



## ADVERTISING STANDARDS BUREAU

TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE BILLBOARDS GOVERNMENT  
POSTERS COMMUNITY DETERMINATION OUTDOOR INDEPENDENT PEOPLE SOCIAL MEDIA RADIO  
ADVERTISERS RESPONSIVE MEMBERS TELEVISION INITIATIVES ACCOUNTABILITY DETERMINATION  
ACCOUNTABILITY STANDARDS INTERNET RELIABLE GOVERNMENT COOPERATING TRANSPORT  
UNITING REPORTS CONSUMERS COMMUNICATING ACCESSIBLE LAISING POSTERS BONDING  
DETERMINATION TRANSPORT EDUCATORS TRANSPARENCY COMMUNICATING SELF-REGULATE  
ACCOUNTABILITY COMMUNITY EDUCATING SELF-REGULATE ADVERTISERS EDUCATING  
LIAISING COMPLAINT DETERMINATION CONSOLIDATING ACCOUNTABILITY BUSINESS  
COMMUNICATING  
INDEPENDENT  
BILLBOARDS  
PARTNERING  
TRANSPORT  
AUTHORITY  
STANDARDS  
TELEVISION  
MERGING

TRANSPARENCY RADIO COMPLAINT PARTNERING  
POSTERS COMMUNITY DETERMINATION OUTDOOR  
ADVERTISERS RESPONSIVE MEMBERS TELEVISION  
ACCOUNTABILITY RESEARCH INTERNET RELIABLE  
UNITING REPORTS CONSUMERS COMMUNICATING  
DETERMINATION TRANSPORT EDUCATORS CODES  
SOCIAL MEDIA

EDUCATORS  
ADAPTABLE  
CONSUMERS  
ASSOCIATING  
BILLBOARDS

COOPERATING ACCOUNTABILITY  
CONSUMERS CINEMA GOVERNMENT INTEGRITY  
SELF-REGULATE BILLBOARDS INDUSTRY LIAISING  
INDEPENDENT PEOPLE SOCIAL MEDIA AUTHORITY  
INITIATIVES ACCOUNTABILITY TRAINING TELEVISION  
GOVERNMENT RADIO STANDARDS BONDING  
ACCESSIBLE LIAISING PEOPLE TRANSPORT  
COMMUNICATING BRIDGING BUSINESS  
POSTERS CODES

## Review of Operations 2015

MERGING RADIO  
ACCOUNTABILITY  
DETERMINATION  
COOPERATING  
SELF-REGULATE  
EDUCATING RADIO  
REPORTS TRANSPORT  
BANNERS CONSUMERS  
COOPERATING BOARDS EDUCATING BUSINESS  
COMMUNICATING COMMUNITY ADAPTABLE  
PARTNERING CONSOLIDATING UNITING  
RADIO RESEARCH RESPONSIVE  
MERGING CINEMA

BANNERS OUTDOOR  
REPORTS CINEMA  
LINKING MEMBERS  
TRANSPARENCY  
DETERMINATION  
CONSOLIDATING  
ACCOUNTABILITY  
SELF-REGULATE  
INDEPENDENT  
ADVERTISERS CINEMA  
ACCESSIBLE RADIO  
INTERNET BRIDGING  
INDUSTRY LINKING  
INTEGRITY TRAINING  
RELIABLE BONDING  
COMPLAINT AUTHORITY



RADIO  
EDUCATING  
BUSINESS  
GOVERNMENT  
DETERMINATION  
TRANSPORT  
BONDING  
SELF-REGULATE  
INDEPENDENT  
BILLBOARDS  
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AUTHORITY POSTERS  
STANDARDS ADVERTISERS BILLBOARDS  
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LIAISING COMPLAINT DETERMINATION CONSOLIDATING  
TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE  
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ADVERTISERS RESPONSIVE MEMBERS TELEVISION INITIATIVES ACCOUNTABILITY  
ACCOUNTABILITY STANDARDS INTERNET RELIABLE GOVERNMENT  
UNITING REPORTS CONSUMERS COMMUNICATING ACCESSIBLE LIAISING  
DETERMINATION TRANSPORT EDUCATORS TRANSPARENCY COMMUNICATING

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# Contents

Who we are 2015	2
Executive reports	8
Achievements	12
Board reports	25
Independent review	67
Statistics	72
Appendices	90

RADIO  
 EDUCATING  
 BUSINESS  
 GOVERNMENT  
 DETERMINATION  
 TRANSPORT  
 BONDING  
 SELF-REGULATE  
 INDEPENDENT  
 BILLBOARDS  
 PARTNERING  
 TRANSPORT  
 AUTHORITY POSTERS  
 STANDARDS ADVERTISERS BILLBOARDS  
 TELEVISION COOPERATING ACCOUNTABILITY  
 MERGING COMMUNICATING SOCIAL MEDIA  
 ACCOUNTABILITY COMMUNITY EDUCATING SELF-REGULATE  
 LAISING COMPLAINT DETERMINATION CONSOLIDATING  
 TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE  
 POSTERS COMMUNITY DETERMINATION OUTDOOR INDEPENDENT PEOPLE  
 ADVERTISERS RESPONSIVE TELEVISION INITIATIVES ACCOUNTABILITY  
 ACCOUNTABILITY STANDARDS INTERNET RELIABLE GOVERNMENT  
 UNITING REPORTS CONSUMERS COMMUNICATING ACCESSIBLE LAISING  
 DETERMINATION TRANSPORT EDUCATORS TRANSPARENCY COMMUNICATING



# Who we are 2015

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 ASB has an ongoing commitment to international best practice in advertising self-regulation and measures its performance in administering Australia's advertising self-regulation system against international standards. The European Advertising Standards Alliance (EASA), the World Federation of Advertisers and the International Chamber of Commerce Consolidated Code of Advertising and Marketing Communication Practice all provide important benchmarks in this area.

The Bureau was established in 1998 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.

In 2015 the ASB administered the following codes of practice:

- Australian Association of National Advertisers (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 (AFGC) Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry
- AFGC 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 in order to provide a seamless complaint lodgement system for consumers.

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
- discriminatory portrayal of people
- concern for children
- portrayal of violence, sex, sexuality and nudity
- advertising to children
- advertising of food and beverages
- advertising of motor vehicles

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.

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

The Advertising Standards Bureau (the ASB) administers a transparent, robust, accessible and fair self-regulation system for advertising.



## Our purpose

The ASB exists to give voice to consumer values and guide industry in maintaining decent, honest advertising aligning with prevailing community values.



## Our vision

The ASB is the foremost authority in Australia for adjudication of complaints about advertising and marketing communications.



## Our values

- Transparency in decision making.
- Accountability to advertisers and the community.
- Responsive to complaints.
- Independent decision making.





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



#### AANA

The Australian Association of National Advertisers is responsible for 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.

ADVERTISERS RESPONSIVE MEMBERS TELEVISION INITIATIVES ACCOUNTABILITY  
POSTERS COMMUNITY DETERMINATION OUTDOOR INDEPENDENT PEOPLE  
TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE  
LAISING COMPLAINT DETERMINATION CONSOLIDATING  
ACCOUNTABILITY COMMUNITY EDUCATING SELF-REGULATE  
TELEVISION COOPERATING ACCOUNTABILITY  
STANDARDS ADVERTISERS BILLBOARDS  
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RADIO  
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BUSINESS  
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DETERMINATION  
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BONDING  
SELF-REGULATE  
INDEPENDENT  
BILLBOARDS  
PARTNERING  
TRANSPORT



# 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. At the establishment of the advertising self-regulation system in Australia, the levy was set at 0.035 per cent, just \$3.50 per \$10,000 of gross media expenditure. On 1 April 2014 the self-regulation levy was set at 0.05 per cent (\$500 per \$1m of media buying).

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<sup>1</sup>. 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 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-regulation system.

Management of the funds is outsourced, with the financial accounts prepared by chartered accountants and audited independently.

## 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
- 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.

<sup>1</sup> Other than payments by some State and Territory departments in their capacity as advertisers.



# Snapshot

## 2015 complaint snapshot

Number of complaints received	4430
Number of complaints made about matters within ASB jurisdiction	1591
Number of complaints made about matters outside ASB jurisdiction	1589
Number of complaints about ads previously considered by the Board	1048
Number of complaints about ads already withdrawn	48
Number of complaints assessed as consistently dismissed complaints	194
Number of complaints unassessed at year end	8

## 2015 breach or not snapshot

Number of ads the Board found consistent with Code and Initiatives	391
Number of complaints about ads found consistent with Code and Initiatives	2228
Number of ads the Board found breached a Code or Initiatives	80
Number of complaints about ads that were found to breach the Code or Initiatives	363

## 2015 ad snapshot

Number of ads complained about	512
Number of cases created but not put forward for consideration by the Board for variety of reasons	11
Number of ads withdrawn by advertiser before consideration by Board	30
Number of ads which were NOT modified or discontinued after a complaint was upheld	13*

\* For a more detailed discussion about compliance with Board determinations see the ACHIEVEMENTS SECTION - Our key result areas - Beneficiaries/Stakeholders.



# Most complained about ads in 2015

1

## 0098/15 Holden Ltd

TV ad features a man driving and complaining about “bloody caravaners”.  
Main issue of concern: 2.5 - Language Inappropriate language  
Dismissed, number of complaints: 161

2

## 0036/15 Ashley Maddison – Avid Life

TV ad features men singing about “looking for someone other than my wife”.  
Main issue of concern: 2.1 - Discrimination or Vilification Gender  
Upheld, number of complaints: 138

3

## 0253/15 Fantastic Snacks Australia

TV ad shows a wife licking chip flavouring off her husband’s lips.  
Main issue of concern: 2.4 - Sex/sexuality/nudity – general  
Dismissed, number of complaints: 85

4

## 0340/15 Unicharm Australasia

TV ad features a woman in a variety of stereotypical scenarios related to having her period.  
Main issue of concern: 2.1 - Discrimination or Vilification Gender  
Dismissed, number of complaints: 76

5

## 0118/15 Sportsbet

TV ad which features a sweaty man wiping himself at the gym.  
Main issue of concern: Other Social Values  
Dismissed, number of complaints: 71

6

## 0208/15 Stan

TV ad refers to a cat as a ‘big pussy’.  
Main issue of concern: 2.4 - Sex/sexuality/nudity – general  
Dismissed, number of complaints: 66

7

## 0026/15 Unilever Australia

TV ad for a hair product which features two men kissing.  
Main issue of concern: 2.4 - Sex/sexuality/nudity – general  
Dismissed, number of complaints: 62

8

## 0326/15 Hyundai Motor Company Australia Pty Ltd

TV ad features a woman flicking her belt at a snake.  
Main issue of concern: 2.3 - Violence Cruelty to animals  
Dismissed, number of complaints: 59

9

## 0291/15 SCA Hygiene Australasia

TV ad featuring people saying “oh sheet”.  
Main issue of concern: 2.5 - Language Inappropriate language  
Dismissed, number of complaints: 56

10

## 0401/15 Edgewell

TV ad features three women trimming bonsai plants in front of their crotches.  
Main issue of concern: 2.4 - Sex/sexuality/nudity – general  
Dismissed, number of complaints: 53



MERGING **BILLBOARDS** TRANSPARENCY **RADIO** COMPLAINT PARTNERING  
ADVERTISERS **POSTERS** COMMUNITY DETERMINATION OUTDOOR  
SELF-REGULATE **RESPONSIVE** MEMBERS **TELEVISION**  
**ACCOUNTABILITY** RESEARCH INTERNET **RELIABLE**  
UNITING REPORTS **CONSUMERS** **COMMUNICATING**  
**DETERMINATION** **TRANSPORT** EDUCATORS CODES  
CONSUMERS **ADAPTABLE** **EDUCATORS** SOCIAL MEDIA  
**COOPERATING** BILLBOARDS ASSOCIATING  
**GOVERNMENT** ACCOUNTABILITY  
**LIAISING** INTEGRITY CINEMA  
INDUSTRY **TRAINING**  
**STANDARDS** PEOPLE  
TRANSPORT **BRIDGING**  
**INDEPENDENT**  
**SOCIAL MEDIA**  
CONSUMERS  
**CODES**

# Executive reports

Chairman's report

CEO's report

ASB Board of Directors



# Chairman's report

In 2015 the ASB continued to administer a world-class complaints system, which continues to produce independent decisions in a short turn-around time while meeting community standards.

The effectiveness of this system relies on the dedication and cooperation of a myriad of people who are integral to ensuring that the self-regulation system continues to meet world's best practice in complaints handling, and I would like to take this opportunity to thank them for their contribution.

As always the support of industry through cooperation and payment of levy continues to be vital to the effective administration of the advertising self-regulation system as a whole. In 2014, the levy increased for the first time since 1998, and this additional funding through 2015 has allowed the system to continue to operate effectively and continue to improve and expand.

As always I would like to thank the hard work and dedication of the Advertising Standards Board. In 2015 the Board continued to make often difficult decisions, unfailing in their duty to uphold community standards in line with the Codes and Initiatives.

I would also like to extend my thanks and admiration to the Bureau Board of Directors who voluntarily offer their time on corporate and strategic matters. This year I would like to make

a special mention of John Sintras who retired from his position of Director after 10 years of dedicated service. I would also like to thank Simon Talbot and Rebecca Boustead for their service to the Board. And a warm welcome to new members David Scribner and Andrew Caie.

My appreciation also to the Independent Reviewers, Ms Victoria Rubensohn AM and Emeritus Professor Robin Creyke, and a special thank you to retiring Independent Reviewer Dr Dennis Pearce AO.

Thank you also to Fiona Jolly and the team at the Bureau, their high quality work and high levels of output ensure the self-regulation system functions at its best. The small team takes on a wide range of roles, including work with community, industry, government and international bodies, as well as management of a world-class complaints management system.

I would also like to extend my personal congratulations and admiration to Fiona Jolly who marked 10 years of service as ASB CEO in 2015. Fiona's contribution to the self-regulation system in Australia cannot be over-stated. Over the past decade the advertising industry has changed dramatically, and Fiona's leadership ensured the self-regulation system was able to quickly adapt to recognise these changes. Throughout the decade Fiona's focus on transparency, accountability and integrity has ensured that Australia's system of advertising self-regulation continues to meet world's best practice.

**Ian Alwill**



# CEO report

The advertising self-regulation system in Australia is built on a strong foundation created in 1998 which has been continuously improved and refined to ensure that it is a strong, independent system in line with international best practice. In 2015 we continued to adapt and work towards making the system even stronger.

The essential foundation of the advertising self-regulation system in Australia is its independence. Determinations about advertising complaints are made by an independent Board, made up of people who do not represent any particular interest group and are individually and collectively clearly independent of the industry.

The independence of the self-regulation system is further ensured through the ASB, which acts as an independent administrator of the complaints system. The Bureau Board of Directors places the highest priority on preserving the integrity of the advertising self-regulation system and insists on absolute separation between the work of the Bureau Board and that of the Advertising Standards Board and the Advertising Claims Board to ensure independent decision making.

Another important element of a complaints system is making sure people know how to complain. In 2015 we introduced our new website, with the design focussed on accessibility

and usability, making sure a simple complaint form was easy to access. The new website also incorporated an accessible mobile design, so people can lodge complaints from their mobiles when and where they see an advertisement they want to complain about.

Conducting on-going research is integral in ensuring that the Advertising Standards Board has a strong understanding of community perceptions about advertising. In 2015 we commissioned new research into community perceptions on advertising directed primarily to children, testing Board decisions against those of the general community. The research found that there was a low level of general concern in the community regarding advertising food and beverages to children. When compared to specific advertisements the research found that the Board's decisions were generally in line with those of the community, and where they weren't the Board had taken a stricter view than that of the community.

The research also showed that while unprompted awareness of the ASB was low, just 5 per cent of respondents, prompted awareness from a list of possibilities was much higher with 42 per cent of respondents indicating they would contact the Board and 36 per cent nominating ASB – some respondents suggested they would contact both the Board and the ASB. The combined total of 78 per cent is consistent with previous research results. This was the first time since the introduction of the ASB that unprompted awareness has been tested, and this gives us a benchmark to work towards improving in future years. We were extremely pleased that over three-quarters (77 per cent) of respondents reported that the role of the ASB was important.

Regular revisions and updates to the Code and definitions are an important part of ensuring the system stays up to date with changing values in the community. In 2015 we continued to work with Australian Association of National Advertisers (AANA) on code development, and as of 1 January 2016 the definition of advertising and marketing communications in the AANA Codes change to include public relations material. This change ensures that all marketing communications material produced by advertisers is in line with community values and subject to the Code.

This year was my 10th year as CEO of the ASB, and in this time I have been privileged to be a part of a constantly adapting system of advertising self-regulation. While we constantly strive to update and adapt all areas of the complaint system, the ASB has always adhered to the basic values of an effective self-regulation system: transparency, accountability, responsiveness and independent decision making. Thank you to everyone that supports the work of the ASB and helps to make the system a strong and effective one.

**Fiona Jolly**



# Advertising Standards Bureau Board of Directors

The Advertising Standards Bureau (ASB) 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 ASB.

The Bureau Board is responsible, with the CEO, for the corporate governance of the ASB. With strategic, financial and operational concerns within its purview, the Bureau Board works to continually improve the operation of the ASB in its role, to promote advertising standards and the self-regulation system and to administer the complaints resolution process 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.

At 31 December 2015, the Board of Directors included six directors.

The role of company secretary is managed by Ms Simone Carton, a member of the ASB staff.

## Bureau Board of Directors

### Ian Alwill

(Member since 2 December 2004)  
Chairman, ASB  
Principal, Alwill Associates

### Hayden Hills

(Member since 2 December 2004)  
Director, ASB  
Chief Financial Officer, KU Children's Services (since May 2015), previously Senior Manager, Advisory, Ernst & Young

### John McLaren

(Member since 10 March 2009)  
Director, ASB  
Managing Director, Black Sheep Advertising

### Victoria Marles

(Member since 13 October 2011)  
Director, ASB  
Chief Executive Officer – Trust for Nature, Victoria

### David Scribner

(Member since 14 April 2015)  
Director, ASB  
Chief Executive, Virgin Mobile Australia

### Andrew Caie

(Member since 5 November 2015)  
Director, ASB  
General Manager, Marketing, Subaru

## Retiring Bureau Board Members

### John Sintras

Director, ASB  
Chairman, Starcom Media Vest Group Australia

### Simon Talbot

Director, ASB  
Chief Executive Officer, National Farmers' Federation

### Rebecca Bousted

Alternate Director for Mr Talbot / Director, ASB  
Director Corporate Relations and Regulatory Affairs, Kellogg (Aust) Pty Ltd

## Meetings

The Bureau Board of Directors met seven times during 2015.

Board member	Position	Meetings eligible to attended	Meetings attended
Ian Alwill	Chairman	7	7
Hayden Hills	Director	7	6
John McLaren	Director	7	5
Victoria Marles	Director	7	5
Andrew Caie	Director	1	1
David Scribner	Director	5	2
John Sintras	Director	4	2
Simon Talbot	Director	0	0
Rebecca Bousted	Alternate for Mr Talbot / Director	1	1







# Achievements in 2015

## Our strategic directions

The Advertising Standards Bureau (the ASB) administers a transparent, robust, accessible and fair self-regulation system for advertising.

### Purpose

The ASB exists to give voice to consumer values and guide industry in maintaining decent, honest advertising aligning with prevailing community values.

### Vision

The ASB is the foremost authority in Australia for adjudication of complaints about advertising and marketing communications.

Our strategic directions cover four key result areas:

- financial
- beneficiaries/stakeholders
- internal business process
- long term development.

## Our key result areas

### Financial

#### *The ASB is financially viable and sustainable*

2015 was the first full year of activity operating under the increased rate of the advertising self-regulation levy. The successful implementation of the levy increase in the first half of 2014 has delivered ASB a stronger financial base without any significant reduction in advertiser financial support. The levy is remitted primarily by media buyers from contributions made by responsible advertisers and paid directly to the administering body the Australian Advertising Standards Council (AASC).

Work continued in 2015 to promote the benefits of the advertising self-regulation system and encourage advertisers to continue their support of the system through payment of the levy. Work to gain levy support of some of Australia's largest advertisers also continued in 2015.

#### *Business funds the system*

Of advertisers in the top 150, 78.8 per cent pay the self-regulation levy (86 per cent of top 50).

The Bureau Board has considered a number of strategies to ensure growth in support of the current levy system, and the ASB continues to work on these initiatives.

"I was satisfied with the degree of detail attended to, although obviously disappointed at the outcome."  
 Male 19-29, complaint dismissed

"The Board dealt with the issue and provided a fair summary of the complaints as well as a detailed explanation of the reasons for their decision"  
 Male 55-65, complaint upheld.

### Beneficiaries/Stakeholders

#### *Concerned community complains to the ASB*

#### **Accessibility of complaints**

As with previous years the ASB continued to invite complainant feedback about the advertising complaint process. A survey sent to all complainants seeks opinions on the overall complaint process, correspondence received, the timeliness of the process and the explanations of the Board's determination in the final case report.

As has been the trend in previous surveys, a majority of complainants were dissatisfied with the final outcome of the Board's deliberation of the case. Of those who completed the survey, 61.5 per cent were dissatisfied with the ASB process. This amount is significantly lower than the 71 per cent of respondents who had their complaints dismissed. It shows that despite not getting the result they initially desired, almost 10 per cent of complainants were happy with the complaints process and felt that their complaint had received a fair hearing.

In response to community feedback, ASB has modified its pre-complaint lodgement questionnaire to remove confusion regarding the acceptance of complaints about alcohol products including broader alcohol marketing collateral.



## Independent research into community perceptions

The ASB commissioned Colmar Brunton to conduct independent research into community perceptions about advertisements directed primarily to children. An online survey of 1,209 people was conducted. Findings showed a high level of agreement between participants and the determinations made by The Advertising Standards Board (the Board). The research highlighted a low level of general concern about advertising toys or food and beverages to children. Also highlighted by the research was that the community finds it difficult to separate the product from the advertisement and will judge whether an advertisement is directed primarily to children depending on the product being advertised.

Although the research results showed that unprompted awareness of the ASB was lower than hoped, this level was similar to levels of awareness

of government organisations. The finding that 77 per cent of respondents considered the role of the ASB important, was pleasing.

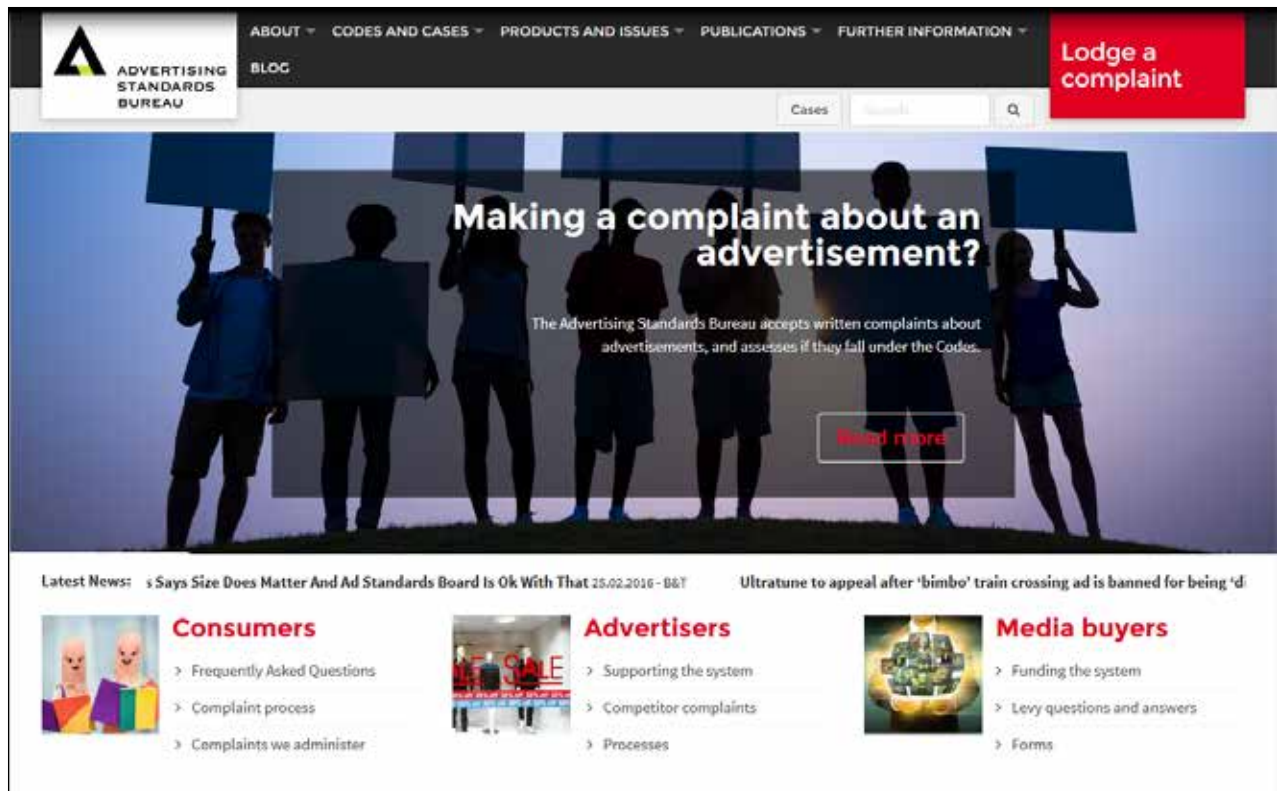
## Public awareness raising

In 2015 the ASB received 4,430 complaints, the second highest number of complaints in the past 10 years, although many less than the record number of complaints received in 2014 (5,735). A jump in complaint numbers in 2014 was attributed to a television public awareness campaign, and a number of high-profile advertisements. In 2015 the higher level of complaints can mainly be attributed to a higher level of awareness raising through traditional channels and greater use of social media channels.

The ASB refined its communications strategy to ensure more direct engagement with advertisers, industry stakeholders, trade press and the media. The strategy, through its engagement with stakeholders, aims to highlight the work of the

ASB, the strengths of the complaint adjudication system and the service provided to the community by the ASB and the Board.

In 2015 the ASB trialed a modest Twitter marketing initiative, promoting the “people like you” campaign to users of the social media platform. The campaign was launched in 2014





and highlighted that members of the Advertising Standards Board are community members and independent of the advertising industry. The advertisement was tweeted along with a link to the ASB website and generated a total of 13,228 impressions over six days. The initiative will be further developed during 2016.

The ASB website was redeveloped in 2015, providing a fresh, dynamic and easy to use online presence. The site was structured more effectively and was redesigned making access to information easier and quicker.

The ASB has enhanced its social media presence and uses these tools to better engage with the community.

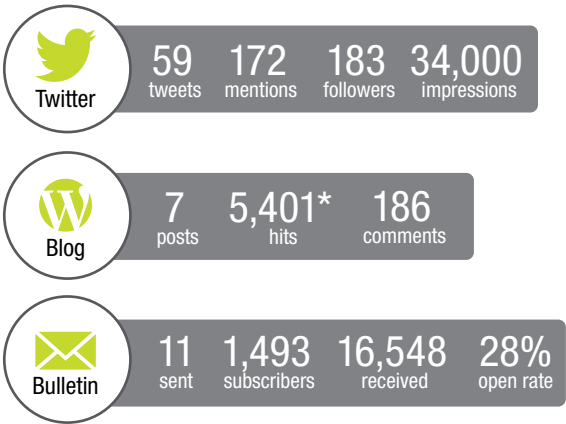
A blog is used to highlight current issues and create greater engagement with the community and advertisers. In the six months between the creation of the new website and blog format in July 2015 and the end of the year, there were just over 5,400 visits to the blog from 4,025 unique users. The most viewed blog post was ‘2015 most complained about ads – so far’ which had 1,747 views from 1,274 users. In 2015 the ASB published seven blog posts which generated 39 comments from community members.

The ASB has created a Twitter account to engage with social media users on this dynamic platform.

Information about ASB publications and research reports is actively and widely distributed, with

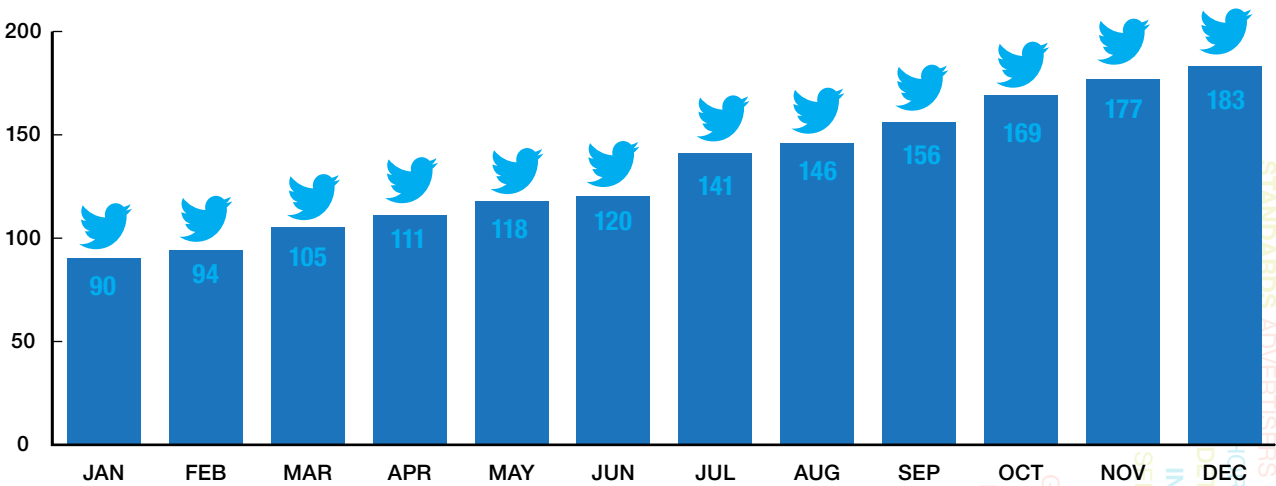
all such documents made publicly available on the website.

The 2014 community awareness campaign, promoting the message that the members of the Advertising Standards Board are independent members of the community, was continued into 2015.



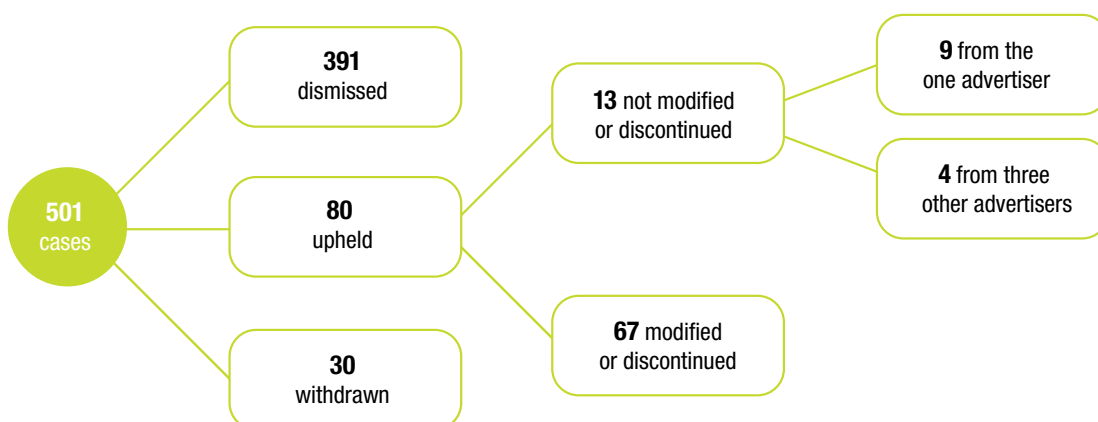
\* Since introduction of new website in July 2015

2015 Twitter followers





RADIO  
 EDUCATING  
 BUSINESS  
 GOVERNMENT  
 DETERMINATION  
 TRANSPORT  
 BONDING  
 SELF-REGULATE  
 INDEPENDENT  
 BILLBOARDS  
 PARTNERING  
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 ADVERTISERS RESPONSIVE MEMBERS TELEVISION INITIATIVES ACCOUNTABILITY  
 UNITING REPORTS CONSUMERS COMMUNICATING ACCESSIBLE GOVERNMENT  
 DETERMINATION TRANSPORT EDUCATORS TRANSPARENCY COMMUNICATING









broadcast, only if the advertiser refuses to voluntarily comply with the Board decision, has continued.

- worked with the Australian Communications and Media Authority (ACMA) and Free TV Australia to refine the pre-complaint lodgment questionnaire, to satisfy ACMA requirements of the revised 2015 FreeTV Code of Practice.
- use of ASB blog posts by the Communications Council in their online newsletter, further raising awareness of the Codes in industry circles.
- the ASB's continued sponsorship of the Media Federation Awards, participation in judging and presentation of an award. The ASB also continued sponsorship of the NGEN program.
- meetings with Google to discuss the new children only YouTube channel and other general issues.

### Government stakeholders understand, support and endorse the ASB

The ASB continues to liaise with government representatives to raise awareness of the advertising self-regulation system. In 2015 meetings were held with:

- Richard Marles MP
- the office of Mark McGowan, Opposition Leader for Western Australia
- Jason Clare MP, Opposition Spokesperson for Communications
- George Christensen, MP

- Minister Michaelia Cash, Minister Assisting the Minister for Women

In 2015, CEO Fiona Jolly, also met with Malcolm Turnbull, in his role as Minister for Communications, about government support of self-regulation and the options it could provide in assisting in cases of non-compliance. The ASB has continued to liaise with Federal and State governments about potential solutions to non-compliance.

The ASB works hard to inform other complaints bodies of the scope and extent of its authority.

This is particularly so in relation to engagement with the Australian Competition and Consumer Commission (ACCC) and Fair Trading/ Consumer Affairs departments in the State/ Territory governments. The ASB has an effective working relationship with the ACCC and has engaged with the ACCC and Fair Trading departments to ensure that their customer support/telephone inquiries personnel are aware of the nature and extent of the Board's charter. This work also assists in providing accurate information to consumers about the best place to raise concerns.

In particular, the ASB works diligently to ensure that ACCC/Fair Trading front line staff understand that Section 2 of the AANA Code of Ethics does not cover all issues of truth and accuracy of advertising and that complaints about the truth and accuracy of advertising rests with the government entities themselves.

In December the ASB met with ACT health representatives, following the ASB's submission to the ACT Government consultation on food and drink marketing submitted on 23 November 2015.

The report *Irk, eek, oh! & really? – 40 years: self-regulation meeting community standards in advertising* was launched at an event held at Parliament House in March. The event was attended by industry representatives, code-owners, current and past Board members and government representatives.







### ***Report launch***

Top left: Advertising Standards Board Member William McInnes, MC for the event  
 Top right: Advertising Standards Bureau CEO Fiona Jolly  
 Bottom left: Advertising Standards Bureau Chairman Ian Alwill  
 Bottom middle: report launch attendees  
 Bottom right: the report





# *Independent research*

## **Community perceptions of advertising directed primarily to children**

In 2015 the ASB commissioned research to explore community perceptions about advertising to children. The research, conducted by Colmar Brunton Social Research, explored the extent to which the Board's decisions were in line with community views.

The research consisted of an online survey of 1,209 Australians, representative of the Australian population in terms of age, gender and location with participants shown 10 advertisements which had previously been considered by the Board.

The research specifically considered what makes an advertisement directed primarily to children and what makes a product have principal appeal for children as per the Australian Association of National Advertisers (AANA) Code for Advertising and Marketing Communications to Children (the Code) and the Australian Food and Grocery Council (AFGC) Responsible Children's Marketing Initiative (RCMI).

## **Research results in brief**

### *General acceptability of advertisements*

Prior to being shown any details of the Code, the majority of respondents deemed most of the television advertisements as acceptable to be broadcast at all times of the day. The only exception to this was an advertisement for underwear, which only 41 per cent of respondents thought was appropriate to be shown on TV at any time.

An internet advertisement which featured an image of a child also had a low level of acceptability, with only 57 per cent of respondents believing it was appropriate to be shown. The level of concern about these advertisements indicates a continuing level of concern about the depiction of children in advertisements. The high level of acceptability for the remaining advertisements indicated a low level of concern about the marketing of toys or food and beverage products to children.

### *Directed primarily at children*

When determining who an advertisement was directed primarily towards, the perceptions of the general public were in line with the Board for six of the 10 advertisements. The public's perceptions were borderline for two of the advertisements and differed from the Board's determination for the remaining two. Where perceptions were different, the public believed the advertisements were not directed primarily to children, and the Board had taken a stricter view in deciding they were.



For all advertisements respondents found that the product was the main factor when determining who an advertisement is directed primarily towards. Respondents believed an advertisement was more likely to be aimed at children if:

- the advertisement contained animation;
- featured a child;
- had design elements (colours and music) which would appeal to children; or
- had themes which would appeal to children.

These factors largely align with factors that are outlined in the AANA's Practice Note for the Code, which the Board currently uses when making determinations.

#### *Section 2.4 Sexualisation*

Two of the advertisements shown to respondents were further considered under Section 2.4 of the Code. While the Board did not originally consider these under the Code, the advertisements were considered under similar provisions of the AANA Code of Ethics.

The perceptions of the general community for both these advertisements were that they breached Section 2.4 of the Code. This aligned with the Board's decisions for only one of the advertisements.

#### *Section 2.7 Parental authority*

The general community found both advertisements considered under Section 2.7 to breach the Code. This was in line with the Board's decision for one of the advertisements. The second advertisement was unable to be compared as the Board had not made a decision under this provision.

#### *Section 2.14 Food and beverages*

One advertisement was considered by respondents under this section of the Code. Both the general public and the Board's decisions were in line for this advertisement, finding that it did not encourage or promote an inactive lifestyle, or encourage or promote unhealthy eating or drinking habits.

### *RCMI*

Respondents were asked to consider two advertisements under the provisions of the AFGC RCMI provisions. Board decisions were in line with community perceptions for one of the advertisements, and differed for the other. A website had been considered by the Board to feature messaging which encouraged good dietary habits and physical activity, but was seen by the general community to not contain such messaging.

#### *Products of principal appeal to children*

In the qualitative stage of the research, 10 images of different products were shown to the two focus groups. They were asked who they thought the product was targeted towards. The decisions of respondents were in line with the Board's decisions for six of the products, mixed for two products and differed from the Board for the remaining two. For both of these remaining products, respondents had found the two products to be targeted towards children, where the Board had previously determined that they were not.

#### *Awareness of ASB and the Board*

Unprompted awareness of the ASB was low, with only 5 per cent of respondents nominating ASB or the Board as someone they would contact with a complaint about advertising. Prompted awareness from a list of possibilities was much higher, with 42 per cent of respondents indicating they would contact the Board and 36 per cent nominating ASB.

Only 5 per cent of respondents stated that they had ever made a formal complaint about advertising, which is consistent with previous research.

Over three-quarters (77 per cent) of respondents reported that the role of the ASB was important.



## Internal business processes

### *Advertising Standards Board makes robust decisions that align with community standards*

The ASB regularly commissions research to test the decisions of the Board against the views of the broader community.

The research program provides vital feedback to the ASB and the Board on considering if Board decisions are broadly in line with or out-of-step with changing community perceptions.

Subject to the availability of resources, the ASB strives to conduct at least one research project each year.

2015 research was conducted in relation to community perceptions of advertising directed primarily to children. Results of this research are discussed in this report.

Members of the Advertising Standards Board attended two training days in 2015. During the training days the Board were given the opportunity to provide feedback on Code issues during a presentation from AANA's Director of Policy and Regulatory, Simone Brandon, as well as a briefing on changes to Free TV Code of Practice from Free TV's Director of Legal and Broadcasting Policy, Clare O'Neil. Information was provided by Colmar Brunton's Managing Director Corey Fisher about the advertising directed primarily to children research results, and a session about the use and history of violence/graphic images in TV advertising was also provided by the Traffic Accident Commission's (Victoria) Manager, Strategy & Programs, Road Safety, Elizabeth Waller.

### *The ASB complaints handling service meets established best practice*

In recent years the ASB has improved the timeliness of the complaint adjudication system. The ASB has invested significant resources in the development of a contemporary business process management system to streamline, automate and control much of the case management and document generation requirements of the complaint adjudication scheme.

The complaint adjudication system is subject to annual benchmarking against international standards, established by the European Advertising Standards Alliance (EASA).

As appropriate, the ASB correspondence to complainants (particularly when the complaint raises issues that are outside the charter of the Board), will refer the complainant to a more appropriate body to ensure an outcome for the complainant.

The ASB accepts complaints referred by industry and media stakeholders as well as those referred by Members of Parliament (state and federal). In particular, television stations regularly forward complaints they receive about advertising concerns.

While ensuring that advertisers are provided adequate natural justice to respond to complaints, the ASB endeavours to obtain timely information from advertisers so that cases can be resolved in the optimal timeframe.

The KPI for timeliness is set at 80 per cent of case completion in 42 calendar days. The actual result during 2015 fell slightly under the target percentage of 80 per cent (78.9 per cent) for Code of Ethics and FCAI complaints. The average number of days to complete all cases was 36.5 days in 2015, which is consistent with previous years, and slightly lower than an average 37 calendar days in 2014.

The Bureau Board agreed that an appropriate benchmark for assessment of ASB's performance

is ASIC Regulatory Guide 139 - approval and oversight of external dispute resolution schemes (RG 139). ASB undertakes an annual internal assessment of compliance against the six key principles forming RG 139. The 2015 review found that ASB has a high to very high level of compliance with these principles.

### *A committed, appropriately skilled and sustainable workforce*

CEO Fiona Jolly received praise from media and international SRO representatives for 10 years of strong and successful leadership of the ASB.

The ASB endeavours to provide a rewarding and challenging work environment while also maintaining a flexible family-friendly workplace. In 2015, staff have met work challenges and family needs through a combination of flexible work options such as working remotely and from home.

Training for staff is identified as part of annual performance setting 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 social media marketing, office administration, legal ethics and in work health safety.

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

### 2015 ASB



**8**  
staff  
3 full-time  
5 part-time



**6.55**  
full-time  
staff equivalent



**11.11%**  
staff gross  
attrition rate  
1 separation in 2015



**6.8**  
years average  
staff tenure



## High standards in governance

Responsibility for the governance of the ASB rests with the ASB's Board of Directors, together with the CEO.

In 2015, the Board of Directors undertook its biennial strategic planning exercise, setting in place the ASB's strategic directions for 2015-17. As part of this exercise, a comprehensive review of the ASB's risk analysis and assessment framework was also undertaken. The risks assessed as "High" are monitored and considered by the Board of Directors at each board meeting.

Governance priorities for 2015-17 aim at ensuring appropriate board policies are in place and adhered to; that regular evaluations of the Board of Directors reflect high standards in governance; and that processes remain in place to ensure the separation between the work of the Board of Directors and the decision making of the Advertising Standards Board.

In 2015, the Board of Directors updated its board policies to reflect best practice in board composition, board rotation and succession planning. New internal reporting processes were also introduced to assist with monitoring the ASB's governance and compliance obligations.

The Board of Directors undertook its first board self-evaluation in 2014, with a second board evaluation scheduled for 2016 using an external facilitator.

All directors complete a conflict of interest declaration annually in accordance with the Board of Directors approved policy and are required to declare conflicts of interest at each meeting. The Board of Directors insists on an absolute separation between its work and that of the Advertising Standards Board and the Advertising Claims Board, as essential to ensuring the independence and integrity of the complaint resolution process of the advertising self-regulation system.

### Credit Where it's Due: Fiona Jolly

October 27, 2015 3:34  
 by SIMON CANNING

*It's a decade since Fiona Jolly was asked to take the reigns of the ad industry watchdog, the Advertising Standards Bureau. It was, at the time, a conflicted, secretive, slow and narrowly focused regulator in need of a jolly good shakeup. Ten years on, she has delivered.*

Australia's system of advertising self-regulation was set up in 1998, emerging from the rubble of the previous system which had been tied to the advertising agency system of accreditation ruled out of date in a Federal Court decision.

The decision left Australia without an advertising regulator for nearly two years as the industry scrambled to develop one of self-regulation, but the version, set up under the guidance of the Australian Association of National Advertisers, was troubled from the outset.

Slow to react, with narrow terms of reference and a chairman who was also a director of the AANA and a public advocate for freedom of commercial speech, the ASB struggled to find true public acceptance.

When she arrived at the helm Jolly was faced with a massive task building industry and public faith in the system at a time when critics were calling for an end to self-regulation.

In under a year Jolly managed to reform the ASB, showing her independence from the AANA as an administrator, broadening the terms of reference of the cases the ASB could hear, adding new members and publishing for the first time the entire catalogue of every complaint ever judged.

Crucially, she also allowed online submissions of complaints for the first time, (and started accepting complaints about online ads) moves that saw the number of complaints to the ASB skyrocket, but also gave consumers faith that the system was meeting their needs.

It was a herculean effort and advertisers learned along with the evolution of the system.

Jolly has also instituted systems to swiftly address complaints about ads that draw large numbers of submissions, bringing an end the days when ads were judged long after their campaigns had ended.



She has run the industry's system of self-regulation during the most dynamic period the industry has ever seen, with an explosion of platforms and advertising formats touching (and offending) consumers in new and unforeseen ways.

Yet the calls for government to step in and regulate the behaviour of advertisers has all but disappeared in that time.

And she continues to adjust the ASB to emerging trends, with public relations now also a part of its remit.

The success of the model has seen the ASB emerge as a global leader in self-regulation and become a model for the region.

If the future under Jolly's guidance is any reflection of her first decade, the industry is in good hands.

Jolly

Article published on <https://mumbrella.com.au> on 27 October 2015



MERGING BILLBOARDS TRANSPARENCY RADIO COMPLAINT PARTNERING  
ADVERTISERS POSTERS COMMUNITY DETERMINATION OUTDOOR  
SELF-REGULATE RESPONSIVE MEMBERS TELEVISION  
ACCOUNTABILITY RESEARCH INTERNET RELIABLE  
UNITING REPORTS CONSUMERS COMMUNICATING  
DETERMINATION TRANSPORT EDUCATORS CODES  
CONSUMERS ADAPTABLE EDUCATORS SOCIAL MEDIA  
COOPERATING BILLBOARDS ASSOCIATING  
GOVERNMENT ACCOUNTABILITY  
LIAISING INTEGRITY CINEMA  
INDUSTRY TRAINING  
STANDARDS PEOPLE  
TRANSPORT BRIDGING  
INDEPENDENT  
SOCIAL MEDIA  
CONSUMERS  
CODES

## Long term development

### *The ASB seeks to consolidate complaint handling systems where relevant*

In December 2014, the ASB made a submission to the Department of Health's Review of Medicines and Medical Devices Regulation, proposing that the ASB assume responsibility for all complaints about therapeutic products to the general public. The submission reiterated proposals made in previous consultations with the Therapeutic Goods Administration and ANZTPA. In June 2015 the ASB attended a meeting with the review panel to outline the proposal. In November 2015 the second and final report of the Review of Medicines and Medical Devices Regulation was released. This report included findings on the advertising framework for therapeutic goods. Recommendation 56 provides:

*The Panel recommends that current mechanisms for managing complaints are disbanded and a new mechanism is established consistent with best practice principles for complaint handling. In establishing the new complaints management mechanism, a single agency should be responsible to receive and manage complaints on the advertising of therapeutic products to the public. The Government should consider the following options: A. establishing the function within the NRA or other existing Commonwealth agency and ensuring appropriate resourcing for the function; or B. calling for tenders from external organisations to undertake the function.*

The ASB attended a stakeholder forum in Sydney on Wednesday 9 December to discuss the second report. Ahead of the meeting the ASB liaised with representatives from AANA, Communications Council, The Newspaper Works and the Australian Self-Medication Industry to discuss the industry approach. The ASB continues to work with industry and government to develop an effective self or co-regulatory system to better meet the needs of all stakeholders.

### *The ASB identifies opportunities to expand remit consistent with international best practice.*

While decisions relating to Code content and application are made by the code owners of the self-regulation system, the AANA, the ASB is actively investigating the feasibility and operational impacts of extending its role to better meet the needs of industry and consumers. This work includes investigations into the possibility of providing copy advice for small businesses which are not members other industry bodies that provide advice to members. The ASB has also investigated the internal challenges and opportunities of broadening the charter of the Board to consider basic complaints about the truth and accuracy of advertising and marketing communications. These investigations are continuing.

### *Business continues to fund the complaint handling system into the future*

The Bureau Board has considered a number of strategies to encourage all advertisers to take part in the levy system.

The ASB continues to work on initiatives and stakeholder engagement around these strategies.

DETERMINATION TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE  
TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE  
POSTERS COMMUNITY DETERMINATION OUTDOOR INDEPENDENT PEOPLE  
ADVERTISERS RESPONSIVE MEMBERS TELEVISION INITIATIVES ACCOUNTABILITY  
ACCOUNTABILITY STANDARDS INTERNET RELIABLE GOVERNMENT  
UNITING REPORTS CONSUMERS COMMUNICATING ACCESSIBLE LIAISING  
TELEVISION COOPERATING ACCOUNTABILITY  
MERGING COMMUNICATING SOCIAL MEDIA  
ACCOUNTABILITY COMMUNITY EDUCATING SELF-REGULATE  
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AUTHORITY POSTERS  
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SELF-REGULATE  
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BILLBOARDS  
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TRANSPORT  
PARTNERING  
RADIO  
BUSINESS  
BONDING



ADVERTISERS POSTERS COMMUNITY DETERMINATION OUTDOOR  
SELF-REGULATE RESPONSIVE MEMBERS TELEVISION  
ACCOUNTABILITY RESEARCH INTERNET RELIABLE  
UNITING REPORTS CONSUMERS COMMUNICATING  
DETERMINATION TRANSPORT EDUCATORS CODES  
CONSUMERS ADAPTABLE EDUCATORS SOCIAL MEDIA  
COOPERATING BILLBOARDS ASSOCIATING  
GOVERNMENT ACCOUNTABILITY  
LIAISING INTEGRITY CINEMA  
INDUSTRY TRAINING  
STANDARDS PEOPLE  
TRANSPORT BRIDGING  
INDEPENDENT  
SOCIAL MEDIA  
CONSUMERS  
CODES

# Board reports

[Board view](#)

[Advertising Standards Board member profiles 2015](#)

[Advertising Claims Board](#)



# The Board's view

## Applying the Codes and Initiatives

When considering complaints about advertising, the Advertising Standards Board is bound by a number of Codes and Initiatives. These Codes include:

- Australian Association of National Advertisers (AANA) Code of Ethics
- AANA Food & Beverages Code
- AANA Code for Advertising & Marketing Communications to Children
- AFGC Responsible Children's Marketing Initiative (RCMI) for the Australian Food and Beverage Industry
- AFGC Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (QSRI)
- FCAI Motor Vehicle Code
- AANA Environmental Claims in Advertising and Marketing Code

## Australian Association of National Advertisers (AANA) Code of Ethics

The majority of cases considered by the Advertising Standards Board fall under the AANA Code of Ethics. The Board considers cases under Section 2 of the Code, which is divided into six sections:

- 2.1 Discrimination and vilification
- 2.2 Exploitative and degrading
- 2.3 Violence
- 2.4 Sex, sexuality and nudity
- 2.5 Language
- 2.6 Health and safety

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

Section 2.1 of the Code states:

*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.*

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.

In 2015 complaints about the issue of discrimination and vilification dropped significantly to just 15.76 per cent from 27.61 per cent of complaints in 2014.

### Discrimination against age

In 2015 the Board considered a number of complaints about discrimination on the basis of age. The Board was of the view that:

- Portraying older people being as sexual beings is not discriminatory when they are portrayed in a positive and active manner.
  - A television advertisement depicting three older women admiring an older man on a beach (Coastline Credit Union – 0306/15).
- Depicting older people taking part in activities that are usually undertaken by younger people is not demeaning.
  - A television advertisement depicting a variety of elderly aged care residents

taking part in a number of activities including getting a tattoo, boxing and making out in the back seat of a car (Freedom Aged Care – 0354/15).

- Advertising which promotes aged care facilities and associated activities is not patronising to elderly patients and can highlight that older people are still people.
  - A television advertisement which featured an aged care worker referring to her clients as 'still having a heartbeat' (McKenzie Aged Care – 0313/15).
- Advertising which raises fears of ageing or negative aspects of aging is not demeaning.
  - A pamphlet which cautioned elderly people to beware the 'boo man', and used cartoon images to depict various health risks of elderly people living at home (Freedom Aged Care – 0073/15).
- Humorous references to stereotypes linked to ageing were appropriate so long as the stereotypes were not demeaning.
  - A television advertisement where characters spoke about elderly people who had gone on holiday, as though they had passed away (Northern Territory Tourism – 0344/15).
  - A print advertisement which stated 'You don't have to love bingo to have a weak bladder' (Johnson & Johnson Pacific Pty Ltd – 0391/15).

### 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 some cases in 2015 and were of the view that several were in breach of Section 2.1.



Determinations the Board made about advertisements they found to be in breach of this Section of the Code include:

- Physically and verbally abusing someone because of a physical disability, even if it's temporary, is not appropriate and constitutes discrimination.
  - A television advertisement featured a man wearing a neck-brace and plaster casts on his arms struggling to eat, being berated by his wife and having a tea-towel thrown at him (Intrustsuper – 0356/15).
- Demeaning a group of people for using a particular device because of their disability constituted discrimination.
  - Three outdoor and transport advertisements depicted a prawn behind someone's ear and the tagline 'hearing aids can be ugly' (Victorian Hearing – 0232/15, 0233/15 and 0234/15).

The Board also considered some advertisements in this area not to constitute discrimination or vilification. The Board was of the view that:

- Personification of an unpleasant topic or idea which may have allusions to physical or mental disabilities does not constitute discrimination on the basis of disability or mental illness.
  - A television advertisement which showed a man who was a personification of home loans annoying a family (Westpac Banking Corporation – 0100/15).
- References to terms related to mental illness to describe someone who is angry, frustrated or acting unusually does not usually amount to discrimination towards people with a mental illness.
  - A television advertisement which used the terms 'crazy' or 'losing it' in association with people expressing frustration at forgetting their wallets (Westpac Banking Corporation – 0297/15).
  - A television advertisement for legal services in which a man says 'my ex is a lying, cheating psycho' (Maatouks Law Group – 0147/15).

## 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.

In advertisements where concerns about discrimination against men had been received, the Board was of the view that:

- The depiction of women admiring men, where the male is depicted as confident and enjoying being admired, does not amount to material which discriminates against or vilifies men.
  - A television advertisement which featured a man cooking in a kitchen wearing only an apron while females comment on what he is doing (Nestle Australia Ltd – 0210/15).
- The use of an attractive naked male, with no genitals visible, in advertising does not constitute discrimination, especially when the nakedness is directly related to the product being sold.
  - A poster (The Body Shop – 0214/15) and social media advertisements (The Body Shop – 0217/15) which featured an image of a naked male torso holding a large hemp shaped soap leaf in front of his genital area.
- Advertising which suggests that women are looking for new partners does not constitute discrimination or vilification against men when the advertising is unclear about the women's current relationship status, and there is no clear endorsement of cheating on a spouse.
  - A television advertisement for a dating website where women sang about wanting 'someone other than my guy' (Ashley Maddison – 0106/15).
- Although some people may consider the discussion of a man's erectile dysfunction to be inappropriate or demeaning, in most cases the use of this topic does not amount to material that is discriminatory to a particular identifiable group of men.
  - A number of erectile dysfunction advertisements were considered in 2015 (Advanced Medical Institute – 0034/15, 0035/15 and 0216/15).
- References to masculine stereotypes are not considered to be discriminating or vilifying of men, where the references are light-hearted and humorous.
  - A television advertisement which features a man who is unable to decide between a meat pie and a sausage roll while a voice-over states that, 'no-one likes a man who sits on the fence' followed by a depiction of two men trying to pass one another on stairs but not being sure which way to move (William Hill – 0111/15).
  - Two advertisements feature a man being 'rescued' from stereotypically female activities by his friends (Mitsubishi Motors Aust Ltd – 0315/15 and 0319/15).
- While concerns are often raised about the depiction of men as incompetent in advertising, in most situations the depiction is viewed as a reflection of the situation in the one advertisement, and does not suggest that this same situation applies to all men, or that it is specific to men.
  - A television advertisement which shows a man avoiding a conversation about health insurance by slowly sinking into a couch (AHM Health Insurance – 0258/15).
- Advertisements for female-only services or activities are legally able to be advertised, and highlighting this key feature in advertising does not amount to discrimination or vilification of men.
  - A transport advertisement for a girls' school which featured the text 'girls learn best together' (Catholic Ladies College – 0164/15).



## Discrimination against women

Complaints concerning discrimination against women generally attract high complaint numbers. 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.

The Board upheld a number of complaints about advertisements for discrimination or vilification of women, and was of the view that:

- Advertising that suggests men should outsource their sexual relationships with their wives to other women amounts to discrimination against wives.
  - A television advertisement which featured men singing 'I'm looking for someone other than my wife' (Ashley Madison - Avid Life - 0036/15 and 0071/15).
- Advertising which compares a woman to animals, and suggests that they should be treated like one amounts to discrimination against women.
  - A print advertisement which featured the text 'Treat a woman like a racehorse and she'll never be a nag' (Quilly Park - 0063/15).

The Board was of the view that a number of advertisements did not constitute discrimination or vilification of women, determining:

- The amount or type of clothing a woman is wearing in an advertisement often causes concern in the community, however when that clothing is related to the product being sold this depiction does not amount to discrimination or vilification so long as the women are not depicted in an overly sexualised manner.
  - A television advertisement for boat trailers which used a close-up of a woman in a bikini to attract attention to the advertisement (Barracuda Boat Trailers - 0022/15).
  - Advertisements for underwear or fashion which depict models in the clothes being sold include: Pacific Brands Holdings Pty Ltd (0002/15, 0177/15, 0271/15 and 0373/15), Seafolly Pty Ltd (0209/15),

Lonsdale London (0256/15), Woolworths Supermarkets (0329/15) and David Jones Ltd (0402/15).

- Advertisers are free to use whomever they choose in an advertisement, and that choosing to use attractive women is not discriminatory towards women.
  - Advertisements where attractive women were used to draw attention to the product being sold include: Hyundai Motor Company Australia Pty Ltd (0326/15), Urban Purveyor Group (0360/15), Virtual Scaffolding (0399/15), Edgewell (0401/15 and 0416/15), Breitling Oceania Pty Ltd (0434/15) and Vitaco Health Australia Pty Ltd (0441/15).
- Advertisements which show men admiring women do not amount to discrimination of women when the men's actions are depicted as appreciative rather than threatening and the women react positively to the attention.
  - Advertisements which showed men looking at, or commenting on the attractiveness of women include: Coca-Cola South Pacific (0296/15), Cosmetic Elegance (0321/15), Urban Purveyor Group (0359/15) and Rejuvenate Wellness Centre Rockhampton (0378/15).
- Advertising which features the phrase 'designer vagina' does not demean women and does not suggest that all women need or should need a 'designer vagina'.
  - A print advertisement which featured the text, 'Why is everyone talking about the Designer Vagina?' (SKYN - 0018/15).
- The use of the phrase 'going down' in relation to someone's wife, in a light-hearted and flippant joke in the context of a much longer advertisement was not seen to be demeaning or discriminatory to women or men.
  - An internet advertisement which featured office workers behaving as though they are at the cricket, including a scene which featured a man giving a presentation and stating that performance is going down, with another man calling out, 'So is your wife!' (Sportsbet - 0119/15).

- The use of a derogatory term about a particular woman in an advertisement, did not amount to a depiction that discriminates against or vilifies a person on account of gender.

- A television advertisement for legal services in which a man says 'my ex is a lying, cheating psycho' (Maatouks Law Group - 0147/15).
- A light-hearted comment about timing in relation to a pregnant bride was not a suggestion that getting married is a poor choice but simply that the timing may not be ideal as the bride is pregnant on her wedding day, and does not amount to discrimination or vilification of pregnant brides.
  - A billboard advertisement which showed a pregnant bride and the text 'You can't perfectly time everything' (BPAY Pty Ltd - 0161/15).
- The use of female stereotypes, when not used in a negative way, does not amount to discrimination or vilification.
  - A television advertisement which featured a woman describing a plate sale and comparing it to shopping (Ford Motor Co of Aust Ltd - 0056/15).
  - Television advertisements for a woman's sanitary product which showed a female character in a variety of stereotypical scenarios associated with having her period (Unicharm Australasia (VIC) - 0340/15 and 0343/15).

## 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 focus on the use of stereotypical portrayals and accents representative of different nationalities.

In 2015 the Board determined a number of advertisements breached the Code in this area. The Board was of the view that:

- The casual use of a word with important social and cultural meaning amounts to discrimination and vilification.



- A television advertisement which used the phrase 'highway corroborree' (Subaru – 0037/15).
- Depictions and imagery which is likely to give a negative depiction of people of particular race, ethnicity or nationality are seen to be discriminatory and vilifying.
  - An advertisement depicted three men dressed in Australian paraphernalia representing overseas air conditioning brands 'trying' to be Australian (Actron Air – 0081/15 and 0082/15).
  - A billboard advertisement featured a power point with a Kung Fu style bandana across the top making it look like a face, and the words 'Kill Bill' (powershop.com.au – 0453/15), the Board noted the term 'power point' can be used as an offensive and derogatory term to describe a person of Asian descent.

The Board also dismissed a number of complaints relating to discrimination in this area. The Board was of the view:

- The use of Kung Fu noises or Kung Fu fighting does not amount to a depiction that is negative or demeaning and does not discriminate against or vilify a person or section of the community on account of race.
- A television advertisement with 'Kung Fu' themes and referenced a 'war' on prices (Centralian Motors – 0301/15).
- Depictions of other cultures or cultural activities in advertisements can often receive complaints, when complainants believe that a depiction is insensitive or incorrect, however when the depiction is not negative this does not amount to discrimination.
- A television advertisement which showed a tribesman in the jungle describing a woman washing her hair (Procter & Gamble Australia Pty Ltd – 0472/15).
- A Facebook advertisement for travel which included a depiction of a native South African woman with missing teeth (South African Tourism Australasia – 0148/15).

- A television advertisement which showed a caucasian man dressing in different traditional clothes and using greetings in other languages (iSelect Pty Ltd – 0061/15).
- Humorous and light-hearted comments which allude to Asian culture, but do not make any comments about people from Asia, do not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of their race.
- A television advertisement which featured a voice-over promoting gambling odds for the Asia Soccer Cup and the phrases, 'You'll love this long time' and 'you download' (Sportsbet – 0070/15).
- Advertisements which use people of different ethnicities with positive roles are not disparaging to any person.
- A television advertisement which showed people in a number of roles, including a Caucasian woman 'volunteer' waving at another woman of African descent (Australian Pensioners Insurance Agency – 0454/15).
- Although the use of the Haka for commercial gain is not allowed in New Zealand this legislation does not apply in Australia and the broad Australian community is unlikely to interpret the use of the Haka in advertising as discriminatory or vilifying of a particular race or culture.
- A television advertisement showing a man performing a Haka in a store, surprising two boys (7-Eleven – 0477/15).

### Discrimination against religion

In 2015 the Board determined that one advertisement breached this provision of the Code. The Board was of the view:

- The suggestion that a priest would engage in sexual relationships with animals or children was seen by the Board to be vilifying towards members of a religious order.
- An advertisement on the side of a camper van read '70% of priests who've tried camels prefer young boys' (Wicked Campers – 0105/15).

The Board also considered a number of advertisements to not breach this provision of the Code and was of the view:

- The replication of well-known quotes about social or political issues, when not a negative statement about a person or section of the community, do not constitute discrimination or vilification.
  - An advertisement on the side of a campervan which read 'When you think about it, Adolf Hitler was the first pop star – David Bowie' (Wicked Campers – 0130/15).
- Where phrases or words are not clear, complainants sometimes interpret them to be blasphemous, however if it is not clear what is actually being said the advertisement is not discrimination or vilification of religion.
  - A television advertisement for a grocery store which featured a man in a chicken suit falling off a chair and cursing, with the curse words beeped out (Aldi Australia – 0270/15).

### Discrimination against sexual preference

The Board upheld complaints against one advertisement for discriminating or vilifying a person or section of the community on account of sexual preference. The Board was of the view that:

- Singling out gay men as different to other men and labelling their behaviour in a manner which is offensive amounts to vilification on the basis of sexual preference
- An advertisement on a camper van with the phrase 'Gay guys settle disputes by going outside and exchanging blows' (Wicked Campervans – 0040/15).

The Board also dismissed a number of complaints about advertisements under this provision of the Code, finding:

- Advertising showing two men, or two women kissing often receives large numbers of complaints, however this alone does not depict material in a way which discriminates against or vilifies a person or section of the community on account of sexual preference.



- A television advertisement for hair products which featured a brief scene of two men kissing (Unilever Australasia – 0026/15).
- The term 'straight up' in conjunction with imagery of a same-sex couple is not of itself discriminatory on the basis of sexual preference.
- A billboard advertising a scrap yard which featured two men wearing cowboy hats and a mountain range and the text, 'Our service is straight up Brokescrap Mountain' (St. George Scrap Metal – 0058/15).
- Light-hearted humour in situations involving male closeness is not homophobic and does not amount to a derogatory sentiment toward homosexual men.
- A television advertisement where two women place two sleeping men in an embrace on the lounge and the women sit on the floor (Mars Confectionery – 0088/15).

### 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. No complaints were upheld under this provision in 2015.

The Board dismissed a number of complaints about advertisements in this area, and was of the view that:

- Showing images of healthy, fit people in relation to weight-loss and dieting products does not amount to discrimination or vilification of people who are overweight or unhealthy.
- A television advertisement relating to weight loss which showed before and after images and testimonials (Pharmabrand Labs – 0025/15).
- A television advertisement for a meal delivery service which featured a testimonial from a woman about her weight-loss journey and states, 'If you're

healthy and happy you're a much better mother and worker (Mitchell's Quality Foods – 0265/15).

- Advertising which uses overweight actors in humorous situations, does not amount to discrimination if their weight isn't highlighted or isn't an integral part of the advertisement.
- A television advertisement which depicted a woman in a neck-brace unable to look away as an overweight man in his underwear bends over in front of her (AAMI – 0031/15 and 0032/15).

### Discrimination on the ground of lifestyle choices

The Board upheld one advertisement in 2015 under this provision. The Board was of the view that:

- It is discriminatory to present people who have not yet had sexual intercourse in a negative manner.
- An advertisement on the side of a van which included the words 'virginity is curable' (Wicked Campers – 0003/15).

### Discrimination on the ground of occupation

The Board considered one advertisement under this provision in 2015. The Board dismissed the complaint and was of the view that:

- Generalised statements about a particular industry, that are light-hearted and not the focus of the advertisement, do not constitute discrimination.
- A radio advertisement which highlighted that a car dealership provides a female friendly purchase experience for customers, and included a description of car salesmen as 'chauvinistic baboons' (Berwick Chrysler Jeep – 0290/15).

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

### Section 2.2 of the Code states:

*Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.*

This Section takes into account the depiction of children, men and women in advertising and requires that the advertisement use sexual appeal in a manner that is both exploitative and degrading in order to be in breach of the Code. Common complaints under Section 2.2 of the Code focus on use of women's bodies and use of women as sexual objects, and concerns about relevance images may have to the product or service advertised.

Since the introduction of the exploitative and degrading Code Section in 2012, complaint percentages have ranged from 13.98 per cent in 2012 to a low in 2015 of 4.6 per cent.

### 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 2015 only one advertisement was considered by the Board which raised issues of exploitative and degrading images of children. The Board's view was:

- Advertising which depicts children in swimwear, in an appropriate context, where the clothing and pose of the child is not sexualised and there is no undue focus on their body is not exploitative and degrading.
- A television advertisement featured a brief scene showing a family playing in a stream, which included a young girl in a swimsuit (Toyota Motor Corp Aust Ltd – 0188/15).



## Men

In 2015 the Board considered a number of advertisements under Section 2.2 involving the depiction of men. Complaints regarding discrimination or vilification of men are also captured under Section 2.1 of the Code and the use of sex, sexuality and nudity is considered under Section 2.4.

The Board dismissed complaints in this area, and was of the view that:

- Females admiring or commenting on the attractiveness of males is not exploitative or degrading of the male, if they are depicted as confident and enjoying the attention.
- A television advertisement depicted a topless man wearing an apron cooking while two female voice-overs make appreciative comments, supposedly about the food (Nestle – 0210/15 and 0242/15).
- Advertising which shows attractive men shirtless or naked – so long as they are not depicted in an overly sexualised manner and their genitals are covered – may be exploitative but where the men are shown in a positive manner, it is not degrading.
- An advertisement on both social media and as a store window poster which depicted a naked man holding a large soap in the shape of a hemp leaf in front of his genitals. The accompanying text read ‘get your hands on the good stuff’ (The Body Shop – 0214/15 and 0217/15).
- Internet advertisement which showed an attractive man by a pool lifting weights (Vitaco – 0419/15).
- A transport advertisement which showed a woman posing and pretending to pinch the bottom of a man standing behind her (Vitaco – 0442/15).

## Women

### *Upheld complaints*

In 2015 the Board found three 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. The Board’s view was:

- Images of naked women or women in lingerie, in sexualised poses, which have no relevance to the product or service being promoted, are exploitative and degrading.
- A transport advertisement for a concreting business which depicted an illustrated naked woman wearing nothing other than knee high, bright pink, high-heeled boots (Willycrete – 0316/15).
- An internet advertisement for motorcycle parts which featured a motorbike and a woman in black lingerie and high heels. A large speech balloon reads ‘we dispatch stock within 48 hours’ (Metropolitan Motorcycle Spares – 0425/15).
- A print advertisement which featured an image of two women in lingerie lying horizontally with one woman on top of the other (Metropolitan Motorcycle Spares – 0424/15).

### *Relevance to product*

Advertisers should use caution depicting sexualised or nude images when there is no direct relevance to the product. Most advertisements considered under Section 2.2 of the Code are also considered under Section 2.4, and while an advertisement may not breach one of the sections it may breach the other.

The Board’s view was:

- When a woman is depicted in swimwear or underwear, and it is directly relevant to the product being sold, it is not degrading so long as the woman is depicted in a positive light and her pose is not overly sexualised.
- A television advertisement for boat trailers which used a close-up of a woman in a bikini to attract attention to the advertisement (Barracuda Boat Trailers – 0022/15).

- A television advertisement which featured a female presenter promoting care of tattoos, and compares looking after tattoos to looking after paintwork on a car (Pharmacare Laboratories – 0068/15).
- A large banner which featured a cartoon image of a woman in a bikini, tool belt, work boots and hat with a speech bubble reading, ‘We’ll get it up for you!’. The text next to the woman reads, ‘VIAGRA Scaffolding Services’ (Virtual Scaffolding – 0399/15).
- An outdoor advertisement for a health food bar, which showed a woman in a bikini bottom covering her breasts with her arm and the text ‘no naughty bits’ (Vitaco – 0441/15).
- It is reasonable to depict attractive models in costumes associated with brands or products being sold, and while it may be exploitative to use women in this way, when they are portrayed in a positive light it is not considered degrading.
- A social media advertisement which depicted two women dressed in branded outfits with the product being sold and the text ‘two is always better than one’ (Monster Beverage Corporation – 0084/15).
- A number of advertisements for a Munich-style restaurant, including promotions for Oktoberfest which generally depicted women in traditional German costumes with low-cut tops and steins of beer (Urban Purveyor Group – 0142/15, 0182/15, 0183/15, 0184/15, 0185/15, 0238/15, 0239/15, 0275/15, 0276/15, 0359/15, 0360/15, 0388/15, 0405/15 and 0420/15).
- A cinema advertisement which depicted two women wearing rubber entering a tyre store with the accompanying tagline ‘we’re into rubber’ (Ultratune – 0155/15).
- A television advertisement for a computer game, which features a female character in a revealing costume providing guidance to a group of men on how they can succeed in the game (0221/15 – Machine Zone).



- Two advertisements for a men's watch brand which is well-known for its relationship to the aviation industry, which depict women in costumes reminiscent of the war era (Breitling Oceania Pty Ltd – 0339/15 and 0434/15).
- Images which involve women and men in consensual sexual poses is not considered degrading, however may breach other sections of the code.
  - An advertisement on the outside wall of a hydroponics store which features a naked man lying on his back with a naked woman straddling him (Glandore Hydro – 0288/15).
- It is reasonable for advertisers to focus on the parts of women associated with the product they are promoting, and it is not exploitative or degrading to do so.
  - A television advertisement for women's sanitary products which depicts women's bottoms while the women engage in a range of activities, including jogging, climbing a fence, riding a bike and getting dressed (Johnson & Johnson – 0351/15).
  - A television advertisement for razors which depicted three women in bikinis trimming small bushes which were positioned in front of the women's pubic areas (Edgewell – 0401/15 and 0416/15).
- References to well-known characters in an advertisement is not considered exploitative or degrading, even when the character has a name which may be a double entendre.
  - A television advertisement which featured clips from various James Bond movies with a voice-over explaining that you get 'every Bond....and get Pussy Galore' (Stan – 0463/15).
- Artistic images of naked women or women in lingerie are not considered degrading when these images are used to highlight art or artistic skill.
  - Two advertisements for photography services which used women in sexualised poses (Michael Warshall Picturemaker – 0228/15 and Robyn Hills Photography – 0394/15).

- Depicting men admiring or commenting on the attractiveness of a woman, is not seen as exploitative or degrading if that woman is shown in a positive light and is appreciative of the attention.
  - A television advertisement which featured a man telling his friend that the woman he is admiring is his wife and that she has a new man in her life: a cosmetic doctor (Cosmetic Elegance – 0321/15).
- In advertising for adult venues or products, it is reasonable for the advertiser to use images of scantily clad women, as long as there are no exposed nipples or genitals, and poses are not strongly sexualised. However it is important to note that these advertisements may still breach other sections of the Code.
  - Advertisements for adult entertainment venues including Club Shoop (0153/15 and 0224/15) and Centrefold Lounge/Men's Gallery (0178/15 and 0230/15).
  - Advertisements for adult products included Secret Fantasies (0244/15) and A.O Adult Store (0255/15).
  - A transport advertisement for a sex exposition which included pictures of scantily clad men and women (Sexpo – 0335/15).

### *Fashion and lingerie*

The Board regularly receives complaints about fashion and underwear advertisements. The Board's view on this is:

- It is reasonable for lingerie advertisers to depict women in the product they are selling, so long as the women are fully covered by their underwear and that they are not posed in a provocative manner or in a manner suggestive of sexual activity.
  - A number of advertisements for underwear brands which depict women wearing underwear, including: Pacific Brands Holdings Pty Ltd (0177/15 and 0251/15) and Target Australia Pty Ltd (0331/15).
- It may be appropriate for women's nipples and pubic hair to be visible in

an advertisement for sheer lingerie, so long as the poses of the women are not overly sexualised.

- An online advertisement in which women's nipples and pubic hair could be seen through the underwear (American Apparel Inc – 0086/15).
- Advertisements for fashion which depict women in stylised sexual poses may be considered exploitative, but are not considered degrading if the women are shown to be confident and in control.
  - An outdoor advertisement that featured a male and female with the male positioned almost on top of the female who was not wearing a top and the arm of the male covered her naked breasts PVH Brands Australia Pty Ltd – 0080/15).
  - Advertisements which used stylised images consistent with those currently used in the fashion industry, included Windsor Smith Pty Ltd (0176/15), Seafolly Pty Ltd (0209/15), Tom Ford Beauty (0158/15) and Lonsdale London (0256/15).
- Promotions for skin care products which show naked women with their breasts and genitals covered are not considered exploitative and degrading when the women's poses are not overly sexualised and the focus is on their skin.
  - A billboard advertisement for skin care which depicted a woman from behind, naked, sitting on her heels so her full bottom is visible above her feet (Body Bare Beauty – 0445/15).
  - Two advertisements for skin care products which showed women with a large amount of skin visible (Kao (Australia) Marketing Pty Ltd – 0430/15 and Beiersdorf Aust Ltd – 0446/15).



## Violence (Section 2.3, AANA Code of Ethics)

### Section 2.3 of the Code states:

*Advertising or Marketing Communications shall not present or portray violence 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 2015 the Board considered advertisements that portrayed domestic violence, cruelty to animals, graphic depictions, weaponry, and imagery that may cause alarm or distress under Section 2.3 of the Code.

The percentage of complaints received about violence in advertising dropped slightly from 12.13 per cent in 2014 to 11.8 per cent in 2015.

### Community awareness

Each year the Board receives numerous complaints about community awareness advertisements. These advertisements include messaging relating to public health or safety. 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.

The Board's view was:

- Advertisements which portray realistic and graphic situations intended to evoke a strong reaction in the community in response to an important call to action, is a justifiable use of violence.
  - A radio advertisement for first aid courses, which depicted a phone conversation between an adult woman and the emergency services, where a child can be heard crying and screaming as she has been burnt by hot oil (St John Ambulance WA – 0028/15).
  - A television advertisement for a commercial company advertising a seat belt safety device which featured a dead

child lying face down on the back seat of a car (Buckle Me Up – 0286/15).

- A television advertisement which featured a surgeon in a hospital theatre room talking to the camera and providing multiple choice questions and a discussion of violent consequences (Transport for NSW – 0152/15).
- A television advertisement which featured an eight year old girl who is at risk of being forced into marriage (World Vision Australia – 0439/15).
- Advertising which uses confronting and graphic imagery to promote important health services are a justifiable use of violence.
  - A television advertisement highlighted different types of cancers linked to smoking, including visuals of surgery on a bowel cancer patient and a woman feeding herself through a tube (Cancer Council WA – 0065/15).
  - A television advertisement for an anti-smoking campaign showed vision from previous campaigns, including an autopsy (Cancer Institute of NSW – 0478/15).
  - A television advertisement which highlighted the dangers of sugary drinks included a depiction of internal organs as the voice-over describes the side effects of too much sugar and toxic fat (Live Lighter – 0443/15).
  - Three television advertisements which highlighted the negative side effects of using the drug ice (Department of Health and Ageing – 0219/15, 0240/15 and 0246/15).
  - A television advertisement which featured images of 280 people while a voice-over explains that this is how many people in Australia are diagnosed with diabetes each day highlighting the health risks of diabetes (Diabetes Australia – 0309/15).
  - A poster featuring an image of a clown's face and the text, 'You think this is scary? 2 million Australians are at high risk of Type 2 diabetes.' (Diabetes Australia Vic – 0189/15).

- Advertisements in relation to people raising awareness or making a statement about political or social issues can be justified in using graphic images, so long as those images are relevant to the social issue, are not overly graphic or inappropriate to be viewed by a large audience.
  - A bus advertisement which featured an image of a man's face with a bloody nose and lip promoting awareness of equal rights for Lesbian, Gay, Bi-Sexual, Transgender, Queer and Intersex people in Australia (Amnesty International – 0207/15).
  - A bus advertisement which showed an image of a cow apparently in distress to show opposition to the live exporting of animals (Animals Australia – 0039/15).
  - A billboard which featured an image of a horse lying down with the text 'horsesracingkills.com' (Coalition for the Protection of Racehorses – 0435/15).

The Board however can find advertisements to breach this section of the Code, even if the violence is related to the issue being advertised, if the level of violence is still too high to be justifiable to the relevant audience. The Board's view was:

- Advertisement which are likely to be seen or heard by children, cannot create a feeling of fear or menace in children which is not justifiable in the context of the product or service being advertised.
  - A radio advertisement which featured a young voice providing the perspective of a calf who tells a story of being taken from his mother at one day of age and how he will soon be taken to an abattoir (Animal Liberation Queensland – 0433/15).
- Images of a highly violent and graphic nature are not appropriate in any circumstances when they are likely to be seen by children.
  - A mailbox flyer advertisement which featured the text 'What is Halal?' and an image of a cow with its throat cut lying on a floor in a pool of blood (Restore Australia – 0154/15).



## Domestic violence

The issue of domestic violence is a very serious one and in the Board's view advertising should not encourage or condone actions which can be perceived as unacceptable behaviours. The Board upheld two advertisements for depicting domestic violence in 2015. The Board's view was:

- Any malicious threat of violence towards a partner, even in a fantasy situation, is unacceptable.
  - A television advertisement for a dating service for married people which depicted a married couple as zombies, with the woman threatening to hit her husband with a baseball bat (Ashley Madison - Avid Life - 0237/15).
- The threat of violence without the act itself, where the tone is menacing and threatening, is enough to make the advertisement breach the Code.
  - A television advertisement featuring still images of a woman and a man with shots of their bathroom and one scene showing the woman holding a clenched fist as the man is cowering with his hands up (Bathroom Warehouse - 0170/15).
- While acknowledging that an unlikely interpretation may be that an advertisement is suggestive of domestic violence, in cases where most reasonable members of the community would not reach this conclusion will not breach the Code.
  - A radio advertisement which featured a man surprising his partner with a storage room he has rented and filled with photographs of himself (Kennards Self Storage - 0274/15).
- Light-hearted banter between couples in safe and loving relationships, where the tone isn't threatening or aggressive, will not constitute domestic violence.
  - A radio advertisement which hears a wife threaten 'I'll put your lights out', after her husband remotely switches household lights on and off repeatedly with his phone (Tyco Australia Pty Ltd - 0436/15).

## Entertainment

Violence shown in the context of promoting a movie or game that is inherently violent, is often viewed as acceptable by the Board, so long as it is not likely to cause undue alarm or distress to members of the community. The Board's view was:

- Depiction of characters from video games when advertising the game is a depiction that portrayed violence that is justifiable in the context of the product being sold.
  - An outdoor advertisement featuring a masked man with white eyes (Warner Home Entertainment - 0175/15).
  - A Twitter advertisement which featured in-game footage of characters being shot (Sony Computer Entertainment Aust Pty Ltd - 0471/15).
  - A television advertisement featuring a man shooting a machine gun (Bethesda - 0476/15).
- When promoting horror movies, events and shows, it is reasonable for the advertiser to show violent images or scenes related to the product being promoted.
  - Five advertisements about horror movies (Universal Pictures - 0192/15 and 0385/15, Twentieth Century Fox - 0211/15 and 0220/15 and Roadshow Film Distributors Pty Ltd - 0314/15).
  - A print advertisement for a zombie TV show which featured a blood-spattered woman holding a brain on top of an ice-cream cone (Stan - 0357/15).
  - An outdoor advertisement promoting a local theatre production of Sweeney Todd which features a drawing of a person screaming and what appears to be blood dripping down their face (Livid Productions - 0461/15).
  - A television advertisement for an upcoming fight event which included depictions of people fighting professionally (Adelaide Entertainment Centre - 0120/15).
  - A poster which included a violent band mascot to promote a concert (Dainty Group - 0398/15).

## Weaponry

Advertisements using images of weapons are also considered under Section 2.3 of the Code. In 2015 the Board upheld two advertisements in this area. The Board's view was:

- The use of a character which is of principal appeal, and immediately recognisable, to children, holding a weapon is not appropriate in any circumstances.
  - An advertisement on a camper van featured an image of Cookie Monster (from Sesame Street) holding a gun to his own mouth (Wicked Campers - 0413/15).
  - An outdoor advertisement featured an image of the popular children's character, Winnie the Pooh, pointing a rifle at Tigger (Signco Brisbane - 0115/15).

## Cruelty to animals

Concern for the welfare of animals continued in 2015 with the Board considering several advertisements under Section 2.3 for cruelty towards animals. The Board's view was:

- Advertising which shows people interacting with animals in a realistic manner, where the animal is not seen to come to any harm is not considered cruelty to animals.
  - A television advertisement showing a woman in the bush flicking her belt towards a snake (Hyundai Motor Company Australia Pty Ltd - 0326/15, 0328/15 and 0333/15).
  - A television advertisement which featured a shark thrashing in the water near a boat (Darwin Red Devil Fishing Charters - 0250/15).
- Where an advertisement is humorous and/or unlikely to be real or taken seriously by the general community, it will not breach this provision of the Code.
  - A television advertisement in which a caveman is seen roasting a mammoth wrapped in foil over a fire (Aldi Australia - 0231/15).



- A television advertisement which featured a computer generated image of a chimpanzee parachuting from a plane while getting a quote for car insurance (Bingle Insurance – 0020/15).
- A television advertisement in which a man mentions accidentally laminating a cat (Wallet Wizard – 0181/15).
- A television advertisement which featured animated family characters in the shape of the letter 'i' with floating heads and no necks, including a scene in which family members briefly use the dog's head as a ball (IMB Bank – 0460/15).

## Bullying

The Board upheld a complaint against one advertisement for physical bullying. The Board's view was:

- Any depictions or threat of violence towards a person will be seen as bullying and a breach of the Code, especially if the person on the receiving end of the actions reacts in a hurt or negative manner.
- A television advertisement which featured a woman interacting with her injured partner, including roughly removing a fork from his mouth and throwing a tea-towel at his face (Intrustsuper - 0356/15).

## Sex and violence

There is often a high level of concern about the depiction of violence in advertisements which also have sexual themes, this includes depictions of people with handcuffs, whips or chains. The Board dismissed a number of complaints under this provision, the Board's view was:

- Advertisements which suggest someone is handcuffed are not considered as promoting sexual violence if the hands are not visible and it is not clear if they are bound or not.
- Two advertisements for the movie 50 Shades of Grey, with both advertisements raising concerns about the suggestion of a woman's hands being tied above her head (Universal Pictures – 0048/15 and 0049/15).

- Advertisements which show someone in handcuffs are not considered to be suggestive of sexual violence where the person is depicted as confident and happy, and there is no suggestion that they are being forced to wear the handcuffs.

- A window poster advertisement which featured a woman wearing black leather style lingerie and similarly styled handcuffs on her wrists (Honey Birdette – 0052/15) – upheld under Section 2.4.

## Depictions of pain

Advertisers should take care or reconsider using violence in advertisements if violence is not directly related to their product or service. Often if a violent act is directed at a person, a positive or a negative reaction to the violent act can influence the Board's decision.

The Board upheld two advertisements in this area in 2015. The Board's view was:

- Where physical violence is shown in an advertisement and the person on the receiving end of the violence reacts in a negative way, such as sadness or silence, this amounts to a depiction that was violent and that the violence was not justifiable.
- A television advertisement for a pest control service, which featured a cartoon of a man slapping his employee who forgot the spray (Northern Rock Pest Control – 0091/15).
- An internet advertisement which featured a man slapping another man across the face in the context of singing a song about what makes people happy (Amaysim Australia PtyLtd – 0123/15).

The Board dismissed a complaint about one advertisement in this area, its view was:

- Advertising which depicts a light-hearted domestic scene which most people would interpret as horseplay rather than violence, such as a light kick or push, where the reaction is positive does not breach the Code.
- A television advertisement which featured a woman lightly kicking a man after he has drunk milk straight from the carton (Hello Fresh – 0386/15).

## Suggestions of violence

The Board dismissed a number of complaints about advertising that suggested, rather than depicted, violence. The Board's view was:

- Where there is no actual image of violence, advertising with suggestions of violence are unlikely to breach the Code.
- A television advertisement for a legal firm which showed a saw approaching a hand, and then cuts to an x-ray of a hand missing fingers (Blumers – 0127/15).
- While there is genuine community concern about violence and kidnapping, advertising which makes far-fetched and ridiculous comments about these issues, which would not be taken seriously by most members of the community, while in poor taste, are not acts of violence and are not menacing or graphic.
- An online advertisement for a van hire company which featured a drawing of a cross section of a van with labelling around the vehicle pointing out various features of the van in a humorous manner. The labels include references to large storage boxes that are suitable for hiding victims and drugs, and tyres for running over people (Wicked Campers – 0174/15).

## Other violence

The Board considered a number of other issues which raised concerns about violence. The Board's view was:

- Advertising which shows people acting in a humorous, light-hearted manner are not considered as being acts of violence.
- A billboard which showed a woman being splashed with paint, where her reaction was a positive one (Nissan Motor Co (Aust) Pty Ltd – 0212/15).
- A television advertisement showing a magician sawing a woman in half (Bingle Insurance – 0227/15).



- Advertising which shows actions which are not overly aggressive, are light-hearted, and are not specifically aimed at a person are not usually considered to be violent:
  - Two advertisements showing people smashing fruit (Coca-Cola Amatil – 0293/15 and 0310/15).
  - A television advertisement which showed someone acting like a rock star and smashing a guitar (Wix Web Builder – 0200/15).
- Advertising which creates tension between two parties, but does not portray any actual violence, is not considered to be in breach of the Code, especially where the tension is resolved positively.
  - A television advertisement which showed two groups acting aggressively towards each other, before putting aside their differences to help a dog (Mars Pet Care – 0203/15).

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

### Section 2.4 of the Code states:

*Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.*

The use of sex, sexuality and nudity in advertising generally attracts the most complaints compared to any other Section of the Code. In 2015 sex, sexuality and nudity was the most complained about issue accounting for 27.32 per cent of complaints.

The Board considers the relevant audience with Section 2.4 and particularly distinguishes between acceptability of content in public domains where children may be exposed (such as billboards) as opposed to other forms of media which may be more restrictive, such as internet sites and television advertisements with timing restrictions.

In considering cases under Section 2.4, the Board will also consider the relevance the sex, sexuality or nudity has to 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.

### Product relevance

Each year the Board consistently receives complaints about the use of sex, sexuality and nudity in the promotion of lingerie, fashion, sex products and services and dating services.

The Board's view was:

- It is reasonable for a lingerie advertiser to depict lingerie being modelled in its advertising, where the images are not overly sexualised and do not use inappropriate nudity or exposure.
  - Advertising which depicts models in lingerie and underwear being sold included: Pacific Brands Holdings Pty Ltd (0002/15, 0177/15, 0251/15, 0271/15, 0320/15, 0370/15, 0373/15,

0384/15, 0457/15, 0474/15 and 0476/15, PVH – 0013/15 and 0459/15), Honey Birdette (0295/15 and 0466/15), Target Australia Pty Ltd (0330/15 and 0331/15), Woolworths Supermarkets (0329/15 and 0332/15), American Apparel (0086/15), Sojo Pty Ltd (0374/15), David Jones Ltd (0402/15) and Victoria's Secret (0448/15).

- Advertisers are allowed to depict people in the clothing they are advertising, where advertisements are consistent with fashion advertising and not overly sexualised.
  - Advertising which depicts models in clothing being sold include: Advertising Advantage (0021/15), PVH Brands Australia Pty Ltd (0080/15), Windsor Smith Pty Ltd (0176/15) Seafolly Pty Ltd (0209/15) David Jones Ltd (0437/15) and Lonsdale London (0256/15).
- While there is significant community concern about advertising sex products and services, advertisers are legally able to advertise these products, and where the level of sex, sexuality and nudity used is not inappropriate for the audience the Board will dismiss the complaint.
  - Advertising for sex products or services included: Club X (0092/15), Crazy Horse Revue Pty Ltd (0149/15), Centrefold Lounge/Men's Gallery (0178/15 and 0230/15), Secret Fantasies (0244/15), Sexpo Pty Ltd (0247/15, 0248/15, 0249/15, 0335/15 and 0452/15), A.O Adult Store (0255/15), Eighty Eight on Logan (0347/15), Australian Therapeutic Supplies (0110/15), Club Shoop (0224/15) and AdultShop.com Ltd (0390/15).
- Advertisements for sexual performance enhancers, as long as they are not overly explicit and are not inappropriate for the relevant audience, will also be found not to breach the Code.
  - A television advertisement which depicted a man apparently playing a piano with his penis, while being judged by a panel. The penis was not visible in the advertisement (Advanced Medical Institute 0034/14 and 0035/15).



- A television advertisement which featured the words 'make it bigger and longer' (Advanced Medical Institute – 0216/15).
- The depiction of high-profile public personas in mildly sexualised poses, if consistent with the imagery in the show or performance they are advertising, is not considered in breach of the Code.
- A television advertisement for a music awards show which featured a popular performer in different outfits, sometimes topless with nipples covered (MTV Networks Australia Pty Ltd – 0392/15).
- Advertising for dating sites which are only mildly sexual will not be seen to breach Section 2.4 of the Code.
- A television advertisement for a dating site for married people to have an affair which showed a man swiping a tablet to view images of different women (Ashley Maddison – 0036/15 and 0071/15).

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. The Board's view was:

- Advertisements for lingerie can breach section 2.4 of the Code if they are overly sexualised and not appropriate for a broad audience.
- A window poster featured an image of a woman wearing black leather style lingerie and similarly styled handcuffs on her wrists posing with one finger in her mouth (Honey Birdette – 0052/15).
- A window poster featured a woman wearing lingerie standing with her bent knee resting on the lap of Santa who is bound and gagged on a chair, with the accompanying text, 'Silent night...' (Honey Birdette – 0505/15).
- Although legally allowed to be advertised, sex industry advertisements can breach Section 2.4 of the code if they are overly sexualised and/or depict a high level of nudity.
- A mobile billboard with a picture of two women holding hands with both women wearing underwear, one in a bra and the

other in an open collared shirt (Club Shoop – 0153/15).

- A print advertisement which featured images of vibrators next to a topless woman lying on a bed (SindeRellas – 0243/15).
- Advertising for sexual performance enhancers can cross the line of acceptability if the use of sex, sexuality and nudity is too explicit.
- Two radio advertisements for sexual performance aids which repeatedly used overly sexualised language (Advanced Medical Institute – 0304/15 and 0482/15).

### Humour and sexual innuendo

Humour and sexual innuendo in advertisements considered by the Board generally raised questions of whether the advertisement was appropriate for a broad audience which could include children. The Board's view was:

- Advertising with mild sexual references, which would not easily be understood to be sexual by children, were seen to treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.
- An online advertisement which featured a variety of scenes, including brief images of an inflatable doll and a reference to 'adult toys' as well as a reference to 'boobs' (Amaysim Australia PtyLtd – 0123/15).
- A series of radio advertisements for a super fund received complaints for using double entendre with the word 'nuts' (Squirrel Super – 0167/15).
- A number of advertisements showing women in traditional Bavarian costumes, including phrases like 'make mein a duble' (Urban Purveyor Group – 0142/15), 'wunderbra' (Urban Purveyor Group – 0182/15 and 0184/15), 'bigger is better' (Urban Purveyor Group – 0276/15), 'keep between the posts' (Urban Purveyor Group – 0275/15) and images of women in traditional and classic costumes (Urban Purveyor Group – 0238/15 and 0239/15).
- A series of advertisements which made suggestive comments about the size of a new drink container, along with suggestive

phrases and gestures, including shaking the drink until the lid popped off (Frucor Beverages Australia – 0076/15), the phrase 'first time grip' (Frucor Beverages Australia – 0099/15) and the phrase 'can you handle it?' (Frucor Beverages Australia – 0075/15).

- A social-media advertisement which depicted two women and the phrase 'two is always better than one, right?' (Monster Beverage Corporation – 0084/15).
- Promotional material that included a drawn image of a woman consuming a drink and the text 'suck some down at the machine then go & refill' (7-Eleven Stores Pty Ltd – 0226/15).
- Advertisements which use double entendre, where a non-sexualised explanation of the meaning would be taken away by children, was seen to treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.
- A print advertisement for soil treatment which featured an image of a pair of jeans unbuttoned and unzipped and included the words 'more action in your furrow' (SST Australia Pty Ltd - 0150/15).
- The Board also dismissed a number of complaints about an advertisement for a streaming site, which made mention of a woman's 'big pussy' showing a large cat on her lap (Stan – 0208/15 and 0222/15).
- Advertisements with subtle sexual innuendo, which would not easily be understood by a young audience, included: Whitford Property (0229/15), Ingogo (0260/15), Nando's Australia Pty Ltd (0410/15), Sportsbet (0119/15), Matee Turkish Restaurant (0027/15), Club Group Pty Ltd (0341/15), Mojo Homes (0377/15), Virtual Scaffolding (0399/15), Key Factors (0447/15) and Stan (0463/15).
- While some adults would prefer not to be confronted by sexual references, where these are unlikely to be understood by children and treat the issue of sex, sexuality and nudity in a relatively sensitive way they will not breach Section 2.4 of the Code.



- An advertisement on a van which read: 'Gay guys settle disputes by going outside and exchanging blows' (Wicked Campers – 0040/15). Note: this advertisement did breach Section 2.1.
- An advertisement on a van which read: 'It makes my heart race when you sit on my face' (Wicked Campers – 102/15).
- An advertisement on a van which read: 'I don't like small cars or real big women but sometimes I always find myself in them' (Wicked Campers – 0337/15).
- A higher level of sexualised content in advertising which is limited to an adult or older teenage audience is appropriate and sensitive to the relevant audience.
- An 'M' rated television advertisement which made reference to 'hand jobs' in the context of being a hand model (Crazy Domains – 0272/15).
- A Facebook advertisement promoting the purchase of extra seats on a flight which featured a voice-over describing different positions you can use on aircraft seats, including 'girl on girl' (Scoot Air – 0299/15).

While humour and innuendo can often make an advertisement more acceptable, advertisements still need to be appropriate for a broad audience. The Board upheld a number of advertisements in this area. The Board's view was:

- Advertising which is able to be viewed by children must still treat sex, sexuality and nudity with sensitivity to this audience, regardless of humor used.
- An advertisement on the side of a van showing two Lego figures in a sexual position and the phrase 'virginity is curable' (Wicked Campers – 0003/15).
- Other phrases it viewed as breaching Section 2.4 included Wicked Campers (0044/15, 0103/15, 0105/15, 0108/15, 0486/15 and 0496/15).

## Nudity

The Board found several advertisements to be in breach of Section 2.4 of the Code in relation to nudity. The Board's view was:

- Advertising which uses images of people with little or no clothing to promote an unrelated product will be seen to be a use of nudity that is not appropriate.
- Print advertisements which used pictures of scantily clad women, in sexualised poses, in front of motorcycles (Metropolitan Motorcycle Spares – 0424/15 and 0425/15).
- A transport advertisement which used an illustrated picture of a naked woman in work boots to promote a concreting business (Willycrete – 0316/15).
- Images of naked people, even when the advertising is not sexually suggestive, may be considered inappropriate if able to be viewed by a broad audience including children.
- A window poster which featured an image of four naked women seen from behind, (Lush – 0361/15).

Certain levels of nudity can be considered acceptable by the Board if it is presented in a manner appropriate to the audience and does not expose genitalia or contain overly sexualised content. The Board's view was:

- It is normal to be naked when bathing or showering and advertisements showing people in the shower, where there are no nipples or genitals visible, are considered appropriate.
- Advertising which showed people in the shower included: The Body Shop (0214/15 and 0217/15) and Australian Super (0143/15).
- While people may be uncomfortable viewing images of people sitting on the toilet, where all genitals are covered these images do not constitute an inappropriate level of nudity.
- A television advertisement showing a man sitting on the toilet using his mobile (Sportsbet – 0197/15).

- Advertisements showing people's bodies and bare skin for toiletry products, where the images are not sexualised, will usually be considered appropriate.

- Advertisements for body moisturiser included Pharmicare Laboratories (0121/15) and Beiersdorf Aust Ltd (0446/15).
- An outdoor advertisement for tanning services (Body Bare Beauty – 0445/15).
- A television advertisement showing a young man in his underwear spraying himself with deodorant (Coty Australia Pty Ltd – 0257/15). Note: upheld under Section 2.6.
- Advertising which shows men without shirts on, which is only mildly sexualised, is not inappropriate nudity.
- A television advertisement which featured a topless man wearing an apron while cooking (Nestle – 0210/15).
- A television advertisement which showed a man in his underwear (Sportsbet – 0213/15).
- Complaints are often received about advertising which features women wearing low-cut tops, however if the advertisement is not focused on the woman's breasts and the woman's nipples aren't visible, the advertising is not considered to be inappropriate nudity.
- A television advertisement featuring a woman in a low-cut top while dressed as a character from a game (Machine Zone – 0221/15).
- While some people would prefer not to see 'plumber's cracks' on television, they do not constitute inappropriate nudity.
- A television advertisement which depicted men on a worksite, leaning over so their 'plumber's cracks' can be seen (Mitre 10 – 0366/15).
- Advertising which depicts nudity in a tasteful manner, related to the artistic product or service being promoted, will not breach Section 2.4 of the Code.



- An advertisement on a van, showing an artistic image of a naked older man on a motorcycle (Damien Bredberg Stills + Motion Professional Services – 0116/15).
- An outdoor advertisement featuring an artistic image showing a woman's bottom in lingerie (Michael Warshall Picturemaker – 0228/15).
- A poster featuring large personal portraits of men and women in lingerie (Starshots – 0289/15).
- A billboard featuring an artistic image of a woman in lingerie reclining on a chair (Robyn Hills Photography – 0394/15).
- Advertising which shows only mild nudity, which is not sexualised, in the context of a modern, stylised advertisement does not constitute inappropriate sexualised imagery.
- A television advertisement which featured scenes and colours being projected on the backs and bodies of seemingly naked people (Samsung Electronics Aust Pty Ltd – 0285/15).
- Advertising which uses nudity in a humorous, not sexualised manner, where people are still covered appropriately will not be seen to breach Section 2.4 of the Code.
- A television advertisement which showed a young man walking in on his father painting a portrait of his naked mother, who is covered by a cloth (VISA International – 0160/15).
- A television advertisement featuring a couple going about their day to day lives naked (Freedom Insurance Pty Ltd – 0323/15 and 0354/15).
- The Board has also consistently dismissed complaints about women and men in swimwear, where poses are not sexualised, especially in conjunction with beach, pool or fitness activities.
- Advertisements which featured people in swimwear included: Barracuda Boat Trailers (0022/15), Meat & Livestock Australia Ltd (0112/15), Go Transit (0324/15), and Vitaco Health Australia Pty Ltd (0419/15, 0441/15 and 0442/15).

The location of an advertisement can also affect whether the level of nudity in an advertisement is inappropriate. The Board's view was:

- Advertising which featured a naked woman, with her nipples and pubic area covered and her bottom exposed, was not inappropriate for a medium which would mostly be seen by adults.
- A print advertisement placed in a fashion magazine for adults, featured a naked woman promoting a perfume brand (Tom Ford Beauty – 0199/15).
- The same advertising in a medium which would be viewed by a broad audience is inappropriate for general audiences which would definitely include children.
- A large poster advertisement in a department store which featured a naked woman promoting a perfume brand (Tom Ford Beauty – 0158/15).

### Suggestive phrases and acts

Explicit references to sexual acts are usually viewed negatively by the Board. Complaints were upheld against several advertisements for explicit sexual content in 2015. The Board's view was:

- Highly explicit or sexual content in public places, which are likely to be viewed by broad audiences including children, will breach the Code.
- A large advertisement on the side of a business featured an image of a naked man lying on his back with a laptop in front of him and a naked woman straddling him (Glandore Hydro – 0288/15).
- A newspaper advertisement for a sexual health class for gay men which included terms such as 'better head and orgasms' and 'A\*\* Class – from maintaining a healthy rectum to douching, anal sex, safe sex and more' (WA AIDS Council – 0300/15).
- A promotion for a movie on on-demand television featured scenes from the movie including a naked man standing in front of a woman while she comments on the

size of his penis, the woman engaging in sexual activity with another man, and references to 'anal' and 'semen' (Universal Pictures – 0305/15).

- An outdoor poster which included a cartoon image of two men playing with each other's penises (Emily Ulman – 0465/15).

The Board also dismissed a number of complaints about advertisements in this area. The Board's view was:

- Advertising which featured couples kissing or embracing, as long as no private parts were visible, and were appropriate for the intended audiences, would not be seen as explicit sexual content.
- Advertisements which featured couples kissing or embracing, included: Calvin Klein Perfume (0012/15 and 0355/15), Red Bull (0272/15), Fantastic Snacks Australia (0253/15), Marshall Batteries (0318/15) and Unilever Australasia (0026/15).
- Advertising which features people being licked by dogs or other animals is not considered sexualised content.
- A television advertisement which featured a woman being licked on the mouth by a dog (AAMI – 0348/15).
- Mildly suggestive acts or themes in advertising which take into account the sensitivity of relevant audiences will not breach Section 2.4
- A television advertisement which features a well-known singer briefly being shown in her underwear (Chemist Warehouse – 0481/15).
- Advertisements which humorously alluded to body hair styling and removal (Edgewell – 0401/15 and 0416/15; and Shaver Shop Pty Ltd – 0381/15).
- A television advertisement for sanitary items which focused on female bottoms (Johnson & Johnson Pacific Pty Ltd – 0351/15).



- A television advertisement which featured a man in underwear bending over in front of someone who cannot look away (AAMI – 0031/15 and 0032/15).
- A television advertisement featuring a man in his underwear promoting STD testing (Victorian Aids Council – 0053/15).
- A television advertisement which includes a reference to a unicorn licking a crotch (Stan – 0078/15).
- A television advertisement which features two men being tricked into cuddling by their partners (Mars Confectionery – 0088/15).
- A television advertisement featuring a man wiping sweat from his groin at the gym (Sportsbet – 0118/15).
- A billboard for a musical that included the word 'sex' in the title (Sexercise the Musical Pty Ltd – 0124/15).
- A poster advertising a gay dating site (Squirt – 0169/15).
- A television advertisement which included the use of the word 'orgasmic' to describe food (Lagoon Restaurant – 0173/15).
- A poster advertisement which featured the back of a teddy bear who appears to be urinating (Universal Pictures – 0179/15).
- A television advertisement which features a brief scene of a woman wearing a nightgown leaning out of a tent (Mitsubishi Motors Aust Ltd – 0198/15).
- A television advertisement which joked you would become more attractive by consuming their product (Red Bull – 0264/15).
- A television advertisement which briefly showed a woman lifting up her top to reveal her bra (Mars Confectionery – 0267/15).
- A television advertisement in which a man is heard receiving a full-body wax (BizCover – 0432/15 and 0470/15).
- A television advertisement where a woman flirts with a male pilot (Breitling Oceania Pty Ltd – 0434/15).
- Complaints are sometimes made about an advertisement being sexualised. In cases where this is an interpretation unlikely to be shared by the general community, the advertisement will not be seen to breach Section 2.4 of the Code.
  - A television advertisement for fast food in which the complainant felt that bacon on a pizza looked like an erection (Yum Restaurants International – 0273/15).
  - A window display featuring a mannequin riding a bomb which the complainant felt resembled a penis (Breitling Boutiques – 0339/15).
  - A catalogue advertisement featuring the phrase 'get dad to harden up' which the complainant believed to be sexual in nature (Woolworths Supermarkets – 0365/15).
- The term vagina is the correct anatomical name for a part of a woman's body and when the word is used in the appropriate context it is appropriate for use in advertising.
  - A newspaper advertisement which featured the phrase 'Why is everyone talking about the Designer Vagina?' (SKYN – 0018/15).
- Advertisements with sexualised themes are appropriate when care is taken to ensure these advertisements take into account the sensitivity of the relevant audiences.
  - A number of advertisements in different media to promote a film with a MA rating (Universal Pictures – 0047/15, 0048/15, 0049/15, 0051/15, 0083/15 and 0241/15).
  - An internet advertisement which was parody of a sexualised film, featuring a greyhound (Sportsbet – 0054/15 and 0055/15).
  - A television advertisement for a dating site for married people which depicted women singing about looking for someone other than their man (Ashley Maddison – 0106/15).

## Sexualisation of children

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 thoroughly by the Board.

Advertisers are responsible and cautious in the portrayal of children in advertisements, and the Board did not uphold any advertisement in this area in 2015.

A number of complaints in this area were dismissed by the Board in 2015. The Board's view was:

- Depicting an older woman with a younger man, or vice-versa, as long as both parties are clearly of a consenting age, is not sexualisation of children.
  - A television advertisement which depicted a young man meeting an older woman for a blind date, who he recognises as his old primary school teacher (Coca-Cola South Pacific – 0097/15).
  - A television advertisement which featured a woman on holidays, seducing a bell-hop (Trivago – 0325/15).
- Complaints received about advertising which show images of young children in swimwear. Where these images do not employ sexual appeal, where the swimwear is age and situation appropriate, and there is no undue attention on the child's body, this is not considered sexualisation of children.
  - A television advertisement which featured a family camping, with one scene showing children playing in a stream, including a brief image of a young girl in a bikini (Toyota Australia – 0188/15).
- Caution should be taken when using adult models who may appear to be teenagers in advertising, however when these images are not sexualised and appropriate for general audiences they will not be considered sexualisation of children.
  - A poster in a shopping centre advertising a fashion brand which showed a young woman modelling clothes (AMP – 0195/15).



## Language (Section 2.5, AANA Code of Ethics)

Section 2.5 of the Code states:

*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.*

In 2015 Section 2.5 of the Code was the third most complained about area, with 14 per cent of all complaints.

In all cases raised in relation to language in 2015, 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 always more conservative in respect to language acceptability.

### Obscene terms

There are certain words and terms, that when expressed in full, the Board will consider it to be a breach of Section 2.5 of the Code. In 2015 the Board upheld several advertisements in this area. The Board's view was:

- The word 'fuck' expressed in full will almost always be a breach of Section 2.5 as a strong and obscene term.
  - A poster advertisement promoting a show featuring the 'Starfuckers' (North Wollongong Hotel – 0009/15).
  - An advertisement on a campervan which used the profanity in full which children were likely to see (Wicked Camper Vans – 0044/15).
  - An advertisement for an upcoming movie shown on on-demand television which included several uses of the word 'fuck' (Universal Pictures – 0305/15).
  - An email advertisement which used the phrase 'fuck it we're drunk' (Strictly BMX – 0483/15).
- The use of the 'c word' in full in an advertisement will always be seen by the Board to breach Section 2.5.
  - A sticker advertisement on the back of a campervan which read, 'God is watching you thieving C\*\*\*\*' (Wicked Campers – 0408/15).
- The word 'shit' is sometimes considered a strong or obscene term by the Board, when used in an aggressive or repetitive manner, especially when in a medium where it would be likely children could see or hear the advertisement.
  - A radio advertisement for a charity, in which you could send a package of camel excrement to someone to raise money, which used the word shit repeatedly (Redwave Media – 0369/15).

While the Board acknowledges that some people would prefer certain terms not to be used, when a word is not used aggressively or in a medium where children are likely to be exposed to it, or it is used in a colloquial context which is consistent with Australian vernacular, it will not

be considered as a breach of the Code. The Board view was:

- The word 'fuck' may be considered not to be a strong or obscene term and may be appropriate when it is not used in a sexual or aggressive manner and it is used appropriately to the circumstances
  - An internet advertisement where a man is heard saying 'he's fucked health, he's fucked education' (FOXTEL Management Pty Ltd – 0093/15).
- Advertising which uses the term 'shit' is often considered not inappropriate, when consistent with common Australian colloquial usage of such a word.
  - A poster advertisement for a production which included the name of the show 'Talk shit, get hit' (Century Entertainment – 0064/15).
  - A internet advertisement which used the word 'shit' in the context of a message about depression in males (Beyond Blue – 0353/15).

### Obscured terms

When offensive terms are beeped or obscured, the Board considers the context of the advertisement and whether the term is sufficiently disguised.

In some cases the Board determined that obscuring a term was not sufficient, and upheld the complaints. The Board's view was:

- Where sound effects have been used to cover someone using an obscene term, if they do not sufficiently cover the word and the term is likely to be seen as inappropriate by most members of the community, it will still breach Section 2.5 of the Code.
  - A radio advertisement which used of sound effects to repeatedly cover words like 'f##ked' and 'f##king' (Citroen Automobiles Australia – 0168/15).
  - A series of television and online advertisements for a hair product known as 'full and luscious' which was repeatedly shortened to 'F and L' which sounded like 'effin' hell' (L'Oreal Australia Pty Ltd – 0261/15, 0268/15 and 0278/15).



In many cases, the Board considered that obscuring an obscene term so that it was not clear what is being said, in a non-aggressive context, is appropriate for use in advertising.

- In advertising, where the term 'fuck' is not used in full, and is not used in conjunction with offensive imagery, it is seen to not amount to an inappropriate use of language or language that would be considered strong or obscene.
- A sandwich board carried by a person which had 'Thank F&\$@ it's Friday' written on it (The Victory Hotel – 0396/15).
- A magazine advertisement for a hair product known as 'full and luscious' which was shortened to 'F and L' (L'Oreal Australia Pty Ltd – 0277/15).
- A television advertisement which featured a woman at a shop who had forgotten her purse, where the complainant believed that the woman was seen to mouth 'oh fuck' (Westpac Banking Corporation – 0297/15).
- The implication of a mild swear word in an advertisement, which is used in a way consistent with how most people would use the word, is not inappropriate and would not be considered strong or obscene language by most members of the community.
- A television advertisement for paper towels which featured a variety of people exclaiming 'oh sheet' when they spilled something (SCA Hygiene Australasia – 0291/15 and 0342/15).
- A television advertisement depicted a man watching sport and responding with 'What the...', cutting off his next word, but his daughter holds out a swear jar (Yum Restaurants International – 0004/15).
- Advertising which successfully uses sound effects to cover up terms, to the point of not being able to understand the term used, is appropriate for use.
- A radio advertisement which used the sound of a horn to cover swearing (Toot Car Loans – 0126/15).

- A television advertisement which had swearing in a discussion covered up by the sound of power tools (Isuzu Australia Limited – 0383/15 and 0387/15).

### Religious expressions

Advertisements using religious themed terminology attract complaints about blasphemy or offensiveness to religious beliefs. The Board's view was:

- Advertising which obscures terms can sometimes be seen by complainants to be blasphemy, however where it is not clear what is being said, and there is no suggestion of blasphemy, complaints will be dismissed.
- A television advertisement which featured a man falling off a chair with his cursing beeped out. The complainant felt that the beeped out words were 'Jesus fucking Christ' which they believed to be blasphemy. The advertiser stated the beeped out words were actually 'Jeepers Creepers' (Aldi Australia – 0270/15).

### Innuendo and sexual references

Advertising which uses sexual terms and language must be appropriate for the audience. The Board upheld some advertisements for using sexualised language. The Board's view was:

- Advertising which repeatedly uses the word 'sex' and sexual language in a medium which is likely to be heard or seen by children will usually be found to breach Section 2.5 of the Code.
- A radio advertisement for a sexual enhancement product which referenced 'average sex' or 'mind blowing sex' (Advanced Medical Institute – 0304/15).
- A radio advertisement which used the term 'sex' repeatedly (Advanced Medical Institute – 0482/15).
- Advertising which uses sexualised images can often give a sexualised meaning to accompanying words, which is not appropriate for broad audiences.
- A campervan advertisement with the phrase, 'My cock just died, can I bury it in

your backyard...' and images of different penises (Wicked Campers – 0108/15).

Advertising which includes mild innuendo and sexualised terms are often seen as appropriate by the Board. The Board's view was:

- Advertising which uses innuendo in a way which is not strong or obscene and is appropriate for the relevant audience will not be seen to breach the Code.
- A television advertisement which featured a masseuse talking about their hand modelling career involving 'so many hand jobs' (Crazy Domains – 0272/15).
- A billboard for Sexercise the Musical Pty Ltd (0124/15) finding that using the title of the musical in the billboard did not constitute strong or obscene language.
- Advertising which featured very mild sexual language which may not be understood by children, was considered to be not inappropriate by the Board.
- A poster advertising a gay dating app which used the term 'hook-up' (Squirt – 0169/15).
- Advertisements which feature very mild sexual language, where there is a more likely, non-sexual, interpretation of the language used will not breach the Code.
- Mild sexual language used in advertising included: 'nuts' (Squirrel Super – 0167/15), orgasmic (Lagoon Restaurant – 0173/15), coming (Universal Pictures – 0179/15), pussy (Stan – 0208/15, 0222/15 and 0463/15), 'suck' and 'bang' (7-Eleven Stores Pty Ltd), finger (Ingogo – 0260/15), 'Harden up' (Woolworths Supermarkets – 0365/15) 'naughty bits' (Vitaco Health Australia Pty Ltd – 0441/15) and 'satisfaction' (Vitaco Health Australia Pty Ltd – 0442/15).



## Acceptable terms

A variety of terms which are commonly used in the Australian vernacular most often are viewed by the Board as acceptable. The Board's view was:

- The word 'tosser' when not used in an aggressive manner, is not considered strong or obscene language.
  - A television advertisement for an anti-littering campaign telling people 'don't be a tosser' (Environment Protection Agency – 0186/15).
- The word 'crack' is not sexualised or inappropriate.
  - A radio advertisement which included the phrase 'show us your crack', in relation to a windscreen repair service (Novus Auto Glass – 0023/15).
- The word 'crotch' when used in a factual/descriptive manner is not a word which most members of the community would find strong or obscene.
  - A television advertisement which featured a woman and a small unicorn, where the woman is heard to say 'and now it's licking my crotch' (Stan – 0078/15).
- The term 'malaka' – which can be translated as the Australian term 'wanker' is not a strong or obscene term as it would not be understood by the broader community or children without translation.
  - A television advertisement where one man is referred to as a 'malaka' (Northern Rock Pest Control – 0091/15).
- While some members of the community may find certain colloquial terms to be offensive, where the language is not obscene or sexualised it will be considered appropriate for use in advertising.
  - A television advertisement for men's underwear which included the phrases 'snazzy looking fart filters that'll keep your meat and two veg very warm', 'they're the duck's nuts', and 'the ultimate toolbox' (Sojo Pty Ltd – 0374/15).
- The phrase 'frigging' when not used aggressively is not considered a strong or

obscene term by the Board, and is a term that most members of the community would view as a more acceptable replacement for stronger words.

- A radio advertisement for work boots that used the word 'friggin' repeatedly, including the phrase 'friggin mongrel' (Mongrel Boots – 0311/15).
- The use of the word 'piss' is not inappropriate or gratuitous when it is used in its correct form – to describe urine.
  - A radio advertisement for a toilet hire company which featured the line, 'we take your piss' (AIM Hire – 0397/15).

## Aggressive language

The Board may take a stricter view on advertisements where language is used in an aggressive manner, even if the language itself may not be considered strong or obscene. The Board's view was:

- Repeated use of a phrase in an abusive or aggressive nature will be considered inappropriate even if the language used is only mild.
  - A radio advertisement for GPS that used the phrase 'tell dad to go and get routed' repeatedly (UBD Street Directories – 0364/15).

## Children using bad language

The Board usually takes a stricter view of strong, bad or disrespectful language when it is spoken by a child rather than an adult. However in 2015 the Board did not uphold any complaints in this area. The Board's view was:

- While some members of the community may be offended, the use of bad language by a child in the context of highlighting inappropriate behaviour in adults is not inappropriate.
  - A television advertisement which featured two young boys imitating the antics of grown men who celebrate sporting achievements by drinking to excess and behaving badly, including one of the boys saying 'wanker' (Australian Drug Foundation – 0066/15).

- The use of a mild term by a child in a light-hearted manner, where not aggressive, will be considered appropriate by the Board.
  - A television advertisement which depicted a young boy in the back seat of the car imitating his dad by stating 'bloody caravaners' as their car overtook a caravan (Holden Ltd – 0098/15 and 0109/15).

## Gestures

Gestures are used as communication in conjunction with language and as such the Board considers complaints about gestures used in advertisements under Section 2.5 of the Code. The Board's view was:

- In some contexts people sticking their middle fingers up is considered aggressive or inappropriate by the Board, however the light-hearted depiction of people's middle fingers is likely to be seen as not depicting aggressive or insulting behaviour in the context of a community service announcement that promotes support for an important message.
  - A television advertisement which encouraged people to paint their middle fingernails to support an eating disorder charity. Celebrities are seen displaying their middle fingers (The Butterfly Foundation – 0194/15 and 0223/15).



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

### Section 2.6 of the Code states:

*Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.*

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 and even bullying.

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.

Concerns about health and safety raised 10.46 per cent of complaints in 2015.

### Depiction of drugs, smoking, drinking and gambling

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

### Drugs

Drug use and depictions which suggest drug use are viewed negatively by the Board. The Board considered a number of complaints in this area in 2015, however dismissed all complaints. The Board's view was:

- Marketing material which appears similar to over-the-counter medication, to draw people's attention to an easy solution to a complex problem, was considered not to be in breach of the Code as adults would clearly be able to identify that it was in fact marketing material, and not medication.

- An advertisement in the form of a mail-out, presented as a medicine box which included an information sheet about Australian Super and a list of symptoms that the product would alleviate (Australian Super – 0079/15).
- The Board considered that the depiction of a hemp leaf in an advertisement for hemp shower products was not drug paraphernalia.
- Online and poster advertisements which depicted a man in the shower, his genitals covered by a soap shaped like a hemp leaf (The Body Shop – 0214/15 and 0217/15).
- Concerns that advertising which raises awareness about drug use could be a trigger for rehabilitated drug users were seen to be unlikely, when the advertisements include a call to action at the end providing a web address of where to get help.
- Television advertisements designed to raise awareness of the negative consequences of drug use (Department of Health and Ageing – 0219/15, 0240/15 and 0246/15).

### Smoking

The Board also takes a dim view of glamourised smoking imagery in advertisements. In 2015 the Board upheld three advertisements in this area. The Board's view was:

- Advertising which shows cigarettes or smoking paraphernalia in a positive light will be seen to glamourise smoking and breach Section 2.6 of the Code.
- A campervan advertisement which featured an image of a cigarette packet (Wicked Campers – 0074/15).
- A print advertisement which showed a young boy with an unlit pipe in his mouth (Chemist Warehouse – 0346/15).
- A television advertisement for e-cigarettes where a voice-over describes the product as providing the 'same pleasure of a carton' and a carton of cigarettes in plain packaging is shown on screen (Vaporphresh – 0072/15).

The Board also dismissed one complaint in this area. The Board's view was:

- Advertising which showed the negative effects of smoking, which shows images of people or objects smoking, does not depict material contrary to prevailing community standards on smoking.
- A television advertisement that promoted quitting smoking which included a computer generated image of a brain smoking and information about the dangers of smoking (Pfizer Australia Pty Ltd – 0138/15).

### Alcohol

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.

Concerns raised about situations or suggestions encouraging the excess or unsafe consumption of alcohol are considered by the Board under Section 2.6. The Board upheld two advertisements under this area in 2015. The Board's view was:

- Advertising for non-alcohol products can still breach the Code if they are seen to encourage or condone unsafe consumption of alcohol, or the consumption of alcohol in a situation which would not be considered appropriate under community standards.
- An email promotion for a pouch that could hold food and liquid along with suggestions of what the pouch could be used for. One of the included suggestions was to smuggle alcohol (Sinchies – 0008/15).
- An email advertisement which included a video showing young men drinking in the street (Strictly BMX – 0483/15).



The Board also dismissed a number of complaints about advertisements in this area. The Board's view was:

- Advertising which shows people acting in a wild and fun manner after drinking non-alcoholic beverages, does not suggest they were drinking alcohol and does not breach Section 2.6 of the Code.
- A television advertisement for mineral water which showed a waiter spraying the water like champagne and people drinking the water and starting a food fight (Schweppes Australia Pty Ltd – 0006/15).
- Advertising for a venue that serves alcohol is allowed to depict people over the age of 18 holding alcoholic beverages, as long as there is no suggestion that they are there to drink alcohol or to drink excessively.
- A television advertisement which depicted various activities that take place in a club including people dancing, attending a wedding, gathering after work, playing bingo and having lunch (Clubs NSW – 0141/15).
- Advertising for alcohol venues or retailers which does not depict alcohol or condone or encourage excess consumption of alcohol will generally not be seen to breach Section 2.6 of the Code.
- A transport advertisement which showed a man and two women and the words 'Is Steve really Shy?' (Urban Purveyor Group – 0359/15).
- A billboard with the phrase 'beer... because no good story starts with a salad.' (Coles – 0362/15).
- Advertisements which depict alcohol, but do not show people drinking it, and do not condone or encourage excess consumption will also not breach the Code.
- Advertisements that included pictures of steins of beer for an Oktoberfest promotion, (Urban Purveyor Group – 0405/15 and 0420/15).
- Advertising that raises awareness of appropriate drinking behaviours through the

use of children, where it is obvious that the children are not actually drinking alcohol, and the advertisement is in a placement where it will only be seen by adults, will be considered to be an appropriate way to promote an important community issue.

- A television advertisement for alcohol awareness which showed two children acting in the manner of adults who are drunk (Australian Drug Foundation – 0066/15).
- Advertising which shows children raising their glasses, where it is clear they are not consuming alcohol, is a behaviour which is related to celebration and not a behaviour that is only associated with alcohol.
- A television advertisement where children were seen to raise glasses in a 'cheers' motion (Schweppes Australia Pty Ltd – 0367/15).
- Advertising depicting a person or people drinking which does not show anyone inebriated or consuming large quantities of alcohol, in the context of a movie promotion, does not depict material contrary to prevailing community standards on health and safety.
- An outdoor advertisement which showed a woman drinking from a bottle in a paper bag to advertise a MA15+ movie (Universal Pictures – 0317/15).
- While there are significant community concerns regarding the anti-social and violent effects of alcohol, in the context of a product which is legally allowed to be consumed, advertising which suggests that you should drink responsibly does not depict material contrary to prevailing community standards on health and safety.
- A billboard promoting responsible drinking which featured an illustrated figure of a man holding a drink and the text 'Dignity – learn to keep it' (DrinkWise Australia – 0046/15).

## Gambling

The Board considers the genuine community concern regarding excessive gambling and notes the problems associated with gambling for certain members of society. In 2015 the Board considered a number of complaints in this area and found that none of the advertisements breached Section 2.6 of the Code. The Board's view was:

- While there is significant community concern regarding the negative consequences of irresponsible gambling, the depiction of the use of a betting app is not advertising a gambling product in a manner condoning or encouraging excessive gambling.
- A television advertisement showing a man using a gambling app on his phone at the gym (Sportsbet – 0033/15 and 0118/15).
- A television advertisement showing a man using a gambling app on his phone while bringing in groceries (Sportsbet – 0015/15 and 0165/15).
- A television advertisement showing a man using a gambling app on his phone at work (Sportsbet – 0197/15).
- A television advertisement showing people using a gambling app on a phone while hiking (Sportsbet – 0236/15).
- The promotion of wagering products is legal, and as such it is reasonable for an advertiser to promote their products, as long as they are not encouraging an excessive or unhealthy level of gambling.
- A television advertisement which featured the phrase 'Stand tall. It's time to make a call' (William Hill – 0111/15).
- A television advertisement which used the phrase 'for the thrill of it' (Ubet – 0421/15).
- A television advertisement which featured a catchy song and people dancing to promote a gambling product (Tabcorp – 0298/15).
- While linking a money lending service to a horse race is not the best message for an advertiser to send, when the link does not encourage gambling and is an analogy



between the time a race takes and the length of time taken to apply for money, it is seen not to breach this Section of the Code.

- A television advertisement for a money lending service, which used images related to the Melbourne Cup (MoneyMe – 0485/15).
- Advertisements for gambling may include some elements which are attractive to children, so long as the main topic and tone of the advertisement is directed to adults.
- A television advertisement which featured the animated cat 'Lucky' who walks down a street, coming across unfortunate situations which turn into lucky situations as he walks by (Tatts Lotteries – 0163/15).
- An internet advertisement which also featured the 'Lucky' mascot (Tatts Lotteries – 0415/15).
- A television advertisement which promoted a family day at a racecourse (Country Racing Victoria – 0042/15).

### Bullying (non-violent)

Behaviour which may be considered to be bullying is considered by the Board under Section 2.6 for non-violent bullying or Section 2.3 for violent acts.

The Board dismissed a number of cases in this area in 2015. The Board's view was:

- Depicting two people in a verbal exchange, when there is no suggestion of violence does not depict, encourage or condone verbal bullying in any form.
- A television advertisement featuring a tennis player engaging in a verbal rally with a Bankwest employee about how easy or difficult it is to find a home loan deal (Bank of Western Australia Ltd (Bankwest) – 0389/15).
- Advertising that depicts someone making a comment which is misinterpreted by other characters as insulting, does not amount to verbal bullying as the insult was unintentional and the person is shown to be regretful.

- A television advertisement which featured a woman, frustrated at trying to separate cheese slices, referring to a girl's one-eyed doll as a 'creepy cyclops', after which a boy with an eye-patch is brought into view (Murray Goulburn – 0218/15).
- While sexual harassment is a serious issue, advertising which shows mildly sexual actions in a workplace is not seen to amount to sexual harassment when the actions are not directed at any one person, the actions are comedic and there is no suggestion anyone feels harassed or upset by the actions.
- A television advertisement which featured a woman lifting up her top to show her bra to a male colleague (Mars Confectionery – 0267/15).

### Unsafe driving

Complaints about motor vehicle advertisements are considered under the FCAI code, but advertisements which are not for cars but include driving scenes may be considered under Section 2.6 for health and safety concerns.

In 2015 the Board upheld complaints against two advertisements for promoting unsafe driving practices. The Board's view was:

- Advertising which shows unsafe driving will breach Section 2.6 of the Code.
- A television advertisement in which passengers distract a driver with a mobile phone (Youi Car Insurance – 0345/15).
- A television advertisement in which a driver speeds up to a speed camera, in order to get a photo of his smile (House of Smiles – 0479/15).

The Board also dismissed a number of complaints in relation to this section of the Code. The Board's view was:

- There is significant community concern regarding illegal road racing, however showing two people in a competition to showcase their safe driving habits where the drivers are depicted as obeying the road rules and driving within the posted speed limit, does not depict driving behaviour which is contrary to prevailing community standards.

- A television advertisement for a safe driver app (AAMI – 0069/15).
- Showing drivers eating or drinking, dancing or only having one hand on the steering wheel while still driving safely does not depict driving behaviour which is contrary to prevailing community standards.
- A television advertisement which featured a girl in the passenger seat breaking off a piece of chicken and putting it in the mouth of the driver (Yum Restaurants International – 0166/15).
- A television advertisement which promoted take-away coffee which includes a scene where a driver is seen tapping her steering wheel in time with music (McDonald's Aust Ltd – 0162/15).
- A television advertisement which shows a driver only having one hand on the steering wheel (AAMI – 0145/15).
- A television advertisement which showed a woman and her passenger doing dancing movements while driving (Alpha Finance – 0358/15).
- Depictions of safe towing practices using correct gear.
- A television advertisement which featured a vehicle using a correctly attached snatch strap recovering another vehicle which is stuck in a muddy location (Isuzu – 0327/15).
- Depicting a person driving a car while talking on a mobile phone will not be considered a breach of the Code, so long as the negative consequences of this action is also depicted in the advertisement.
- A television advertisement which depicted a woman having an accident after texting on a mobile phone while driving (AICS – 0045/15).
- Most members of the community would understand the depiction of drivers conducting formation driving patterns to be behaviour carried out by professional and/or trained drivers and that this type of behaviour would not be carried out on regular roads and streets, and as such is not in breach of Section 2.6 of the Code.



- A television advertisement which featured four V8 racing cars reversing out of a semi-trailer, performing a choreographed precision driving sequence (Super Cheap Auto Pty Ltd – 0440/15).
- Depicting vehicles parked by the side of a road, which are not obstructing the road, is not a breach of prevailing community standards on health and safety.
- A television advertisement for a roadside assistance service which featured a vehicle broken down and a vehicle offering assistance (RACQ – 0017/15).
- It is not a breach of the Code to suggest that some people would enjoy both a type of alcoholic beverage and a driving activity, so long as there is no suggestion in the advertisement that both should be done at the same time.
- A billboard which featured a 4WD vehicle driving across outdoor terrain with an image of the XXXX Gold logo and the text, 'The Daily Commute' (Lion – 0057/15).
- Advertisements showing cars crossing rivers or creeks, as long as the water is not deep or flooded, does not breach Section 2.6.
- A television advertisement showing a vehicle crossing a shallow creek (Volkswagen Group Australia Pty Limited – 0467/15).

## Unsafe behaviour

The Board considered a number of complaints concerning unsafe behaviour in advertisements. The Board upheld complaints against two advertisements for depicting unsafe behaviour in 2015. The Board's view was:

- Trying to fill your mouth with excess items can be dangerous and could potentially lead to choking and advertising which depicts this practice in a way that can be seen as condoning it and could encourage members of the community to copy the practice will be found to breach the Code.
- A poster advertisement which showed a woman with pool balls in her mouth (Kelly's on King – 0062/15).

- Advertising which shows unsafe actions around traffic are seen to be a depiction of unsafe behaviour and will breach the Code.
- A television advertisement which showed a man running out onto a road to rescue a dog (Mars Petcare Australia – 0203/15).

The Board considered a number of advertisements which raised issues of unsafe behaviour to not breach the Code, determining that the behaviours shown were in line with community standards. The Board's view was:

- While there are serious safety concerns in leaving a training partner unattended while they do bench press exercises in a gym, advertising which uses this scenario in a humorous and exaggerated manner where no-one is seen to be injured by the incident, will not breach Section 2.6 of the Code.
- A television advertisement where a man was spotting a friend at the gym, when he becomes distracted by an app on his phone and walks away (Sportsbet – 0033/15).
- In the context of the advertisement for a motor vehicle, the depiction of a presenter walking in a container yard at the same time a motor vehicle is being driven, will not depict material that was contrary to prevailing community standards on health and safety.
- A television advertisement which depicted a car and a person traveling through a shipping yard, where shipping containers were being moved (Nissan Motor Co (Aust) Pty Ltd – 0089/15).
- While there is significant community concern regarding entering any body of water without checking for dangers and assessing the risks of such activity, where an image is static and in a medium unlikely to be seen by children it is not likely to encourage copying behaviour and does not depict, encourage or condone behaviour contrary to prevailing community standards on health and safety.
- A catalogue advertisement which showed young men leaping off a rock (RB Sellars – 0090/15).
- Advertising which depicts more than one child on a trampoline at a time often raises

safety concerns, however as it is common practice for parents to let more than one child use a trampoline, advertising which shows the children are well supervised, the trampoline has safety features and is in a safe location, would meet community standards on health and safety.

- A television advertisement which featured two children playing on a trampoline while their mother looks on (GlaxoSmithKline Australia Pty Ltd – 0269/15).
- Advertising which raises safety concerns around behaviours which are unlikely to be copied by children, and are in line with prevailing community standards around health and safety, will generally not be seen to be a breach of Section 2.6.
- A television advertisement which featured male and female actors smiling toward the camera and then still trying to smile as their faces are distorted as a result of air being blown toward them (People's Choice Credit Union – 0312/15).
- A television advertisement which depicted a woman flicking her belt towards a snake (Hyundai Motor Company Australia Pty Ltd – 0326/15 and 0333/15).
- An online advertisement where a man considers whether spraying himself with mace in the face would make him happy, and a voice which says that this action would make you the opposite of happy (Amaysim Australia Pty Ltd – 0123/15).
- Advertising which is consistent with safe working practices will not breach Section 2.6 of the Code.
- A television advertisement which depicts a young boy and a man lying under a car which is raised on axle stands (Super Cheap Auto Pty Ltd – 0376/15).



## 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. The Board's view was:

- Advertising which shows characters doing stunts which would not be able to be performed by a child, as they involve vehicles or equipment not easily or readily available to a child, are unlikely to encourage copy-cat behaviour.
  - A television advertisement which featured the fictional character 'Captain Risky' performing a number of exaggerated and stylised daredevil acts including racing a car, practicing martial arts and jumping from a high ladder into a plastic backyard swimming pool (Australian Insurance Holdings – 0001/15 and 0024/15).
  - A television advertisement showing a man literally 'burying his head in the sand' (iSelect Pty Ltd – 0252/15).
- Advertising which is obviously fantastical and unlikely to be taken seriously by most members of the community will not be seen as a breach of Section 2.6.
  - A television advertisement which featured cartoon imagery of seven 'Jimbo' characters travelling in the back of a trailer (Jim's Mowing SA – 0254/15).
  - A television advertisement which featured cars trying to prevent their owners from re-fuelling them because it is not BP fuel (BP Australia Pty Ltd – 0303/15).
  - A television advertisement which depicted a man trying to shave his pubic region with a series of unsuitable tools (Shaver Shop Pty Ltd – 0381/15).
  - A television advertisement in which a man steps in front of a horse race which freezes while he changes a bet (William Hill – 0429/15).
  - A television advertisement which depicted a man talking on his phone while standing on the back of two horses (Bingle Insurance – 0438/15).

## Safety in the home

Health and safety issues in and around the home were considered by the Board in 2015. The Board upheld a number of advertisements for showing unsafe behaviour in the home. The Board's view was:

- The issue of electrical safety is something that is taken very seriously and advertisements which show unsafe practices around electricity will be found to breach Section 2.6 of the Code.
  - A television advertisement which showed a lot of overloaded power outlets (Liquor Alliance – 0005/15).
  - A television advertisement where power boards were seen to be used around a hot tub (Australian Insurance Holdings – 0104/15).
  - A poster advertisement which featured an image of scissors cutting an electrical cord (Solar Engineering – 0418/15).
- Messages which trivialise important safety warnings should not be included in an advertisement likely to be seen by children.
  - A catalogue advertisement for a hip flask that was marked with the word poison and had an image of a skull and crossbones (Target Australia Pty Ltd – 0371/15).
- Advertising which shows people using equipment in a potentially unsafe manner, will usually be seen to breach Section 2.6 of the Code.
  - A television advertisement which depicted a woman pushing food scraps into an 'insinkerator' with her hands (Emerson – 0411/15).
- Advertisements which show people inside fridges or containers that can be locked from the outside will breach section 2.6 of the Code as they are unsafe actions which may be copied by children.
  - A television advertisement for a camping store which included a brief scene of two young children in an icebox with the lid up and a boy standing in a fridge (Smirkey's Sports – 0010/15).

The Board also considered a number of complaints in this area to not breach Section 2.6 of the Code. The Board's view was:

- While there is genuine community concern relating to child safety, particularly newborn and young babies in cots, showing toddlers in situations that would be potentially unsafe for younger babies might not be in breach of Section 2.6 of the Code.
  - A television advertisement where a woman left a bottle in the crib of a toddler (Dept of Premier QLD – 0007/15).
  - A television advertisement which featured a brief scene of a father lying on a couch with a child on his chest (Apple – 0363/15).
- Advertising which shows babies being appropriately supervised while being bathed does not breach prevailing community standards on health and safety.
  - A television advertisement which showed a young baby being given a bath in a small bath tub (Johnson & Johnson Pacific Pty Ltd – 0190/15).
- While there are potential dangers in leaving the side of a cot down, when this is part of a fleeting scene which also shows a parent responding quickly to a child, it is not a depiction that was contrary to prevailing community standards on child and cot safety.
  - An advertisement which included a brief scene of a baby in a cot with the safety rails down (Kimberly-Clark Aust Pty Ltd – 0087/15).
- Showing children in the same scene as a power tool which is being used, is not a breach of Section 2.6 of the Code as long as the safety of the child is not in doubt.
  - A television advertisement which included a brief scene of a young boy using a toy lawn mower near his dad who was using a real lawn mower (Dads 4 Kids – 0137/15).
  - A television advertisement which depicted a scene from several decades ago, where a chainsaw is put in the back of a ute near a child (Stihl Pty Ltd – 0107/15).



- While fire safety is a serious concern, showing a fire contained within a barbecue in an advertisement which is humorous did not encourage or condone unsafe behaviour with regard to fire safety.

- A television advertisement which depicted a man drinking a beer and using a barbecue which catches fire and the man briefly considers using his beer to put it out, but decides to let it burn (Lion – 0469/15).

### Protective gear

Advertising which shows people engaging in activities which require safety equipment, must be depicted using that safety equipment in advertising. The Board upheld two advertisements in 2015 for not meeting this requirement. The Board's view was:

- Bicycle helmets are a safety requirement when riding a bicycle and as such advertising showing people riding bicycles in public without helmets will breach Section 2.6.
- A television advertisement depicting an image of two cyclists on bicycles without helmets (Fernwood Fitness Centres Aust Pty Ltd – 0011/15).
- An internet advertisement featuring a video of a young man riding a bicycle without a helmet (Strictly BMX – 0483/15).

The Board often receives complaints about some activities where safety equipment or practices are advised, but not required. In these cases the Board will often dismiss the complaints as the activities shown are not contrary to prevailing community standards. The Board's view was:

- While there is a general consensus in the community that wearing appropriate safety gear including helmets is preferable when using a skateboard, there are no rules regarding the use of helmets except in South Australia. Given the lack of rules regarding the use of helmets while skateboarding the Board was of the view that advertising which depicts a skateboard being used in a controlled manner does not encourage or condone unsafe behaviour. Similarly, it is not

currently illegal to use a mobile phone while on a skateboard and where the person using the skateboard is seen to be in control this is not an activity which would breach Section 2.6 of the Code.

- A television advertisement which featured a man using a mobile phone while riding a skateboard without a helmet (HSBC – 0132/15).
- A television advertisement where a young boy does flips on his skateboard while being watched by his sister (St George Group – 0431/15).
- A television advertisement which shows a man skateboarding to the beach to meet his friends (OPSM Pty Ltd – 0462/15).
- When an unsafe behaviour is shown in an advertisement, accompanied by a disclaimer stating not to copy the behaviour, and the behaviour is not the focus of the advertisement, the advertisement will not be seen to encourage or condone unsafe behaviour.
- A television advertisement for a stain remover which included a depiction of a person spraying the product onto clothes they are wearing (Global Shop Direct – 0352/15).

### Other health and safety issues

Section 2.6 of the Code encompasses a diverse range of issues which raise community concern about materials contrary to prevailing standards of health and safety.

The Board upheld a number of advertisements for breaching Section 2.6 in 2015. The Board's view was:

- Advertising which contravenes prevailing community standards about sun safety will be seen to be contrary to prevailing community standards on health and safety.
- A poster advertisement featured the phrase 'Don't worry about getting to the Gold Coast, only worry about your sick tan' (Airtrain Brisbane – 0307/15).
- A television advertisement which depicted a very sunburnt man at the races and

a voice-over which states 'don't worry it's only second degree, spring it on' (Sportsbet – 0449/15).

- Advertising which references suicide without providing support services information, and in a way which trivialises or normalises the serious issue, will be seen to breach Section 2.6 of the Code.
- A poster advertisement for a horror movie which featured a Google search with 'Laura Bar' typed in the search field. The drop down menu included the options: 'Suicide, party photos, passed out video, boyfriend, bullied, possession' (Universal Pictures – 0193/15).
- There are genuine community and government concerns about sexting and cyber safety and advertising directed at young people seen to encourage this behaviour will be seen as contrary to prevailing standards of health and safety.
- A television advertisement which depicted a young man take a shirtless selfie with the voice-over indicating he sends it to a girl he likes (Coty Australia Pty Ltd – 0257/15).

The Board also dismissed a number of complaints under Section 2.6 of the Code. The Board's view was:

- Advertising which encourages people to remove dairy from their diet, does not breach Section 2.6 of the Code as it is not suggesting people remove 'calcium' from their diet.
- A radio advertisement which encouraged people to ditch dairy (Animal Liberation Queensland – 0433/15).
- There is significant community concern about money lending services and whether advertisements for them encourage financial irresponsibility, however such services are legally allowed to be advertised and therefore advertising these services does not amount to a depiction which breaches community standards.
- Advertisements for money lending services which received complaints included: Nimble (0016/15, 0019/15 and 0029/15).



- There is significant community concern about the promotion or encouragement of unhealthy body weights, however advertising which does not encourage being underweight, and shows healthy looking bodies does not present material which would be contrary to prevailing community standards on health and safety in relation to body image.
  - A television advertisement for a weight loss product which showed testimonials for healthy looking women who had used the product (Pharmabrand Labs – 0025/15).
  - Health food advertisements which showed healthy looking people include: Mitchell's Quality Foods (0265/15) and Vitaco Health Australia Pty Ltd (0441/15 and 0442/15).
  - Fashion advertisements where slim models are used include: Estee Lauder Group of Companies (0129/15), Pacific Brands Holdings Pty Ltd (0251/15), Frockaholics (0379/15) and David Jones Ltd (0402/15).
- While some people do not like the services of plastic surgeons to be advertised, believing them to promote negative body images, it is a service that is legally able to be promoted.
  - A television advertisement where a husband talks about his wife's plastic surgery (Cosmetic Elegance – 0321/15).
- The Board noted that babies can be used in advertisements to demonstrate how a product works when there is no danger to the babies.
  - A television advertisement which featured hair thickener being demonstrated on babies to show the possible results with a voiceover stating it is meant for adults (Toppik – 0043/15).
- Radio advertising which uses a car horn sound in a way which is unlikely to cause drivers to be distracted to the point of dangerous driving will not breach Section 2.6 of the Code.
  - A radio advertisement which included the repeated use of a car horn (Toot Toot Car Loans – 0126/15).
- Advertising which would not be attractive to children that uses the word 'contamination' in relation to tap water, would not discourage children from drinking water.
  - A radio advertisement for a water filter which used the term cross-contamination when referring to tap water (Puratap Pty Ltd – 0131/15).
- While it is an unfortunate choice for advertisers to use characters that are attractive to children for a product that is not for children, when the labelling of the product indicates it is not suitable for children it does not breach current prevailing community standards on health and safety.
  - Print, outdoor and billboard advertising for an energy drink which used popular characters from The Avengers (Fruco Beverages Australia – 0135/15, 0136/15 and 0171/15).
- While some people would prefer not to see a person licking another person, when this action is between two consenting adults it is not a breach of prevailing community standards on health and safety relating to hygiene.
  - A television advertisement which depicted a woman licking her partner's face to taste chip flavouring (Fantastic Snacks Australia – 0253/15).
- Advertising which shows someone choosing unhealthy food over exercise, is not a breach of Section 2.6 of the Code when that person is shown to usually be healthy.
  - A television advertisement which featured a woman eating a chocolate bar when people thought she was out running (Nestle Australia Ltd – 0262/15).
- While kissing a dog, or allowing a dog to lick your face or mouth, is not to be encouraged, it is not of itself a breach of prevailing community standards on health and safety.
  - A television advertisement which featured a woman kissing her dog (AAMI – 0348/15).
- Advertising which receives health and safety complaints which are unlikely to be shared by the broad community will usually be found not to breach Section 2.6 of the code.
  - A television advertisement for a dog toy which emits a noise which sounds like a child giggling raised the concerns it would encourage dogs to bite children (Global Shop Direct – 0450/15).

DETERMINATION TRANSPORT EDUCATORS TRANSPARENCY COMMUNICATING  
 TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE  
 POSTERS COMMUNITY DETERMINATION OUTDOOR INDEPENDENT PEOPLE  
 ADVERTISERS RESPONSIVE MEMBERS TELEVISION INITIATIVES ACCOUNTABILITY  
 ACCOUNTABILITY STANDARDS INTERNET RELIABLE GOVERNMENT  
 UNITING REPORTS CONSUMERS COMMUNICATING ACCESSIBLE LIAISING  
 TELEVISION COOPERATING ACCOUNTABILITY  
 MERGING COMMUNICATING SOCIAL MEDIA  
 ACCOUNTABILITY COMMUNITY EDUCATING SELF-REGULATE  
 LIAISING COMPLAINT DETERMINATION CONSOLIDATING  
 STANDARDS ADVERTISERS BILLBOARDS  
 AUTHORITY POSTERS

DETERMINATION  
 INDEPENDENT  
 SELF-REGULATE  
 EDUCATING  
 BILLBOARDS  
 GOVERNMENT  
 TRANSPORT  
 PARTNERING  
 RADIO  
 BUSINESS  
 BONDING



# 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 Advertising and Marketing Communications Code (the AANA Food Code). The AANA Food Code has provisions focussing on advertising food and beverages generally. Part 3 of this Code has specific restrictions about advertising food and beverages to children and these are discussed below.

During 2015, 19 cases were considered under the AANA Food Code, two of which were also considered under the Australian Food and Grocery Council (AFGC) Initiatives and are discussed below.

The main issues considered in cases considered primarily under the AANA Food Code during 2015 relate to truth and accuracy.

### Section 2.1 - Truth and accuracy/ Nutritional composition of the product

Section 2.1 of the AANA Food Code states:

*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.*

The Board does not determine as a legal matter whether an advertisement is misleading, nor does it reach a legal opinion. Its task is to reflect the community's attitude—to assess whether the advertisement meets current community expectations for truthfulness given what the advertisement conveys to ordinary consumers.

The Board has a special role given the broad principles in the various Codes and its role as set out in the Complaints provisions of the Codes and other sources such as the Food and Beverage Practice Note. The Board reflects community standards and expectations and these necessarily change over time.

Complainants and advertisers each put their own submissions about what the community believes and understands, but it is for the Board to assess what the community would take from an advertisement and whether reasonable members of the community would consider the advertisement misleading.

By upholding or rejecting a complaint, the Board determines whether the community considers an advertisement acceptable or not. In this way, it provides guidance to advertisers and assists in maintaining confidence in advertising.

During 2015, 15 cases were considered under this Section of the AANA Food Code.

A number of complaints concerned the truthfulness of statements made in advertisements for food products including:

- Whether a product can be considered 'home made' when the process consists of adding water to purchased powder (Easiyo – 0117/15).
- A suggestion that a powdered beverage product is high in protein, when the protein comes from the milk added to the powder (Nestle Australia Ltd – 0128/15).
- Whether a supermarket chain that advertised having freshly baked products in their stores needed to specify locations where there was not an in-store bakery (Woolworths Supermarkets – 0133/15).
- Images in an advertisement which were suggestive of a different country of origin than the product's country of origin (Simplot Aust Pty Ltd – 0134/15; and Golden Circle Ltd – 0451/15).



- Statements that a product is 100 per cent Aussie lamb, when the final product contains other ingredients (McDonald's Aust Ltd – 0159/15).
- The labeling of pork belly as pork spare ribs (Coles – 0172/15).
- Showing pictures of fruit with a product that is only fruit flavoured (Coca-Cola South Pacific – 0206/15).
- The suggestion that the advertised product is better for you than salad (Yum Restaurants International – 0235/15).
- Claims that fruit cups are the best way to eat fruit (Coca-Cola Amatil – 0293/15, 0294/15 and 0310/15).
- Claims that lightly dried herbs are as good as fresh herbs (Gourmet Garden – 0349/15).

In each of these cases the complaint was dismissed. In 2015 two complaints were upheld under Section 2.1 for being misleading or deceptive:

- An advertisement that suggested the products ingredients were all from Tasmania, when some were from China (Fonterra Brands (Australia) Pty Ltd – 0113/15).
- A statement that suggested a product was a superfood and had a high protein content, when the product needed to be consumed with milk for it to contain protein (Nestle Australia Ltd – 0225/15).

## Section 2.2 – Excess consumption and undermining balanced diets

Section 2.2 of the AANA Food Code states:

*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.*

In 2015 two advertisements were considered by the Board in relation to this Section of the AANA Food Code:

- An advertisement for energy drinks which used characters that may be attractive to children raised concerns that this may contravene prevailing community standards (Fruco Beverages Australia – 0171/15) had the complaint dismissed because the product was clearly labelled as being only for adults.
- An advertisement that showed a woman taking a break from running to eat chocolate raised concerns the advertisement was undermining the importance of a healthy lifestyle (Nestle Australia Ltd – 0262/15) had the complaint dismissed because showing someone taking a break does not constitute being unhealthy.

## Section 3 – Advertising to children

Section 3 of the AANA Food Code relates to advertising food or beverage products to children. In 2015 the board considered three cases under this Section of the AANA Food Code.

### Section 3.1 – Misleading/urgency/price minimisation

Section 3.1 of the AANA Food Code states:

*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.*

In 2015 the Board considered one case under this Section. The case related to whether depicting fruit in an advertisement for a product that only contained fruit flavouring was likely to create the impression for children that the product contained fruit (Coca-Cola South Pacific – 0206/15). Similar to their determination under Section 2.1 of the Code the Board dismissed the complaint

as the product was clearly a soft drink and most members of the community would not consider it to contain fruit.

### Section 3.5 – Pester power

Section 3.5 of the AANA Food Code states:

*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.*

In 2015 the Board considered two advertisements under Section 3.5 of the AANA Food Code:

- A website which required the purchase of an ice cream to receive a code to unlock games (Peters – 0146/15).
- A promotion where if a product was purchased free e-books of popular characters could be downloaded (McDonald's Aust Ltd – 0336/15).

The Board dismissed complaints against both advertisements finding that the advertisements did not include an appeal to children to urge adults to buy the products.

### Section 3.6 – Premium

Section 3.6 of the AANA Food Code states:

*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.*

In 2015 the Board considered one advertisement under this Section of the Food Code (McDonald's Aust Ltd – 0336/15). In this case the Board determined that the product was offered instead of the toy in a happy meal, and considered this an integral element of the product being offered and therefore can be a feature of the advertisement.



## The Quick Service Restaurant Initiative

Complaints relating to the AFGC's Quick Service Restaurant Initiative (QSRI), falling under the umbrella of the Australian Food and Grocery Council (AFGC), are 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 QSRI applies to advertising to children under 14.

In 2015 six cases were considered under the QSRI, two more than in 2014, but still significantly lower than the 15 cases considered in 2012. No breaches of the QSRI were found.

S1.1 of the Core Principles of the QSRI is:

Advertising and Marketing Communications to Children for food and/or beverages must:

- (a) Represent healthier dietary choices, as determined by the Nutrition Criteria; and
- (a) Reference, or be in the context of, a healthy lifestyle, designed to appeal to Children through messaging that encourages:
  - i. Good dietary habits, consistent with established scientific or government standards; and
  - ii. Physical activity.

### Independent Arbiter

Under the provisions of the QSRI signatories must develop a Company Action Plan which outlines what constitutes a healthier choice. An independent arbiter will advise the ASB whether the product or meal advertised represents a healthier choice. During 2015 the Board consulted with an independent arbiter for McDonalds (0281/15) to determine whether a children's meal pictured was consistent with the nutrition criteria outlined in McDonalds' Company Action Plan. The arbiter advised that it did.

### Key issues

Key issues to be drawn from cases considered by the Board during 2015 are:

- Where the Board considered that the advertisements were not directed primarily to children and therefore the QSRI did not apply, specifically:
  - Advertisements which used popular children's characters, were not necessarily directed to children, if the other themes, visuals and language in those advertisements were directed at an adult audience (McDonald's Aust Ltd – 0279/15, 0280/15 and 0282/15).
  - A billboard advertisement which featured an older teenage boy eating chicken had appeal to a broad audience and was not directed primarily to children (Yum Restaurants International – 0382/15).
- Two cases where the Board considered the advertisements were directed primarily to children but that they were for the healthier choice products and they met the messaging requirements:
  - An activity sheet able to be downloaded from an advertisers website that only included a small image of the advertiser's logo, and that did not include any images of food, was not considered an advertisement for food or beverages (McDonald's Aust Ltd – 0281/15), however when accessed through the advertisers website which did include images of food, it was considered an advertisement for food and beverage products. In considering the content the Board determined that the website, and therefore the activity sheet, complied with healthy lifestyle messaging.
  - An app which featured books that could be downloaded for children with the purchase of a happy meal, was seen by the Board to have messaging encouraging good dietary habits and physical activity (McDonald's Aust Ltd – 0336/15).

## The Responsible Children's Marketing Initiative

Complaints under the AFGC's Responsible Children's Marketing Initiative (RCMI) are also administered by the ASB. This Initiative applies to advertising to children under 12, and limits marketing communications to children only when it will promote healthy dietary choices and healthy lifestyles.

S1.1 of the Core Principles of the RCMI is:

Advertising and Marketing Communications to Children for food and/or beverages must:

- (a) Represent healthier dietary choices, consistent with established scientific or Australian government standards, as detailed in Signatories' Company Action Plan; and
- (b) Reference, or be in the context of, a healthy lifestyle, designed to appeal to Children through messaging that encourages:
  - i. Good dietary habits, consistent with established scientific or government standards; and
  - ii. Physical activity.

### Independent Arbiter

Under the provisions of the RCMI signatories must develop a Company Action Plan which outlines what constitutes a healthy dietary choice. An independent arbiter will advise the ASB whether the product or meal advertised represents a healthy dietary choice. During 2015 the Board consulted with an independent arbiter in the following cases: Coca-Cola Amatil (0293/15, 0294/15 and 0310/15) to determine whether the product constituted a healthier dietary choice. The arbiter determined that it did not.



## Key issues

In 2015 the Board considered five cases under the RCMI, of the five cases, three were upheld.

Key issues to be drawn from cases considered by the Board during 2015 are:

- In determining whether an advertisement is directed primarily to children the Board will take into account the visuals, themes, and language in the advertisement:
  - An advertisement was found to be directed at children because of the visuals (animated characters), themes (hanging out and riding roller coasters) and language (teen style voices using terms such as 'awesome' and 'busting out to my favourite beats') and as it was not for a healthier choice product was found to breach the RCMI (Coca-Cola South Pacific – 0204/15).
  - The Board also considered an app using the same characters, which featured a simple game that would be attractive to children, and considered that the advertisement was again directed primarily to children. As the product was not a healthier choice product it was found to breach the RCMI (Coca-Cola South Pacific – 0206/15).
  - The Board however found the website for the same product to not be directed primarily to children as the language was factual, images were stationary and there was a lack of interactive material (Coca-Cola South Pacific – 0205/15). As the advertisement was not directed primarily at children the RCMI did not apply.
  - The Board considered an advertisement which included an animated candy bear playing a prank on a teenager would have a broad appeal and was not directed primarily to children. The Board considered that while it would have appeal to children, the nostalgic theme and the adult voice-over made it directed to a general audience (Mondelez Australia Pty Ltd – 0375/15).

- Even when an advertisement is not directed primarily to children, it can breach this provision if placed in a medium of principal appeal to children:
  - The Board considered an advertisement where a young boy dressed as an astronaut makes his way to the table as his family sing the tune from '2001 – A Space Odyssey'. The Board considered the themes and language in the advertisement to be directed primarily to the grocery buyer, and not to children. However this advertisement was played in a program of principal appeal to children, and therefore the principles of the RCMI applied, and as this was not a healthier choice product the advertisement was found in breach (Patties Foods – 0511/15).



# Advertising to children

## AANA Code for Advertising and Marketing Communications to Children (Children's Code)

The provisions of the Children's 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.

In 2015 there were eight advertisements that specifically raised issues under the Children's Code. Of these, five were advertisements for food products. No complaints were upheld under the Children's Code in 2015.

### Scope of the Children's Code

The Children's Code only applies to advertisements for children's products. In 2015 the Board considered a number of advertisements not to fall within the Children's Code as they were not an advertisement for a children's product:

- Advertisements for products which were considered by the Board to not be children's products and therefore the Children's Code did not apply (Fruco Beverages Australia – 0171/15; Tabcorp – 0298/15; Mondelez Australia Pty Ltd – 0375/15; and Yum Restaurants International – 0382/15).
- An advertisement for a country racing day which included activities for children, such as face painting, raised concerns that it was making gambling attractive for children. The Board found that the theme, visuals and language in the advertisement were not directed primarily to children, and therefore the Children's Code did not apply (Country Racing Victoria – 0042/15).

### Section 2.1 - Prevailing Community Standards

Section 2.1 of the Children's Code states:

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

In 2015 two cases were considered under this Section of the Children's Code. The Board determined:

- Advertisements for products of low nutritional value do not contravene prevailing community standards (ABC Sales and Marketing – 0146/15; and Peters – 0146/15).

### Section 2.7 – Parental authority

Section 2.7 of the Children's Code states:

Advertising or Marketing Communications to Children:

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

In 2015 the Board considered one complaint under this Section of the Children's Code.

The Board considered a product's website which required the purchase of an icecream to receive a code to unlock games on the website (Peters – 0146/15). The Board considered that the locked status of these games would mean that children may urge their parents to buy the icecreams so that they can continue playing. However, the Board considered that accessing the website on a computer or electronic device meant that there would be access to other games that did not require such a code and therefore, the parent or carer would remain the decision maker about whether or not to buy the product. It was the view of the Board that the need for a code to unlock games on this website was not a specific appeal to children to urge parents to buy the product and did not breach Section 2.7(b) of the Children's Code.



## Section 2.11 – Premiums

Section 2.11 of the Children's Code states:

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

- (a) *must not create a false or misleading impression in the minds of Children about the content of the Product;*
- (b) *must be presented conspicuously;*
- (c) *must 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;*
- (d) *must not refer to the premium in more than an incidental manner to the advertised product;*
- (e) *must make the terms of the offer clear as well as any conditions or limitations; and*
- (f) *must not use Premiums in a way that promotes irresponsible use or excessive consumption of the Product.*

In 2015 the Board considered one advertisement under this Section of the Children's Code.

The Board considered a Happy Meal promotion which instead of a toy offered a code which would allow access to a children's book through an app (McDonald's Aust Ltd – 0336/15). The Board had previously determined that a Happy Meal toy does not fall under the definition of premium as the Happy Meal product always includes a toy. Therefore the Board determined that this promotion, which is in place of a toy, also did not meet the definition of premium and this Section of the Children's Code did not apply.

## Section 2.14 – Food and beverages

Section 2.14 of the Children's Code states:

- (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.

Advertisement which were considered under this Section of the Children's Code are included in the discussion of the Food Code.



# Cars - Federal Chamber of Automotive Industries Code of Practice for Motor Vehicle Advertising (FCAI Code)

There was significant increase in the number of complaints received about motor vehicle advertisements in 2015. In 2015 there were 17 cases considered under the FCAI Code.

## Depictions of unsafe driving

Clause 2(a) of the FCAI Code states:

*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.*

There were nine advertisements considered under this Section in 2015, with complaints against all nine dismissed.

Complaints were received about:

- An advertisement showing a car driving through a commercial wharf, in particular a scene where it drives under a shipping container being lifted by a forklift. The Board acknowledged that this type of behaviour would not be recommended but considered that in the context of the controlled environment within the container wharf location, the portrayal was not unsafe (Nissan Motor Co (Aust) Pty Ltd – 0089/15).
- An advertisement showing a car overtaking another car near the crest of a hill. The Board determined the advertisement made it difficult to tell the driver's placement on the hill, however due to the broken lines on the road considered this was likely to be a safe place to overtake (Ford Motor Co of Aust Ltd – 0095/15).

- An advertisement showing a vehicle towing a caravan in various locations including off-road and a shallow river crossing, and overtaking another vehicle on a sealed road. The Board noted the driver is shown in control of the vehicle at all times and determined his driving was not unsafe (Holden Ltd – 0098/15 and 0109/15).
- An advertisement showing an off-road vehicle driving in different locations, including an unsealed road, sand track, quarry, river bed and forest trail. The Board considered the advertisement did not depict any unsafe driving (Isuzu – 0125/15).
- An advertisement which showed a car changing speed and direction. The Board found the changes were not unnecessary and were done to highlight the voice activated features in the vehicle (Ford Motor Co of Aust Ltd – 0464/15).
- An advertisement which suggested a car was racing bicycles. The Board noted that although the driver does say 'see you at the bottom' to the cyclists he does not specifically mention a race, and that the driver is in control of the vehicle at all times (Mitsubishi Motors Aust Ltd – 0485/15 and 0510/15).
- An advertisement which showed a vehicle driving through a test environment set up to resemble a busy city, and overtaking a group of cyclists before swerving to avoid a number of pedestrians on the road. The Board noted the test environment, that the car was seen driving in a safe manner and determined that overall the advertisement did not depict unsafe driving (Toyota Motor Corp Aust Ltd – 0491/15).

## Driving in excess of speed limits

Clause 2(b) of the FCAI Code states advertisers should ensure that advertisements for motor vehicles do not portray:

People driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.

In 2015 seven advertisements were considered under this Code. No ads were found to breach Clause 2(b), however one advertisement considered under this Clause was found to breach other clauses (New Pioneer Motors – 0302/15). Of the seven advertisements considered, three were also considered under Clause 2(a), (Mitsubishi Motors Aust Ltd – 0485/15 and 0510/15; and Holden Ltd – 0098/15).

Advertisements that were considered under this Clause included:

- A billboard with a picture of a vehicle on a race track and the words 'fastest land rover ever'. The Board determined that as there is no context of a speed limit, the advertisement did not depict speeding (Jaguar Land Rover Australia Pty Ltd – 0157/15).
- An advertisement which depicted a vehicle reversing through muddy terrain at speed, towing another vehicle. The Board considered that action is consistent with towing a vehicle out of muddy terrain and is not suggestive of speeding (Isuzu – 0327/15).
- An advertisement which shows a vehicle being driven through a desert. The Board noted that the vehicle is shown in a way that makes it appear to be travelling fast, however when the speed is shown, the car is moving at 98km/hr which would not be break the speed limit (Holden Ltd – 0428/15).



## Driving practice that may breach the law

Clause 2(c) of the FCAI Code states advertisers should ensure 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.*

In 2015 seven advertisements were considered under this Clause, of which two were found to breach the Code. Two advertisements that were considered under this Clause were also considered under Clause 2(a) (Holden Ltd – 0098/15; and Ford Motor Co of Aust Ltd – 0464/15).

The two advertisements that were found to breach this clause were:

- An advertisement which featured a variety of images was found to contain driving practices that would breach any Commonwealth law or the law of any State or Territory for the depiction of a car doing a burn out (New Pioneer Motors – 0302/15).
- An advertisement showing a vehicle driven in different locations at different times, and in some scenes the fog lights are on, including in daylight. The Board noted that clause 217(1) of the Australian Road Rules (February 2012) refers to the use of fog lights and states that: ‘The driver of a vehicle fitted with front fog lights or rear fog lights must not operate the fog light unless the driver is driving in fog or other hazardous weather conditions causing reduced visibility.’ The Board found that this advertisement contained images that would breach this Road Rule.

The Board also dismissed a number of cases under this Clause including:

- An advertisement which depicted a man wearing thongs and drinking a smoothie while driving. The Board considered the relevant Australian Road Rules and found

that there were no laws prohibiting either of these things (Volkswagen Group Australia Pty Ltd – 0151/15).

- An advertisement showing a vehicle driving through a giant pipe which has fallen off the back of a truck, before towing it alongside the truck driver and telling him he has dropped something. The Board noted the depiction is fantasy and that it would not be possible to copy. The Board considered the advertisement does not portray driving which is unsafe or which is reckless or menacing driving that would breach any Commonwealth law or the law of any State or Territory (Nissan Motor Co (Aust) Pty Ltd – 0266/15).
- An advertisement which features more than one vehicle being driven in a testing environment with experts and passengers watching from a helicopter as the vehicles are put through a series of tests (Toyota Motor Corp Aust Ltd – 0414/15). The Board noted the depiction of the vehicles towing more than one trailer is conducted in a manner that shows the drivers in control of the trailers being towed and in this case is not a driving practice that is contrary to the provisions of the road rules.

## Environmental damage

Clause 2(e) of the FCAI Code states advertisers should ensure that advertisements for motor vehicles do not portray:

Deliberate and significant environmental damage, particularly in advertising for off-road vehicles.

In 2015 only one case was considered under this Clause. An advertisement which showed an off-road vehicle being driven in a number of environments (Isuzu – 0125/15), including a sand track, river bed and forest logging train. The Board determined it did not breach this Clause as there was no suggestion of any deliberate or significant environmental damage occurring as a result of the vehicles being shown in off-road conditions.

## Motor sport

Clause 3 of the FCAI Code states:

*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:*

- 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.*
- Any racing or competing vehicles depicted in motor sport scenes should be in clearly identifiable racing livery.*

In 2015 the Board considered one advertisement under this Clause and upheld the complaint against it. The advertisement (New Pioneer Motors – 0302/15) included a scene where two cars were seen racing each other. The Board considered that as the depiction was clearly on race track surroundings, the vehicles shown needed to be clearly identifiable as race vehicles in order to satisfy the requirement of the clause. The Board considered however, that the vehicles shown are two of the models available for purchase as road ready vehicles for public roads and for general use. The Board noted that there are no scenes of the drivers preparing for racing with helmets or race gear and that the vehicles are not clearly identified with racing livery and therefore did breach clause 3 of the FCAI Code.



# Environmental Claims in Advertising and Marketing Code

In 2015 the Board considered two complaints under the AANA Environment Claims in Advertising and Marketing Code (the Green Code).

Section 1(i) of the Green Code states environmental claims:

*shall not be misleading or deceptive or be likely to mislead or deceive.*

In 2015 two advertisements were considered under this Section of the Green Code.

One advertisement featured images of an architect walking through a wood structure discussing the benefits of using of wood products. In particular the claims made are that: ‘Nearly half of a piece of wood is carbon removed from the atmosphere’, ‘Better for the environment to have carbon stored for life in [the wood product] than to have it out there’, ‘wood tackles climate change’ and ‘more people are saying wood is naturally better’ (Planet ARK – 0180/15). Based on supporting information from the advertiser which referred to an Australian Government report, the Board considered the representation that wood stores carbon is accurate and the claims about use of sustainably sourced wood is not misleading based on the information about greenhouse gas emissions in forestry operations. The Board determined the advertisement’s claims regarding sustainably sourced wood being better for the environment was not misleading and dismissed the complaint.

The Board also considered an advertisement for hot cup lids which claimed their product as biodegradable (MPM Marketing Services – 0139/15). The Board noted it is reasonable for the advertiser to provide information and methods that indicate how the process actually occurs. The Board considered the use of the terminology and imagery in this advertisement was not presenting information in a manner which was designed to be misleading or deceptive but rather to inform consumers of new methods that are making plastics better for the environment. The Board considered that, in the context of the testing report provided by the advertiser, the statements the advertisement contained regarding the biodegradability of the products are not misleading or deceptive.

Section 1(ii) of the Green Code states that environmental claims:

*must not be vague, ambiguous or unbalanced.*

The Board considered that in the context of a plastic cup designed for commercial purchase (MPM Marketing Services – 0139/15), the information available on the poster is not vague and does not breach Section 1 (ii) of the Green Code.

Section 3(i) of the Green Code states that:

*Environmental Claims must be able to be substantiated and verifiable. Supporting information must include sufficient detail to allow evaluation of a claim.*

In considering MPM Marketing Services (0139/15) the Board also noted the advertiser’s response which outlined the information and testing about the product which is available to consumers upon request and determined that the advertisement did not breach Section 3(i) of the Green Code.



# Board member profiles



**GIULIANA BAGGOLEY**

Appointed August 2011

Giuliana Baggoley is an optometrist and State Eyecare Manager with Luxottica.

A former Policy Adviser with Optometry Australia (OA), Giuliana has previously served on OA state councils and is a member of the ACT Clinical Senate.

The majority of Giuliana's 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 love people's stories and I value how different experiences and lifestyles enrich a community."



**JACK MANNING BANCROFT**

Appointed August 2011

At 29 years of age Jack Manning Bancroft is the CEO and Founder of AIME. In 2005, then a 19-year-old uni student, Jack founded the AIME Program with 25 Indigenous kids in Redfern. AIME incorporated in 2008 and Jack became a CEO at the age of 22.

Jack is now one of Australia's youngest CEOs leading a team of nearly 100 staff across the country. Today, AIME works with over 3,500 Indigenous high school students and 1,250 university students acting as mentors across five states in Australia.

Over the last four years, AIME students have finished school at almost the same rate as every Australian child. By 2018, AIME seeks to expand across the nation to connect with 10,000 Indigenous high school kids annually—that's roughly one quarter of the Indigenous high school population—and have all of these kids finishing school at the same rate as every Australian child.

Jack was named 2010 NSW Young Australian of the Year, 2010 Young People's Australian Human Rights Medallist and received the University of Sydney 2010 Young Alumni of the Year Award.

Jack is also the CEO and a Founder of Phone Free Feb and a graduate of the University of Sydney and Stanford.



**SUE BOYCE**

Appointed September 2014

Sue served as a Queensland Senator for seven years, retiring on 30 June 2014. She was first elected by the Queensland Parliament on 19 April 2007 to fill a casual Senate vacancy, and then elected in her own right at the Federal election on 24 November 2007.

She is a company director, former journalist and public relations practitioner with experience in Queensland, Victoria, PNG and the UK. She was based in Melbourne for more than 20 years before returning to Queensland, in 1994, to work with her family's manufacturing company which was established in 1926 and employs about 200 people. Sue has a strong understanding of issues faced by Australian business.

While in the Senate, Sue's roles included Chair of the Senate Standing Committee on Community Affairs, and Deputy Chair of the Joint Committee for Corporations and Financial Services.

Sue remains committed to improving the political participation rates of women. She works as a disability advocate and is a past president of the Down Syndrome Association of Queensland (DSAQ).

She is also a past president of the Liberal Women's Council (Qld). She holds a Bachelor of Arts (Hons), a Masters of Business and is a Fellow and Graduate of the Australian Institute of Company Directors.

Most importantly, she is the mother of three adult children and grandmother of four.





**MARIA COSMIDIS**  
 Appointed August 2011

Maria Cosmidis is currently employed by the South West Sydney Community Legal Centre as the Executive Officer. The Legal Centre provides free legal advice to those unable to afford a lawyer, and supports many hundreds of women affected by domestic violence every year.

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 12 years. Maria is actively involved in many multicultural events and programs in Sydney.

Maria has a Bachelor of Arts/Social Work, and a Masters of Management from UTS, having been granted a scholarship with the Australian Sports Commission's "Sports Leadership Grants and Scholarships for Women" to undertake this further study.

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



**PAUL DOORN**  
 Appointed September 2014

Paul is Executive Director of Sport and Recreation in the NSW Office for Sport. In this position, he leads the development of strategic directions for sport and recreation in NSW linked to government priorities and NSW 2021 outcomes.

He was Chief Executive Officer of Institute of Public Administration (NSW) between 2009 and 2012.

Paul spent two years working in the Abu Dhabi Education Council managing a major public private partnership program for schools in the Emirate and providing leadership to ensure the delivery of high quality educational support to schools in the Emirate.

He has also worked in curriculum development and as a classroom teacher in the NSW government system. He has a Bachelor of Education, Master of Education and most recently was awarded a Graduate Diploma of Public Administration.

A passionate sport participant and fan, when he's not at work Paul likes to spend time supporting his wife and two daughters in their sporting endeavours, and when time permits you will often find him out in the early morning riding his bike with friends and thousands of other MAMILs.



**FIONA GILES**  
 Appointed August 2013

A well-known writer and editor, Fiona is Senior Lecturer and Chair of 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, "The Magazine that Isn't": The Future of Features Online published in TEXT in April 2014.

Fiona's current research interests include creative non-fiction, long-form journalism, and feature writing, together with health communications and 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, a Brisbane city congregation. Her ministry primarily focuses on multi-cultural young adults, youth and mission.

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. As part of this work Karen meets with young adults from across Queensland, helping them to contribute to mission and community work in countries with the greatest need.

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. She is currently enjoying learning through the Arrow Leadership program, developing emerging leaders in the Australian Evangelical sector.

In her spare time Karen enjoys being a part of her local community. Libraries and parks are her destination of choice, while she is on a first name basis with the coffee shop owners in the area. She hopes to continue to find ways to contribute to the well-being of her city and local area.



**SOPHIE KOWALD**  
Appointed August 2006

Sophie works at the Australian Communications and Media Authority (ACMA) and recently completed a Master of Laws 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 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. As the mother of two young children, she currently holds memberships with her local playgroup, toy library and breastfeeding association.

Born in Canberra and raised in Brisbane, Sophie is now Sydney-based, but has spent significant amounts of time in Melbourne and on the Gold Coast in recent years.



**GINA LEE**  
Appointed September 2014

Gina was born and grew up in Sydney but some years ago underwent a tree-change and moved to central western NSW with her husband and family. Prior to her move, Gina worked as an intellectual property lawyer in a top tier Sydney corporate law firm. Since then, she has worked as a legal editor and as a government lawyer. She also spent some time working with the community as a criminal lawyer with Legal Aid. She is currently completing her Masters of Laws.

Gina is involved in many aspects of life in the central west—work, school, church and the arts, particularly with the local music conservatorium of which she is an active member and avid supporter. She particularly enjoys playing cello with her local orchestra. She has taught scripture in a local public school, is an involved member of her church and has been active in a local resident action group.

As a second-generation Korean-Australian, Gina has a particular interest in questions of displacement—spiritual, cultural and physical—and completed her undergraduate English Literature Honours thesis on this area.

She is the mother of three children and loves a good cup of coffee with friends, training in Tae Kwon Do and going on long drives.





**WILLIAM McINNES**  
 Appointed September 2014

William is one of the most accomplished and popular actors on the Australian landscape today. He has appeared in some of Australia's most memorable productions.

In television, William has shone in dramatic lead roles in *The Shark Net*, *My Brother Jack*, *Blue Heelers*, *Stepfather of the Bride*, *Seachange*, the telemovie *Curtin*, and in *East West 101*. William most recently starred *Dangerous Remedy*, and in *The Time Of Our Lives*.

William has received the Film Critics Circle of Australia Award for Best Actor in 2005 as well as an Australian Film Institute (AFI) Award and a Film Critics Circle of Australia Award in 2007. In 2009, he featured in *Prime Mover* and *Blessed*. In early 2011, he was in the New Zealand feature, *The Hopes and Dreams of Gazza Snell*.

William's stage career includes *Don Juan* for Sydney Theatre Company, *Macbeth* for Melbourne Theatre Company and *Darcy* for both company's productions of *Pride and Prejudice*. William also appeared in *Equus* for Perth Theatre Company and *My Fair Lady* in New Zealand.

William is an author of seven books, which he co-wrote with his late wife Sarah Watt, receiving the 2012 Indie Non Fiction Book of the Year. His book *The Birdwatcher*, was published in November 2013.

William lives in Melbourne with his two teenage children.



**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 and executive coach, 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 Greater Sydney Local Land Services, Chairs the Advisory Board of The Australian School of Performing Arts and is Chairman 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.





### PETER PHILLIPS

Appointed August 2011

Peter grew up in Frankston and now lives in Melbourne.

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

He recently assisted the Asian Development Bank launch a red tape reduction program in the Philippines.

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, and also serves as a Justice of the Peace.



### GRAHAM RIXON

Appointed August 2008

Graham Rixon is currently engaged in part-time educational consultancy work particularly in the areas of non-government school registration, reviews of independent public schools in WA, 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 Septicaemia 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.



### ANDREW ROBINSON

Appointed September 2014

Andrew is a doctor at the Royal Perth Hospital in Western Australia after having completed his medical degree in 2015.

Andrew sits on a variety of steering committees at Royal Perth and is also an ambassador for the Royal Australian and New Zealand College of Psychiatrists. He is a passionate member of his local community and held elected roles within the Medical Students' Society of Bond University, founded a surgical interest group and was a councillor on the Queensland Medical Student Council in a student representative capacity.

Prior to studying medicine Andrew completed an undergraduate degree in biomedical science. He hopes to volunteer in clinics both internationally and in Australia. Andrew aims to become a specialist psychiatrist and takes an interest in the sub-specialties of forensic, intellectual and developmental disability as well as acute adult care.

Andrew has been a disability support worker, cleaner, theatre orderly, barista, bar tender and tutor as well as volunteering in a number of organisations. He also initiated an annual All Abilities Olympics.

Born in rural New South Wales, Andrew lived at the Gold Coast for 17 years before moving to Perth in early 2016. When he's not working or studying Andrew enjoys café hopping with friends and travelling to new places.





**SUE SMETHURST**  
 Appointed September 2014

Sue has held senior positions in Australian radio, television, and magazines, she is a best-selling author and has created, marketed and successfully sold a premium Australian skin care brand.

Starting out as a cadet at New Idea's Melbourne office in 1996, Sue rose rapidly through the ranks and in 2000 at just 26 years of age, took the helm of the iconic magazine—the youngest woman to edit a major weekly women's magazine in Australia.

Sue has been a radio commentator and worked as a television current affairs show producer and on camera as a social affairs and entertainment reporter. She has written three best-selling books about weight loss and dieting.

Her foray into brand development reflected her keen commercial awareness, market understanding and the ability to devise strategic promotional and marketing campaigns both nationally and internationally. She cites this as being the critical factor in the successful sale of her skin care brand in November 2009.

Sue is currently contracted to The Australian Women's Weekly, Co-Coordinator of the iconic fundraising event, Open Houses, and she was recently appointed to the Board of the Royal Victorian Eye & Ear Hospital.

In her spare time Sue enjoys running and reading and spending time with her two children.



**CRAIG WHITE**  
 Appointed August 2008

Craig is a senior police officer employed with the Queensland Police Service.

Craig has served throughout Queensland including several years working in Indigenous communities in far northern and central western Queensland.

During his policing career he has been involved in implementing a number of publicly funded projects aimed at reducing crime by addressing community issues including substance abuse, domestic violence and high risk behaviour involving youth.

Craig is involved in a number of local community organisations. He holds degrees in policing and business.

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



**PETER WILLIAMS**  
 Appointed August 2011

Peter Williams is a Fellow of the Dietitians Association of Australia, an Honorary Professorial Fellow at the University of Wollongong and Adjunct Professor of Nutrition and Dietetics at the University of Canberra.

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 reviews of Dietary Guidelines for Australia and the review of Nutrient Reference Values, and is a member of the Heart Foundation's Food and Nutrition Advisory Committee. He has also conducted consultancy projects with the NSW Department of Health to help develop nutrition standards for hospital inpatients.

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 Medicine.

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



# 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 against 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.

The Claims Board Procedural Guidelines are available on the ASB website. The ASB continues 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 – 2015

One case was received by the Claims Board in late 2015, and was determined by the Claims Board in 2016 (15 ACB 1).



# Independent review

Cases reviewed in 2015

Independent Reviewers



# Cases reviewed in 2015

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 2015, four 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.

## Precis of cases reviewed

### Sportsbet - Case number 0449/15

A request by the advertiser for an independent review claimed there was a substantial flaw in the Board's determination insofar as there was a manifest error regarding the interpretation and application of section 2.6 of the Code to the Advertisement. After reviewing the advertisement and arguments contained in the appeal the Independent Reviewer considered that the arguments contained in the appeal did not establish a substantial flaw in the Board's decision. The Independent Reviewer considered there was no basis advanced for requiring the ASB to reconsider its conclusion other than the advertiser disagreed with the Board's determination and accordingly the review request was not accepted.

### Breitling Boutiques - Case number 0339/15

A request by a complainant for an independent review claimed there was a substantial flaw in the process by which the determination was made. The request made a number of claims, most relevant that the Board failed to properly follow the AANA Practice Note for section 2.2 of the Code in reaching its determination; and secondly did not give proper consideration to the relevant audience under consideration of section 2.4.

The Independent Reviewer considered that there were two substantial flaws in the process evident in the Board's determination: the failure to consider whether there was a breach of Code section 2.2 in the Board's failure to deal explicitly with the complaint that the pose, dress and placement of the mannequin on a bomb was demeaning of women because it was exploitative and degrading; and second, the Board did not with sufficient precision indicate who was the relevant audience and how much weight the Board attached to that issue under Code section 2.4 and for these reasons recommended that the Board reconsider its decision.

In reconsidering this case, the Board considered the mannequin is presented as a woman who is cheerful and happy and that the depiction of the woman does not lower women in character or quality and in the Board's view is not a degrading image of women. The Board considered that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading towards women and did not breach section 2.2 of the Code. The Board went on to acknowledge that the location of the store and the size of the display would mean that in this case the audience would include children, however reconfirmed the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and did not breach Section 2.4 of the Code. In view of this the Board determined that the advertisement did not breach the Code and dismissed the complaint. Its original determination to dismiss the complaints remained in place.

### South African Tourism - Case number 0148/15

A request by a complainant for independent review claimed there was a substantial flaw in the process by which the determination was made. The request specifically claimed the Board had considered only one advertisement where two had been complained about. The request also claimed that information in the initial advertiser response was unsubstantiated, and provided additional information to refute this.

The Independent Reviewer did not accept that the additional evidence would have a significant bearing on the determination, as the Board's determination was made in relation to the image itself and its effect on those who viewed it, not the advertiser's response. The Independent Reviewer considered there was no basis advanced for requiring the ASB to reconsider its conclusion and accordingly the review request was not accepted.



The Independent Reviewer acknowledged that while the complainant may have intended for both advertisements to be considered, that ASB staff had confirmed that a separate case would have to be raised in respect of the second advertisement as it would be “a different advertisement on a different medium”. The complainant did not take the opportunity to make a further complaint about the second advertisement.

#### MPM Marketing - Case number 0139/15

A request by a complainant for an independent review claimed there was a substantial flaw in the process by which the determination was made. The request specifically raised questions around specific quotes in the Boards determination. For a substantial flaw in the Board’s determination to be established, there must be evidence that the determination was clearly in error having regard to the provisions of the Code, or clearly made against the weight of evidence. Merely posing a question in relation to one of the Board’s findings does not amount to providing evidence that the determination of the Board was clearly in error in terms of the Code provisions or clearly against the weight of evidence. The Independent Reviewer found there was no evidence of a substantial flaw in the process and accordingly the review request was not accepted.

## Advertising Standards Bureau - outline of requests for independent review 2015

Case	Initial board determination	Independent Reviewer recommendation	Board determination on review (if appropriate)	Time taken to complete review
<i>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.</i>				
<b>Sportsbet</b> Sunburn Case number <b>0449/15</b>	Complaints <b>Upheld</b> November 2015	Independent Reviewer recommended initial Board determination be <b>confirmed</b> December 2015		<b>14 business days</b>
<b>Breitling Boutiques</b> Window mannequin Case number <b>0339/15</b>	Complaints <b>Dismissed</b> September 2015	Independent Reviewer recommended Board <b>review its original determination</b> October 2015	Dismissed	<b>32 business days</b>
<b>South African Tourism</b> Missing teeth Case number <b>0148/15</b>	Complaints <b>Dismissed</b> April 2015	Independent Reviewer recommended initial Board determination be <b>confirmed</b> June 2015		<b>22 business days</b>
<b>MPM Marketing</b> Paper cups Case number <b>0139/15</b>	Complaints <b>Dismissed</b> April 2015	Independent Reviewer recommended initial Board determination be <b>confirmed</b> July 2015		<b>15 business days</b>



# 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 Board.

Independent Reviewers are Victoria Rubensohn AM and Robin Creyke. Emeritus Professor Dennis Pearce AO retired as an Independent Reviewer in 2015.

## 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).

## Robin Creyke

Law and public administration has been a focus of Emeritus Professor Robin Creyke's practice, research and teaching. She is an emeritus professor at the Australian National University and a senior (sessional) member of the ACT Civil and Administrative Tribunal.

Until recently, Ms Creyke was a senior (executive) member of the Administrative Appeals Tribunal, as well as spending 11 years as a member of the Administrative Review Council (1999-2010) and five years as Commissioner of the ACT Independent Competition and Regulatory Commission (ICRC 2001-2006). Her work as an Integrity Adviser with the Australian Tax Office (2006-2009) was instrumental in increasing the robustness of the agency's integrity framework.

Since 2012, Professor Creyke has been a member of the Federal Litigation Committee of the Law Council of Australia, which keeps her informed of relevant and current activities in administrative law. While at the ICRC her work involved development of consumer codes as well as development of a framework for the ICRC's complaints mechanism.

Professor Creyke has developed a specialty interest in tribunals and government and is recognised as a national and international expert in this area. This expertise is reflected in the long list of publications credited to her. In the area of administrative law alone she has written or edited 10 books, two monographs and over 50 chapters and articles, more than 40 of which were in referred journals or invited publications.

Professor Creyke lives in Canberra and in her spare time enjoys cooking, gardening, bushwalking and relaxing with friends.



## Dennis Pearce AO

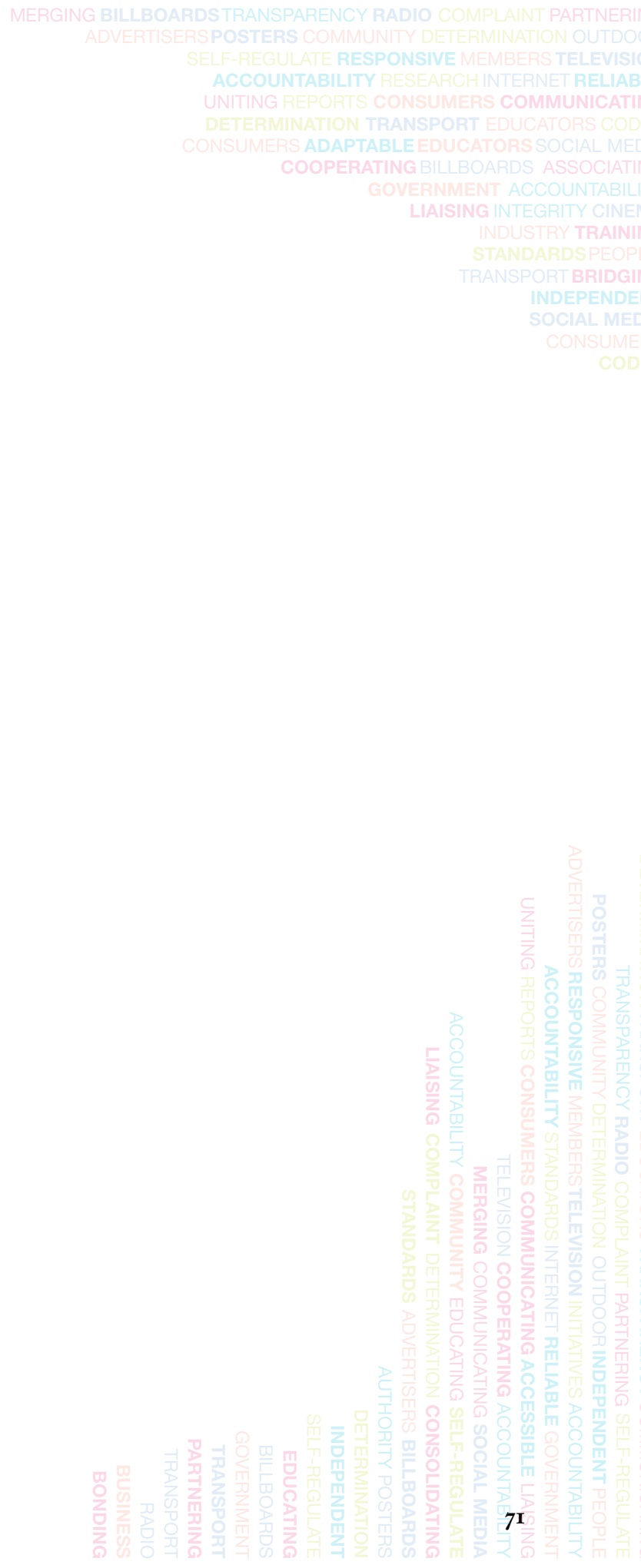
Emeritus Professor Dennis Pearce is a consultant with HWL Ebsworth Lawyers and a Visiting Fellow at the Australian National University (ANU) College of Law. Dennis was formerly the Dean of the Law School at ANU.

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.





MERGING **BILLBOARDS** TRANSPARENCY **RADIO** COMPLAINT PARTNERING  
ADVERTISERS **POSTERS** COMMUNITY DETERMINATION OUTDOOR  
SELF-REGULATE **RESPONSIVE** MEMBERS **TELEVISION**  
**ACCOUNTABILITY** RESEARCH INTERNET **RELIABLE**  
UNITING REPORTS **CONSUMERS** **COMMUNICATING**  
**DETERMINATION** **TRANSPORT** EDUCATORS CODES  
CONSUMERS **ADAPTABLE** **EDUCATORS** SOCIAL MEDIA  
**COOPERATING** **BILLBOARDS** ASSOCIATING  
**GOVERNMENT** **ACCOUNTABILITY**  
LIAISING INTEGRITY CINEMA  
INDUSTRY **TRAINING**  
**STANDARDS** PEOPLE  
TRANSPORT **BRIDGING**  
**INDEPENDENT**  
**SOCIAL MEDIA**  
CONSUMERS  
CODES

# Statistics

Advertising complaints statistics

INITIATING REPORTS **CONSUMERS** **COMMUNICATING** **ACCESSIBLE** LIAISING  
**ADVERTISERS** **RESPONSIVE** MEMBERS **TELEVISION** INITIATIVES **ACCOUNTABILITY**  
**POSTERS** COMMUNITY DETERMINATION OUTDOOR **INDEPENDENT** PEOPLE  
TRANSPARENCY **RADIO** COMPLAINT PARTNERING SELF-REGULATE  
LIAISING **COMPLAINT** DETERMINATION **CONSOLIDATING**  
**ACCOUNTABILITY** COMMUNITY EDUCATING SELF-REGULATE  
TELEVISION **COOPERATING** **ACCOUNTABILITY**  
MERGING **COMMUNICATING** **SOCIAL MEDIA**  
**STANDARDS** **ADVERTISERS** **BILLBOARDS**  
AUTHORITY **POSTERS**  
TRANSPORT  
**PARTNERING**  
**BILLBOARDS**  
SELF-REGULATE  
**INDEPENDENT**  
**BONDING**  
DETERMINATION  
**TRANSPORT**  
GOVERNMENT  
**BUSINESS**  
**EDUCATING**  
**RADIO**



# Advertising complaints statistics

In 2015 the ASB received 4,430 complaints, the second highest number of complaints in the past 10 years, although many less than the record number of complaints received in 2014 (5,735).

From the 4,430 complaints the Board considered 471 advertisements, with an additional 30 withdrawn by advertisers before Board consideration. Of the advertisements considered, 80 advertisements were found to be in breach of the Code.

Although complaint numbers were at a higher level than in other years except 2014, the actual number of advertisements complained about was not higher than the average. The total number of advertisements complained about (512) was slightly lower than the 566 complained about in 2014, but was equivalent with the average of advertisements complained about over the previous 10 years (2005-2014). The highest number of advertisements complained about was in 2009 when the ASB received complaints about 595 separate advertisements.

In 2015 sex, sexuality and nudity was the most complained about issue accounting for 27.32 per cent of complaints. Complaints about the issue of discrimination and vilification dropped significantly from 27.61 per cent of complaints 2014 to just 15.76 per cent in 2015. Language came in third highest at 14.01 per cent.

Toiletries, which includes products such as razors, deodorant, sanitary pads, tampons, condoms and hair dye, were back as the most complained about product category in 2015, accounting for 14.62 per cent of all complaints. Vehicles were a close second at 14.26 per cent, but this was due to one advertisement which received a higher number of complaints about the language used in it.

The percentage of complaints received from most States and Territories remained consistent with previous years, with complaints from Queensland (19.12 per cent) lifting back to previous levels of around 20 per cent from a low of 14.58 per cent in 2014.

## Number of advertisements considered and outcome of complaints

Of the total 4,430 complaints received, 1,048 complaints were in relation to advertisements previously considered by the Board. Of the 1,048 complaints about already considered advertisements, 447 complaints were related to 83 advertisements considered by the Board prior to 2015.

A total of 194 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 2,154 complaints were received about the 471 advertisements considered by the Board.

There were 351 complaints against the 80 advertisements which were found to breach the Code with the remaining 391 ads accounting for 1800 complaints.

Compared to the total number of advertisements considered by the Board, the number of advertisements found to breach the code equated to an upheld rate of 16.99 per cent.

On receiving advice that there had been a complaint 30 advertisers removed their ad prior to consideration by the Board, consistent with the number withdrawn in 2014.

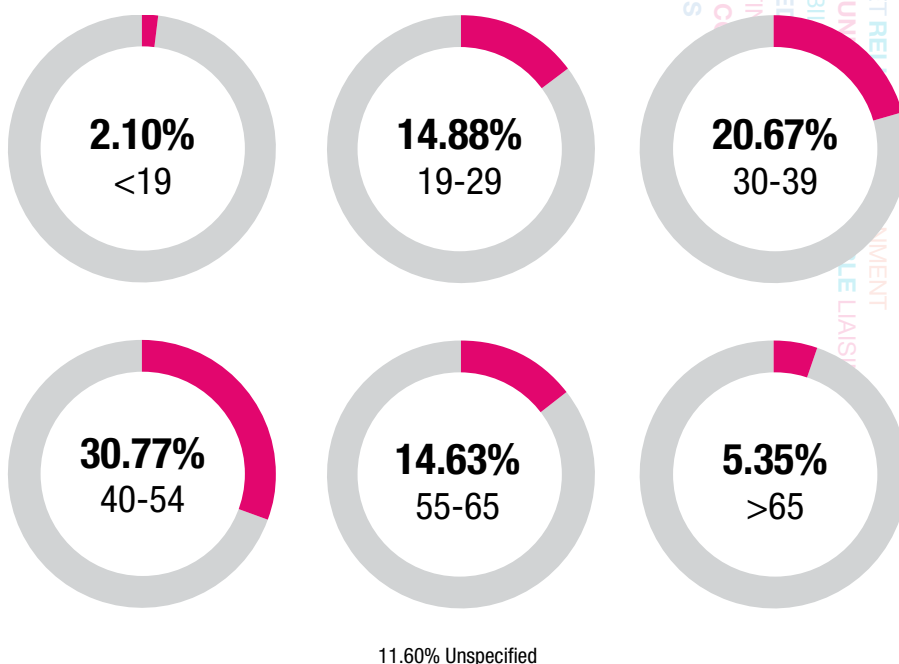
When complaints against advertisements were upheld by the Board, the vast majority of advertisers removed or modified their advertisement from broadcast or publication. Only three advertisers were non-compliant. The majority of advertisers complying with Board decisions demonstrates the advertising industry's continuing support and understanding of its obligations and responsibilities of adherence to the AANA Code of Ethics and other Codes and Initiatives and to the system of advertising self-regulation.



## What age are complainants?

The highest percentage of complaints in 2015 came from people in the 40 to 54 year age group, accounting for 30.77 per cent of all complaints received. The age group from 30 to 39 years account for 20.67 per cent of complaints. These ratios have been similar since this data began being recorded in 2008.

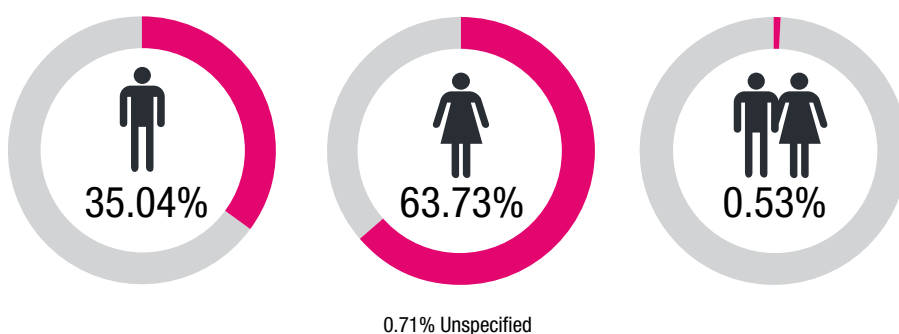
The age group of 19 to 29 year olds accounted for 14.88 per cent of complaints, again followed by 55 to 65 year olds who accounted for 14.63 per cent of complaints. The lowest number of complaints came from people under 19 years of age, with the second lowest, people over 65. The percentage of complainants with an unspecified age (11.73 per cent) ties in with the percentage of complaints received by mail and as referrals from broadcasters.



## Who is complaining?

In 2015 females were more likely to complain than males, with 63.73 per cent of complaints coming from females. This is consistent with the previous year.

The percentage of complaints from males (35.04 per cent) is still significantly higher than the lowest percentage in 2010 in which only 29.90 per cent of complaints were from males, and lower than the highest recorded percentage in 2012 of 39.60 per cent.





## Where are complaints coming from?

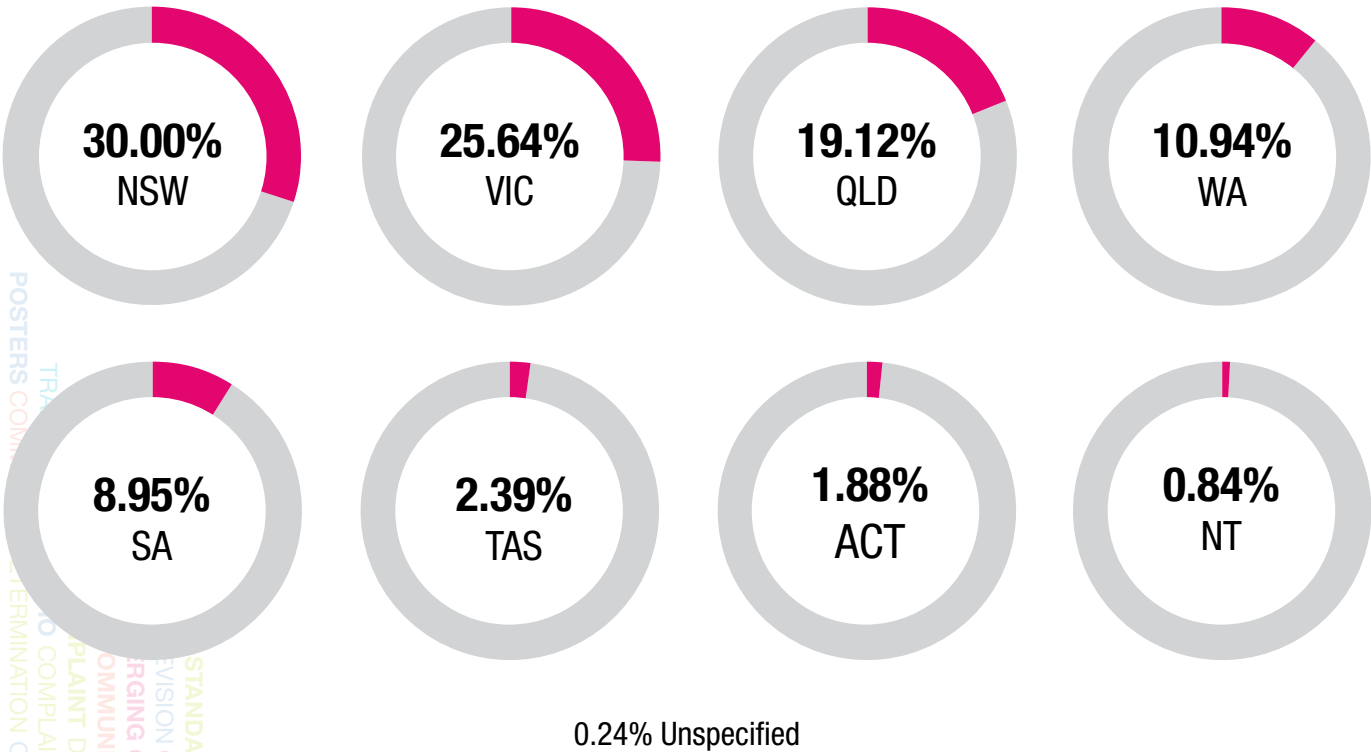
The percentage of complaints received from most States and Territories remained consistent with previous years, with complaints from Queensland (19.12 per cent) lifting back to previous levels of around 20 per cent from a low of 14.58 per cent in 2014.

Interestingly, in 2015, Tasmania again had a higher percentage of complaints than the ACT.

Complaints from Tasmania and ACT have historically been low, but complaints from Tasmania have gradually increased to levels similar to those from the ACT. Conversely, the percentage of complaints from the ACT have decreased and hover around only two per cent of complaints.

As with previous years, the most populous state, New South Wales, topped the percentage

of complaints received (30 per cent), followed by Victoria with 25.64 per cent. Complaints received from other States and Territories included, Queensland (19.12), Western Australia (10.94 per cent), South Australia (8.95 per cent), Tasmania (2.39 per cent), Australian Capital Territory (1.88 per cent) and Northern Territory (0.84 per cent) remained similar to previous years.





# What do people complain about?

The fluctuation between sex, sexuality and nudity and the issue of discrimination and vilification as the most complained about issue over the years continued in 2015, with these two issues again taking out the top two spots. Sex, sexuality and nudity accounted for 27.32 per cent of complaints, with discrimination and vilification accounting for 15.76 per cent.

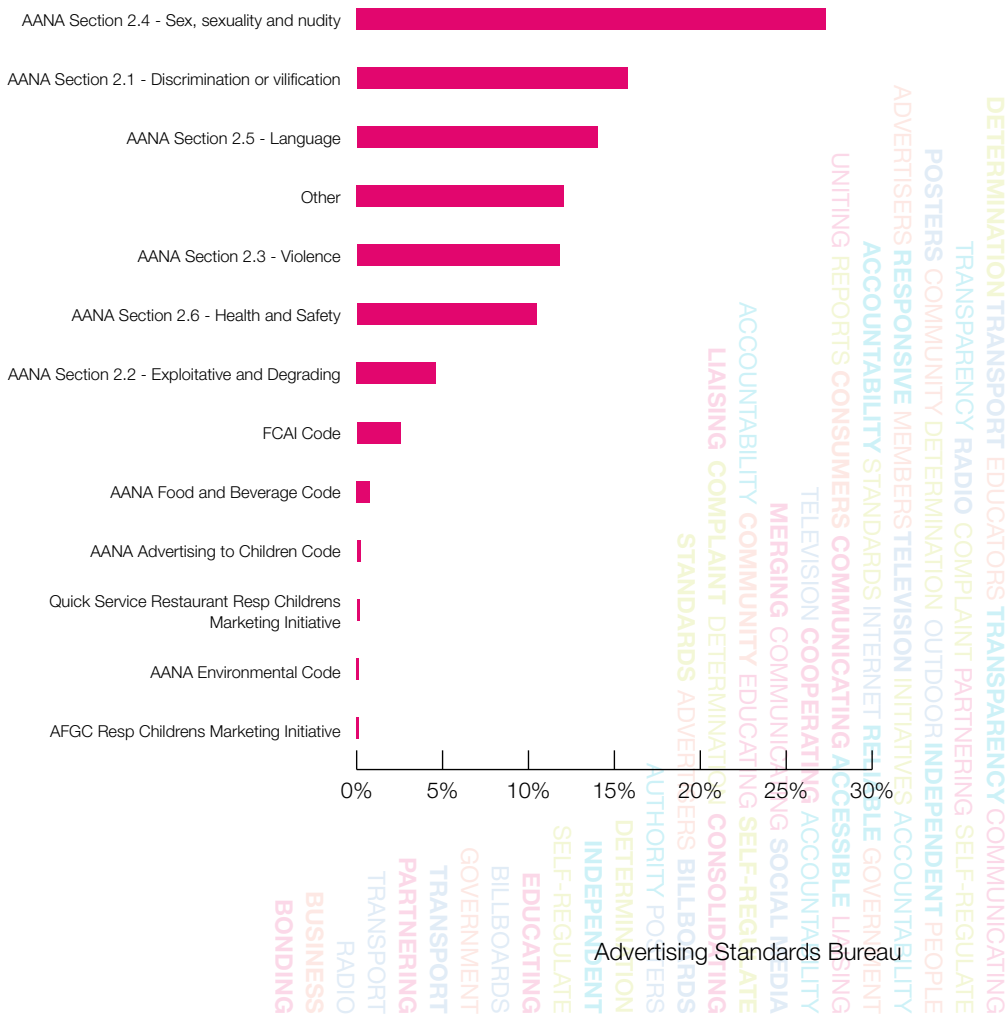
The fluctuation in complaints about other issues has also continued. In the past five years (2011-2015) the percentage of complaints about violence have ranged from 5.92 per cent to 18.11 per cent, with 2015 in the middle of that range at 11.80 per cent. The percentage of concerns raised about language has seen a similar fluctuation, ranging from 5.23 per cent to a high in 2015 of 14.01 per cent and also health and safety 9.38 per cent to 15.64 per cent, with 2015 at the lower end on 10.46 per cent.

Since the introduction of Section 2.2 (Exploitative and degrading images) in 2012, complaint percentages have ranged from 13.98 per cent in 2012 to a low in 2015 of 4.60 per cent.

Results from research conducted in 2015 into community perceptions about advertising directed to children support the low complaint percentages in relation to the issues raised relating to children and food. The research highlighted a low level of general concern about advertising toys or food and beverages to children.

Complaint percentages relating to issues raised under the Codes and Initiatives relating to advertising to children and food and beverages have historically been low, and 2015 is no different. Since a spike in 2011 raising complaints to 6.35 per cent in relation to the AANA Food and Beverage Code, complaints have dropped to under one per cent (0.76 per cent) in 2015.

Similarly, a spike which raised complaint percentages relating to the Quick Service Restaurant Responsible Children's Marketing Initiative to just 1.48 per cent in 2011, has fallen and been at under 0.05 per cent of complaints since and in 2015 was just 0.17 per cent. This trend is borne out in relation to the AFGC Responsible Children's Marketing Initiative with a high in 2011 of 1.03 per cent and just 0.12 per cent in 2015. Similarly, complaint percentages relating to issues raised under the AANA Advertising to Children Code have dropped to almost zero, with just 0.17 per cent in 2015, a low of zero per cent in 2013 and a high of 1.33 per cent in 2011.





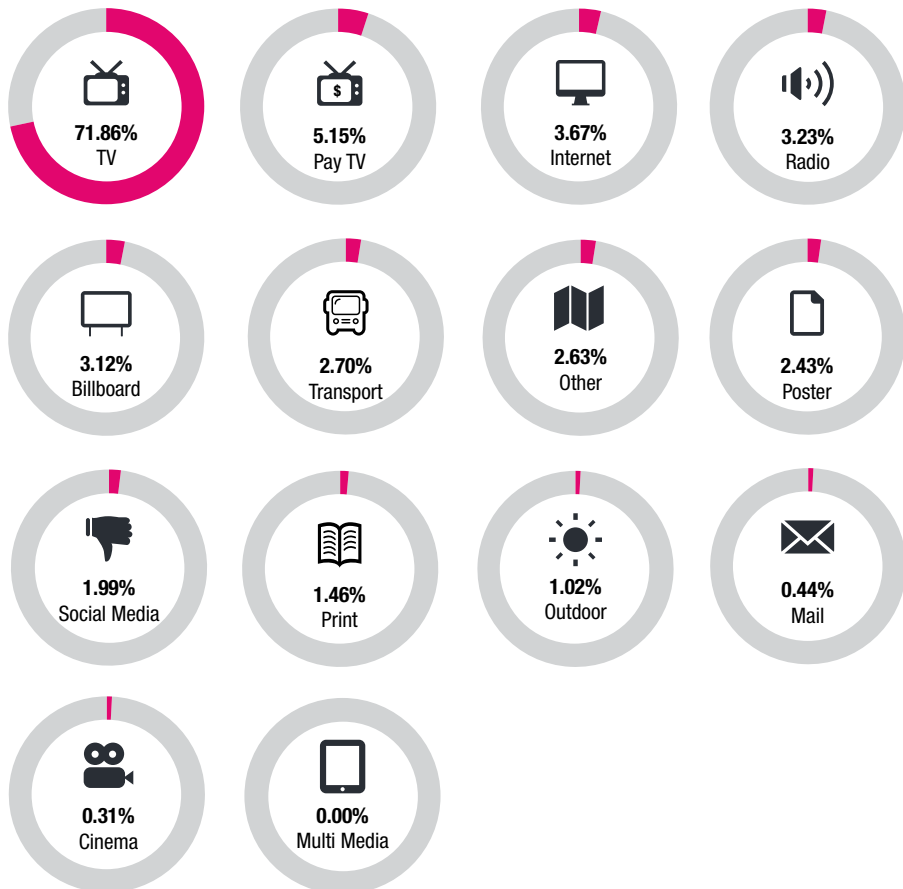
## Which mediums attracted complaints?

Consistent with previous years, in 2015 the majority of complaints (71.86 per cent) related to advertisements shown on television, the highest percentage since 2006 when 85.81 per cent of complaints related to television advertisements.

In 2015 internet advertising rose to 3.7 per cent from only 2.08 per cent in 2014, with social media advertising also rising slightly to 1.99 per cent from a lower 1.58 per cent in 2014. Social media advertising accounted for 2.59 per cent of complaints in 2012.

Complaints about radio advertising was back up at a similar level at 3.23 per cent in 2015, with the lowest recorded percentage in 2010 at just 1.66 per cent. Forms of outdoor media were considered under transport, billboard and outdoor mediums. In 2015, billboards dropped to just 3.12 per cent of complaints from a high in 2011 of 26.35 per cent.

All other mediums remained at levels similar to previous years.



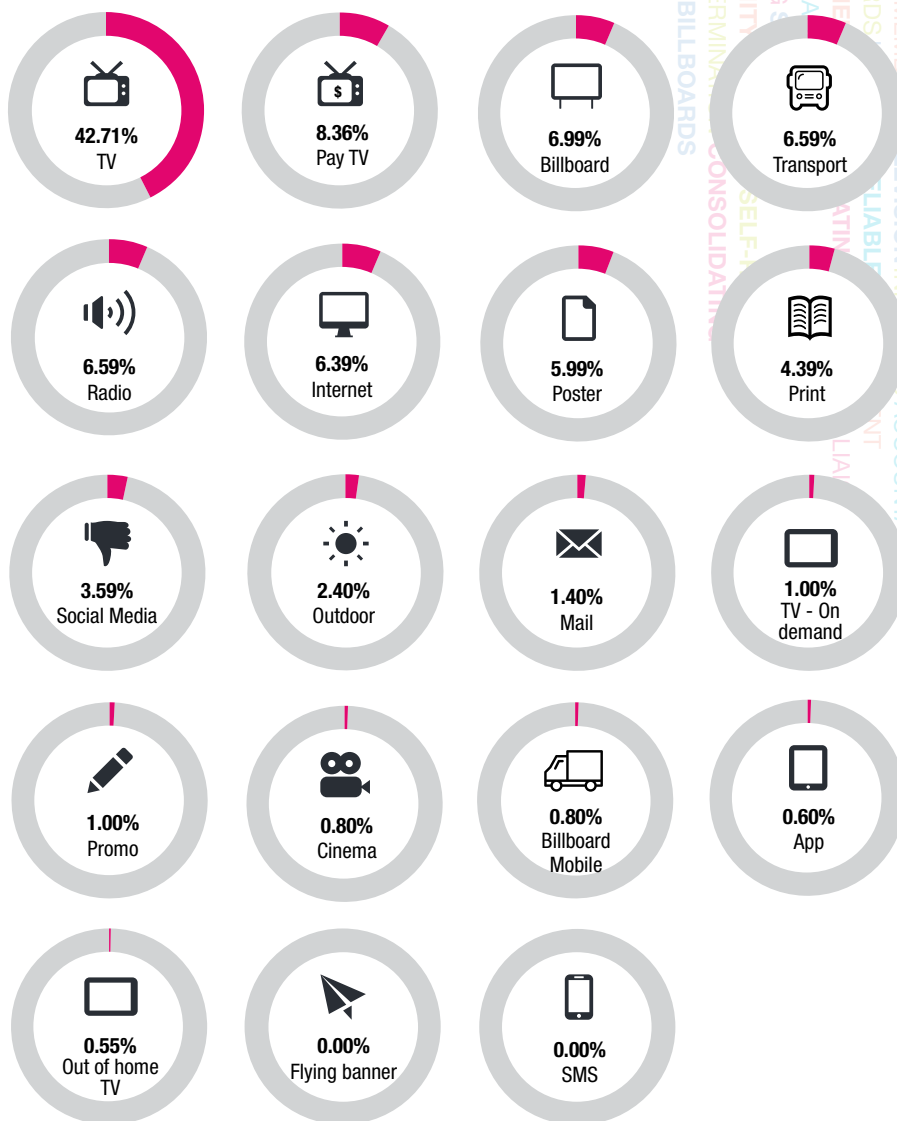


## Which medium were cases seen and heard on?

Of the advertisements complained about which were raised as cases, the vast majority (42.71 per cent) were advertisements seen on television, this is consistent with previous years. A further 8.38 per cent of advertisements complained about were seen on Pay TV, slightly higher than the 7.98 per cent in 2013.

The third highest percentage of cases was for billboard advertisements at 6.99 per cent, but followed closely by transport and radio advertising both at 6.59 per cent, internet at 6.39 per cent and posters at just below six per cent (5.99 per cent).

Other mediums with less than 5 per cent include internet-social media (4.39 per cent) and outdoor, which includes all advertisement inventory except billboards, mobile billboards and posters such as an A-frame advertisement on a street, (2.40 per cent). All other mediums each recorded less than one per cent of complaints.





## What products attracted complaints?

Of the 36 product categories recorded, four categories accounted for just over half (52.22 per cent) of the complaints in 2015. These were toiletries, vehicles, food and beverages and professional services.

Toiletries which includes products such as razors, deodorant, sanitary pads, tampons, condoms and hair dye, were back as the most complained about product category in 2015, accounting for 14.62 per cent of all complaints. Vehicles were a close second at 14.26 per cent, but this was due to one advertisement which received a higher number of complaints about the language used in it.

Complaint percentages about advertisements for food products was higher than the two previous years at 12.67 per cent, but still much lower than the highest recorded percentage of 33.25 per cent in 2007. Interestingly complaints made in relation to these advertisements were generally not about the food product being advertised, but about other issues such as sex, discrimination, language and violence.

Professional services, including things such as dating services, treatment service providers, lawyers and electricians, continued to rise, and in 2015 accounted for 10.7 per cent of complaints.

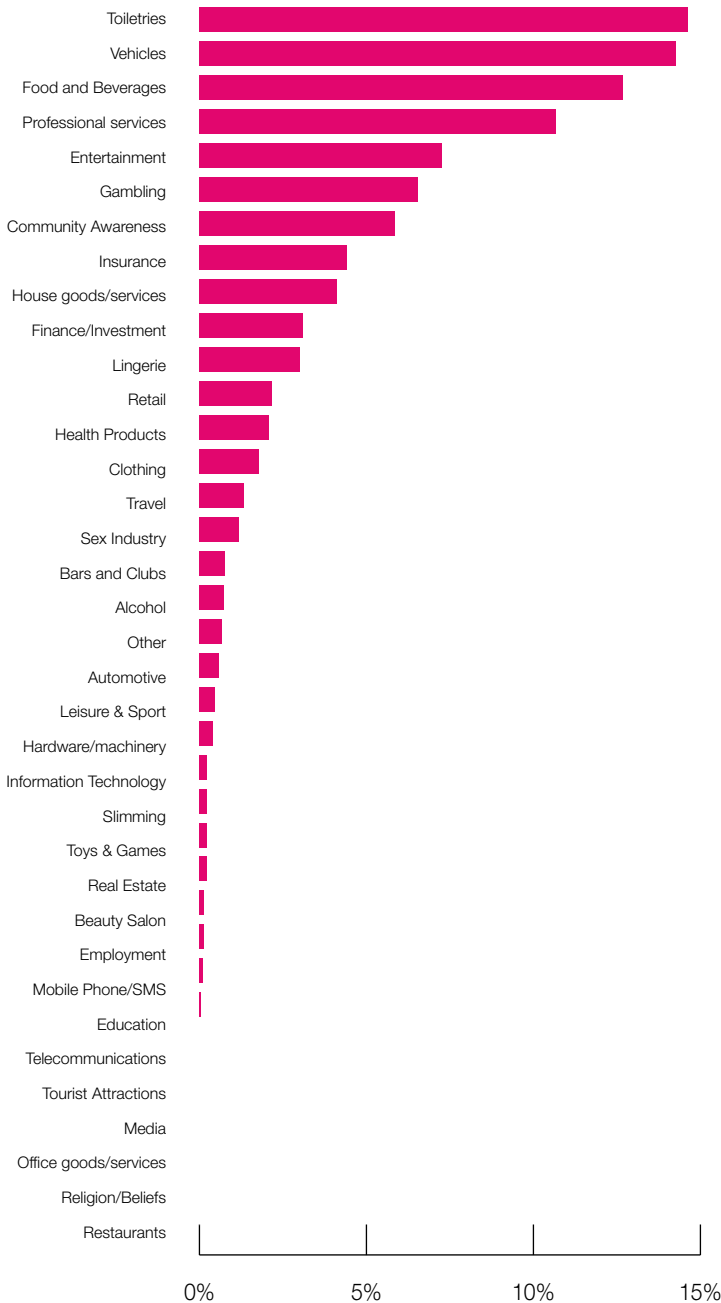
Sex industry complaint percentages dropped significantly to just 1.18 per cent in 2015 from an all-time high of 15.40 per cent in 2014. Community awareness advertising complaint percentage halved in 2015 to 5.86 per cent from a high of 11.41 per cent in 2014.

Conversely, entertainment products resulted in a more significant rise in complaint percentages, from 2.46 per cent in 2014 to 7.27 per cent in 2015, as did gambling advertising from 3.45 percent in 2014 to 6.54 per cent in 2015.

Due to the use of less controversial advertisements there was a significant decrease in complaints about automotive services (0.59 per cent in 2015 and 20.51 per cent 2014).

Of the product categories listed, less than one per cent of complaints were recorded against

20 categories. Several product categories received no complaints, including telecommunications, religion, restaurants, office goods and services and media.

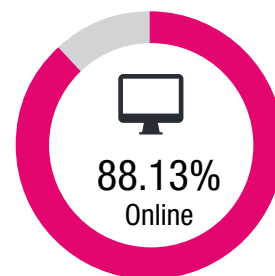
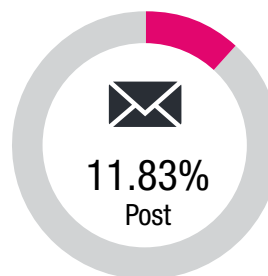
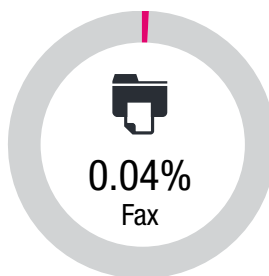




## How do people complain?

The number of people choosing to lodge their complaints through the online system in 2015 continued to be the most popular option, with 88.13 per cent of submissions, however this has fallen from 93.65 per cent in 2013. The drop is due to an increase in postal submissions, from 6.3 per cent in 2012 to 11.83 per cent in 2015. The majority of postal submissions are complaint referrals from television stations, which are not submitted through ASB's online complaints system.

In 2015, just 0.04 per cent of complaints were received by fax.



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 EDUCATING  
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 RADIO



### ALLOCATION OF COMPLAINTS (No., by Complaint)

Complaints within jurisdiction								1491	1720	983	2309	1591
Complaints outside jurisdiction	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 complaints which remained unallocated at 31 December.							1181	1280	1078	1197	1589
Complaints about already considered advertisements (current year)								443	290	308	1838	601
Complaints about already considered advertisements (previous years)								138	211	212	209	447
Consistently dismissed complaints								113	102	170	174	194
Not allocated at 31 December								50	37	22	8	8
TOTAL		2,956	4,044	2,602	3,596	3,796	3,526	3,416	3,640	2,773	5,735	4,430

### OUTCOME OF COMPLAINTS (No., by Complaint)

Number of complaints about ads which did not breach the Code (current year)							1569	1440	911	3981	1790
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	203	438
Number of complaints about ads which were found to breach the Code							353	280	225	202	363
Number of complaints about ads that were withdrawn							12	45	17	56	48
<b>TOTAL</b>							<b>2,072</b>	<b>1,976</b>	<b>1,365</b>	<b>4,442</b>	<b>2,639</b>

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

Dismissed	1753	2648	1730	2263	2278	1692	see table above
Upheld	94	164	280	477	521	361	
Withdrawn before board determination	139	20	15	57	56	53	
Already considered advertisements * #						708	
Consistently dismissed complaints *						92	
Not proceeding to a case	970	1212	577	799	941	620	
<b>TOTAL</b>	<b>2,956</b>	<b>4,044</b>	<b>2,602</b>	<b>3,596</b>	<b>3,796</b>	<b>3,526</b>	

\* Statistics not separately captured prior to 2010

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



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>BOARD DETERMINATIONS (No., by Advertisement)</b>											
Withdrawn before board determination	33	13	5	10	11	29	10	24	17	30	30
Upheld	14	28	36	62	81	49	54	69	61	62	80
Dismissed	344	488	405	477	503	442	412	404	348	453	391
Not proceeding to Board							38	11	16	21	11
<b>TOTAL</b>	<b>391</b>	<b>529</b>	<b>446</b>	<b>549</b>	<b>595</b>	<b>520</b>	<b>514</b>	<b>508</b>	<b>442</b>	<b>566</b>	<b>512</b>
<b>AGE RANGE OF COMPLAINTS (%)</b>											
< 19				2.25%	1.81%	1.80%	1.86%	1.74%	1.15%	2.52%	2.10%
19 - 29				14.99%	15.81%	15.62%	18.72%	18.38%	13.34%	14.79%	14.88%
30 - 39				23.11%	22.35%	22.55%	25.35%	22.24%	21.13%	20.15%	20.67%
40 - 54				30.56%	28.34%	25.36%	29.68%	31.22%	34.66%	31.00%	30.77%
55 - 65				11.15%	11.40%	9.88%	11.77%	12.46%	15.18%	14.16%	14.63%
> 65				3.28%	3.44%	3.09%	3.91%	3.55%	4.51%	5.64%	5.35%
Unspecified				14.66%	16.85%	21.70%	8.72%	10.42%	10.03%	11.73%	11.60%
<b>TOTAL</b>				<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>
<b>GEOGRAPHIC SOURCE OF COMPLAINTS (%)</b>											
NSW	32.68%	36.77%	35.63%	34.47%	36.77%	35.98%	29.16%	32.52%	31.77%	37.63%	30.00%
VIC	21.19%	22.59%	20.18%	23.53%	21.16%	24.22%	21.49%	22.24%	23.08%	25.43%	25.64%
QLD	24.60%	17.01%	19.79%	20.51%	18.38%	22.73%	27.82%	21.88%	20.84%	14.58%	19.12%
WA	7.98%	7.84%	9.80%	7.17%	9.63%	6.81%	8.43%	9.26%	9.52%	9.79%	10.94%
SA	8.54%	10.08%	9.80%	9.24%	9.83%	6.53%	9.81%	9.81%	9.05%	8.96%	8.95%
TAS	1.84%	2.31%	1.54%	1.48%	1.62%	1.07%	1.00%	1.98%	2.99%	1.25%	2.39%
ACT	2.47%	2.58%	2.50%	2.90%	2.16%	2.29%	1.38%	1.98%	2.13%	1.93%	1.88%
NT	0.60%	0.84%	0.77%	0.70%	0.45%	0.37%	0.91%	0.33%	0.50%	0.33%	0.84%
Unspecified	0.10%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.11%	0.10%	0.24%
<b>TOTAL</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>
<b>GENDER OF COMPLAINANTS (%)</b>											
Female	57.69%	60.45%	65.33%	59.04%	58.68%	69.03%	68.51%	59.11%	60.80%	63.84%	63.73%
Male	38.08%	36.75%	32.67%	36.93%	36.21%	29.90%	30.87%	39.60%	38.66%	35.71%	35.04%
Unspecified	2.13%	1.45%	1.08%	3.11%	4.29%	0.58%	0.43%	1.24%	0.47%	0.26%	0.71%
Couple	2.10%	1.35%	0.92%	0.92%	0.82%	0.49%	0.19%	0.06%	0.07%	0.19%	0.53%
<b>TOTAL</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>







2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015

**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
<b>TOTAL</b>	<b>970</b>	<b>1212</b>	<b>577</b>	<b>799</b>	<b>941</b>

see table below

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



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b><i>REASON COMPLAINT DID NOT PROCEED TO A CASE (No.) **</i></b>											
Ad not broadcast in Australia						4	7	4	0	2	6
ASB complainant dissatisfied						3	2	6	0	11	4
Dissatisfied - ASB Ineffective enforcement						0	0	0	14	0	0
ASB - not pre-screening body						0	0	1	0	0	0
ASB Claims Board Competitor						0	0	3	1	2	3
ASB Public Awareness campaign						0	2	1	0	0	0
Business Practices Unethical						0	2	1	1	3	5
Community Service Announcement						3	11	0	0	0	0
Competition coupons						0	0	0	1	0	0
Dislike of Advertising - AMI radio ads						2	0	2	2	8	16
Dislike of Advertising - AMI TV Ads						14	1	0	0	5	15
Editorial						7	5	6	20	8	8
Gambling odds in commentary						2	0	2	2	0	0
Gambling product - timing TV						0	0	0	83	74	85
Insufficient information to identify ad - general						46	56	59	58	48	55
Insufficient information to identify ad - adult content						5	1	0	0	4	0
Legality						8	10	13	21	15	13
Loud ads						7	2	1	0	1	4
Misleading Truth and Accuracy - NOT FOOD						43	118	142	134	177	136
Misleading country of origin						0	1	1	1	0	0
Not an Ad - Food packaging						0	6	0	10	10	6
RCMI-Not an ad in Media						0	0	0	2	0	0
Not an Ad - General						14	61	44	35	44	26
Not an ad - Point of Sale						1	0	0	0	0	1
Not an ad - Other Social Media						0	0	0	2	1	1
Not an ad - signage on premises						1	2	0	6	0	0
Not S2 - ABAC						14	34	31	50	23	49
Not S2 - ACMA						0	3	18	11	9	9
Not S2 - ADMA						1	0	3	5	4	0
Not S2 - e-cigarettes						0	0	0	0	1	1
Not S2 - Inappropriate behaviour						0	0	0	20	54	8
Not S2 - Disagree with content						0	0	0	80	163	187
Not S2 - General						103	262	214	93	32	46
Not S2 - Dislike Advertising						0	0	0	2	5	8
Not S2 - Freedom of Speech						0	0	0	13	14	50
Not S2 - Grammar in advertisements						0	0	0	3	2	5
Not S2 - Not Discrimination						0	0	0	6	8	5
Not S2 - Personal Issue						0	0	0	18	26	55
Not S2 - Unfortunate Placement						0	0	0	4	6	2
Not S2 - Use of a Personality						0	0	0	2	3	0
Not S2 - Use of Children						0	0	0	2	0	2
Overseas complaint						1	0	2	1	2	3
Overseas web site with no Aust connection						1	2	0	0	2	1



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b><i>REASON COMPLAINT DID NOT PROCEED TO A CASE (No.) ** continued ...</i></b>											
Political Advertising						40	180	307	35	20	15
Product or service - food						0	4	13	0	5	2
Product or service - general						39	98	83	63	67	71
Product or service - on radio						4	0	1	0	1	
Programming and content						4	16	11	11	17	11
Promotion TV and Radio						37	166	161	49	46	32
Prohibited Online Content						0	0	0	5	4	2
Subliminal advertising						7	8	7	6	4	2
Social Issues						0	0	0	0	80	499
Tasteless advertising						39	44	45	19	10	16
Therapeutic Goods						0	3	8	12	10	12
Timing - Cinema						3	1	2	0	0	0
Timing - Radio broadcast						4	0	2	0	1	4
Timing - TV						23	27	42	19	47	39
Tobacco advertising						13	4	2	2	3	1
Too many ads						3	3	8	9	4	6
Unsolicited mail and products						0	1	0	2	4	5
Weight management						4	0	3	12	2	1
Wicked Campers - need for detailed information						12	2	5	22	27	29
Wicked Campers - dislike of advertising						0	0	0	0	11	4
Advertisement Withdrawn/Discontinued before case established						108	36	26	109	67	34
<b>TOTAL</b>						<b>620</b>	<b>1181</b>	<b>1280</b>	<b>1078</b>	<b>1197</b>	<b>1600</b>

\*\* 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.



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>CONSISTENTLY DISMISSED COMPLAINTS (No.) *</b>											
- unlikely interpretation						35	49	51	50	73	87
- consistently dismissed issue						18	15	16	29	36	60
- not of concern to broad community						22	20	9	12	17	22
- incorrect about content						3	5	4	13	26	13
- images of food						0	1	6	5	3	4
- food / beverage logos						0	0	1	1	0	3
- consistently dismissed language						12	10	14	17	13	2
- multicultural community						2	5	0	10	6	2
- product name						0	8	1	0	0	1
- consistently dismissed - MLA						0	0	0	33	0	0
<b>TOTAL</b>						<b>90</b>	<b>113</b>	<b>102</b>	<b>170</b>	<b>174</b>	<b>194</b>

\* Statistics not separately captured prior to 2010

<b>MEDIA ATTRACTING COMPLAINT (%)</b>											
TV	84.81%	85.81%	75.10%	68.59%	59.83%	62.25%	44.16%	65.47%	62.10%	77.72%	71.86%
Pay TV	0.25%	0.18%	0.44%	1.46%	5.61%	2.42%	1.95%	2.90%	3.46%	4.09%	5.15%
Internet	0.00%	0.25%	1.13%	1.13%	2.58%	7.55%	5.57%	7.84%	5.45%	2.08%	3.67%
Radio	2.11%	4.10%	2.36%	2.77%	3.12%	1.66%	3.24%	4.09%	3.57%	1.80%	3.23%
Billboard ***						9.69%	26.35%	4.80%	9.59%	5.32%	3.12%
Transport	0.45%	1.73%	1.62%	3.64%	2.46%	0.76%	3.67%	1.49%	3.50%	2.32%	2.70%
Other	0.00%	0.00%	0.00%	0.40%	0.15%	0.00%	0.00%	0.06%	0.72%	0.99%	2.63%
Poster ***						1.99%	7.43%	1.88%	2.13%	2.22%	2.43%
Internet - Social Media						-	-	2.59%	1.91%	1.58%	1.99%
Print	4.76%	3.85%	4.08%	4.73%	1.92%	3.56%	4.86%	4.94%	4.54%	0.94%	1.46%
Outdoor	6.67%	3.67%	12.80%	16.48%	23.92%	8.40%	1.67%	1.38%	1.55%	0.54%	1.02%
Mail	0.00%	0.00%	0.00%	0.00%	0.29%	1.28%	0.91%	1.16%	0.69%	0.07%	0.44%
Cinema	0.60%	0.42%	2.46%	0.80%	0.11%	0.43%	0.19%	1.41%	0.79%	0.33%	0.31%
Multiple Media	0.35%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
<b>TOTAL</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

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



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<i><b>ANALYSIS OF CASES BY MEDIA (%) ****</b></i>											
TV - Free to air						52.12%	42.02%	45.07%	44.13%	44.77%	42.71%
TV - Pay						5.77%	5.04%	5.43%	7.98%	7.34%	8.38%
Billboard - static						5.77%	11.55%	8.45%	8.45%	5.14%	6.99%
Transport						2.50%	4.62%	3.82%	5.40%	7.89%	6.59%
Radio						5.96%	6.93%	5.63%	6.81%	7.16%	6.59%
Internet						6.73%	6.93%	10.26%	7.04%	7.16%	6.39%
Poster						4.23%	8.40%	4.02%	5.87%	6.42%	5.99%
Print						9.62%	8.19%	6.44%	5.87%	5.14%	4.39%
Internet - Social Media						0.00%	0.00%	3.02%	1.41%	2.20%	3.59%
Outdoor						5.00%	3.15%	4.23%	3.52%	2.94%	2.40%
Mail						0.96%	2.73%	2.01%	0.47%	0.55%	1.40%
TV-On demand						-	-	-	-	-	1.00%
Promo material						0.00%	0.00%	0.00%	0.23%	0.37%	1.00%
Cinema						1.35%	0.42%	1.41%	2.35%	1.47%	0.80%
Billboard - mobile						-	-	-	-	0.18%	0.80%
App						0.00%	0.00%	0.00%	0.23%	0.55%	0.60%
TV - Out of Home						-	-	-	-	0.55%	0.40%
Flying banner						0.00%	0.00%	0.00%	0.23%	0.18%	0.00%
SMS						0.00%	0.00%	0.20%	0.00%	0.00%	0.00%
<b>TOTAL</b>						<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

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



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>PRODUCT CATEGORY ATTRACTING COMPLAINT (%)</b>											
Toiletries	5.26%	2.86%	2.94%	3.46%	3.51%	7.88%	6.30%	5.63%	4.25%	11.46%	14.62%
Vehicles	15.19%	8.37%	9.92%	5.28%	5.69%	4.81%	6.51%	6.64%	13.92%	3.00%	14.26%
Food and Beverages	20.85%	28.14%	33.25%	14.39%	24.08%	21.92%	18.28%	23.74%	7.99%	7.91%	12.67%
Professional services	2.56%	5.61%	10.77%	5.10%	5.18%	5.38%	5.25%	5.23%	1.32%	9.02%	10.67%
Entertainment	0.00%	2.90%	3.09%	3.28%	4.85%	2.88%	7.98%	6.64%	2.05%	2.46%	7.27%
Gambling	0.00%	0.00%	0.00%	0.73%	1.51%	0.96%	2.94%	2.21%	1.32%	3.45%	6.54%
Community Awareness	8.02%	12.29%	3.39%	9.29%	5.69%	5.58%	7.14%	6.04%	5.42%	11.41%	5.86%
Insurance	0.00%	2.97%	2.44%	5.10%	3.51%	3.27%	2.73%	2.82%	1.17%	2.98%	4.41%
House goods/services	11.18%	2.15%	6.03%	7.65%	6.86%	4.42%	4.20%	4.43%	2.20%	1.65%	4.13%
Finance/Investment	2.81%	1.80%	1.30%	2.37%	1.34%	3.46%	0.63%	1.81%	3.15%	0.80%	3.09%
Lingerie	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	7.91%	0.94%	3.00%
Retail	0.00%	1.17%	1.65%	2.37%	0.33%	1.54%	2.73%	4.23%	4.54%	0.59%	2.18%
Health Products	3.46%	7.94%	1.40%	1.46%	4.35%	3.46%	0.84%	3.02%	2.64%	0.57%	2.09%
Clothing	6.22%	4.31%	2.24%	5.83%	7.69%	7.31%	13.45%	7.44%	8.94%	1.80%	1.77%
Travel	1.85%	1.09%	0.15%	2.37%	2.01%	0.96%	0.63%	2.41%	4.03%	2.03%	1.32%
Sex Industry	0.00%	0.00%	0.00%	0.36%	4.35%	5.00%	5.67%	2.82%	4.62%	15.40%	1.18%
Bars and Clubs	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.44%	0.19%	0.77%
Alcohol	7.07%	3.14%	2.44%	6.38%	4.00%	5.19%	3.78%	3.02%	7.84%	1.30%	0.73%
Other	6.67%	5.30%	3.94%	4.74%	2.01%	2.88%	2.10%	1.41%	0.73%	0.19%	0.68%
Automotive	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.37%	20.51%	0.59%
Leisure & Sport	1.45%	1.73%	2.14%	1.09%	2.84%	3.85%	1.47%	2.01%	2.12%	0.26%	0.45%
Hardware/machinery	0.00%	0.00%	0.00%	1.09%	1.34%	1.35%	1.05%	1.21%	0.37%	0.21%	0.41%
Information Technology	0.00%	0.00%	0.00%	0.18%	1.00%	0.77%	0.21%	0.60%	0.15%	0.40%	0.23%
Slimming	0.00%	0.00%	0.00%	0.36%	0.00%	0.19%	0.00%	0.00%	0.00%	0.24%	0.23%
Toys & Games	0.00%	0.00%	0.00%	1.09%	0.67%	0.77%	0.84%	1.01%	0.44%	0.14%	0.23%
Real Estate	0.00%	0.00%	0.00%	0.55%	1.00%	0.19%	0.84%	0.80%	1.17%	0.05%	0.23%
Beauty Salon	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.22%	0.19%	0.14%
Employment	0.00%	0.00%	0.00%	0.00%	0.00%	0.19%	0.00%	0.00%	0.00%	0.00%	0.14%
Mobile Phone/SMS	0.00%	2.44%	2.04%	5.46%	2.17%	0.38%	0.42%	0.00%	1.61%	0.07%	0.09%
Education	0.00%	0.00%	0.00%	0.18%	0.00%	0.96%	0.00%	0.00%	0.00%	0.38%	0.05%
Telecommunications	4.51%	2.40%	2.24%	3.46%	3.18%	2.88%	1.47%	1.21%	3.22%	0.24%	0.00%
Tourist Attractions	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.29%	0.12%	0.00%
Media	0.00%	2.22%	2.84%	3.28%	0.17%	1.54%	0.84%	1.81%	0.29%	0.05%	0.00%
Office goods/services	0.00%	0.00%	0.00%	0.91%	0.17%	0.00%	0.42%	0.00%	0.00%	0.00%	0.00%
Religion/Beliefs	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.25%	0.00%	0.00%
Restaurants	2.91%	1.17%	5.78%	2.19%	0.50%	0.00%	1.26%	1.81%	4.03%	0.00%	0.00%
<b>TOTAL</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>
<b>METHOD OF COMPLAINT (%)</b>											
Online	73.08%	82.71%	84.05%	87.07%	85.30%	87.76%	93.23%	93.65%	89.61%	87.90%	88.13%
Post	22.36%	14.47%	13.87%	10.22%	11.85%	11.97%	6.72%	6.34%	10.24%	12.08%	11.83%
Fax	4.56%	2.82%	2.08%	2.71%	2.85%	0.27%	0.05%	0.01%	0.14%	0.02%	0.04%
<b>TOTAL</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>



# Appendices

Advertising Standards Bureau complaints process

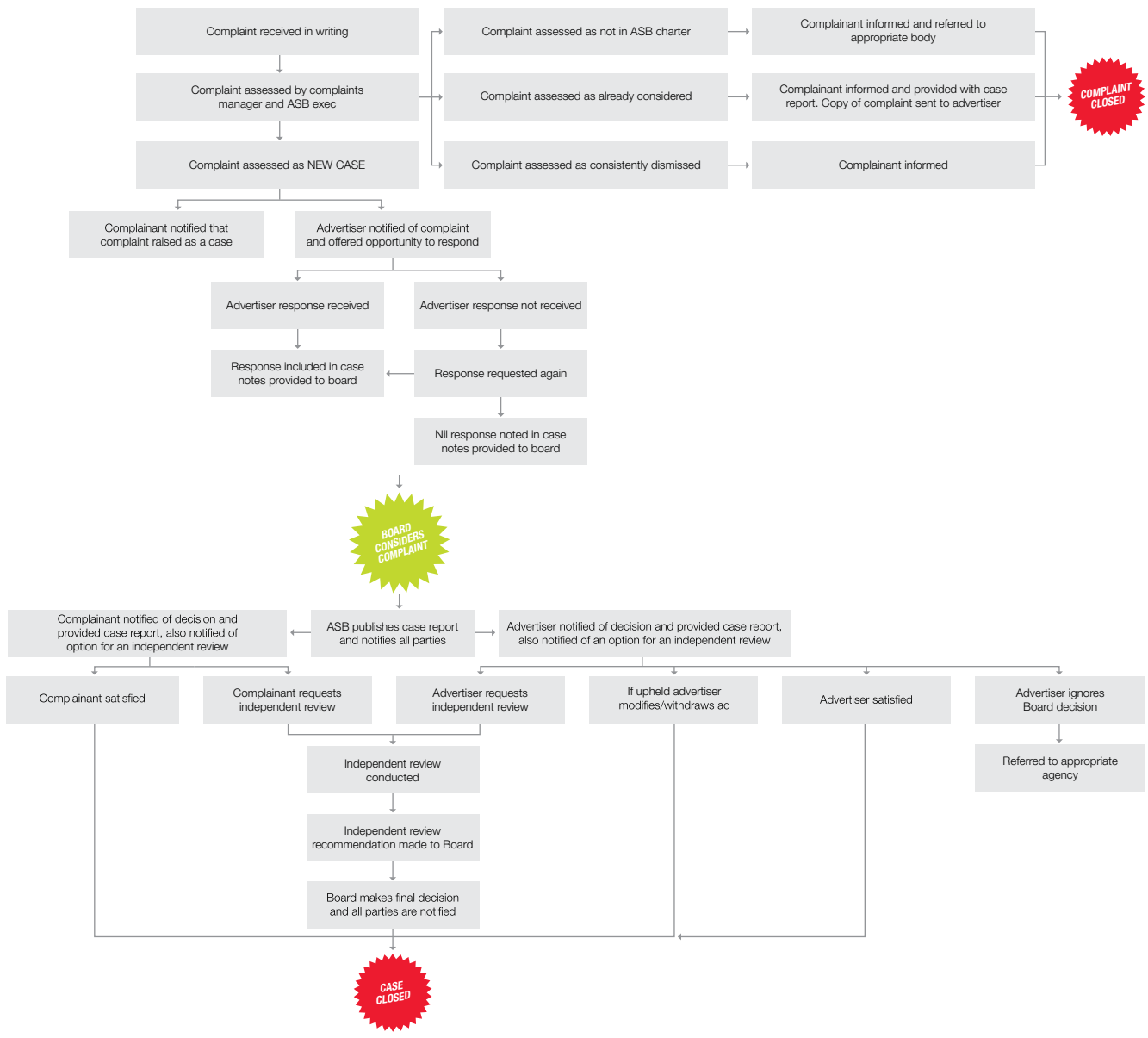
Independent review process

RADIO  
EDUCATING  
BUSINESS  
GOVERNMENT  
DETERMINATION  
TRANSPORT  
BONDING  
SELF-REGULATE  
INDEPENDENT  
BILLBOARDS  
PARTNERING  
TRANSPORT  
AUTHORITY POSTERS  
STANDARDS ADVERTISERS BILLBOARDS  
TELEVISION COOPERATING ACCOUNTABILITY  
MERGING COMMUNICATING SOCIAL MEDIA  
ACCOUNTABILITY COMMUNITY EDUCATING SELF-REGULATE  
LIAISING COMPLAINT DETERMINATION CONSOLIDATING  
TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE  
POSTERS COMMUNITY DETERMINATION OUTDOOR INDEPENDENT PEOPLE  
ADVERTISERS RESPONSIVE TELEVISION INITIATIVES ACCOUNTABILITY  
ACCOUNTABILITY STANDARDS INTERNET RELIABLE GOVERNMENT  
UNITING REPORTS CONSUMERS COMMUNICATING ACCESSIBLE LIAISING  
DETERMINATION TRANSPORT EDUCATORS TRANSPARENCY COMMUNICATING



# 1. Advertising Standards Bureau

## complaints process





## 2. Independent review process

Details of the independent review process are available on the ASB website ([www.adstandards.com.au](http://www.adstandards.com.au)) which covers the following:

- Who can ask for a review
- Time frame for requesting a review
- Grounds for review
- Cost of making a request

### 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

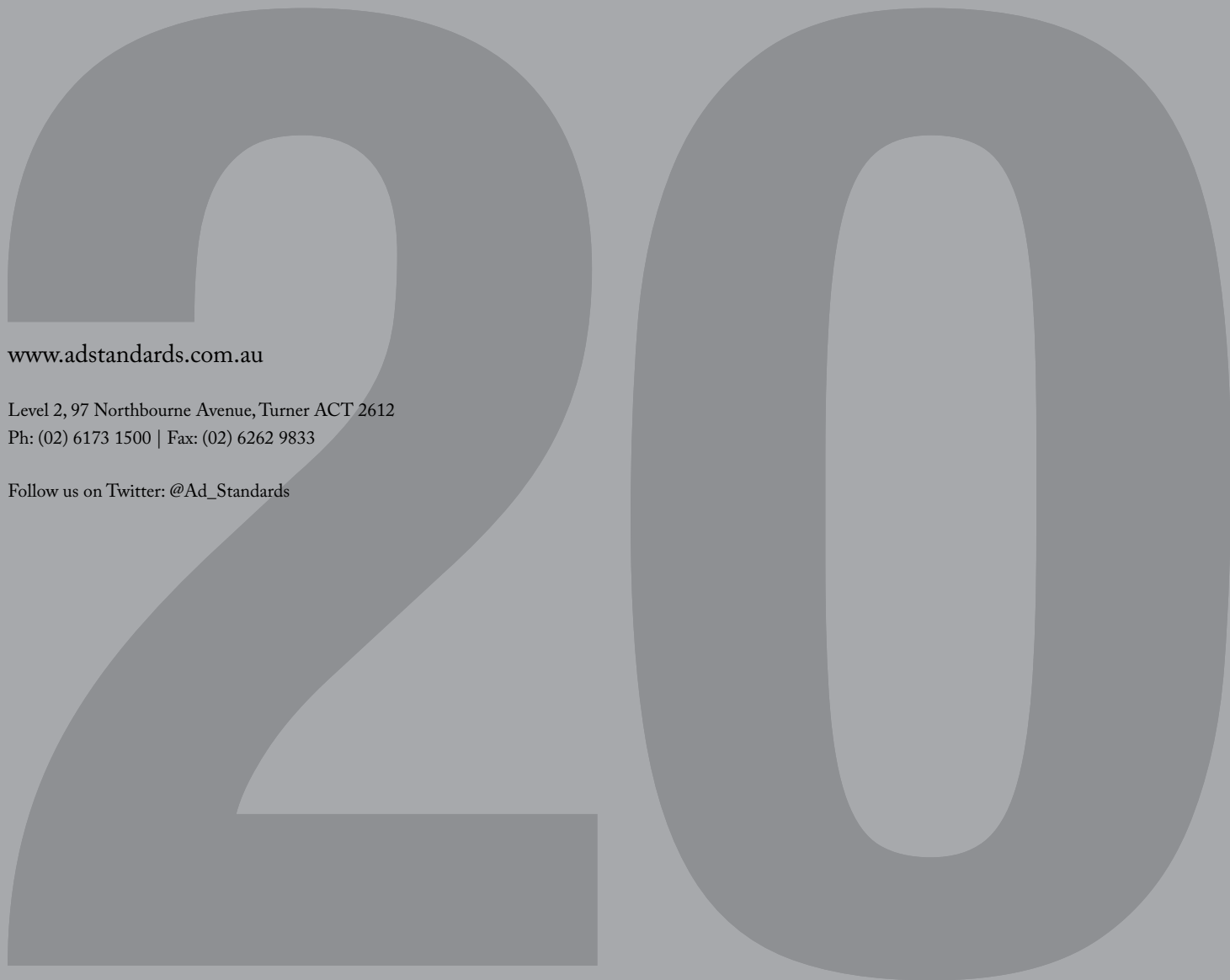
The case report for the original case will be revised to include details of the Independent Reviewer's recommendation and, where necessary, the outcome of the Board's review of its determination.

The 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.



DETERMINATION TRANSPORT EDUCATORS TRANSPARENCY COMMUNICATING  
TRANSPARENCY RADIO COMPLAINT PARTNERING SELF-REGULATE  
POSTERS COMMUNITY DETERMINATION OUTDOOR INDEPENDENT PEOPLE  
ADVERTISERS RESPONSIVE MEMBERS TELEVISION INITIATIVES ACCOUNTABILITY  
ACCOUNTABILITY STANDARDS INTERNET RELIABLE GOVERNMENT  
UNITING REPORTS CONSUMERS COMMUNICATING ACCESSIBLE LIAISING  
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GOVERNMENT  
TRANSPORT  
PARTNERING  
TRANSPORT  
RADIO  
BUSINESS  
BONDING





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