma in Visual Arts. She was awarded Arts and Media Student of the Year in 2007.

Barbara's passion for informed investigation of social issues continues in her ongoing supervision of PhD students. Their research covers topics such as the role of modeling (imitation) in children's gendered behaviour, and the part played by perceptions of capability in the perpetuation of inequality in the workplace.



KHOA DO

Appointed August 2006

Khoa Do was born in Vietnam, but left with his parents and brother in a small fishing boat in 1980. They arrived in Australia and settled in Western Sydney, where Khoa developed a passion for storytelling and cinema.

Khoa began working in the performing arts in the late 1990s, developing and producing a number of shows and films. Over the years, he has worked extensively with marginalised communities in film – working with homeless youths, former prisoners and refugees of many nationalities. Khoa's works include Footy Legends in 2006, starring Anh Do, Angus Sampson and Claudia Karvan. His first feature film, The Finished People, was a gritty and realistic story about at-risk adolescents on the edge of survival.

Khoa has been nominated for AFI Awards, IF Awards, Film Critic's Circle of Australia Awards and was recently awarded prizes at the Orlando, Canada and Vietnamese International Film Festivals.

In 2012, Khoa wrote and directed a mini-series on capital punishment, Better Man, starring David Wenham, Bryan Brown and Claudia Karvan.

Khoa has also worked as a volunteer with Open Family Australia at Cabramatta in Sydney, assisting at-risk youths. He was awarded Bankstown City's Young Citizen of the Year Award in 2002. In January 2005, Khoa was announced as Young Australian of the Year, the first-ever filmmaker to have been awarded the accolade.



FIONA GILES

Appointed August 2013

A well-known writer and editor, Fiona is a Senior Lecturer in the Department of Media and Communications at the University of Sydney, where she has worked since 2005. Fiona is on the editorial advisory board of Australian Feminist Studies and Outskirts: Feminisms Along the Edge.

Since graduating in English Literature from Oxford University Fiona has worked in publishing, editing and print journalism and has published six books, 11 book chapters, and numerous journal, magazine and newspaper articles. Her books include *Fresh Milk: The Secret Life of Breasts* (2003) with her most recent publication 'Reinstating Pleasure in Reality: Promoting Breastfeeding Through Ars Erotica', appearing in *Beyond Health, Beyond Choice: Breastfeeding Constraints and Realities* (2012).

Fiona's current research interests include literary journalism, creative non-fiction, feature writing, and textual analysis, together with health communications and social marketing, particularly the role of pleasure in health promotion. She has featured in two documentaries on breastfeeding, *Milk Men: Can We Deliver?* (2003) and *Breast Milk* (2012) and is interested in representations of breastfeeding and maternal sexuality.

Fiona lives in Sydney with her two teenage sons.



KAREN HAYNES

Appointed August 2011

Karen is from Brisbane and since 2008 she has been a Queensland Baptist Pastor. She is Associate Pastor at Windsor Road Baptist Church, and Brisbane city congregation. Her ministry primarily focuses on young adults and newcomers to Australia.

She also works for Australian Baptist's Cross-Cultural Agency, Global Interaction. As "Young Adults Consultant" for Queensland, she works across the state to increase awareness and involvement in cross-cultural work.

Karen is also a member of Queensland Baptist's Administrative Services Group, the property and finance committee of Queensland Baptists.

Karen has worked with young people and their families since she was teenager. She began her working career in administration and business roles, after completing a Bachelor of Business, but then changed direction and completed a Master of Divinity and a Graduate Diploma of Ministry through Malyon College a member of the Australian College of Theology.



NATHAN HINDMARSH

Appointed August 2011

Nathan Hindmarsh is considered one of Australian rugby league's great forwards. He captained the Parramatta Eels in the National Rugby League (NRL) as well as playing his entire 330-game, 15-year career with the Eels.

Since retiring in 2012 he has taken on roles as the National Rugby League (NRL) game development coordinator and will be part of the Fox Sports team, hosting and co-hosting a number of sport and rugby league shows.

Nathan was also a New South Wales State of Origin and Australian international representative second-row forward. He was the first player to make 10,000 tackles in the NRL.

Nathan five times, consecutively, received the Provan Summons award (most popular player in rugby league) and has also been named 'Women's favourite Son' at the annual Women in League awards for the past three years.

He was also the 2009 recipient of the Ken Stephens medal for outstanding services to charity. His dedication to community programs such as Can Assist, The Children's Hospital at Westmead, Hope Rwanda, The Nathan Hindmarsh Cup and his ongoing work with numerous One Community programs secured him the medal.

Nathan grew up in country New South Wales.

He is married to Bonnie and they have three boys - Archie, Buster and Rowdy.



SOPHIE KOWALD
Appointed August 2006

Sophie works at the Australian Communications and Media Authority and is a Master of Laws candidate at the University of Melbourne. Previously Sophie has worked as a research fellow on cross-border tobacco advertising control at the Centre for Media and Communications Law, a judicial associate in the Federal Magistrates Court of Australia and as a casual university academic in law and media studies.

For many years, Sophie has been a singer in choirs around the country, including The Australian Voices, Canticum, The Melbourne Chorale and, most recently, the Sydney Philharmonia Choirs. Sophie was born in Canberra and raised in Brisbane. She now lives between Sydney and Melbourne with her husband and daughter.



JOHN LEE
Appointed August 2006

John is the Chief Executive of the Australasian Casino Association. He is responsible for delivering the strategic and operational outcomes for the organisation.

Early in his career, John worked in hospitality including an extended period working for some major Australian iconic resorts. John has also held senior positions in Government, notably as head of communications and marketing for transport for the 2000 Sydney Olympics and as a Director General in NSW. He has run major transport logistic companies and prior to this role John was the CEO of the Tourism and Transport Forum (Australia).

John has spent most of his life based in western Sydney where he has been involved in numerous community and charity projects. John is married and his family includes two daughters and a son.



PAULA McNAMARA
Appointed August 2008

Growing up with parents in the hospitality industry, Paula made her first coffee at 15 and has worked in a variety of cafes and restaurants in Melbourne, Sydney and London. Working in businesses focused on food Paula loves the sense of community and familiarity that builds up over time between regular customers and staff—in a big anonymous city, the local cafe and shops can be a small haven of neighbourliness.

Returning to study Paula recently finished an Arts Degree at Sydney University, majoring in English literature and Australian History. With an interest in theatre, film and television, time constraints have made television her main form of entertainment. She loves documentaries, particularly stories about real people and the challenges life throws our way.

Paula lives in Sydney with her teenage daughter.



NIGEL MILAN, AM
Appointed August 2011

Now a professional non-executive director, most of Nigel's career has been in television and broadcasting, in the Australian and New Zealand public and private sectors. Nigel, who has held numerous non-executive directorships in not for profit organisations, was a member of the board of the Fred Hollows Foundation from 1997 to 2007 (Chair from 2002) and National Chief Executive Officer of the Royal Flying Doctor Service (RFDS) from October 2006 until October 2010.

While Managing Director of the Special Broadcasting Service (SBS) from 1998 until 2006, SBS television and radio audiences grew significantly as did the quantity and quality of Australian (including Indigenous) produced programs on the network.

In Australia, Nigel had a successful commercial radio career in CEO and leadership roles in the Macquarie, Bond Radio and ARN networks. He was Chief Executive Officer of Radio New Zealand from 1991-1995.

Currently Nigel is on the Board of the Sydney Catchment Authority, Chairs the Advisory Board of The Australian School of Performing Arts and is Vice Chair of Special Olympics Australia.

He and his wife Judi own a small cattle farm in the Southern Highlands of NSW. His daughter Lucy is a teaching musician and singer, she lives in London.



JAIME PHILLIPS
Appointed August 2011

Jaime Phillips' career has taken her to regional and remote communities across Western Australia. Working in the private sector, Jaime develops community strategies for large resource and infrastructure projects. As a director of Palea Project Associates, Jaime moves between corporate offices, construction sites, mines and remote towns. She is inspired by projects that create jobs, address disadvantage and capture the imagination of local and Indigenous people in the regions.

Jaime has an honours degree in History and English from the University of Western Australia and is involved in Perth's creative sector. She volunteers on urban design and art groups and is fascinated by plans to revitalise the cityscape of Perth.

Jaime has served on the National Advisory Council of the Australian Broadcasting Corporation and the Advisory Committee of the Western Australian Maritime Museum.



PETER PHILLIPS
Appointed August 2011

Peter grew up in Frankston and now lives with his wife and two young sons, Will and Tom, in Melbourne.

Following university, Peter worked in Canberra as an economist with the Commonwealth Treasury, and has maintained an interest in economics and regulatory policy since then. Peter is the director of a small regulatory and governance consultancy, specialising environmental and regulatory frameworks.

Peter has a Bachelor of Economics (Hons), Master of Applied Finance and Master of Regulatory Studies, and is currently working on a regulatory history of Victoria for his PhD. He has a keen interest in Australian history and is in receipt of a research grant to write a history of Australia in the First World War.

Peter is involved in a number of small community groups, including his sons' football team and various church committees. Peter also serves as a Justice of the Peace and is a board member for an organisation working with people with disabilities.



GRAHAM RIXON

Appointed August 2008

Graham Rixon is currently engaged in part-time educational consultancy work particularly in the areas of school registration, middle schooling, technology in education, strategic planning and executive coaching.

He stepped down as Principal of Penrhos College a Uniting Church School, Perth, Western Australia at the end of 2007 - a position he held since September 1986.

Graham is a passionate educator and has worked on a number of state and national committees aiming to improve the quality of education in both government and non-government schools. He is currently an Educational Consultant for the Western Australian Department of Educational Services.

Graham is the Chairman of the Amanda Young Meningococcal Septicemia Foundation - a non-profit organisation working in the area of community awareness, survivor and carer support and offering grants for research to develop a Meningococcal Type B vaccine.

Graham grew up in Melbourne where, along with his career in education, he was active with Lifeline and his local Uniting Church. He moved to Perth in 1986 with his wife, Meredith and two children. Graham and Meredith share interests in travel, reading, cycling and kayaking.



JOSEPHINE TIDDY

Appointed August 2006

Dr Josephine Tiddy is the Managing Director of JTCT Consultants specialising in dispute resolution and organisational wellness. She provides strategic, legislative, governance and policy advice and investigates, mediates and resolves disputes to organisations in educational and not for profit sectors.

Josephine is a director with over 20 years experience, currently serving on various boards and statutory committees and is a Fellow of the Australian Institute of Company Directors.

Prior to establishing JTCT in 2000, Josephine was Commissioner for Equal Opportunity in South Australia, administering State and Federal laws for 16 years, as a statutory office holder and the Chief Executive of the Equal Opportunity Commission.

During that time, she successfully managed and promoted controversial and complex legislative and social changes throughout South Australia and nationally - changes which have been accepted as common practice and integrated into the Australian community.

Josephine has written widely on equality, fair treatment and discrimination. Her book, It's Just Not Fair, describes the personal stories of Australians, supported by the law, who confronted and changed the way our society thinks, works and lives.

She was awarded an honorary doctorate by The Flinders University of South Australia in recognition of her national contribution to administrative law, public policy, dispute resolution and legislative reform.

Josephine is actively involved with the community and has extensive knowledge and understanding of a wide variety of community views. She is a Justice of the Peace and has worked with people from the early years of a nursing career, which she followed by establishing and managing the first Australian Nurse Counselling Service, at the South Australian Women's and Children's Hospital.



CRAIG WHITE
Appointed August 2008

Craig has served as a Queensland police officer for almost 20 years.

He has been awarded both the National Service Medal for 15 years Police Service and the Queensland Police Service Medal for good conduct.

Craig has served throughout Queensland including 10 years working in remote communities in Far Northern and Central Western Queensland. During that time he was involved in implementing a number of publicly funded projects aimed at reducing substance abuse and domestic violence.

As well as being a serving member on numerous boards and committees, Craig is currently involved in a number of community organisations. He holds a Masters Degree in Business, Graduate Diploma in Human Resources and a Diploma in Public Safety (Policing).

Craig is married and has three children and enjoys spending spare time with his family.



PETER WILLIAMS
Appointed August 2011

Peter Williams is a Fellow of the Dietitians Association of Australia and a Visiting Principal Fellow at the University of Wollongong, where he was previously Associate Professor of Nutrition and Dietetics.

Before working at the University of Wollongong, Peter was the Director of Scientific and Consumer Affairs at Kellogg for three years, and previously worked as the Chief Dietitian and Food Services Manager at Royal Prince Alfred Hospital in Sydney.

Peter has been an active researcher in nutrition in Australia, with over 100 peer reviewed publications. He has served on National Health and Medical Research Council working parties for the review of Dietary Guidelines for Australia and the review of Nutrient Reference Values, and is a member of the steering committee for the Heart Foundation's Pick the Tick program. He has also conducted consultancy projects with the NSW Department of Health to help develop Nutrition Standards for Adult Hospital Inpatients.

Peter is among those selected to be on the Federal Government's The National Food Policy Working Group which includes representatives from supermarkets chains, farmers, service providers and leading scientists. From 2005-2011 Peter was a member of the Board of Food Standards Australia New Zealand and now serves on the Therapeutic Goods Authority's Advisory Committee on Complementary Medicines (ACCM).

In his spare time Peter enjoys cycling, bushwalking and yoga.

Advertising Standards Board retirees 2013

In 2013, two highly respected Board members retired from the Board. The Advertising Standards Bureau staff and Board of Directors thank both Natasha Stott Despoja AM and Jane Maree Maher for their dedication to the Board and its work. They were on the Board since 2008.

Natasha Stott Despoja AM was a Senator for South Australia between 1995 and 2008 and former Leader of the Australian Democrats. She is the founding Chair of the Foundation to Prevent Violence Against Women and their Children and in late 2013 was appointed as Australia's Ambassador for Women and Girls with responsibility for high-level advocacy to promote Australian Government policies and activity regarding gender equality and the social, political and economic empowerment of women and girls, particularly in the Asia-Pacific region. She is an Ambassador for Ovarian Cancer Australia; Deputy Chair of beyondblue; a board member of the South Australian Museum; and the Museum of Australian Democracy.

Jane Maree Maher is Associate Professor in the Centre for Women's Studies and Gender Research in the School of Social Sciences at Monash University. She is Director of the Social and Political Sciences Graduate Research Program. She holds degrees in Arts and Law from the University of Melbourne and has been a lecturer at the Centre for Women's Studies and Gender Research, Monash University in Melbourne. She has taught and researched in the fields of women's studies, cultural studies and literary theory. Jane Maree has supervised over 20 doctoral theses to completion and is currently involved in a number of projects in the field of gender and crime.

The Advertising Claims Board

The Advertising Claims Board is a purpose-built alternative to expensive litigation. It is a system of alternative dispute resolution directed to addressing and resolving challenges in advertising that might otherwise lead to litigation.

The Claims Board considers complaints which breach Section 1 of the AANA Code of Ethics.

This includes complaints about:

- the legality of an advertisement
- misleading or deceptive advertisements
- advertisements which contain misrepresentations likely to harm a business
- exploitation of community concerns in relation to protecting the environment
- misleading country-of-origin claims.

The benefits of the Claims Board and its system of alternative dispute resolution are that:

- the process is concluded in a timely manner (the Claims Board must make a determination within 15 business days of receipt of final submissions from the complainant and advertiser)
- the process is less costly than litigation, with the only cost being fees for the members sitting on the Claims Board and legal and administration costs of the ASB
- the parties have the option of proceeding to usual dispute resolution procedures if desired.

The Claims Board comprises a variable panel of at least three qualified legal practitioners, nominated by the ASB from a Register of Lawyers it maintains. Practitioners on this register have certified to the ASB that they have experience and expertise in the area of advertising and/or competition and consumer law and that they hold a current practicing certificate. They must also certify that they have no conflict of interest in the particular matter.

Towards the end of 2013, the ASB made some changes to the Claims Board process to make its administration more efficient and to clarify procedural steps for participants. The amended Claims Board Procedural Guidelines are available on the ASB website. The ASB will continue to work to raise the profile of the Claims Board and ensure that Advertisers are aware that this unique form of alternative dispute resolution is available.



Advertising Claims Board cases – 2013

During 2013 the Claims Board resolved two cases, summarised below. Full reports of all cases are available from the ASB website.

Meat & Livestock Australia Limited v Australian Pork Limited

The complaint concerned a television advertisement promoting the purchase and consumption of pork using comparisons with beef/red meat (TVC). The complainant alleged that the TVC breached Sections 1.2 and 1.3 of the AANA Code of Ethics on the basis that it was misleading or deceptive and contained a misrepresentation likely to cause damage to a competitor.

At issue was the characterisation of certain representations made in the TVC and the adequacy of the disclaimer used (*the general messages*). A specific representation in the TVC that the level of fat of the pork steak shown in the TVC was half the level of fat in the beef steak shown did not appear to be disputed by the complainant as far as it applied to the 'lean' cuts comparison referred to in the TVC's disclaimer.

The complainant submitted that the TVC conveyed the general messages that:

- a cut of pork has half the fat of a cut of red meat regardless of the type of red meat, type of cut and how and when it is trimmed, and
- on average pork has half the fat of red meat regardless of the type of red meat and how and when it was trimmed.

The complainant argued that those messages were untrue and misleading, and that the TVC's disclaimer did not prevent those messages from misleading consumers because:

- it was not linked closely to the voiceover or image in the second part of the TVC
- it was silent on relevant matters relating to the comparison being made, and
- it was not sufficiently prominent to be effective in qualifying those general messages.

In the advertiser's view:

- the only general message communicated by the TVC was that the average fat content of trimmed lean pork cuts is half the average fat content of trimmed lean red meat mix cuts
- both the specific message and general message contended by the advertiser were true
- a reasonable consumer would understand that the second part of the TVC was distinct from the first part, and did not infer that the specific comparison of steaks would also apply to cuts more generally, and
- the disclaimer adequately qualified the claim in a prominent and clear manner.

Both parties submitted evidence to support their submissions, relying on differing nutritional data.

The Claims Board determined that the TVC was misleading or deceptive or likely to mislead or deceive in breach of Section 1.2 of the Code of Ethics.

The Board considered the advertiser's interpretation of the general message conveyed by the TVC depended upon an acceptance that consumers would read the disclaimer and not only

listen to the voiceover, and then understand the disclaimer. However, the Board noted that there would be a wide variety of relevant consumers, with varying levels of gullibility, intelligence and education. In the Board's view a significant number of the relevant class of consumer would not read the disclaimer presented, and if they did, would not go through the detailed analytical thought process required.

The Board also found that the message in the first part of the advertisement was very powerful and may lead to a more general inference being drawn by consumers about the comparative fat content between all pork and red meat products.

In the Board's view the disclaimer was not sufficient to create the more complex general message contended by the advertiser and concluded that the TVC contained the general messages contended by the complainant.

The Board noted that no-one contended the general message advocated by the complainant was true and there will be some cuts of red meat which do not contain twice the fat of some cuts of pork and accordingly the TVC is misleading or deceptive or likely to mislead or deceive.

The Board also determined that it did not have sufficient information to make a positive finding in regard to the complainant's claims that the misrepresentation contained in the second part of the TVC was likely to cause damage to the business of beef producers contrary to Section 1.3 of the Code of Ethics.

Following the determination, the advertiser agreed to modify the advertisement so that the messages conveyed within it are simpler and advised it had taken steps to withdraw the advertisement at the earliest available opportunity pending such modification.



Dyson Appliances (Aust) Pty Limited v Miele Australia Pty Limited

The complaint related to a series of advertisements, including television, online and print materials, forming part of a campaign for Miele branded vacuum cleaners. The complainant alleged breaches of Sections 1.1 and 1.2 of the Code of Ethics, which require that advertisements comply with Commonwealth law and the law of the relevant State or Territory, and should not be misleading or deceptive or likely to mislead or deceive.

The advertisements in question formed part of a 20 year campaign highlighting the extensive testing of Miele products and featuring the claim *German engineered and tested to the equivalent of 20 years usage*.

The complainant alleged that the overall effect of the 20 year advertising campaign was to convey a clear representation that a *Miele vacuum cleaner purchased today is very likely in 20 years time to perform just as well as it does today* and that the representation had not been substantiated. In particular, the complainant argued that the testing of the products was not sufficient to substantiate the representations made and that the representations were not made with reasonable grounds on the basis that the advertiser was unlikely to support its products through service and spare parts during the lifecycle of the products.

In response, the advertiser submitted that the relevant representation of the campaign as a whole was that the products have been *German engineered and tested to the equivalent of 20 years usage* and that this message is adequately

substantiated by its testing regime. To support this, the advertiser commissioned independent consumer research on the messages conveyed by the website and television advertisement. The advertiser further submitted that it fully intended to continue to provide parts and future support to products over their life and for up to 20 years.

In making its decision, the Claims Board noted various limitations in the survey commissioned by the advertiser and did not find it of much assistance in its deliberations. The Board also noted that the complainant made reference to a decision of the UK Advertising Standards Authority (ASA) to support its claims. However, the Board noted it would not be appropriate to place any weight on the ASA decision given the differences in the issues considered in that case and the limited details that could be ascertained from the report of that decision.

The Board did not agree with the complainant's view that the overall effect of the advertising was to *convey a clear representation that a Miele vacuum cleaner purchased today is very likely in 20 years time to perform just as well as it does today*. As a result, the Board was not required to consider further whether such a representation can be or is substantiated by the testing carried out by the advertiser.

The Board did not consider that the 'overall effect' of the campaign, from the various images and statements presented, impacted substantially on the express representations actually made. It noted that in every instance that the 20 year logo was used, it was accompanied by the qualifying words *tested to the equivalent of 20 years* (or similar), which could be expected to be understood by most consumers to mean the products are tested for an equivalent of 20 years use or perhaps that they will last 20 years.

Although noting the complainant's submissions regarding the potential future availability of replacement parts and consumables, the Board did not consider this sufficiently detracted from the reasonableness of the representation, and accepted the advertiser's submissions as to its history of product support and its future intentions in that regard.

The Board found the representations made by the advertiser had been adequately substantiated and were not misleading. The only exception was the video of vacuum cleaners operating accompanied by graphics of passing years, which the Board considered conveyed an implied representation that the vacuum cleaners were capable of running continuously for a twenty year period and in the absence of adequate substantiation or further qualification, this was potentially misleading in breach of Section 1.2 of the Code of Ethics.

Following determination, the advertiser confirmed it had modified its promotional material in accordance with the Board's determination.



Independent Reviewer

Cases reviewed in 2013

Independent Reviewers

Cases reviewed in 2013

People who originally made a complaint, or the advertiser who the complaint was made against, may ask for an Independent Review of the determination if they meet the criteria for the process.

The independent review is not a merit review of a Board decision.

Reviews may be undertaken if the request is about at least one or all of the following grounds:

- Where new or additional relevant evidence which could have a significant bearing on the determination becomes available. An explanation of why this information was not submitted previously must be provided.
- Where there was a substantial flaw in the Board's determination (determination clearly in error having regard to the provisions of the Codes or Initiatives, or clearly made against the weight of evidence).
- Where there was a substantial flaw in the process by which the determination was made.

In 2013, seven cases submitted for the Independent Review process were finalised.

A précis of the cases reviewed is available here. The full case reports are available on the Advertising Standards Bureau website.

Advertising Standards Bureau - Outline of requests for independent review 2013

Case	Initial board determination	Independent reviewer recommendation	Board determination on review (if appropriate)	Time taken to complete review	Precis of IR process in cases reviewed
In March 2011, ASB accepted a recommendation from the Review of the Independent Reviewer process that timeliness of the process should be made publicly available. The times indicated below refer to the time between ASB receipt of the request for review to notification of final case report.					
ACP Publishing Zoo magazine Case number - 0437/12	Complaints Upheld November 2012	Independent Reviewer recommended Board review its initial determination January 2013	Upheld	27 business days	The Board found that this advertisement breached three sections of the Code of Ethics. An original complainant claimed that the Board made a substantial flaw in its decision as it did not make a ruling on a fourth Section. The Independent Reviewer recommended that the Board reconsider its decision and determine whether the fourth Section mentioned by the complainant had been breached by the advertisement. On reflection, the Board considered that the extra Section mentioned in the request for review did not breach the Code of Ethics. Noting that the complaints had been upheld on the basis that the original three Sections were breached, the Board confirmed its previous decision to uphold complaints.
Spudbar F*ck Case number - 0095/13	Complaints Dismissed April 2013	Independent Reviewer recommended Board review its initial determination May 2013	Dismissed	29 business days	A request for Independent Review claimed that the Board failed to consider evidence that would have substantially impacted on its decision. The Independent Reviewer recommended that the Board consider the new information provided and also consider previous similar decisions. After considering the new information and previous decisions, the majority of the Board determined that the advertisement did not breach the Code of Ethics and confirmed their original decision.

Case	Initial board determination	Independent reviewer recommendation	Board determination on review (if appropriate)	Time taken to complete review	Precis of IR process in cases reviewed
Ford EcoBoost Case number - 0141/13	Complaints Dismissed May 2013	Independent Reviewer recommended Board review its initial determination June 2013	Dismissed	43 business days	The submission for an Independent Review of this case asserted that the Board relied on an incorrect interpretation of part of the advertisement. The Independent Reviewer noted that the Board provided insufficient information regarding its interpretation of the advertisement and its reasoning for decision. On review, the Board comprehensively considered the issues raised by the advertisement and the complainant and confirmed the decision to dismiss the case.
Nissan Fake pregnancy Case number - 0195/13	Complaints Upheld June 2013	Independent Reviewer recommended initial Board determination be confirmed June 2013		9 business days	The Board found this case in breach of the FCAI Code regarding the depiction of unsafe driving. The Independent Reviewer analysed the Board's decision and the request for review from the advertiser, and recommended the Board's original decision be confirmed. In the Independent Reviewer's reasoning, considering whether an advertisement has been in breach of an advertising code should be the impact on the viewers, not the actual circumstances in which the advertisement was made.
Mondolez Oreo wonder filled Case number - 0247/13	Complaints Dismissed July 2013	Independent Reviewer recommended Board review its initial determination September 2013	Upheld	36 business days	The complainant requested independent review of this case on the basis that the decision did not have regard to the provisions of the applicable initiative and was clearly against the weight of evidence. In the view of the Independent Reviewer, the Board did not provide sufficient reasoning to distinguish this case from opposing Board precedent decisions regarding similar provisions. In reconsidering this case, the Board carefully reviewed previous decisions under the applicable initiative, and the overall impact of the advertisement, particularly to children. The Board decided that it breached the provisions of the initiative and thus changed its original decision and upheld complaints.
Goodman Fielder Meadowlea Buttery "better for you" Case number - 0321/13	Complaints Dismissed September 2013	Independent Reviewer recommended initial Board determination be confirmed September 2013		17 business days	A complainant requesting independent review stated that the research the Board used to come to its decision was flawed and incomplete. In response, the Independent Reviewer reasoned that there is no obligation on the Board to conduct independent research in relation to a complaint made to it. The onus is on the complainant to make out its case. The Independent Reviewer noted the clearly differing and strongly held views in the scientific community about the issue raised. Since the Board relied in its determination on appropriate, current Australian Guidelines, the Independent Reviewer believed that the decision was not flawed and the original decision was confirmed.
General Mills Old El Paso Mexican Rice Case number - 0311/13	Complaints Dismissed September 2013	Independent Reviewer recommended Board review its initial determination October 2013	Dismissed	26 business days	An original complainant sought review on the basis that there was a substantial flaw in the process by which the determination was made. In the Independent Reviewer's opinion, the determination needed to outline the Board's reasoning more comprehensively. On review, the Board provided a comprehensive outline of its decision making process and confirmed its original decision to dismiss the complaint.

Independent Reviewers

An independent review process for Advertising Standards Board (Board) decisions has been in place since April 2008.

The process provides the community and advertisers a channel through which they can appeal decisions made by the Advertising Standards Board.

Independent Reviewers are Emeritus Professor Dennis Pearce AO and Ms Victoria Rubensohn AM.

Dennis Pearce AO

Emeritus Professor Dennis Pearce is a consultant with HWL Ebsworth Lawyers and a Visiting Fellow at the Australian National University (ANU) College of Law. Dennis was formerly the Dean of the Law School at ANU.

He has held many appointments with government and other bodies. Among those appointments was that of Commonwealth Ombudsman, Chairman of the Australian Press Council, Chair of the Copyright Law Review Committee, Member of the Copyright Tribunal of Australia, Chair of the Defence Honours and Awards Appeal Tribunal, and President of the ACT Racing Appeals Tribunal.

Dennis was made an Officer of the Order of Australia in 2003 and was also awarded a Centenary Medal in that year.

Dennis has published many books and articles, the most well known being Statutory Interpretation in Australia now in its 7th edition and Delegated Legislation in Australia (3rd edition). He is also the editor of Lexis Nexis Administrative Law Service.

Dennis holds the degrees of Bachelor of Laws (Adelaide), Master of Laws and PhD (ANU). He is admitted to legal practice in South Australia, the Australian Capital Territory and New South Wales.

Victoria Rubensohn AM

Victoria Rubensohn is the current Convenor of the Classification Review Board and since 1991 has been Principal of international communications consultancy Omni Media, which specialises in communications regulatory policy. She is a consumer representative member of the Mobile Premium Services Code Review Panel and is a member of the Australian Communications Consumer Action Network Standing Advisory Committee.

Victoria is a board member of the Communications Law Centre and Director and Company Secretary of Media Access Australia. She has worked in radio and television in Australia and the USA and is a member of the Royal Television Society (UK). Victoria has worked extensively internationally in communications institution- building and is co-creator of a United Nations Convention on Disaster Communications.

Victoria has chaired government and non-government bodies and committees including:

- Chair of the National Film and Sound Archive
- Chair of the Telephone Information Services Standards Council for 15 years
- Chair of the Federal Government's Copyright Convergence Group
- Chair of the Federal Government's Digital Radio Advisory Committee

Victoria has been a Member of the Australian Broadcasting Tribunal and a Member of the Immigration Review Tribunal. She is a former President of the Communications and Media Law Association and has also been a member of the Copyright Law Review Committee.

Victoria was made a Member of the Order of Australia in 2004.

Victoria holds a Bachelor of Arts (Sydney), Master of Arts [in Government] (Sydney), Bachelor of Laws (UNSW) and Master of Human Rights (Sydney).



Statistics

Advertising complaints statistics

Advertising complaints statistics

In 2013 the ASB received 2,773 complaints, a decrease from 3,640 in 2012. This is the lowest amount since 2007 (2,602 complaints). From these complaints the board considered 409 advertisements with an additional 17 withdrawn by advertisers before Board consideration. Of the 409 advertisements considered, 61 of these advertisements were found to be in breach of the Code.

In 2013 sex, sexuality and nudity was the most complained about issue, accounting for 23.2 per cent of the complaints. This is a change from the previous year where discrimination and vilification was the most complained about issue.

Since data was first collected in 2005, vehicle advertisements were the most complained about product in 2013, being the subject of 13.9 per cent of complaints. This is due to a small number of vehicle advertisements receiving a higher number of complaints.

Other interesting trends include the drop in the number of 19 to 29 year olds complaining (from 19 per cent in 2012 to 13.3 per cent in 2013) and the drop in online submissions (from 93.7 per cent in 2012 to 89.6 per cent in 2013).

Number of advertisements considered and outcome of complaints

Of the total 2,773 complaints received, 520 complaints were in relation to advertisements previously considered by the Board. Of the 520 complaints about already considered advertisements, 212 complaints were related to advertisements considered by the Board prior to 2013.

A total of 170 complaints were assessed as raising issues under the Code of Ethics that the Board has consistently considered not in breach of the Codes.

A total of 1,348 complaints were received about the 409 advertisements considered by the Board.

There were 225 complaints against the 61 ads which were found to breach the Code with the remaining 348 ads accounting for 1,123 complaints.

Compared to the total number of ads considered by the Board, the number of ads found to breach the code equated to an upheld rate of 14.91 per cent.

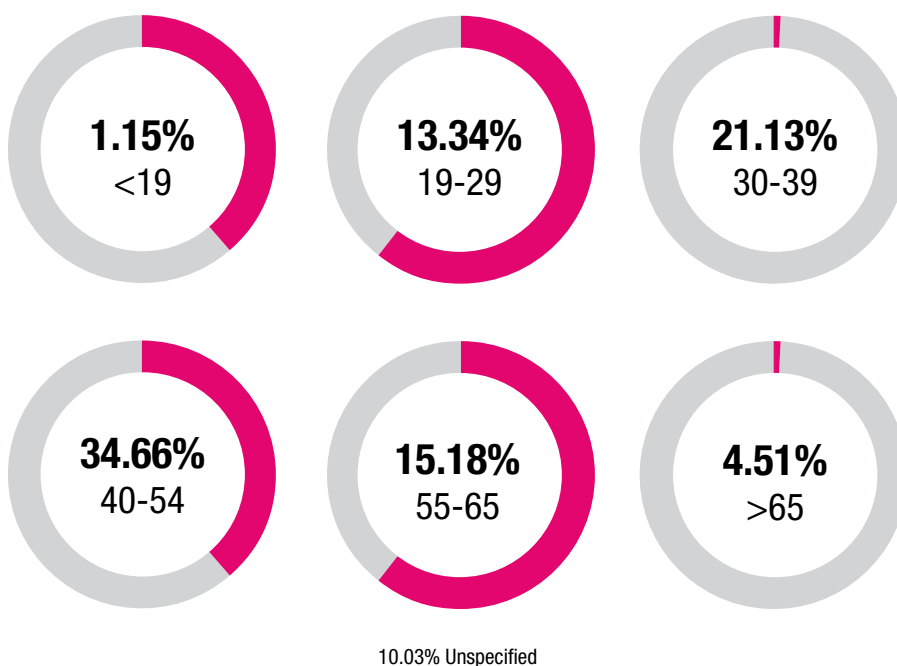
On receiving advice that there had been a complaint 17 advertisers removed their ad prior to consideration by the Board, down from 24 in 2012.

When complaints against advertisements were upheld by the Board, just over 98 per cent of the ads were removed from broadcast or publication or were modified. This is consistent with previous years. The majority of advertisers complying with Board decisions demonstrates the advertising industry's continuing support and understanding of its obligations and responsibilities of adherence to the AANA Code of Ethics and to the system of advertising self-regulation.

What age are complainants?

The highest percentage of complaints in 2013 came from people in the 40 to 54 year age group, accounting for over 30 per cent of all complaints received. The age group from 30 to 39 years account for 21.1 per cent of complaints. These ratios are similar to those of 2012.

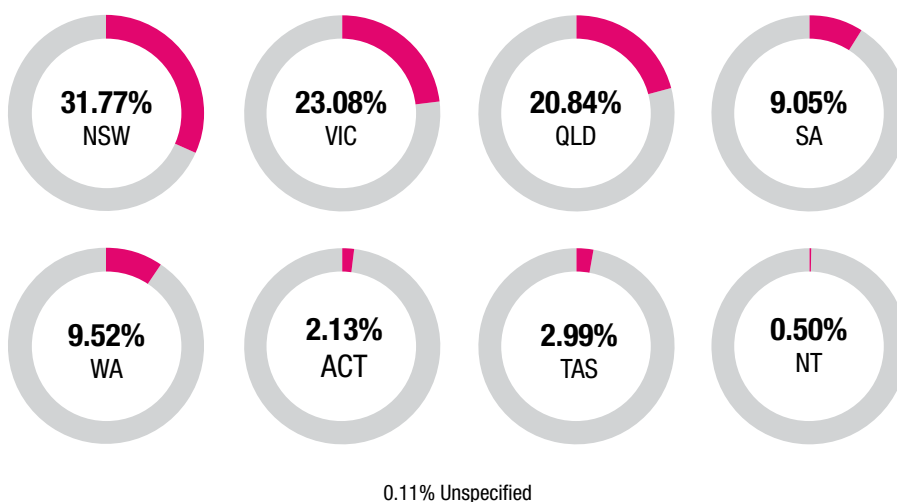
In 2013, 55 to 64 year olds accounted for 15.2 per cent of complaints followed by 19 to 29 year olds who accounted for 13.3 per cent of complaints. This is different from 2012 where the complaints were 12.5 per cent and 19 per cent respectively, making 2013 the first time since ASB began collecting age group data in 2008 where 55 to 65 year olds were responsible for more complaints than 19 to 29 year olds. The lowest number of complaints came from people under 19 years of age, with the second lowest, people over 65.



Where are complaints coming from?

Complaints were generally spread out nationally in proportion to each state's population. As the most populous state, New South Wales topped the percentage of complaints received with 31.8 per cent, followed by Victoria with 23.1 per cent.

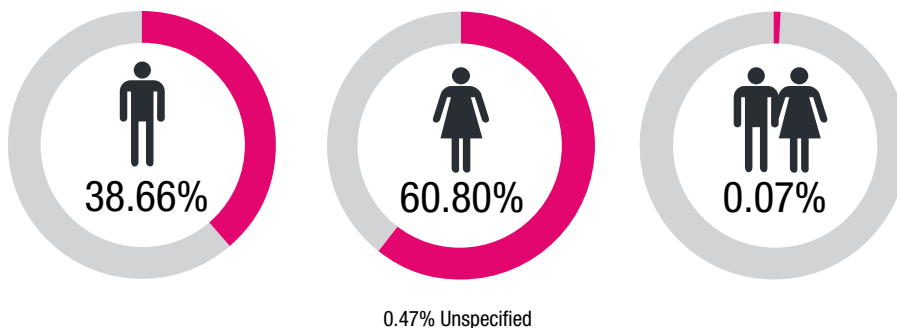
The percentage of complaints received from Queensland (20.8 per cent) Western Australia (9.5 per cent), South Australia (9.1 per cent), Tasmania (3 per cent), Australian Capital Territory (2.1 per cent) and Northern Territory (0.5 per cent) remained similar to previous years.



Who is complaining?

In 2013 females were more likely to complain than males, with 60.8 per cent of complaints coming from females. These percentages are consistent with last year.

For every age group females were more likely to complain than males, except in the over 65 age group where males represented 55.2 per cent of complaints.



What do people complain about?

The issue of sex, sexuality and nudity was the most dominant issue raised by complainants in 2013 attracting 23.2 per cent of the complaints. This is a change from the previous year where discrimination and vilification was the most complained about issue.

Discrimination and vilification was the second-most complained about issue attracting 18.1 per cent of complaints, down from 28.5 per cent in 2012, in 2011 discrimination was also the second-most complained about issue with 20.7 per cent, which points to a short-term increase in complaints in this area in 2012 due to four advertisements which were in that year's 10 most complained about category.

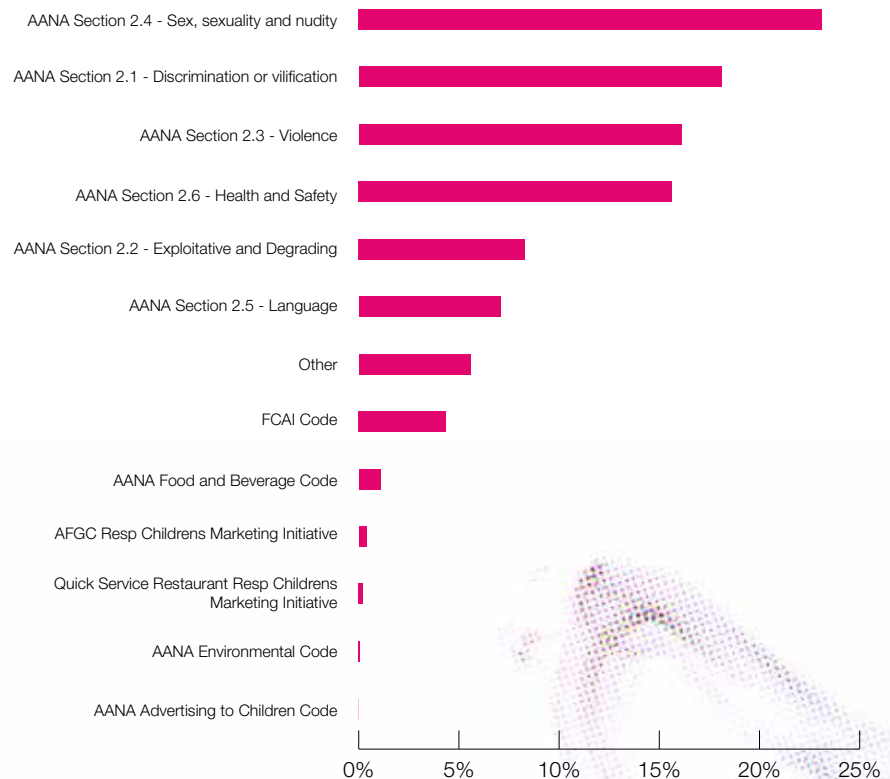
Complaints about violence almost tripled from 5.9 per cent in 2012 to 16.1 per cent in 2013 and were at the highest they have been since 2008 when they represented 17.7 per cent of complaints. This increase is due to three advertisements which received a higher number of complaints.

Complaints concerning health and safety also increased, from 9.5 per cent in 2012 to 15.6 per cent in 2013. This is the highest recorded percentage of complaints regarding health and safety to have been recorded since statistics were recorded in 2005. This increase is due to a higher rate of complaints about safety issues relating to vehicle advertising.

Issues declining in complaint in 2013 included objectification (8.3 per cent in 2013, down from 14 per cent in 2012) and language (7.1 per cent in 2013, down from 12.2 per cent in 2012).

FCAI Motor vehicle complaints increased from 1.9 per cent in 2012 to 4.4 per cent in 2013.

Complaints about food advertising including the food and beverage code and the AFGC and QSR food advertising initiative represented 1.7 per cent of complaints.



Which mediums attracted complaints?

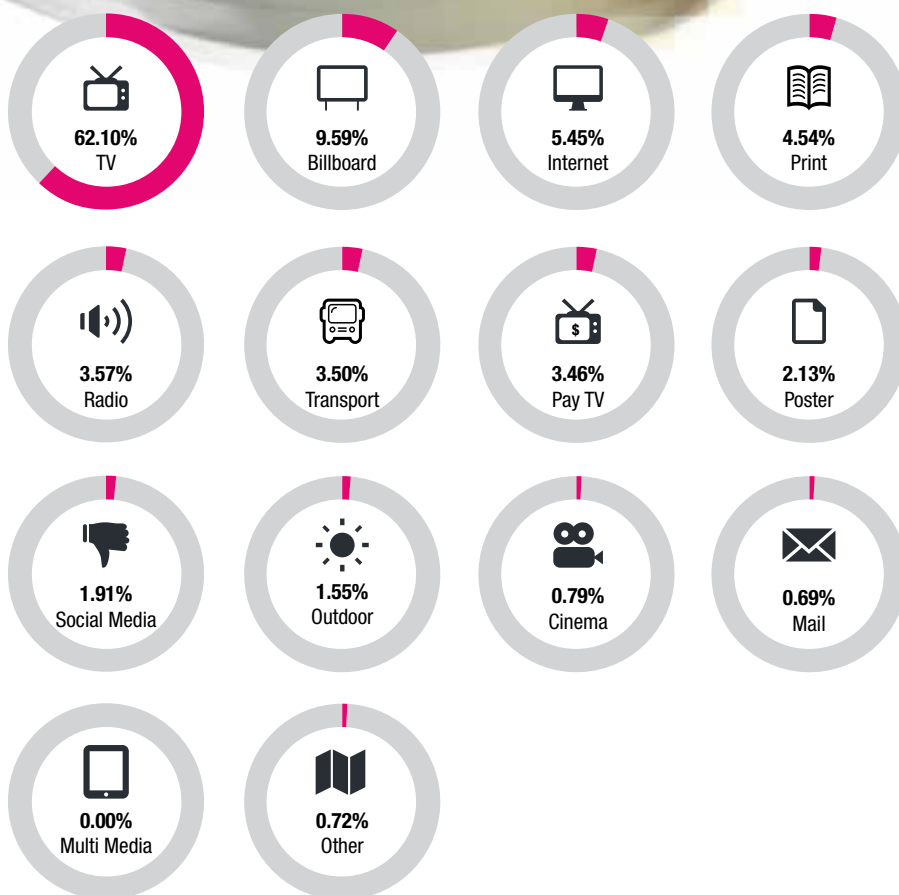
Consistent with previous years, in 2013, the majority of complaints (62.1 per cent) related to advertisements shown on television, slightly less than the 2012 figure (65.5 per cent).

Forms of outdoor media were considered under transport, billboard and outdoor mediums. In 2013, billboards attracted the second highest amount of complaints for any medium with 9.6 per cent, this is up from 4.8 per cent in 2012. Transport accounted for 3.5 per cent of complaints in 2013 and outdoor mediums 1.6 per cent.

In 2013, 5.5 per cent of complaints were for the internet, and an additional 1.9 per cent were for ads appearing in social media, this is down from 7.8 per cent and 2.6 per cent respectively in 2012.

Print media complaints remained consistent with previous years at 4.5 per cent. Other mediums attracting complaint included radio (3.6 per cent), pay TV (3.5 per cent), poster (2.1 per cent), cinema (0.8 per cent) and mail (0.7 per cent).

Less than one per cent of complaints were for other mediums, these included promotional material, apps, flying banner and stadium or arena mediums.



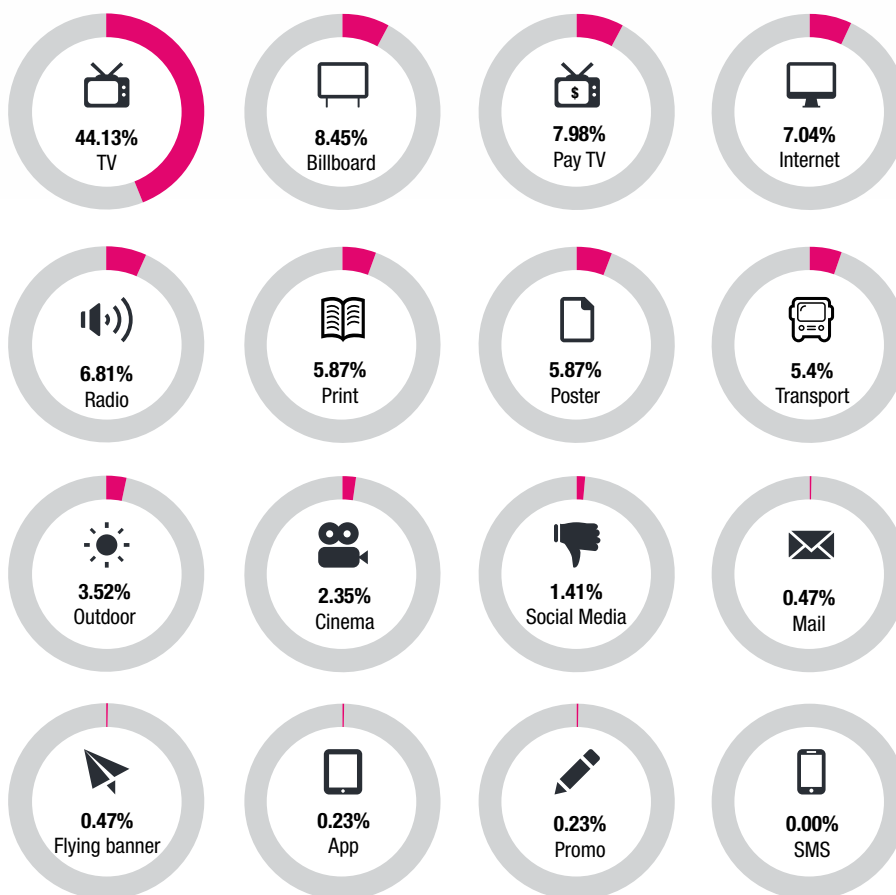
Which medium were cases seen and heard on?

Of the advertisements complained about which were raised as cases, the vast majority (44.1 per cent) were advertisements seen on television, this is consistent with previous years. A further 8 per cent of advertisements were seen on pay TV, slightly more than the 5.4 per cent in 2012.

The second highest percentage of cases was for billboard advertisements, which stayed consistent between 2012 and 2013 at 8.5 per cent.

Mediums with increasing percentages include radio (6.8 per cent), poster (5.9 per cent) and transport (5.4 per cent). Mediums with decreasing percentages include internet (7 per cent) and print (5.9 per cent).

Other mediums with less than 5 per cent include outdoor (3.5 per cent), cinema (2.4 per cent), social media (1.4 per cent) and mail (0.5 per cent). Apps, flying banners and promotional material each represented 0.23 per cent of cases.



What products attracted complaints?

Vehicle advertisements were the most complained about in 2013, being the subject of 13.9 per cent of complaints. This is the first time that vehicle complaints has been the most complained about issue since data was first collected in 2005. The amount of vehicle complaints has more than doubled since 2012 (6.7 per cent) and is the highest it has been since 2005 (15.2 per cent). This rise in vehicle complaints can be attributed to one advertiser whose advertisement received a higher number of complaint about its ad which it revised twice before receiving a clearance by the Board on the third modification.

Advertisements about clothing attracted 8.9 per cent of complaints which remains consistent with previous years.

Food and beverages had a large drop in complaints between 2012 (23.7 per cent) and 2013 (8 per cent). Since data was first collected in 2005, food and beverages has consistently been the most complained about category.

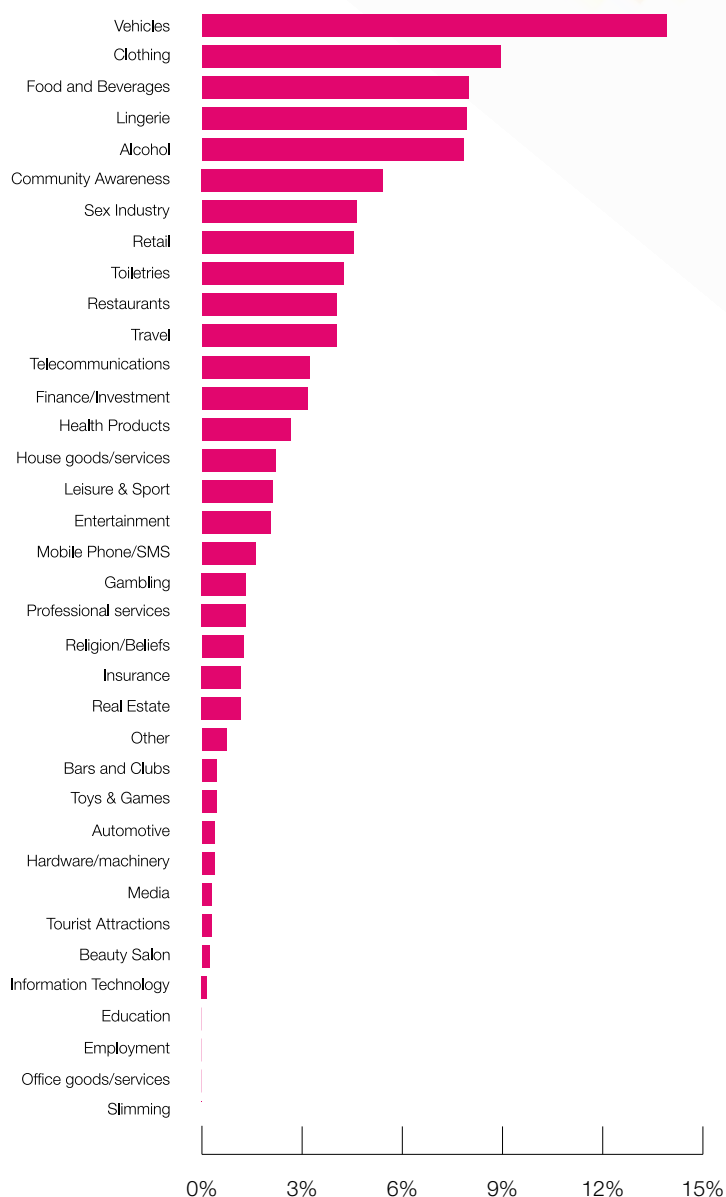
In 2013, 7.9 per cent of complaints were about lingerie ads. This is a new category and has previously been recorded under clothing, however due to an increasing number of complaints, lingerie complaints were recorded separately.

Complaints about alcohol advertising more than doubled between 2012 (3 per cent) and 2013 (7.8 per cent), this can be largely explained by one highly complained about advertisement.

Complaints about community awareness (5.4 per cent), retail (4.5 per cent) and toiletries (4.3 per cent) remained similar to previous years.

Sex industry complaints increased from 2.82 per cent in 2012 to 4.6 per cent in 2013, restaurant advertising complaints increased between 2012 (1.8 per cent) and 2013 (4 per cent) and travel ads increased from 2.4 per cent to 4 per cent.

Complaints about professional services decreased from 2012 (5.2 per cent) to 2013 (1.3 per cent), as did entertainment (from 6.6 per cent to 2 per cent) and household goods and services (4.4 per cent to 2.2 per cent).

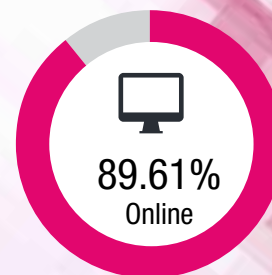
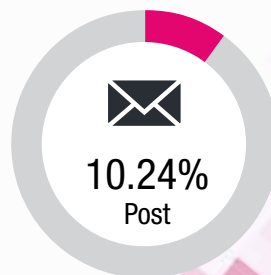
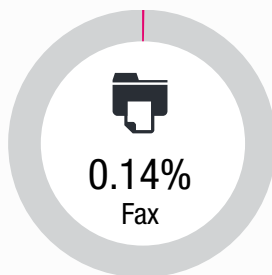


How do people complain?

The number of people choosing to lodge their complaints through the online system in 2013 continued to be the most popular option, with 89.6 per cent of submissions, however this has fallen from 93.7 per cent in 2012. The drop is due to an increase in postal submissions, from 6.3 per cent in 2012 to 10.2 per cent in 2013.

The majority of postal submissions are complaint referrals from television stations, which are not submitted through ASB's online complaints system.

In 2013, 0.14 per cent of complaints were received by fax, a slight increase from 0.01 per cent in 2013.



2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013

ALLOCATION OF COMPLAINTS (No., by Complaint)

Complaints within jurisdiction									1491	1720	983
Complaints outside jurisdiction									1181	1280	1078
Complaints about already considered advertisements (current year)	See table below for previous year statistics. ASB is now able to maintain statistics about: whether a complaint is within jurisdiction or not, whether a complaint is about an ad which has previously been considered by the Board, whether the complaint raises a matter which has been consistently dismissed by the Board, and whether there were complaints which remained unallocated at 31 December.								443	290	308
Complaints about already considered advertisements (previous years)									138	211	212
Consistently dismissed complaints									113	102	170
Not allocated at 31 December									50	37	22
TOTAL		0	0	0	0	0	0	0	3,416	3,640	2,773

OUTCOME OF COMPLAINTS (No., by Complaint)

Number of complaints about ads which did not breach the Code (current year)									1569	1440	911
Number of complaints about ads which did not breach the Code (pre reporting year)	See table below for previous year statistics. ASB is now able to maintain statistics that show if a complaint was related to an advertisement considered by the Board in the current year or previous years.								138	211	212
Number of complaints about ads which were found to breach the Code									353	280	225
Number of complaints about ads that were withdrawn									12	45	17
TOTAL		0	0	0	0	0	0	0	2,072	1,976	1,365

OUTCOME OF COMPLAINTS (No. by Complaint - pre 2011)

Dismissed	1770	1349	1753	2648	1730	2263	2278	1692	see table above
Upheld	23	55	94	164	280	477	521	361	
Withdrawn before Board determination	113	236	139	20	15	57	56	53	
Already considered advertisements *#								708	
Consistently dismissed complaints *								92	
Not proceeding to a case	714	656	970	1212	577	799	941	620	
TOTAL	2,620	2,296	2,956	4,044	2,602	3,596	3,796	3,526	
	27.25%	28.57%	32.81%	29.97%	22.18%	22.22%	24.79%	17.58%	

* Statistics not separately captured prior to 2010

Prior to 2010, complaints about already considered complaints were aggregated with "Dismissed" complaints.

For statistics prior to 2003, please see the publications section of our website—www.adstandards.com.au

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
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BOARD DETERMINATIONS (No., by Advertisement)

Withdrawn before Board determination	5	20	33	13	5	10	11	29	10	24	17
Upheld	4	8	14	28	36	62	81	49	54	69	61
Dismissed	401	337	344	488	405	477	503	442	412	404	348
Not proceeding to Board									38	11	16
TOTAL	410	365	391	529	446	549	595	520	514	508	442

AGE RANGE OF COMPLAINTS (%)

< 19						2.25%	1.81%	1.80%	1.86%	1.74%	1.15%
19 - 29						14.99%	15.81%	15.62%	18.72%	18.38%	13.34%
30 - 39						23.11%	22.35%	22.55%	25.35%	22.24%	21.13%
40 - 54						30.56%	28.34%	25.36%	29.68%	31.22%	34.66%
55 - 65						11.15%	11.40%	9.88%	11.77%	12.46%	15.18%
> 65						3.28%	3.44%	3.09%	3.91%	3.55%	4.51%
Unspecified						14.66%	16.85%	21.70%	8.72%	10.42%	10.03%
TOTAL						100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

GEOGRAPHIC SOURCE OF COMPLAINTS (%)

NSW	37.73%	38.20%	32.68%	36.77%	35.63%	34.47%	36.77%	35.98%	29.16%	32.52%	31.77%
VIC	24.75%	22.17%	21.19%	22.59%	20.18%	23.53%	21.16%	24.22%	21.49%	22.24%	23.08%
QLD	15.86%	16.16%	24.60%	17.01%	19.79%	20.51%	18.38%	22.73%	27.82%	21.88%	20.84%
SA	7.22%	7.10%	8.54%	10.08%	9.80%	9.24%	9.83%	6.53%	9.81%	9.81%	9.05%
WA	7.68%	8.84%	7.98%	7.84%	9.80%	7.17%	9.63%	6.81%	8.43%	9.26%	9.52%
ACT	4.40%	4.75%	2.47%	2.58%	2.50%	2.90%	2.16%	2.29%	1.38%	1.98%	2.13%
TAS	1.52%	1.92%	1.84%	2.31%	1.54%	1.48%	1.62%	1.07%	1.00%	1.98%	2.99%
NT	0.84%	0.83%	0.60%	0.84%	0.77%	0.70%	0.45%	0.37%	0.91%	0.33%	0.50%
Unspecified	0.00%	0.04%	0.10%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.11%
TOTAL	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

GENDER OF COMPLAINANTS (%)

Couple	2.30%	2.61%	2.10%	1.35%	0.92%	0.92%	0.82%	0.49%	0.19%	0.06%	0.07%
Unspecified	2.83%	2.70%	2.13%	1.45%	1.08%	3.11%	4.29%	0.58%	0.43%	1.24%	0.47%
Male	32.37%	37.63%	38.08%	36.75%	32.67%	36.93%	36.21%	29.90%	30.87%	39.60%	38.66%
Female	62.50%	57.06%	57.69%	60.45%	65.33%	59.04%	58.68%	69.03%	68.51%	59.11%	60.80%
TOTAL	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

For statistics prior to 2003, please see the publications section of our website—www.adstandards.com.au

2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013

ISSUES ATTRACTING COMPLAINT (%)

AANA Section 2.4 - Sex, sexuality and nudity	26.49%	22.23%	37.91%	25.61%	40.54%	45.23%	32.05%	23.41%	23.12%
AANA Section 2.1 - Discrimination or vilification	27.13%	23.25%	28.05%	22.76%	16.31%	19.58%	20.68%	28.49%	18.10%
AANA Section 2.3 - Violence	17.38%	18.01%	8.42%	17.67%	7.93%	9.62%	11.82%	5.92%	16.11%
AANA Section 2.6 - Health and safety	6.46%	9.70%	10.85%	6.04%	8.38%	9.62%	13.59%	9.50%	15.64%
AANA Section 2.2 - Exploitative and degrading								13.98%	8.31%
AANA Section 2.5 - Language	4.36%	7.55%	1.68%	7.24%	5.35%	4.85%	6.06%	12.17%	7.07%
Other	14.59%	14.69%	4.86%	15.84%	17.04%	3.12%	1.33%	2.10%	5.57%
FCAI Code	3.38%	1.84%	4.91%	3.09%	1.19%	1.13%	3.55%	1.87%	4.35%
AANA Food and Beverage Code	0.00%	0.00%	0.37%	1.26%	2.47%	3.08%	6.35%	1.03%	1.09%
AFGC Resp Childrens Marketing Initiative	0.00%	0.00%	0.00%	0.00%	0.00%	0.87%	1.03%	0.16%	0.39%
Quick Service Restaurant Resp Childrens Marketing Initiative	0.00%	0.00%	0.00%	0.00%	0.16%	0.52%	1.48%	0.41%	0.21%
AANA Environmental Code	0.00%	0.00%	0.00%	0.00%	0.00%	0.04%	0.74%	0.21%	0.05%
AANA Advertising to Children Code	0.20%	2.73%	2.95%	0.49%	0.63%	2.34%	1.33%	0.76%	0.00%
TOTAL	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

For statistics prior to 2003, please see the publications section of our website—www.adstandards.com.au

REASON COMPLAINTS FELL OUTSIDE CHARTER (No.) ##

Not an advertisement - Community service announcements	35	61	15	67	99
Not an advertisement - Direct distribution to an individual	11	5	1	1	4
Not an advertisement - Direct mail	19	11	3	4	2
Not an advertisement - Informercial	1	1	0	0	4
Not an advertisement - Internet	30	39	11	9	27
Not an advertisement - Label directions	2	5	1	7	13
Not an advertisement - Local advertising	30	14	21	16	28
Not an advertisement - Loudness of ads	71	12	11	8	11
Not an advertisement - Other	21	48	44	46	11
Not an advertisement - Point of sale	27	29	28	16	15
Not an advertisement - Product name or logo	5	5	0	3	9
Not an advertisement - Product or service	29	92	58	84	126
Not an advertisement - Program content or programming	73	126	13	15	27
Not an advertisement - TV and radio promotional material	144	186	28	18	35
Other - Dissatisfied	0	0	0	88	53
Other - Insufficient information	13	34	23	33	23
Other - Other	37	38	31	32	6
Other - Trivial complaint	4	6	16	5	53
Outside Section 2 - Broadcast timing	104	118	60	33	15
Outside Section 2 - Dislike of advertising	30	25	19	62	185
Outside Section 2 - Other	108	70	89	128	27
Outside Section 2 - Phone sex	0	1	0	7	18
Outside Section 2 - Political advertising	10	11	26	3	3
Specific industry code - Alcoholic Beverages Code	3	2	12	5	14
Specific industry code - Therapeutic Goods Code	1	1	1	0	3
Specific industry code - Weight Management Code	2	2	0	1	3
Withdrawn/Discontinued - Other	13	43	12	32	81
Within Section 1 - Business practices	6	6	1	2	3
Within Section 1 - Compliance with law	15	4	0	1	0
Within Section 1 - Harm to business	0	1	0	1	2
Within Section 1 - Legality	1	11	6	10	3
Within Section 1 - Misleading claim about Australian country of origin/content	0	5	1	0	0
Within Section 1 - Misleading claim of protecting environment	0	0	0	0	2
Within Section 1 - Misleading or deceptive	121	186	45	62	32
Within Section 1 - Misrepresentation	1	6	1	0	2
Within Section 1 - Tobacco	3	8	0	0	2
TOTAL	970	1212	577	799	941

See table below

From 2010, data relating to complaints outside charter is captured in a more detailed form.

For statistics prior to 2003, please see the publications section of our website—www.adstandards.com.au

*REASON COMPLAINT DID NOT PROCEED TO A CASE (No.) ***

Ad not broadcast in Australia	4	7	4	0
ASB complainant dissatisfied	3	2	6	0
Dissatisfied - ASB ineffective enforcement	0	0	0	14
ASB - not pre-screening body	0	0	1	0
ASB Claims Board Competitor	0	0	0	0
ASB public awareness campaign	0	2	1	0
Business practices unethical	0	2	1	1
Community Service Announcement	3	11	0	0
Competition coupons	0	0	0	1
Competitor complaint - ACB matter	0	0	3	1
Dislike of advertising - AMI radio ads	2	0	2	2
Dislike of advertising - AMI TV Ads	14	1	0	0
Editorial	7	5	6	20
Gambling odds in commentary	2	0	2	2
Gambling product - timing TV	0	0	0	83
Insufficient information to identify ad - general	46	56	59	58
Insufficient information to identify ad - adult content	5	1	0	0
Legality	8	10	13	21
Loud ads	7	2	1	0
Misleading truth and accuracy - NOT FOOD	43	118	142	134
Misleading country of origin	0	1	1	1
Not an ad - food packaging	0	6	0	10
RCMI-not an ad in media	0	0	0	2
Not an ad - general	14	61	44	35
Not an ad - point of sale	1	0	0	0
Not an ad - other social media	0	0	0	2
Not an ad - signage on premises	1	2	0	6
Not S2 - ABAC	14	34	31	50
Not S2 - ACMA	0	3	18	11
Not S2 - ADMA	1	0	3	5
Not S2 - inappropriate behaviour	0	0	0	20
Not S2 - disagree with content	0	0	0	80
Not S2 - general	103	262	214	93
Not S2 - dislike advertising	0	0	0	2
Not S2 - freedom of speech	0	0	0	13
Not S2 - grammar in advertisements	0	0	0	3
Not S2 - not discrimination	0	0	0	6
Not S2 - personal issue	0	0	0	18
Not S2 - unfortunate placement	0	0	0	4
Not S2 - use of a personality	0	0	0	2
Not S2 - use of children	0	0	0	2

For statistics prior to 2003, please see the publications section of our website—www.adstandards.com.au

REASON COMPLAINT DID NOT PROCEED TO A CASE (No.) ** ... continued

Overseas complaint	1	0	2	1
Overseas web site with no Aust connection	1	2	0	0
Political advertising	40	180	307	35
Product or service - food	0	4	13	0
Product or service - general	39	98	83	63
Product or service - on radio	4	0	1	0
Programming and content	4	16	11	11
Promotion TV and radio	37	166	161	49
Prohibited online content	0	0	0	5
Subliminal advertising	7	8	7	6
Tasteless advertising	39	44	45	19
Therapeutic goods	0	3	8	12
Timing - cinema	3	1	2	0
Timing - radio broadcast	4	0	2	0
Timing - TV	23	27	42	19
Tobacco advertising	13	4	2	2
Too many ads	3	3	8	9
Unsolicited mail and products	0	1	0	2
Weight management	4	0	3	12
Wicked Campers - need for detailed information	12	2	5	22
Advertisement Withdrawn/Discontinued before case established	108	36	26	109
TOTAL	620	1181	1280	1078

** Following the launch of new Case Management System in March 2010, statistics relating to complaints not proceeding to a case are provided in greater detail.

CONSISTENTLY DISMISSED COMPLAINTS (No.) *

Unlikely interpretation	35	49	51	50
Not of concern to broad community	22	20	9	12
Consistently dismissed issue	18	15	16	29
Consistently dismissed language	12	10	14	17
Incorrect about content	3	5	4	13
Product name	0	8	1	0
Multicultural community	2	5	0	10
Images of food	0	1	6	5
Consistently dismissed - MLA	0	0	0	33
Food / beverage logos	0	0	1	1
TOTAL	92	113	102	170

* Statistics not separately captured prior to 2010

For statistics prior to 2003, please see the publications section of our website—www.adstandards.com.au

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
MEDIA ATTRACTING COMPLAINT (%)											
TV	80.59%	85.33%	84.81%	85.81%	75.10%	68.59%	59.83%	62.25%	44.16%	65.47%	62.10%
Billboard ***								9.69%	26.35%	4.80%	9.59%
Internet	0.00%	0.00%	0.00%	0.25%	1.13%	1.13%	2.58%	7.55%	5.57%	7.84%	5.45%
Print	4.48%	5.47%	4.76%	3.85%	4.08%	4.73%	1.92%	3.56%	4.86%	4.94%	4.54%
Radio	1.69%	1.74%	2.11%	4.10%	2.36%	2.77%	3.12%	1.66%	3.24%	4.09%	3.57%
Transport	0.63%	0.62%	0.45%	1.73%	1.62%	3.64%	2.46%	0.76%	3.67%	1.49%	3.50%
Pay TV	0.00%	0.00%	0.25%	0.18%	0.44%	1.46%	5.61%	2.42%	1.95%	2.90%	3.46%
Poster ***								1.99%	7.43%	1.88%	2.13%
Internet - Social Media										2.59%	1.91%
Outdoor	9.23%	6.28%	6.67%	3.67%	12.80%	16.48%	23.92%	8.40%	1.67%	1.38%	1.55%
Cinema	0.43%	0.50%	0.60%	0.42%	2.46%	0.80%	0.11%	0.43%	0.19%	1.41%	0.79%
Other	0.00%	0.00%	0.00%	0.00%	0.00%	0.40%	0.15%	0.00%	0.00%	0.06%	0.72%
Mail	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.29%	1.28%	0.91%	1.16%	0.69%
Multiple Media	2.95%	0.06%	0.35%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
TOTAL	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

*** Statistics not separately captured prior to 2010. Information on this category aggregated in "Outdoor" category prior to 2010.

ANALYSIS OF CASES BY MEDIA (%) ****

TV	52.12%	42.02%	45.07%	44.13%
Billboard	5.77%	11.55%	8.45%	8.45%
Pay TV	5.77%	5.04%	5.43%	7.98%
Internet	6.73%	6.93%	10.26%	7.04%
Radio	5.96%	6.93%	5.63%	6.81%
Print	9.62%	8.19%	6.44%	5.87%
Poster	4.23%	8.40%	4.02%	5.87%
Transport	2.50%	4.62%	3.82%	5.40%
Outdoor	5.00%	3.15%	4.23%	3.52%
Cinema	1.35%	0.42%	1.41%	2.35%
Internet - Social Media	0.00%	0.00%	3.02%	1.41%
Mail	0.96%	2.73%	2.01%	0.47%
Flying banner	0.00%	0.00%	0.00%	0.23%
App	0.00%	0.00%	0.00%	0.23%
Promo material	0.00%	0.00%	0.00%	0.23%
SMS	0.00%	0.00%	0.20%	0.00%
TOTAL	100.00%	100.00%	100.00%	100.00%

**** This table relates to individual cases, not complaints

For statistics prior to 2003, please see the publications section of our website—www.adstandards.com.au

2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013

PRODUCT CATEGORY ATTRACTING COMPLAINT (%)

Vehicles	15.19%	8.37%	9.92%	5.28%	5.69%	4.81%	6.51%	6.64%	13.92%
Clothing	6.22%	4.31%	2.24%	5.83%	7.69%	7.31%	13.45%	7.44%	8.94%
Food and beverages	20.85%	28.14%	33.25%	14.39%	24.08%	21.92%	18.28%	23.74%	7.99%
Lingerie	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	7.91%
Alcohol	7.07%	3.14%	2.44%	6.38%	4.00%	5.19%	3.78%	3.02%	7.84%
Community awareness	8.02%	12.29%	3.39%	9.29%	5.69%	5.58%	7.14%	6.04%	5.42%
Sex industry	0.00%	0.00%	0.00%	0.36%	4.35%	5.00%	5.67%	2.82%	4.62%
Retail	0.00%	1.17%	1.65%	2.37%	0.33%	1.54%	2.73%	4.23%	4.54%
Toiletries	5.26%	2.86%	2.94%	3.46%	3.51%	7.88%	6.30%	5.63%	4.25%
Restaurants	2.91%	1.17%	5.78%	2.19%	0.50%	0.00%	1.26%	1.81%	4.03%
Travel	1.85%	1.09%	0.15%	2.37%	2.01%	0.96%	0.63%	2.41%	4.03%
Telecommunications	4.51%	2.40%	2.24%	3.46%	3.18%	2.88%	1.47%	1.21%	3.22%
Finance/Investment	2.81%	1.80%	1.30%	2.37%	1.34%	3.46%	0.63%	1.81%	3.15%
Health products	3.46%	7.94%	1.40%	1.46%	4.35%	3.46%	0.84%	3.02%	2.64%
House goods/services	11.18%	2.15%	6.03%	7.65%	6.86%	4.42%	4.20%	4.43%	2.20%
Leisure & sport	1.45%	1.73%	2.14%	1.09%	2.84%	3.85%	1.47%	2.01%	2.12%
Entertainment	0.00%	2.90%	3.09%	3.28%	4.85%	2.88%	7.98%	6.64%	2.05%
Mobile phone/SMS	0.00%	2.44%	2.04%	5.46%	2.17%	0.38%	0.42%	0.00%	1.61%
Gambling	0.00%	0.00%	0.00%	0.73%	1.51%	0.96%	2.94%	2.21%	1.32%
Professional services	2.56%	5.61%	10.77%	5.10%	5.18%	5.38%	5.25%	5.23%	1.32%
Religion/Beliefs	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.25%
Insurance	0.00%	2.97%	2.44%	5.10%	3.51%	3.27%	2.73%	2.82%	1.17%
Real estate	0.00%	0.00%	0.00%	0.55%	1.00%	0.19%	0.84%	0.80%	1.17%
Other	6.67%	5.30%	3.94%	4.74%	2.01%	2.88%	2.10%	1.41%	0.73%
Bars and clubs	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.44%
Toys & games	0.00%	0.00%	0.00%	1.09%	0.67%	0.77%	0.84%	1.01%	0.44%
Automotive	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.37%
Hardware/machinery	0.00%	0.00%	0.00%	1.09%	1.34%	1.35%	1.05%	1.21%	0.37%
Media	0.00%	2.22%	2.84%	3.28%	0.17%	1.54%	0.84%	1.81%	0.29%
Tourist attractions	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.29%
Beauty salon	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.22%
Information technology	0.00%	0.00%	0.00%	0.18%	1.00%	0.77%	0.21%	0.60%	0.15%
Education	0.00%	0.00%	0.00%	0.18%	0.00%	0.96%	0.00%	0.00%	0.00%
Employment	0.00%	0.00%	0.00%	0.00%	0.00%	0.19%	0.00%	0.00%	0.00%
Office goods/services	0.00%	0.00%	0.00%	0.91%	0.17%	0.00%	0.42%	0.00%	0.00%
Slimming	0.00%	0.00%	0.00%	0.36%	0.00%	0.19%	0.00%	0.00%	0.00%
TOTAL	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

METHOD OF COMPLAINT (%)

Fax	6.91%	4.09%	4.56%	2.82%	2.08%	2.71%	2.85%	0.27%	0.05%	0.01%	0.14%
Post	32.65%	25.96%	22.36%	14.47%	13.87%	10.22%	11.85%	11.97%	6.72%	6.34%	10.24%
Online (email until 2006)	60.44%	69.95%	73.08%	82.71%	84.05%	87.07%	85.30%	87.76%	93.23%	93.65%	89.61%
TOTAL	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

For statistics prior to 2003, please see the publications section of our website—www.adstandards.com.au

Appendices

Advertising Standards Board complaints process

Independent review process

AANA Code of Ethics

AANA Code for Advertising and Marketing Communications to Children

AANA Environmental Claims Code

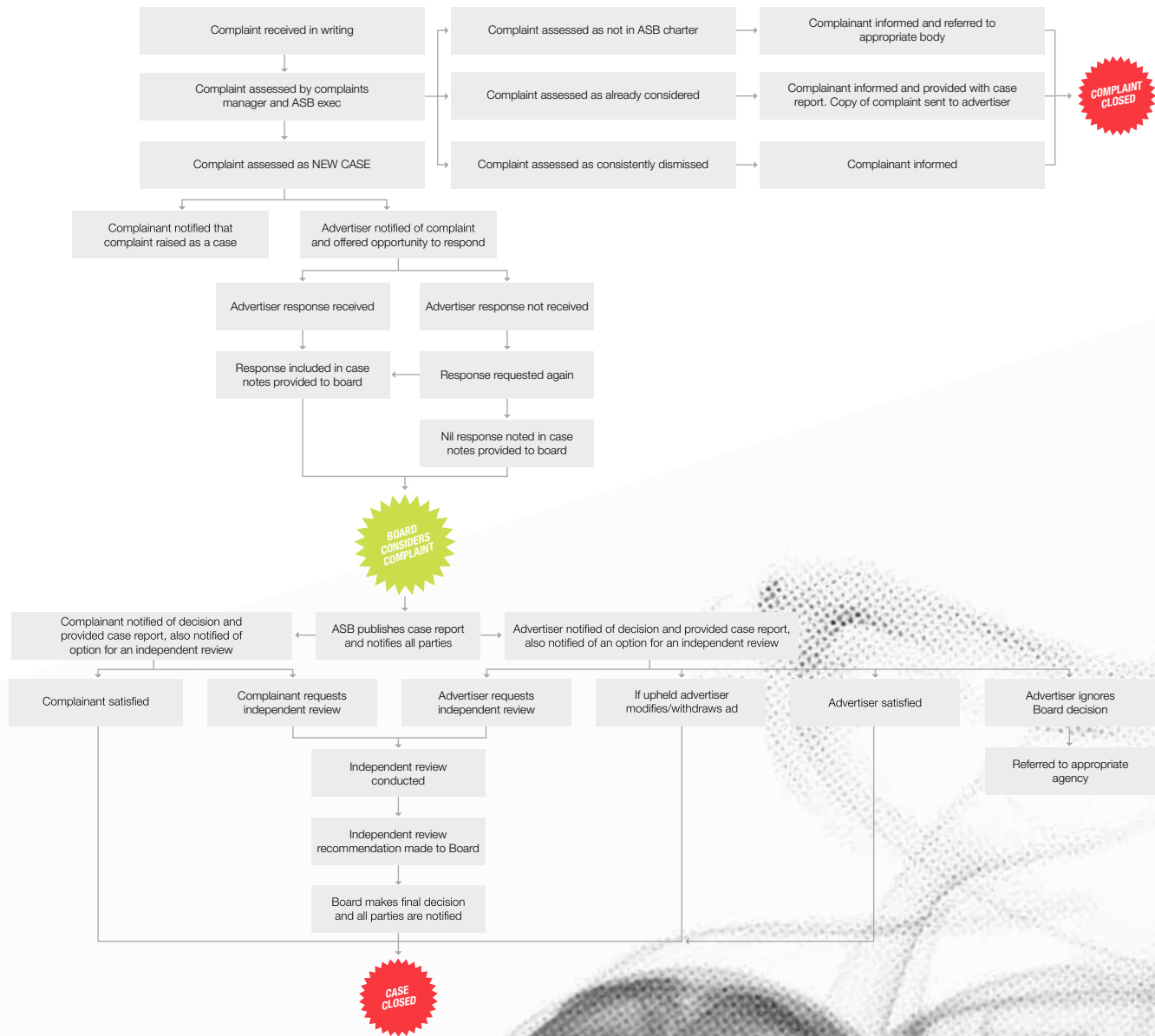
AANA Food and Beverages Advertising and Marketing Communications Code

AFGC - Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry

AFGC - QSR Initiative for Responsible Advertising and Marketing to Children
FCAI Voluntary Code of Practice for Motor Vehicle Advertising

Alcohol Beverages Advertising

Advertising Standards Board complaints process



Independent review process

If people who originally complained about an advertisement or the advertiser are unhappy about a Board determination regarding a particular advertisement, they may ask for a review of the determination.

Who can ask for a review?

People who originally complained about an advertisement and the advertiser are the only people who may request a review. If the complaint was made by an organisation, an advertiser or an industry complainant, the request for review should be signed by a person who, in the opinion of the Independent Reviewer, has the right to bind that organisation.

Requests for review received from people who were not original complainants will not be submitted to the Independent Reviewer and payment will be returned.

Time frame for requesting a review

Requests for review of a Board determination must be received within 10 business days of the date of the ASB's final letter of notification of a determination and must relate to a determination taken by the Board within the previous month. The review process commences on the tenth day following the date of final notification of a determination to account for the possibility of multiple requests.

Grounds for review

Reviews may be undertaken if the request is about at least one or all of the following grounds.

- Where new or additional relevant evidence which could have a significant bearing on the determination becomes available. An explanation of why this information was not submitted previously must be provided.
- Where there was a substantial flaw in the Board's determination (determination clearly in error having regard to the provisions of the Code, or clearly made against the weight of evidence).
- Where there was a substantial flaw in the process by which the determination was made. Since no review will proceed if the point at issue is the subject of legal action between anyone directly involved, requests for review should make plain that no such action is underway or contemplated.

Cost of making a request

The cost of lodging a request for review is \$100 for complainants, \$500 for complainants from not for profit organisations, \$1000 for advertisers who pay the advertising levy and \$2000 for advertisers who do not pay the advertising levy. This payment must accompany a request for review and is not refundable if the Independent Reviewer decides that the request does not meet the grounds for review.

The payment is refundable if the Independent Reviewer accepts the request and the Board changes its original determination.

Making the request

Requests for a review must be lodged via the ASB's online complaints system and must:

- contain a full statement of the grounds
- be in writing
- be accompanied by relevant payment.


Role of Independent Reviewer

In line with international best practice, the Independent Reviewer's role is to assess the validity of the process followed by the Board, or to assess any new material provided by parties to the case.

The Independent Reviewer does not provide a further merit review of a case. Their role is to recommend whether the Board's original determination should be confirmed or be reviewed. It is inappropriate to set up one person as a decision maker in place of a 20 member Board that makes determinations on the basis of community standards.

The Independent Reviewer will first consider whether the application for review sets out a prima facie case for review and will decide to accept or not accept the request.

If the Independent Reviewer decides to accept the request, the Independent Reviewer will undertake appropriate investigation. The investigation will include an invitation for other parties in the case (ie either the complainant(s) whose views were considered by the Board or the advertiser) to comment in writing on the submission provided by the party requesting the review. The Independent Reviewer can request that parties to a case appear in person or by teleconference if necessary.



If the Independent Reviewer decides not to accept the request because they consider that it does not meet any of the required grounds, the person making the request will be informed and no refund will be given.

Following investigation the Independent Reviewer will make a recommendation to the Board, stating whether the Board's original determination should be reviewed or confirmed.

During the review process, the original determination (and any subsequent remedial action or withdrawal of the advertisement) will stand. The ASB will not delay publication of the relevant determination pending the outcome of the review.

What happens after a review

The Independent Reviewer can recommend:

- the Board's determination should be confirmed. There is no further investigation and the Board's original determination remains in place.
- the Board should review its determination. In this situation the case will be referred back to the Board at its next meeting along with the Independent Reviewer's recommendation and any material submitted during the independent review process. The Board must then review its determination in line with any recommendations from the Independent Reviewer. The Board can then either uphold or dismiss the original complaint/s.

The case report for the original case will be revised to include details of the Independent Reviewer's recommendation and, where necessary, the outcome of the Board's review of its determination.

The Board's determination on reviewed cases is final. No further review is possible.

The ASB will inform all parties of the Board's final determination. Determinations that are revised or amended following a review will be published on the ASB website.

AANA Code of Ethics

Objectives

This Code has been adopted by the Australian Association of National Advertisers as part of advertising and marketing self-regulation. Its object is to ensure that advertisements and other forms of marketing communications are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and a sense of fairness and responsibility to competitors.

This Code comes into effect on 1 January 2012. It replaces the previous AANA Code of Ethics and applies to all advertising and marketing communications on and from 1 January 2012.

This Code is accompanied by Practice Notes which have been developed by AANA. The Practice Notes provide guidance to advertisers, complainants and the Advertising Standards Board (Board) in relation to this Code.

Definitions and Interpretation

In this Code, unless the context otherwise requires:

Advertising or Marketing Communications means any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and

- over which the advertiser or marketer has a reasonable degree of control, and
- that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct, but does not include Excluded Advertising or Marketing Communications.

Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product. "Product" is defined in the Code for Advertising & Marketing Communications to Children as follows: Product means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

The Board means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communications.

Children means persons 14 years old or younger and Child means a person 14 years old or younger.

Excluded Advertising or Marketing

Communications means labels or packaging for products, public relations communications (corporate or consumer) and related activities and, in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel or station.

Medium means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, telecommunications, television or other direct-to-consumer media including new and emerging technologies.

Prevailing Community Standards means the community standards determined by the Board as those prevailing at the relevant time in relation to Advertising or Marketing Communications. Prevailing Community Standards apply to clauses 2.1–2.6 below. The determination by the Board shall have regard to Practice Notes published by AANA and any research conducted by the Advertising Standards Bureau.

Section 1 Competitor Complaints¹

- 1.1 Advertising or Marketing Communications shall comply with Commonwealth law and the law of the relevant State or Territory.
- 1.2 Advertising or Marketing Communications shall not be misleading or deceptive or be likely to mislead or deceive.
- 1.3 Advertising or Marketing Communications shall not contain a misrepresentation, which is likely to cause damage to the business or goodwill of a competitor.
- 1.4 Advertising or Marketing Communications shall not exploit community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment which the product or services do not have.
- 1.5 Advertising or Marketing Communications shall not make claims about the Australian origin or content of products advertised in a manner which is misleading.

Section 2 Consumer Complaints²

- 2.1 Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.
- 2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.
- 2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.
- 2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.
- 2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.
- 2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

Section 3 Other Codes

- 3.1 Advertising or Marketing Communications to Children shall comply with the AANA's Code of Advertising & Marketing Communications to Children and section 2.6 of this Code shall not apply to advertisements to which AANA's Code of Advertising & Marketing Communications to Children applies.
- 3.2 Advertising or Marketing Communications for motor vehicles shall comply with the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles.
- 3.3 Advertising or Marketing Communications for food or beverage products shall comply with the AANA Food & Beverages Advertising & Marketing Communications Code as well as to the provisions of this Code.

¹ Complaints under Section 1 are made to the Advertising Claims Board, <http://www.adstandards.com.au/process/claimsboardprocess>

² Complaints under Section 2 are made to the Advertising Standards Board <http://www.adstandards.com.au/process/theprocesssteps>

AANA Code for Advertising and Marketing Communications to Children

This Code has been adopted by the AANA as part of advertising and marketing self-regulation. The object of this Code is to ensure that advertisers and marketers develop and maintain a high sense of social responsibility in advertising and marketing to children in Australia.

1. Definitions

In this Code, unless the context otherwise requires:

Advertising or Marketing Communication means:

- (a) matter which is published or broadcast using any Medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct; or
- (b) any activity which is undertaken by or on behalf of an advertiser or marketer for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct, but does not include Excluded Advertising or Marketing Communications.

Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.

Advertising Standards Board means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communications.

Alcohol Products means products which have some association with alcohol including alcoholic beverages, food products that contain alcohol or other Products that are associated in some way with alcohol including in the sense of being branded in that way.

Children means children 14 years old or younger and Child means a child 14 years old or younger.

Excluded Advertising or Marketing Communications means labels or packaging for Products.

Medium means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, television, telecommunications, or other direct-to-consumer media including new and emerging technologies.

Premium means anything offered free or at a reduced price and which is conditional upon the purchase of a regular Product.

Prevailing Community Standards means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to Advertising or Marketing Communications to Children.

Product means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

2. Code of Practice

2.1 Prevailing Community Standards

Advertising or Marketing Communications to Children must not contravene Prevailing Community Standards.

2.2 Factual Presentation

Advertising or Marketing Communications to Children:

- (a) must not mislead or deceive Children;
- (b) must not be ambiguous; and
- (c) must fairly represent, in a manner that is clearly understood by Children:
 - i. the advertised Product;
 - ii. any features which are described or depicted or demonstrated in the Advertising or Marketing Communication;
 - iii. the need for any accessory parts; and
 - iv. that the Advertising or Marketing Communication is in fact a commercial communication rather than program content, editorial comment or other non-commercial communication.

2.3 Placement

Advertising or Marketing Communications to Children must not be placed in Media where editorial comment or program content, in close proximity to that communication, or directly accessible by Children as a result of the communication is unsuitable for Children according to Prevailing Community Standards.

2.4 Sexualisation

Advertising or Marketing Communications to Children:

- (a) must not include sexual imagery in contravention of Prevailing Community Standards;
- (b) must not state or imply that Children are sexual beings and that ownership or enjoyment of a Product will enhance their sexuality.

2.5 Safety

Advertising or Marketing Communications to Children:

- (a) must not portray images or events which depict unsafe uses of a Product or unsafe situations which may encourage Children to engage in dangerous activities or create an unrealistic impression in the minds of Children or their parents or carers about safety; and
- (b) must not advertise Products which have been officially declared unsafe or dangerous by an unauthorised Australian government authority.

2.6 Social Values

Advertising or Marketing Communications to Children:

- (a) must not portray images or events in a way that is unduly frightening or distressing to Children; and
- (b) must not demean any person or group on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability.

2.7 Parental Authority

Advertising or Marketing Communications to Children:

- (a) must not undermine the authority, responsibility or judgment of parents or carers;
- (b) must not contain an appeal to Children to urge their parents or carers to buy a Product for them;
- (c) must not state or imply that a Product makes Children who own or enjoy it superior to their peers; and
- (d) must not state or imply that persons who buy the Product the subject of the Advertising or Marketing Communication are more generous than those who do not.

2.8 Price

- (a) Prices, if mentioned in Advertising or Marketing Communications to Children, must be accurately presented in a way which can be clearly understood by Children and not minimised by words such as “only” or “just”.
- (b) Advertising or Marketing Communications to Children must not imply that the Product being promoted is immediately within the reach of every family budget.

2.9 Qualifying Statements

Any disclaimers, qualifiers or asterisked or footnoted information used in Advertising or Marketing Communications to Children must be conspicuously displayed and clearly explained to Children.

2.10 Competitions

An Advertising or Marketing Communication to Children which includes a competition must:

- (a) contain a summary of the basic rules for the competition;
- (b) clearly include the closing date for entries; and
- (c) make any statements about the chance of winning clear, fair and accurate.

2.11 Popular Personalities

Advertising or Marketing Communications to Children must not use popular personalities or celebrities (live or animated) to advertise or market Products or Premiums in a manner that obscures the distinction between commercial promotions and program or editorial content.

2.12 Premiums

Advertising or Marketing Communications to Children which include or refer to or involve an offer of a Premium:

- (a) should not create a false or misleading impression in the minds of Children about the nature or content of the Product;
- (b) should not create a false or misleading impression in the minds of Children that the product being advertised or marketed is the Premium rather than the Product;
- (c) must make the terms of the offer clear as well as any conditions or limitations; and
- (d) must not use Premiums in a way that promotes irresponsible use or excessive consumption of the Product.

2.13 Alcohol

Advertising or Marketing Communications to Children must not be for, or relate in any way to, Alcohol Products or draw any association with companies that supply Alcohol Products.

2.14 Privacy

If an Advertising or Marketing Communication indicates that personal information in relation to a Child will be collected, or if as a result of an Advertising and Marketing Communication, personal information of a Child will or is likely to be collected, then the Advertising or Marketing Communication must include a statement that the Child must obtain parental consent prior to engaging in any activity that will result in the disclosure of such personal information.

2.15 Food and Beverages

- (a) Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits.
- (b) Advertising or Marketing Communications to Children must comply with the AANA Food & Beverages Advertising & Marketing Communications Code.

2.16 AANA Code of Ethics

Advertising or Marketing Communications to Children must comply with the AANA Code of Ethics.

AANA Environmental Claims Code

This Code has been adopted by the AANA as part of advertising and marketing self-regulation.

The object of this code is to ensure that advertisers and marketers develop and maintain rigorous standards when making Environmental Claims in Advertising and Marketing Communications and to increase consumer confidence to the benefit of the environment, consumers and industry.

Providing clear, straightforward, environmental information, as outlined in this code, has benefits for consumers and business alike. By providing information about the environmental impacts and qualities of products and services, environmental claims (sometimes called 'green' claims) help consumers make informed buying choices. They also help raise awareness of the issues, enhance consumer understanding and improve product standards overall. At the same time businesses can enhance their credentials and demonstrate to the community at large their willingness to be accountable for upholding these standards.

Principles

AANA supports the following principles for environmental claims.

Claims should be:

- Truthful and factual
- Relevant to the product or service and its actual environmental impacts, and
- Substantiated and verifiable.

Definitions

In this Code, unless the context otherwise requires:

Advertising or Marketing Communication means:

- (a) matter which is published or broadcast using any Medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct; or
- (b) any activity which is undertaken by or on behalf of an advertiser or marketer for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct,

but does not include Excluded Advertising or Marketing Communications.

Advertising Standards Board means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communications.

Authoritative (organisation, initiative, program) means a source of expert information, advice, assistance and includes, but is not limited to, government, industry bodies, scientific/technical organisations, independent certification schemes, international or national standards setting organisations.

Environment includes:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas.

Environmental Aspect means the element of a product, a component or packaging or service that interacts with or influences (or has the capacity to interact with or influence) the Environment.

Environmental Claim means any representation that indicates or suggests an Environmental Aspect of a product or service, a component or packaging of, or a quality relating to, a product or service.

Excluded Advertising or Marketing Communications means a label or packaging for Products.

Medium means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, telecommunications, television or other direct-to-consumer media including new and emerging technologies.

Code of Practice

1 Truthful and factual presentation

Environmental Claims in Advertising or Marketing Communications:

- i. shall not be misleading or deceptive or be likely to mislead or deceive.
- ii. must not be vague, ambiguous or unbalanced.
- iii. must display any disclaimers or important limitations and qualifications prominently, in clear, plain and specific language.
- iv. must be supported by evidence that is current and reflects legislative, scientific and technological developments.
- v. that make any claim relating to future matters or commitments must be based on reasonable grounds.
- vi. must not lead the consumer to conclude a business has voluntarily adopted an environmental practice if that practice has been legally mandated.
- vii. must not imply a product or service is endorsed or certified by another organisation when it is not.
- viii. must represent the attributes or extent of the environmental benefits or limitations as they relate to a particular aspect of a product or service in a manner that can be clearly understood by the consumer. Relevant information should be presented together.

- ix. must reflect the level of scientific or authoritative acceptance of matters relating to any claim; claims should not imply wide acceptance if this is not the case. Where evidence is inconclusive this should be reflected in the Advertising or Marketing Communication.
- x. that use scientific terminology, technical language or statistics must do so in a way that is appropriate, clearly communicated and able to be readily understood by the audience to whom it is directed. Publication of research results must identify the researcher and source reference unless there is an obligation of confidence or compelling commercial reason not to do so.

2 A genuine benefit to the environment

Environmental Claims must:

- i. be relevant, specific and clearly explain the significance of the claim.
- ii. not overstate the claim expressly or by implication.
- iii. in comparative advertisements, be relevant and balanced either about the product/service advertised or class of products or services, with which it is compared.
- iv. not imply that a product or service is more socially acceptable on the whole. The use of Environmental Claims must not reduce the importance of non-environment attributes / detriments of a product or service.
- v. not imply direct relationship to social initiatives of a business where there is no correlation to environmental benefits or attributes or improvements to a product or service.

3 Substantiation

- i. Environmental Claims must be able to be substantiated and verifiable. Supporting information must include sufficient detail to allow evaluation of a claim.
- ii. Environmental Claims must meet any applicable standards that apply to the benefit or advantage claimed.
- iii. The use of unqualified general claims of environmental benefit should be avoided unless supported by a high level of substantiation or associated with a legitimate connection to an authoritative source.
- iv. Environmental Claims and comparisons that are qualified or limited may be acceptable if advertisers can substantiate that the product/service provides an overall improvement in environmental terms either against a competitor's or their own previous products.
- v. Claims relating to sponsorships, approvals, endorsement or certification schemes must be current.
- vi. The use of any symbol or logo must be explained unless the symbol is required by law, or is underpinned by regulations or standards, or is part of an authoritative certification scheme.
- vii. Substantiation information should be readily accessible, or made available in a timely manner in response to a reasonable written request.
- viii. Testimonials must reflect genuine, informed and current opinion of the person giving the testimonial.

September 2009

AANA Food and Beverages Advertising and Marketing Communications Code

1. Definitions

In this Code, unless the context otherwise requires:

Advertising or Marketing Communication means:

- (a) matter which is published or broadcast using any Medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct; or
- (b) any activity which is undertaken by or on behalf of an advertiser or marketer for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct,

but does not include Excluded Advertising or Marketing Communications.

Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for a Children's Food or Beverage Product.

Advertising Standards Board means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer

a public complaints system in relation to Advertising or Marketing Communications.

Average Consumer means a regular adult family shopper able to compare products by label-listed definition.

Children means persons 14 years old or younger and **Child** means a person 14 years old or younger.

Children's Food or Beverage Product means any food or beverage product other than alcoholic beverages as defined in and subject to regulation by the Alcohol Beverages Advertising Code, which is targeted toward and has principal appeal to Children.

Excluded Advertising or Marketing Communications means labels or packaging for Products.

Food or Beverage Products means any food or beverage products other than alcoholic beverages as defined in and subject to regulation by the Alcohol Beverages Advertising Code.

Medium means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, television, telecommunications, or other direct to consumer media including new and emerging technologies.

Premium means anything offered free or at a reduced price and which is conditional upon the purchase of a regular Product.

Prevailing Community Standards means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to the advertising or

marketing of Food or Beverage Products taking into account, at a minimum, the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health and Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.

2. Advertising or marketing communications for food or beverage products

2.1 Advertising or Marketing Communications for Food or Beverage Products shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene Prevailing Community Standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.

2.2 Advertising or Marketing Communications for Food or Beverage Products shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered as excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to Prevailing Community Standards.

- 2.3 Advertising or Marketing Communications for Food or Beverage Products that include what an Average Consumer, acting reasonably, might interpret as health or nutrition claims shall be supportable by appropriate scientific evidence meeting the requirements of the Australia New Zealand Food Standards Code.
- 2.4 Advertising or Marketing Communications for Food or Beverage Products which include nutritional or health related comparisons shall be represented in a non-misleading and non-deceptive manner clearly understandable by an Average Consumer.
- 2.5 Advertising or Marketing Communications for Food or Beverage Products shall not make reference to consumer taste or preference tests in any way that might imply statistical validity if there is none, nor otherwise use scientific terms to falsely ascribe validity to advertising claims.
- 2.6 Advertising or Marketing Communications for Food or Beverage Products including claims relating to material characteristics such as taste, size, content, nutrition and health benefits, shall be specific to the promoted product/s and accurate in all such representations.
- 2.7 Advertising or Marketing Communications for Food or Beverage Products appearing within segments of media devoted to general and sports news and/or current affairs, shall not use associated sporting, news or current affairs personalities, live or animated, as part of such advertising and/ or Marketing Communications without clearly distinguishing between commercial promotion and editorial or other program content.

- 2.8 Advertising or Marketing Communications for Food and/or Beverage Products not intended or suitable as substitutes for meals shall not portray them as such.
- 2.9 Advertising or Marketing Communications for Food and/or Beverage Products must comply with the AANA Code of Ethics and the AANA Code for Advertising & Marketing Communications to Children.

3. Advertising and children

- 3.1 Advertising or Marketing Communications to Children shall be particularly designed and delivered in a manner to be understood by those Children, and shall not be misleading or deceptive or seek to mislead or deceive in relation to any nutritional or health claims, nor employ ambiguity or a misleading or deceptive sense of urgency, nor feature practices such as price minimisation inappropriate to the age of the intended audience.
- 3.2 Advertising or Marketing Communications to Children shall not improperly exploit Children's imaginations in ways which might reasonably be regarded as being based upon an intent to encourage those Children to consume what would be considered, acting reasonably, as excessive quantities of the Children's Food or Beverage Product/s.
- 3.3 Advertising or Marketing Communications to Children shall not state nor imply that possession or use of a particular Children's Food or Beverage Product will afford physical, social or psychological advantage over other Children, or that non possession of the Children's Food or Beverage Product would have the opposite effect.
- 3.4 Advertising or Marketing Communications to Children shall not aim to undermine the role of parents or carers in guiding diet and lifestyle choices.
- 3.5 Advertising or Marketing Communications to Children shall not include any appeal to Children to urge parents and/or other adults responsible for a child's welfare to buy particular Children's Food or Beverage Products for them.
- 3.6 Advertising or Marketing Communications to Children shall not feature ingredients or Premiums unless they are an integral element of the Children's Food or Beverage Product/s being offered.

AFGC – Responsible Children’s Marketing Initiative of the Australian Food and Beverage Industry

Introduction

The Australian Food and Beverage Industry has developed this initiative to demonstrate its commitment to responsible marketing of foods and beverages to children.

The goal is to ensure that a high level of social responsibility in marketing communication and marketing food and beverage products in Australia is maintained.

This initiative will provide confidence in the responsible marketing practices via clear expectations of the form, spirit and context, and a transparent process for monitoring and review of practices. The aim is to provide a framework for food and beverage companies to help promote healthy dietary choices and lifestyles to Australian children.

This Initiative has been developed in collaboration with the AANA as part of the system of advertising and marketing self-regulation in Australia. Signatories to this initiative must also abide by:

- The AANA Code for Advertising & Marketing Communications to Children
- The AANA Food & Beverages Advertising & Marketing Communications Code
- The AANA Code of Ethics

This document outlines the minimum commitments required by signatories. Companies may choose to adopt additional commitments.

Core Principles

Companies participating in this initiative will publicly commit to marketing communications to children under 12, only when it will further the goal of promoting healthy dietary choices and healthy lifestyles.

Each participant will develop an individual company action plan that outlines how they will meet the following core principles:

Advertising Messaging

Participants will not advertise food and beverage products to children under 12 in media unless:

1. those products represent healthy dietary choices, consistent with established scientific or Australian government standards.

And

2. the advertising and/or marketing communication activities reference, or are in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:
 - good dietary habits, consistent with established scientific or government criteria
 - physical activity.

Use of Popular Personalities and Characters

Participants will not use popular personalities, program characters or licensed characters in advertising primarily directed to children under 12 unless such advertising complies with the messaging options set out above. This is in addition to requirements under the Children’s Television Standards 2009 covering C and P periods (CTS section 35).

Product Placement

Participants will commit to not paying for or actively seeking to place their food or beverage products in the program/editorial content of any medium primarily directed to children under 12 for the purpose of promoting the sale of those products unless those products are consistent with healthy dietary choices under #1 above.

Use of Products in Interactive Games

Participants will commit that, in any interactive game primarily directed to children under 12 where the company’s food or beverage products are incorporated into the game, the interactive game must incorporate or be consistent with healthy dietary choices under #1 above and healthy lifestyle messaging under #2 above.

Advertising in Schools

Participants will refrain from product-related communications in primary schools, except where specifically requested by, or agreed with, the school administration for educational or informational purposes, or related to healthy lifestyle activities under the supervision of the school administration or appropriate adults.

Use of Premium Offers

Participants will commit to not advertising premium offers unless the reference to the premium is merely incidental to the product being advertised in accordance with the AANA codes and the Children’s Television Standards 2009 (CTS Section 33).

Individual Company Action Plans

Companies will sign up to this initiative as a minimum commitment and will develop and publish individual Company Action Plans that outline their specific commitments including individual nutritional standards if applicable in order to meet the core principles of this initiative.

Because companies and their product lines vary, the way companies comply with this framework will differ. However, all commitments will be consistent with the core principles outlined in this initiative.

This initiative outlines the minimum commitments required by signatories. Companies may choose to go further if they wish.

Complaints

AFGC and AANA have formulated a transparent public complaints system, managed by the Advertising Standards Bureau.

Sanctions may be imposed on participants who fail to meet their obligations under the terms of this initiative.

Compliance monitoring

Companies are required to report on their marketing communication activities to children on an annual basis. Key criteria have been established to assess how companies' activities meet the core principles outlined in this initiative.

AFGC will be responsible for coordinating the monitoring of company activities on an annual basis to confirm compliance, with resultant reports being made publically available.

Appendix I - Definitions

In this Initiative:

Marketing Communications means

- (a) matter which is published or broadcast using any medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it, to a product, service, person, organisation, or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct;
- (b) any activity which is undertaken by or on behalf of an advertiser or marketer for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct, but does not include Excluded Advertising or Marketing Communications.

Excluded Marketing Communications means labels or packaging for products.

Advertising or Marketing Communications to Children is defined by the AANA Code for Advertising and Marketing Communications to Children and means advertising or marketing communications which, having regard to the theme, visuals, and language used, are directed primarily to children and are for product.

Media means television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to

the theme, visuals, and language used are directed primarily to children.

Children means persons under 12 years of age.

Popular Personalities and Characters means:

- a personality or character from a C program or P program
- a popular program or movie character
- a non-proprietary cartoon, animated or computer generated character
- a popular personality.

Premium means anything offered free or at a reduced price and which is conditional upon the purchase of a children's food or beverage product.

Appendix II - Indicative Television Program List

Under The Responsible Children's Marketing Initiative, participants will not advertise food and beverage products to children under 12 in media unless it meets core principles in relation to advertising messaging.

In this initiative media is defined as: television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to the theme, visuals, and language used are directed primarily to children.

The key to determining whether media or programs are designed for children is whether the themes, visuals, language and concepts are those that are appropriate to children under 12. This includes all P and C programs but there are also a number of G rated programs which, using the criteria outlined above, are considered to be designed for children.

The following list has been provided to illustrate the types of programs covered by the initiative. This list includes all P and C programs, all programs where more than 50% of the audience is children under 12, plus those G rated programs that meet the criteria outlined above as being designed for children.

It should be noted that this is not an exhaustive list. It is indicative only and will be updated from time to time to reflect current programming.

Puzzle Play	M-Barbie Mariposa
Rock it!	Pucca
Hercules	Get Ed
Kid's WB on Nine	The Proud Family
I Got a Rocket	Ben 10
H2O - Just Add Water	Hannah Montana And Miley Cyrus: Best of Both Worlds
G2G: Got to Go	Sea Princesses
Erky Perky	My Friends Tigger and Pooh
Bush Beat	Stanley
Blinky Bill's Around The World Adventures	Flipper and Lopaka - The Search For Neptune's Trident
Holly's Heroes	W.I.T.C.H
Hi-5	Life is Ruff
Faireez	The Backyardigans
Master Raindrop	Yin Yang Yo!
New Macdonald's Farm	Now You See It
Lab Rats Challenge	Doctor Dolittle
Here's Humphrey	The Cat in The Hat
Double Trouble	Stuart Little
Playhouse Disney	Curious George
Dive Olly Dive	Jimmy Neutron: Boy Genius
Totally Wild	Barbie In The Diamond Castle
Pirate Islands 2 - The Lost Treasure Of Fiji	Thunderbirds
The Sleepover Club	The Adventures Of Rocky & Bullwinkle
The Shak	Mickey Mouse Clubhouse
Dora The Explorer	Spy Kids
Go, Diego Go	Free Willy
Saturday Disney	Rugrats Go Wild!
Toon Disney	
Toasted TV	
Sharky's Friends	

AFGC – QSR Initiative for Responsible Advertising and Marketing to Children

1. Statement of intent

Australian Food and Grocery Council (AFGC) Quick Service Restaurant (QSR) Forum has developed this Initiative to demonstrate its commitment to responsible advertising and marketing of food and/or beverages to Children.

The Initiative provides a common framework for QSR companies to ensure that only food and beverages that represent healthier choices are promoted directly to Children and to ensure parents and guardians can make informed product choices for their Children. This Initiative will provide confidence in the responsible marketing practices via clear expectations of the form, spirit and context, and a transparent process for monitoring and review of practices.

This Initiative has been developed in collaboration with the AANA as part of the system of advertising and marketing self-regulation in Australia. Signatories to this Initiative must also abide by:

- The AANA Code for Advertising and Marketing Communications to Children
- The AANA Food and Beverages Advertising and Marketing Communications Code
- The AANA Code of Ethics

This document outlines the minimum commitments required by Signatories. Signatories may choose to adopt additional commitments.

2. Scope

This Initiative captures Advertising and Marketing Communications to Children where:

- The communication is directed primarily to Children (regardless of its placement); and/or
- The Medium is directed primarily to Children (in relation to television this includes all C and P programs and G rated programs that are directed primarily to Children); and/or
- The Medium attracts an audience share of greater than 50% of Children.

This Initiative is underpinned by the definitions of Advertising and Marketing Communications to Children and Medium set out in Article 6.

3. Core principles

Advertising and Marketing Messaging

3.1. Advertising and Marketing Communications to Children for food and/or beverages must:

- (a) Represent healthier choices, as determined by a defined set of Nutrition Criteria for assessing Children's meals (see Appendix 1); and
- (b) Represent a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:
 - i. Good dietary habits, consistent with established scientific or government criteria; and
 - ii. Physical activity.

Popular Personalities and Characters

3.2. Popular Personalities, Program Characters or Licensed Characters must not be used in Advertising or Marketing Communications to Children for food and/or beverages products, unless such Advertising or Marketing Communications complies with the messaging options set out in Article 3.1.

3.3. Material broadcast on free to air television in C and P periods must also comply with the Children's Television Standards section 35.

Product Placement

3.4. Signatories must not pay for the placement of, or actively seek to place, food and/or beverages products in the program or editorial content of any Medium directed primarily to Children unless such food and/or beverage products are consistent with Article 3.1.

Use of Products in Interactive Games

3.5. Signatories must ensure that any interactive game directed primarily to Children which incorporates the Signatory's food and/or beverage products is consistent with Article 3.1.

Advertising in Schools

3.6. Signatories must not engage in any product-related communications in Australian schools, except where specifically requested by, or agreed with, the school administration for educational or informational purposes, or related to healthy lifestyle activities under the supervision of the school administration or appropriate adults.

Use of Premium Offers

- 3.7. Signatories must not advertise Premium offers in any Medium directed primarily to Children unless the reference to the Premium is merely incidental to the food and/or beverage product being advertised.

On-Pack Nutrition Labelling

- 3.8. Nutrition profile information must be provided on packaging wherever possible in respect of those food products usually contained in such packaging to assist parents and guardians to make informed food choices for their Children.

Availability of Nutrition Information

- 3.9. Nutrition profile information must be available on company websites and upon request in respect of all food and beverage products to assist parents and guardians to make informed food choices for their Children.

Children's Sporting Events

- 3.10. Signatories must not give away food and/or beverage products or vouchers to Children as awards or prizes at Children's sporting events unless those products meet the nutrition criteria.

4. INDIVIDUAL COMPANY ACTION PLANS

- 4.1. Signatories must develop and publish individual Company Action Plans for the purposes of communicating how they will each meet the core principles of this Initiative.
- 4.2. All commitments must be consistent with the core principles outlined in this initiative.

5. Complaints and compliance

Complaints

- 5.1. AFGC QSR Forum has agreed that it is appropriate to have an independent body determine complaints under this Initiative. The Advertising Standards Bureau will consider any complaints made under the QSR Initiative.
- 5.2. Signatories must comply with decisions of the Advertising Standards Board.
- 5.3. Sanctions may be imposed on Signatories who fail to meet their obligations under the terms of this Initiative.

Compliance

- 5.4. Signatories must report on their Advertising or Marketing Communications to Children on an annual basis against key criteria.
- 5.5. AFGC is responsible for coordinating the monitoring of company activities on an annual basis to confirm compliance, with resultant reports being made publically available.

6. Definitions

In this Initiative the following terms mean:

Advertising or Marketing Communications

Any material generated by a Signatory which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of a Signatory, and

- Over which the Signatory has a reasonable degree of control, and
- That draws the attention of the public in a manner calculated to promote or oppose

directly or indirectly a product, service, person, organization or line of conduct,

But does not include labels or packaging for products, public relations communications (corporate or consumer) or in-store point of sale material.

Advertising or Marketing Communications to Children

Content

Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products.

Placement

Advertising or Marketing Communications that are placed in Medium that is directed primarily to Children (in relation to television this includes all C and P rated programs and G rated programs that are directed primarily to Children); and/or where the Medium attracts an audience share of greater than 50% of Children.

Child

A person under 14 years of age.

Children

Persons under 14 years of age.

Children's Television Standards 2009

The Australian Communications and Media Authority Children's Television Standards 2009.

Medium

Television, radio, newspaper, magazines, outdoor billboards and posters, emails, interactive games, cinema and internet sites.

Popular Personalities and Characters

- A personality or character from C or P programs; or
- A popular program or movie character; or
- A popular cartoon, animated or computer generated character; or
- A popular personality; or
- A licensed character; or
- A proprietary character.

Premium

Anything offered free or at a reduced price and which is conditional upon the purchase of regular Children's food and/or beverage products.

Signatory

Any company who has agreed to be bound by this Initiative and has submitted their Company Action Plan to AFGC.

Appendix 1 – Nutrition Criteria for Assessing Children's Meals

The nutrition criteria for assessing children's meals, according to the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children, are as follows:

1. Meal composition

- (a) The meal must be comprised of at least a main and a beverage.
- (b) The meal should reflect general principles of healthy eating as defined by credible nutrition authorities.

2. Energy

- (a) The meal must satisfy an energy criteria based on the Nutrient Reference Values¹ for children of different age groups. The maximum energy limits for each target age group are as follows:
 - i. 4-8 years - 2080 kJ per meal
 - ii. 9-13 years - 2770 kJ per meal

3. Nutrients of public health concern

- (a) The meal must not exceed maximum limits as follows:
 - i. Saturated fat - 0.4g per 100kJ;
 - ii. Sugar - 1.8g per 100kJ; and
 - iii. Sodium - 650mg per serve.
- (b) Overall, the average level of saturated fat, sugar and sodium in the meal will be less than what children are currently eating (based on the Children's Survey²).

The nutrition criteria for assessing children's meals have been developed by a team of Accredited Practicing Dietitians in consultation with national guidelines and authorities on children's nutrition. These criteria will be piloted over the next 12 months and updated as required to reflect changes in nutrition science and NHMRC recommendations. Specific details on the nutrition criteria are outlined in a compliance tool provided to signatories of this Initiative.

Appendix 2 – Indicative Television Program List

Under the Initiative, Signatories will not advertise food and/or beverage products to Children unless it meets the core principles in relation to advertising messaging.

The list in Table 1 has been provided to illustrate the types of television programs covered by the initiative. This list includes P and C programs; programs where more than 50% of the audience is children under 14 years; plus those G rated programs that meet the criteria as being directed primarily for children (through the themes, visuals and language used). The list in Table 2 outlines programs that are not covered by the initiative.

Note: these are indicative lists and will be updated from time to time to reflect current programming. The Advertising Standards Board makes the final determination of programs covered by the Initiative.

¹ National Health and Medical Research Council. Nutrient Reference Values for Australia and New Zealand. Canberra: Commonwealth of Australia; 2006.

² Australian Government: Department of Health and Ageing. 2007 Australian National Children's Nutrition and Physical Activity Survey. Canberra: Commonwealth of Australia; 2008.

Table 1: Programs covered by the Initiative

Aladdin	Hi-5	Scope
All for Kids	Holly's Heroes	Sea Princesses
Alvin and the Chipmunks	H2O - Just Add Water	Snake Tales
Animalia	Ice Age	Spit it Out
Animaniacs	It's Academic	SpongeBob SquarePants
Bakugan	Jumping Jellybeans	Stormworld
Ben 10	Kamen Rider Dragon Knight	Sumo Mouse
Blinky Bill	Kid Detectives	Tamagotchi!
Bratz	Kid's WB	The Batman
Bubble Town Club	Kitchen Whiz	The DaVincibles
Camp Lazlo	K9	The Elephant Princess
Castaway	Legend of Enyo	The Fairies
Chaotic	Maddigan's Quest	The Flintstones
Class of 3000	Master Raindrop	The Marvellous Misadventures of Flapjack
Combo Ninos	Magical Tales	The Perils of Penelope Pitstop
Dangermouse	Me and My Monsters	The Replacements
Deadly	Mickey Mouse Clubhouse	The Saddle Club
Dennis & Gnasher	Mortified	The Shak
Dennis the Menace	Oggy and the Cockroaches	The Smurfs
Dex Hamilton	Out of Jimmy's Head	Thunderbirds
Digimon Data Squad	Parallax	Toasted TV
Dive Olly Dive	Penguins of Madagascar	Totally Wild
Dora The Explorer	Phineas and Ferb	Trapped
Erky Perky	Pinky and the Brain	Wurrawhy
Foster's Home for Imaginary Friends	Pokemon	Yin Yang Yo!
Flipper	Power Rangers	Yu Gi Oh! 5D's
GASP	Pyramid	Zeke's Pad
Go, Diego Go	Raggs	
G2G: Got to Go	Saturday Disney	
Handy Manny	Scooby-Doo programs	

Table 2: Programs not covered by the Initiative

Australian Idol	Malcolm in the Middle	The Big Bang Theory
Australia's Funniest Home Videos	Masterchef	The Biggest Loser
Australia's Got Talent	Minute to Win It	The Morning Show
Bewitched	Modern Family	The Nanny
Deal or No Deal	Monster Garage	The Simpsons
Friends	My Kitchen Rules	The Virginian
Futurama	Neighbours	The X Factor
Get Smart	Ready Steady Cook	The Zoo
Here's Lucy	Seinfeld	Today
Home and Away	So You Think You Can Dance	Top Gear
How I Met Your Mother	Sunrise	Two and a Half Men
I Dream of Jeannie	That '70s Show	Wagon Train
Knight Rider	The A-Team	Wipeout

FCAI Voluntary Code of Practice for Motor Vehicle Advertising

Explanatory Notes

Context

The Voluntary Code of Practice for Motor Vehicle Advertising (the Code) has been instituted by the Federal Chamber of Automotive Industries (FCAI) as a means of industry self-regulation of motor vehicle advertising in Australia. The primary purpose of the Code is to provide guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety.

Vehicle occupant protection and road safety are primary concerns for the automotive industry in the design and operation of all motor vehicles supplied to the Australian market. FCAI endorses the National Road Safety Strategy and acknowledges the importance of increased road safety awareness in the Australian community and fully supports the efforts of all relevant Commonwealth, State and Territory authorities to secure this outcome.

Date of Commencement

This revised version of the Code is to be applied to all advertisements for motor vehicles published or broadcast in Australia from 1 July 2004.

Scope and Coverage of the Code

The Code is to be applied to all forms and mediums for advertising of motor vehicles in Australia. This includes television, radio, print media, cinema, billboards and Australian domain internet websites.

Guidance to Advertisers

The FCAI supports a responsible approach to advertising for motor vehicles. FCAI asks advertisers to be mindful of the importance of road safety and to ensure that advertising for motor vehicles does not contradict road safety messages or undermine efforts to achieve improved road safety outcomes in Australia.

Advertisers should ensure that advertisements do not depict, encourage or condone dangerous, illegal, aggressive or reckless driving. Moreover, advertisers need to be mindful that excessive speed is a major cause of death and injury in road crashes and accordingly should avoid explicitly or implicitly drawing attention to the acceleration or speed capabilities of a vehicle.

FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the Code.

In particular, it is noted that use of disclaimers indicating that a particular scene or advertisement was produced under controlled conditions; using expert drivers; that viewers should not attempt to emulate the driving depicted; or expressed in other similar terms, should be avoided. Such disclaimers cannot in any way be used to justify the inclusion of material which otherwise does not comply with the provisions of the Code.

Advertisers should avoid references to the speed or acceleration capabilities of a motor vehicle (for example, "0–100 km/h in 6.5 seconds").

Other factual references to the capabilities of the motor vehicle (for example, cylinder capacity,

kilowatt power of the engine, or maximum torque generated) are acceptable, provided that they are presented in a manner that is consistent with the provisions of the Code.

The Code contains a specific clause (clause 3) relating to the use of motor sport, simulated motor sport and similar vehicle testing or proving activities in advertising. It is acknowledged that motor sport plays a crucial role in brand promotion and the development and testing of crucial technologies, many of which result in safer vehicles.

Accordingly the Code seeks to ensure that advertisers can continue to legitimately make use of motor sport in advertising, provided that care is taken to ensure that depictions of speed, racing and other forms of competitive driving are clearly identified as taking place in this context. FCAI urges also advertisers to avoid any suggestion that depictions of such vehicles participating in motor sport, or undertaking other forms of competitive driving are in any way associated with normal on-road use of motor vehicles.

In addition, it is noted that the Code contains a clause (clause 4) relating to the depiction of off-road vehicles which have been designed with special features for off road operation. This clause provides some limited flexibility allowing advertisers to legitimately demonstrate the capabilities and performance of such vehicles in an off-road context. In so doing however, care should be taken to ensure that all other provisions and the underlying objectives of the Code are still adhered to. In particular, advertisers should be mindful to ensure that advertisements for such vehicles do not involve the depiction of 'excessive' or 'unsafe' speed. Equally, advertisers should avoid portrayal of images of off-road driving which could otherwise be construed as being unsafe.

In interpreting and applying the Code, FCAI asks that advertisers take into account both the explicit and implicit messages that are conveyed by an advertisement. Advertisers should make every effort to ensure that advertisements not only comply with the formal provisions of the Code but are also consistent with the objectives and guidelines expressed in these Explanatory Notes which accompany the Code.

Compliance and Administration

Assessment of compliance with the Code is to be administered by the Advertising Standards Board (ASB). The ASB will review all public complaints made against advertisements for motor vehicles under the terms of the Code.

In administering the Code, the ASB is to give relevant advertisers the opportunity to present such evidence as they deem appropriate in defence of an advertisement under review, prior to making any determination in relation to its consistency, or otherwise, with the provisions of the Code.

The ASB will ensure that all complaints are considered in a timely fashion. As a general rule the panel should finalise its determination within one calendar month of a complaint having been received. Where necessary the ASB may be required to meet more frequently to ensure the timely consideration of complaints.

The ASB will arrange prompt publication of the reasons for all decisions on its website. An annual report on the outcomes of the complaint process will be compiled and published.

Companies may also seek an opinion, from the ASB, on whether the content of a planned advertisement meets the Code, prior to finalisation and release of the advertisement.

FCAI and ASB will work to increase public awareness of the Code and the complaints process.

Consultation

In developing the Code, FCAI has undertaken an extensive process of consultation with a wide range of stakeholders, including representatives of the following:

- (a) The Federal Government and its agencies (including the Australian Transport Safety Bureau);
- (b) Relevant State and Territory Government authorities;
- (c) The National Road Safety Strategy Panel (which comprises representatives of police services, road safety authorities, motoring organisations and industry groups);
- (d) The Australian Automobile Association;
- (e) The Australian Association of National Advertisers; and
- (f) The Advertising Standards Bureau Limited.

1. Definitions

In this Code, the following definitions apply:

- (a) **Advertisement:** means matter which is published or broadcast in all of Australia, or in a substantial section of Australia, for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.
- (b) **Off-road vehicle:** means a passenger vehicle having up to 9 seating positions including that of the driver having been designed with special features for off-road operation, consistent with the requirements of the definition for such a vehicle as provided in the Australian Design Rules (MC category).

An off-road vehicle will normally have 4 wheel drive.

- (c) **Motor sport:** means racing, rallying, or other competitive activities involving motor vehicles of a type for which a permit would normally be available under the National Competition Rules of the Confederation of Australian Motor Sport, or other recognised organising body.
- (d) **Motor vehicle:** means passenger vehicle; motorcycle; light commercial vehicle and off road vehicle.
- (e) **Road:** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.
- (f) **Road-related area:** means an area that divides a road; a footpath or nature strip adjacent to a road; an area that is not a road and is open to the public and designated for use by cyclists or animals; an area that is not a road and that is open to or used by the public for driving, riding or parking motor vehicles.

2. General Provisions

Advertisers should ensure that advertisements for motor vehicles do not portray any of the following:

- (a) **Unsafe driving,** including reckless and menacing driving that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing with road safety or traffic regulation, if such driving were to occur on a road or road-related area, regardless of where the driving is depicted in the advertisement.
- (b) **[Examples: Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor**

vehicle; deliberately and unnecessarily setting motor vehicles on a collision course; or the apparent and deliberate loss of control of a moving motor vehicle.]

- (c) People driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.
- (d) Driving practices or other actions which would, if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation.
- (e) [Examples: Illegal use of hand-held mobile phones or not wearing seatbelts in a moving motor vehicle. Motorcyclists or their passengers not wearing an approved safety helmet, while the motorcycle is in motion.]
- (f) People driving while being apparently fatigued, or under the influence of drugs or alcohol to the extent that such driving practices breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing directly with road safety or traffic regulation.
- (g) Deliberate and significant environmental damage, particularly in advertising for off-road vehicles.

3. Use of Motor Sport in Advertising

Without limiting the general application of clause 2, advertisers may make use of scenes of motor sport; simulated motor sport; and vehicle-testing or proving in advertising, subject to the following:

- (a) Such scenes should be clearly identifiable as part of an organised motor sport activity, or

testing or proving activity, of a type for which a permit would normally be available in Australia.

- (b) Any racing or competing vehicles depicted in motor sport scenes should be in clearly identifiable racing livery.

4. Depiction of Off-road Vehicles

An advertisement may legitimately depict the capabilities and performance of an off-road vehicle travelling over loose or unsealed surfaces, or uneven terrain, not forming part of a road or road related area. Such advertisements should not portray unsafe driving and vehicles must not travel at a speed which would contravene the laws of the State or Territory in which the advertisement is published or broadcast, were such driving to occur on a road or road related area.

Alcohol Beverages Advertising

Preamble

Brewers Association of Australia and New Zealand Inc, the Distilled Spirits Industry Council of Australia Inc and the Winemakers Federation of Australia are committed to the goal of all advertisements for alcohol beverages, other than point of sale material, produced for publication or broadcast in Australia complying with the spirit and intent of this Code.

The Code is designed to ensure that alcohol advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

The conformity of an advertisement with this Code is to be assessed in terms of its probable impact upon a reasonable person within the class of persons to whom the advertisement is directed and other persons to whom the advertisement may be communicated, and taking its content as a whole.

Definitions

For the purpose of this Code:

- **adult** means a person who is at least 18 years of age;
- **alcohol beverage** includes any particular brand of alcohol beverage;
- **adolescent** means a person aged 14–17 years inclusive;
- **Australian Alcohol Guidelines** means the electronic document ‘Guidelines for everyone (1–3)’ published by the National Health & Medical Research Council (NHMRC) as at 1st January 2004.
- **child** means a person under 14 years of age; and
- **low alcohol** beverage means an alcohol beverage which contains less than 3.8% alcohol/volume.

Advertisements for alcohol beverages must:

- (a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly:
 - i. must not encourage excessive consumption or abuse of alcohol;
 - ii. must not encourage under-age drinking;
 - iii. must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
 - iv. must only depict the responsible and moderate consumption of alcohol beverages;
- (b) not have a strong or evident appeal to children or adolescents and, accordingly:

- i. adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
 - ii. children and adolescents may only appear in advertisements in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
 - iii. adults under the age of 25 years may only appear as part of a natural crowd or background scene;
- (c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly –
- i. must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
 - ii. if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement; and
 - iii. must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;
- (d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly:

- i. any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices; and
 - ii. any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;
- (e) not challenge or dare people to drink or sample a particular alcohol beverage, other than low alcohol beverages, and must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content; and
- (f) comply with the Advertiser Code of Ethics adopted by the Australian Association of National Advertisers.
- (g) not encourage consumption that is in excess of, or inconsistent with the Australian Alcohol Guidelines issued by the NHMRC.
- (h) not refer to The ABAC Scheme, in whole or in part, in a manner which may bring the scheme into disrepute.
- ii. the type and/or style of the alcohol beverages offered for sale;
 - iii. a photographic or other reproduction of any container or containers (or part thereof, including any label) in which the alcohol beverages offered for sale are packaged;
 - iv. the location and/or times at which the alcohol beverages are offered for sale; and
 - v. such other matter as is reasonably necessary to enable potential purchasers to identify the retailer or retailers on whose behalf the advertisement is published, must comply with the spirit and intent of the Code but are not subject to any process of prior clearance.

Promotion of alcohol at events

Alcohol beverage companies play a valuable role in supporting many community events and activities. It is acknowledged that they have the right to promote their products at events together with the right to promote their association with events and event participation. However, combined with these rights comes a range of responsibilities. Alcohol beverage companies do not seek to promote their products at events which are designed to clearly target people under the legal drinking age. This protocol commits participating alcohol beverage companies to endeavour to ensure that:

- All promotional advertising in support of events does not clearly target underage persons and as such is consistent with the ABAC standard; and
- Alcohol beverages served at such events are served in keeping with guidelines, and where applicable legal requirements, for responsible serving of alcohol (which preclude the serving of alcohol to underage persons); and
- Promotional staff at events do not promote consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- Promotional staff do not misstate the nature or alcohol content of a product; and
- Promotional staff at events are of legal drinking age; and
- Promotional materials distributed at events

do not clearly target underage persons; and

- Promotional materials given away at or in association with events do not connect the consumption of alcohol with the achievement of sexual success; and.
- Promotional materials given away at or in association with events do not link the consumption of alcohol with sporting, financial, professional or personal success; and
- Promotional materials given away at events do not encourage consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- A condition of entry into giveaways promoted by alcohol companies at or in association with events is that participants must be over the legal drinking age; and Prizes given away in promotions associated with alcohol beverage companies will only be awarded to winners who are over the legal drinking age.

Third Parties

At many events alcohol companies limit their promotional commitments to specified activities. This protocol only applies to such conduct, activities or materials associated with events that are also associated with alcohol beverage companies.

Alcohol beverage companies will use every reasonable endeavour to ensure that where other parties control and/or undertake events, including activities surrounding those events, they comply with this protocol. However non-compliance by third parties will not place alcohol beverage companies in breach of this protocol.

Public Education

This protocol does not apply to or seek to restrict alcohol beverage companies from being associated with conduct, activity or materials that educate the public, including underage persons, about the consequences of alcohol consumption and the possible consequences of excessive or underage consumption.


Internet advertisements

The required standard for advertisements outlined in (a) to (h) above applies to internet sites primarily intended for advertising developed by or for producers or importers of alcohol products available in Australia or that are reasonably expected to be made available in Australia, and to banner advertising of such products on third party sites.

Retail Advertisements

Advertisements which contain the name of a retailer or retailers offering alcohol beverages for sale, contain information about the price or prices at which those beverages are offered for sale, and which contain no other material relating to or concerning the attributes or virtues of alcohol beverages except –

- i. the brand name or names of alcohol beverages offered for sale;



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