



ADVERTISING  
STANDARDS  
BUREAU

# Review of Operations 2016



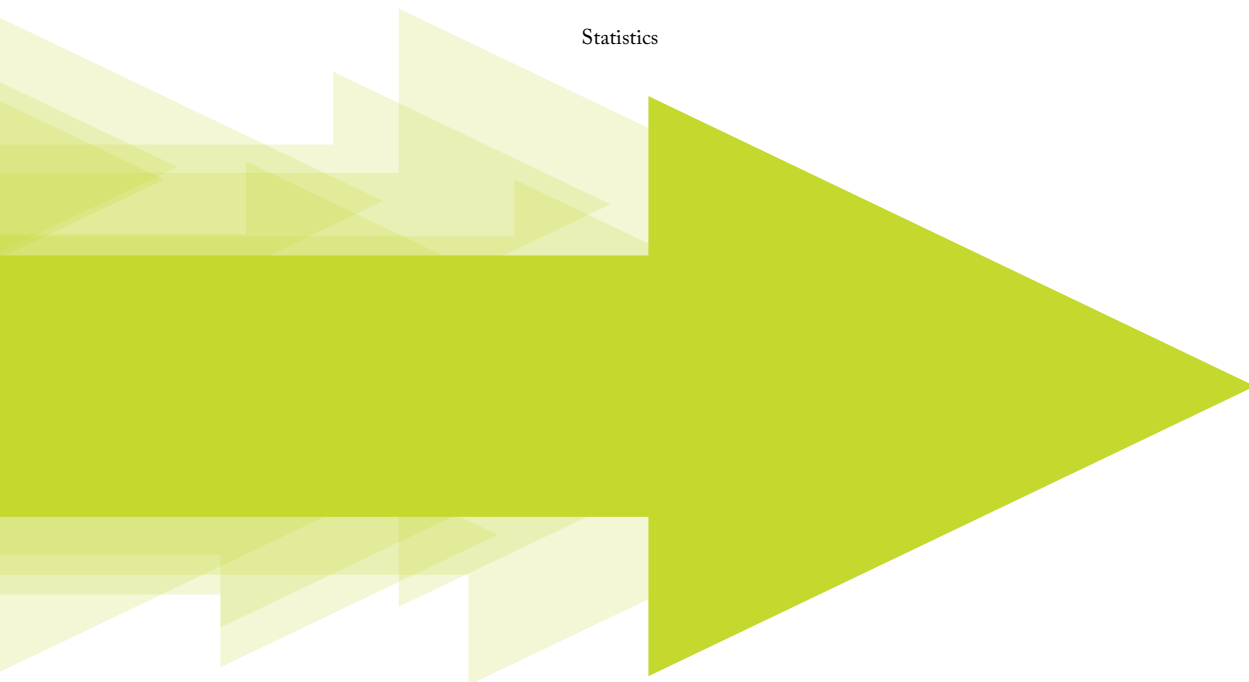
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# Who we are 2016

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) and the World Federation of Advertisers best practice guides and the International Chamber of Commerce Consolidated Code of Advertising and Marketing Communication Practice all provide important benchmarks in this area.

Advertising self-regulation has been part of the Australian advertising landscape for the past 40 years. The current system is not the original system of advertising self-regulation in Australia. It was preceded by the Advertising Standards Council (ASC) established in 1974 to hear consumer complaints about advertisements and determine if they were in line with the Advertising Code of Ethics.

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 2016 the ASB administered the following codes of practice:

- Australian Association of National Advertisers (AANA) 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
- AANA Wagering Advertising & Marketing Communication 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
- advertising of wagering

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.



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.



# 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. Since April 2014 the self-regulation levy is set at 0.05% (\$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 ASB 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
- Advertising Standards Bureau meetings and teleconferences with industry and government as appropriate throughout the year
- research to assist Advertising Standards Board members and the community to understand self-regulation and specific Code related issues, including research into community standards and levels of awareness of the ASB
- 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.

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

# Snapshot

## 2016 complaint snapshot

Number of complaints received	5,529
Number of complaints made about matters within ASB jurisdiction	3,134
Number of complaints about ads within ASB jurisdiction but previously considered by Board	914
Number of complaints made about matters outside ASB jurisdiction	1,322
Number of complaints about ads already withdrawn	49
Number of complaints assessed as consistently dismissed issues	115
Number of complaints unassessed at year end	44

## 2016 breach or not snapshot

Number of ads the Board found consistent with Code and Initiatives	462
Number of complaints about ads found consistent with Code and Initiatives	4242
Number of ads the Board found breached a Code or Initiatives	71
Number of complaints about ads that were found to breach the Code or Initiatives	336

## 2016 ad snapshot

Number of ads complained about	595
Number of cases created but not put forward for consideration by the Board for variety of reasons	19
Number of ads withdrawn by advertiser before consideration by Board	43
Number of ads which were NOT modified or discontinued after a complaint was upheld	18

# Most complained about ads in 2016

1

## **Ultra Tune Australia - [0024/16](#) - TV – free to air**

Two women in skin tight outfits dancing with the tagline 'we're into rubber'.

Dismissed

No. of complaints: 418

Issues of concern: Section 2.1 - discrimination, Section 2.2 - exploitative and degrading and Section 2.4 - sex, sexuality and nudity.

2

## **Meat & Livestock Australia Ltd – [0017/16](#) - TV – free to air**

Newsreader Lee Lin Chin gives the instruction to commence 'Operation Boomerang' - a mission to rescue Australians from various countries so that they will be able to eat lamb on Australia Day.

Dismissed

No. of complaints: 376

Issues of concern: Section 2.1 - discrimination, Section 2.3 - violence and Section 2.6 - health and safety.

3

## **BCF – [0434/16](#) - TV – free to air**

Advertisement promoting boating camping and fishing gear which used the phrase 'BCFing fun'.

Dismissed

No. of complaints: 248

Issue of concern: Section 2.5 - language.

4

## **Meat & Livestock Australia Ltd – [0018/16](#) - Internet**

Newsreader Lee Lin Chin gives the instruction to commence 'Operation Boomerang' - a mission to rescue Australians from various countries so that they will be able to eat lamb on Australia Day.

Dismissed

No. of complaints: 241

Issues of concern: Section 2.1 - discrimination, Section 2.3 - violence and Section 2.6 - health and safety.

5

## **Ultra Tune Australia - [0020/16](#) - TV – free to air**

Two women are in a car which breaks down on train tracks.

Upheld

No. of complaints: 208

Issues of concern: Section 2.1 - discrimination, Section 2.2 - exploitative and degrading and Section 2.4 - sex, sexuality and nudity.



**6**

**Meat & Livestock Australia Ltd – [0019/16](#) - Internet – Social – Other**

Newsreader Lee Lin Chin gives the instruction to commence 'Operation Boomerang' - a mission to rescue Australians from various countries so that they will be able to eat lamb on Australia Day.

Dismissed

No. of complaints: 130

Issues of concern: Section 2.1 - discrimination, Section 2.3 - violence and Section 2.6 - health and safety.

**7**

**Ultra Tune Australia - [0040/16](#) - TV – free to air**

Two women are in a car which goes off a cliff after being put into the wrong gear.

Dismissed

No. of complaints: 113

Issues of concern: Section 2.1 - discrimination, Section 2.2 - exploitative and degrading and Section 2.4 - sex, sexuality and nudity.

**8**

**Roadshow Film Distributors Pty Ltd – [0266/16](#) - TV – free to air**

Advertising for upcoming horror movie.

Upheld

No. of complaints: 82

Issue of concern: Section 2.3 - Violence.

**9**

**Medibank Private Ltd – [0062/16](#) - TV – free to air**

Showed different family groups and highlighted that their product would be good for all of them.

Dismissed

No. of complaints: 66

Issue of concern: Section 2.4 - sex, sexuality and nudity.

**10**

**Honey Birdette – [0217/16](#) - Poster**

Window poster showing woman from behind in revealing underwear.

Upheld

No. of complaints: 59

Issues of concern: Section 2.1 - discrimination, Section 2.2 - exploitative and degrading and Section 2.4 - sex, sexuality and nudity.

# Executive reports

Chairmen's report

CEO's report

ASB Board of Directors

# Chairmen's report

## Ian Alwill – retiring Chair

My last year as Chair of the Board of Directors of the Advertising Standards Bureau, continued as my term began – making the advertising self-regulation system in Australia operate in a robust manner, enabling the Directors, the Bureau and Advertising Standards Board to meet the challenges of such a rapidly evolving advertising system.

Certainly the challenge to meet community, industry and government expectations, in the context of rapid and paradigm shifting advertising practice, have been a constant in my 12 years on the Board of Directors and I expect that will not change in the future.

The challenges are welcome and have driven positive changes to the Bureau, Board and self-regulation in general and I see this as something which needs to continue into the future. The Bureau's work in championing self-regulation of advertising in the APEC region has been another positive role, of which I have been excited to be part. The potential economic benefit to the region is vast.

In handing over to the new Board of Directors I know am leaving them with a significant and important responsibility in ensuring the Bureau, Board and advertising self-regulation in Australia is maintained at the world-leading level it currently holds.

## David Scribner – Acting Chair

We have great respect for the work done by previous members of the Bureau Board and thank them all for leaving us with an advertising complaints system that is able to meet all challenges and adapt quickly to coming changes.

The current Board of Directors is motivated to uphold and further develop elements of the complaint handling process of the advertising self-regulation system. As determined by the industry, community and government.

The need to have a thorough understanding of all stakeholder requirements is one of the main objectives the Board will be working toward during the coming year. I believe this work will ensure the system continues to benefit all stakeholders.

The Directors pay tribute to the dedication of the Advertising Standards Board and thank the staff at the Bureau for their dedication in administering the complaints arm of Australia's self-regulation system and also the role they play in promoting and championing the importance of self-regulation in the Australian community.

# CEO report

## **Fiona Jolly, Chief Executive Officer**

As custodians of the complaints resolution half of the advertising self-regulation system, it is the role of the Directors and staff of the Advertising Standards Bureau to ensure the complaints system is operated in a manner that meets the needs of industry, the community and government.

Those who are new to the ASB are always surprised by the variety, complexity and volume of work that is required behind the scenes. I will mention just a few highlights.

One way of demonstrating our commitment to meeting diverse stakeholder needs is to ensure the system is operated according to both international and Australian best practice standards. Domestically, ASIC Regulatory Guide 139, approval and oversight of external dispute resolution schemes (ASIC RG 139) provides important guidance from the Australian Government for the operation of self-regulation systems. Internationally, the advertising self-regulation best practice guidance is well accepted as being that set out in the EASA Best Practice Recommendations.

Integral to best practice is that the self-regulation system operates with full support of industry. The complaints resolution half of the advertising self-regulation system is fortunate to have support of all sectors of the advertising industry – advertisers themselves of course, but also very significant contributions and support from the media buying, creative, and media sectors. Also integral to the success of the system are the various industry bodies and of course the organisations that form the other half of the self-regulation system – the creators and keepers of the industry Codes that the ASB administers.

Essential to both the domestic and international standards for self-regulation, is effective enforcement and compliance. During 2015 and 2016 the ASB continued to have concerns about

a threat to our otherwise impressive compliance rate posed from a very small number of businesses advertising on their own premises who declined to remove advertising and marketing material found to be in breach of community standards as judged by the Advertising Standards Board against the Australian Association of National Advertisers (AANA) Code of Ethics. We were very pleased therefore to have had success in working with the Queensland Government to have an effective ‘legislative backstop’ put into place (read more in the achievements section). This initiative should have our compliance rate back at world leading rates in 2017.

Ensuring the community understands where to take concerns about advertising is another important best practice element. The ASB made significant effort to raise awareness in the community of its work through the use of social media during 2017 (read more in the achievements section). While more people in the community interacted with the ASB – through lodging complaints, or reading our social and traditional media information – there appears still to be some confusion regarding who and what constitutes the various elements of the complaints resolution part of the advertising self-regulation system. In an effort to address this issue, we are pleased that in late 2016 we made the first steps in finding out exactly what our various stakeholder groups think about the ASB and what they need, and the results of this research will be implemented in 2017 through more targeted and on point information to each stakeholder group, and we hope also through a refreshed look and feel for the ASB.



During 2016 we also focused on keeping our Advertising Standards Board, 20 members of the Australian community with no ties with industry or consumer groups, well informed and well supported in their decision making. While we farewelled a number of members of the Board we were successful in our goal of increasing the diversity of the Board membership and welcomed four new members from diverse cultural backgrounds (see the Board reports section). Most challenging to the work of the Board in 2016 is further expansion to the media and spaces in which advertising and marketing communications appears. During 2016 the Board considered complaints about Snapchat for the first time. Thank you to all Board members for the commitment and thought you demonstrate in all decision making, and in being able to work as a team in a manner that respects such diversity of opinion.

A small team of hard working staff at the ASB dealt with more than 5000 complaints and hundreds of phone calls from members of the community in 2016. At times a very challenging role, every member of the team has stretched themselves to ensure the ASB undertakes its task effectively and efficiently. My sincere thanks to everyone for their dedication and sense of humour.

At the end of 2016 we farewelled three long standing members of the Bureau Board of Directors – Ian Alwill, Chairman since 2005, Hayden Hills and John McLaren. All three contributed their time and intellect to ensuring the values of transparency, independence,

accessibility, efficiency were part of the ASB's every day, and that as a team we ensured our focus on continuous improvement of all aspects of our complaints resolution system. My particular thank you to Ian, with whom I have worked closely for nearly 12 years. Ian understood the importance to industry of a well-respected, and robust self-regulation system and demonstrated the utmost integrity in his Chairmanship. Ian has been able to hand over a robust and well governed company to the new Board of Directors, and I look forward to working with them and to meeting the challenges and opportunities that 2017 holds.

# A champion of advertising self-regulation



Ian speaking at an ASB function during his 10-year term as Chairman of the Board of Directors.

The retirement of Mr Ian Alwill from the Advertising Standards Bureau Board of Directors saw the departure of a genuine and tireless champion of advertising self-regulation.

In his 12 years of dedicated service, ten as Chairman of the Board of Directors, Ian continually pushed for changes and further improvements to the system of advertising self-regulation in Australia.

Since his appointment to the Board of Directors in 2004 Ian welcomed the input and dedication of his colleagues from all industry sectors on the Board of Directors. He also encouraged and supported the work done by staff at the Advertising Standards Bureau in managing the ever-changing platforms of advertising and marketing communication.

As Chief Executive Officer since 2005 Ms Fiona Jolly said Ian's leadership and dedication had supported her in her role at the ASB in making continual improvements to ensure a world-leading complaints administration system.

His vision and support allowed for one of the major changes to the ASB in the past 10 years – changes to the number and composition of the Advertising Standards Board in 2008. Ian's support for this change illustrated the importance he placed on strengthening the independence and diversity of the Board and ensured the complaints system and self-regulation system would survive any challenges to its purpose and operations.

Overall, Ian's work has ensured that any scrutiny of the Bureau or Board processes will result in the conclusion that the ASB administers an independent, responsive, transparent, efficient and accessible complaints system. This is borne out in repeated conclusions by various governments that advertising self-regulation as operated by ASB is a better option than government intervention and that ASB is best placed to regulate advertising standards in Australia.

Ian also supported and participated in work to engage APEC economies in developing a regional awareness of the benefits of advertising self-regulation.

The work in this area has meant the ASB has developed important relationships with APEC economies and can look forward to working with regional partners to strengthen advertising self-regulation systems and standards – work that will benefit Australian industry and the communities in the APEC economies.

# Changing face of the Board of Directors

Three long-standing Board members who made significant contributions to the strategic direction and success of self-regulation retired from the Bureau Board of Directors in November 2016 – Mr Ian Alwill, Mr Hayden Hills and Mr John McLaren.

In addition to the retirement of Ian, Bureau Board Chair and advertising self-regulation champion, the two other retirees John and Hayden both voluntarily contributed over many years to the success of the ASB. Their particular contributions to stakeholder and financial management, and to governance and understanding of evolving creative challenges mean ASB is well placed to face any coming challenges. Hayden and John's contributions, wisdom and independent outlook will be missed.

New Directors – Ms Andrea Martens, Mr Matthew Hall, and Mr John Broome – were appointed at the ASB Annual General Meeting on 24 November 2016. They joined three continuing members – Ms Victoria Marles, Mr Andrew Caie and Mr David Scribner.

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

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

During 2016, the role of company secretary was managed by Ms Simone Carton, the ASB's Legal and Policy Manager.

## Board of Directors (at end 2016)

### David Scribner

Chief Executive Officer, True Local – Acting Board of Director's Chair

### John Broome

Vice President, Marketing Unilever Australia and New Zealand

### Andrew Caie

Global Marketing and Customer Experience Director, Inchcape PLC

### Matthew Hall

Managing Director, Artifex Advisors

### Victoria Marles

Chief Executive Officer – Trust for Nature, Victoria

### Andrea Martens

Chief Brand Officer, Jurlique

## Retiring Board Members

### Ian Alwill

(Chairman and Board member 2 December 2004 – 24 November 2016)

### Hayden Hills

(Board member 2 December 2004 – 24 November 2016)

### John McLaren

(Board member since 10 March 2009 – 24 November 2016)

## Meetings

The Board of Directors met nine times during 2016.

Board member	Position	Meetings eligible to attend	Meetings attended
Ian Alwill	Chairman (retired November 2016)	7	5
Hayden Hills	Director (retired November 2016)	7	3
John McLaren	Director (retired November 2016)	7	7
Victoria Marles	Director	9	7
Andrew Caie	Director	9	7
David Scribner	Acting Chair/ Director	9	8
Andrea Martens	Director (appointed November 2016)	2	1
Matthew Hall	Director (appointed November 2016)	2	2
John Broome	Director (appointed November 2016)	2	2



# Achievements

Strategic intent

Challenge met – record number of complaints within jurisdiction

Championing self-regulation in the region and internationally

Challenge accepted – changes supported

Changes made - high standards for wagering advertising set



# Strategic intent

ASB administers a transparent, robust, accessible and fair self-regulation system for advertising.

## Our purpose

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

## Our vision

The Advertising Standards Bureau 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.

# Challenge met – record number of complaints within jurisdiction

In 2016 the ASB received 5,592 complaints, the second largest number of total complaints ever received in one year (5,735 in 2014). This equates to almost 95 complaints a week and over 20 complaints each business day.

From these 5,592 complaints, 3,134 (56 per cent) were found to relate to new cases within jurisdiction, meaning they raised issues under the Codes and did not relate to a case that had previously been considered by the Board. This is the largest amount of complaints ever processed as being new cases within jurisdiction in one year. In 2014 this number was only 2,309 (40 per cent).

While the system was challenged by an increased workload due to more complaints being assessed as being within ASB jurisdiction, this challenge was met by ASB in 2016 with 533 cases being raised and considered by the Board.

## What does this mean?

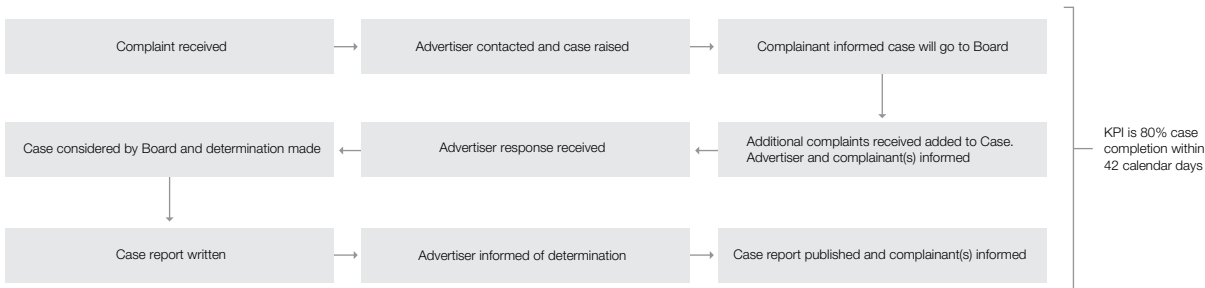
Complaints which are assessed as falling within the Codes usually require more time than those that do not. Complaints which are within jurisdiction (and have not previously been considered) will be raised as a case, or linked to a case that has not yet been considered by the Board.

A large amount of complaints being assessed as being within jurisdiction creates an increased workload for ASB staff.

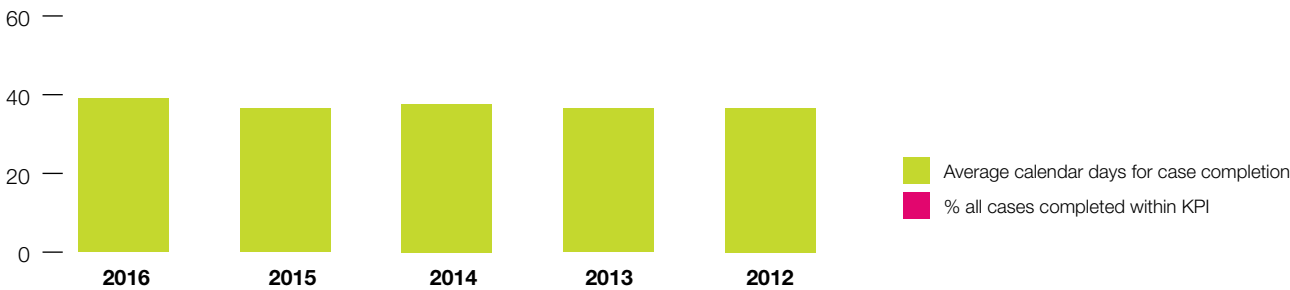
## Timeliness

The KPI for timeliness is set at 80 per cent of case completion within 42 calendar days. The actual result for 2016 fell short of this target at 73.4 per cent of all cases completed within 42 calendar days. The average number of calendar days to complete all cases was 39.1. The drop in timeliness can be attributed, in part, to the increased workload in 2016.

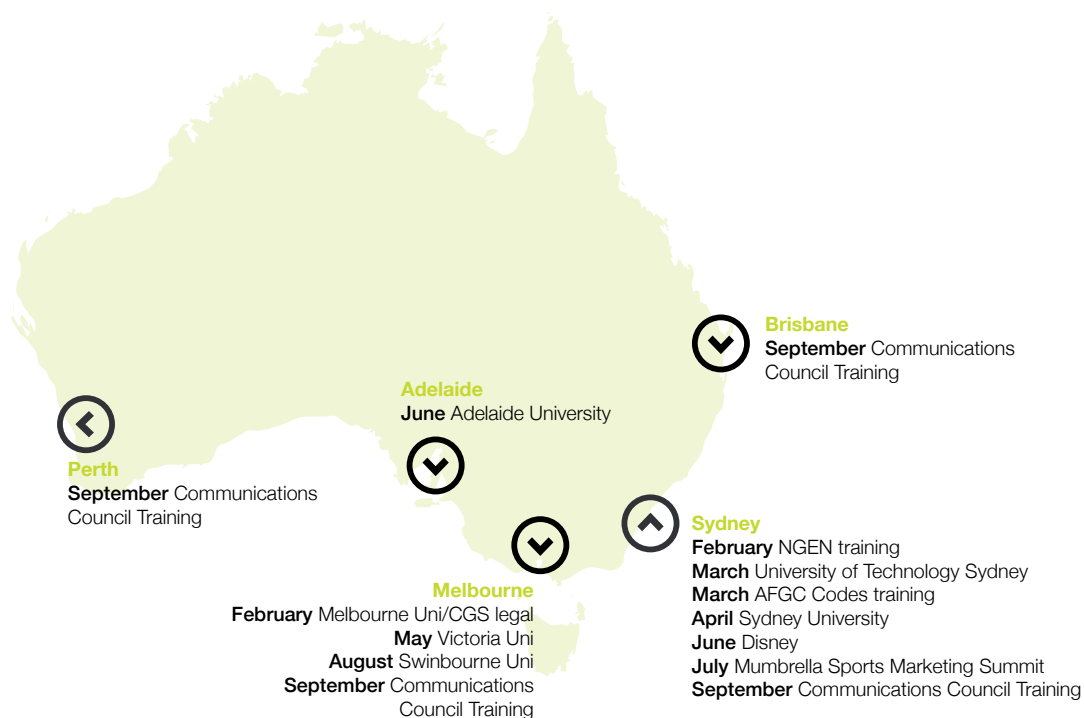
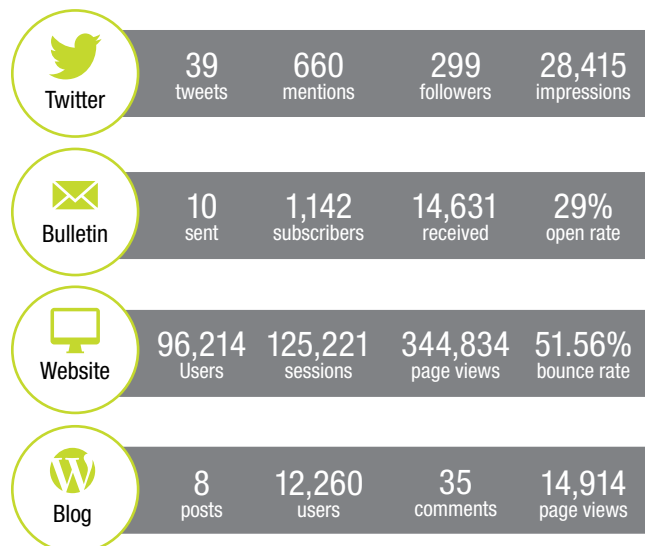
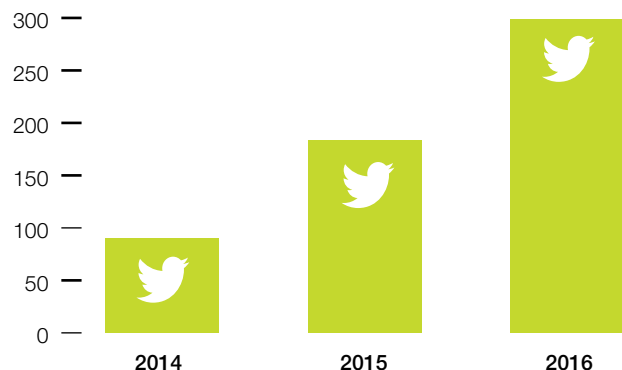
## Example process for complaint within jurisdiction



## Case completion



### Twitter followers



# Championing self-regulation in the region and internationally

## What is APEC and who?

The Asia-Pacific Economic Cooperation (APEC) is a forum for 21 member economies in the Asia-Pacific region that promotes free trade throughout the region. The member economies are:

- Australia
- Brunei Darussalam
- Canada
- Chile
- Chinese Taipei
- Hong Kong, China
- Indonesia
- Japan
- Malaysia
- Mexico
- New Zealand
- Papua New Guinea
- People's Republic of China
- Peru
- Republic of Korea
- Russia
- Singapore
- Thailand
- The Philippines
- The United States
- Viet Nam.

## APEC advertising self-regulation network

The Advertising Standards Bureau (ASB) is committed to the ongoing development, refinement and capacity building of advertising self-regulation both in Australia and beyond. This work increases the credibility of self-regulation by expanding best practice around the Asia Pacific Region.

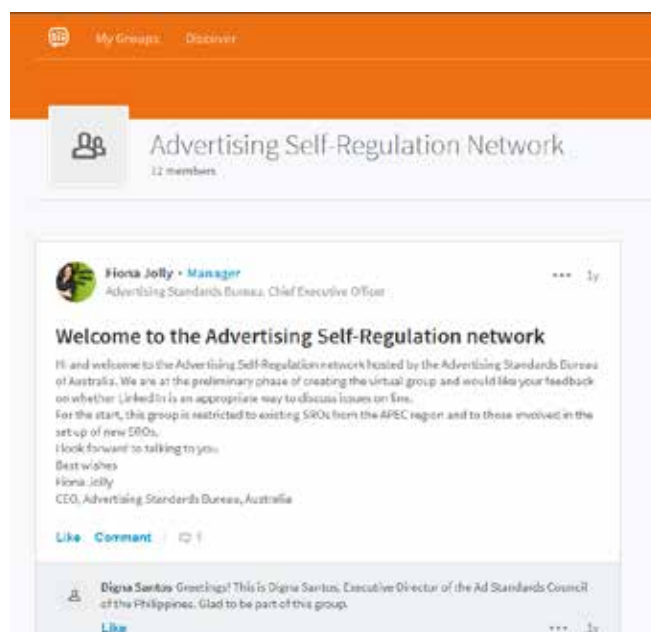
Since 2012 the ASB has continued to champion advertising self-regulation in the Asia Pacific region through its leadership of a programme of work through APEC.

As part of this work, the ASB continues to champion the importance of advertising self-regulation and best practice in advertising standards in the APEC region through the Mentoring Network.

When communicating internationally with other advertising regulation organisations there are a number of challenges that arise, including time-zone challenges and technology access (access to the internet is not a given for all our neighbours) as well as language barriers.

The ASB will continue to address these challenges and is looking forward to continuing to build this network and engage with APEC economies in 2017.

In 2016 the ASB took advantage of the opportunity of a third APEC advertising self-regulation workshop in Peru to further develop an Advertising Self-Regulation Network.



The aim of the network is to assist in delivering mentoring and capacity building programs around advertising self-regulation in the APEC region.

Initially established as a group on LinkedIn, the ASB conducted a survey in late 2016 assessing the needs and accessibility issues of people involved in advertising regulation across the different economies. This survey was designed to assess how people would best like to access the mentoring network, and what content they would find most useful. The results of this survey were presented by the ASB Bureau Board of Directors Chairman Ian Alwill at an APEC workshop in Peru in August 2016. From information gathered from both the survey and the presentation, the ASB decided to adapt the mentoring network to an email group as well as a LinkedIn group – to maximise participation from APEC economies.

## International work

On 26 October 2016, a new [International Council on Ad Self-Regulation \(ICAS\)](#) was established with the aim to promote effective advertising self-regulation worldwide.

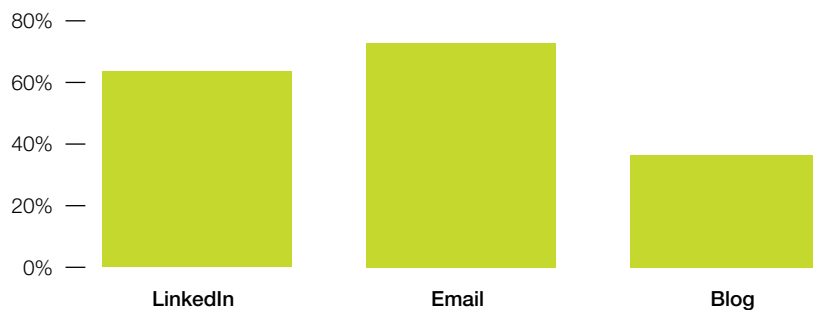
The new ICAS is building on an existing network of international advertising self-regulation organisations which was set up by [European Advertising Standards Alliance \(EASA\)](#) in 2008. At its inception ICAS membership included Self-regulatory bodies from Australia, Brazil, Chile, Columbia, El Salvador, India, Mexico, New Zealand, Peru, Canada and the USA, in addition to the UK, France, Spain and the Netherlands.

ASB CEO, Fiona Jolly, has been appointed one of the Vice-Chairpersons of the new ICAS.

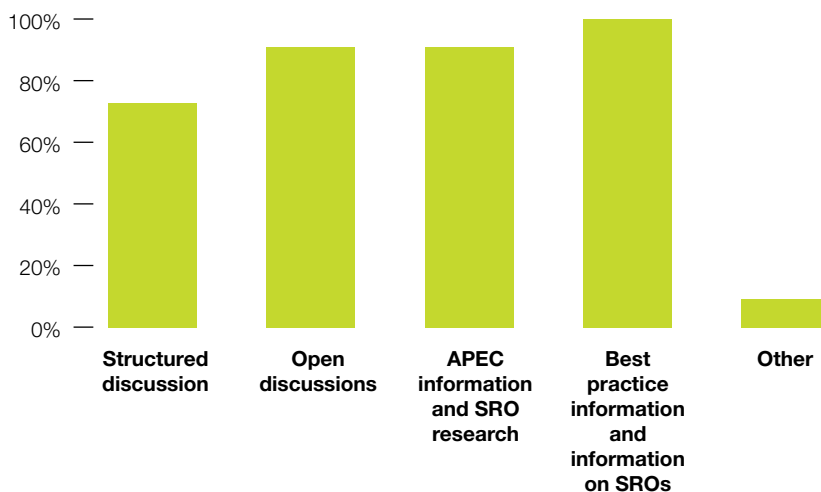
The ICAS aims to unite global advertising self-regulation organisations (SROs) and industry associations to facilitate the establishment of new SROs and to provide a platform to discuss and find solutions to global challenges faced by the advertising industry.

ASB will continue to work with the new ICAS to champion effective advertising self-regulation.

### *What format would work best for you to join the Network?*



### *What would you like to see in the Network?*



# Challenge accepted – changes supported

The vast majority of advertising and marketing communications in Australia complies with the relevant codes and does not receive any complaints, while the majority of those complained about are not found to be in breach of the codes.

An essential element of the advertising self-regulation scheme is effective compliance with decisions.

The ASB aims to achieve a minimum compliance rate of 99 per cent with Advertising Standards Board decisions across all advertising platforms. Over the past five years the average compliance rate has been 97 per cent. This demonstrates the commitment of the vast majority of advertisers to the system and to maintaining high standards of advertising.

Where a breach is found, very few advertisers provide any opposition to Board decisions.

However in 2016 the ASB's compliance record fell to slightly over 96 per cent as a result of continued non-compliance by one Queensland based advertiser.

The complaint resolution process is quick, transparent and accessible to all consumers, with easy to follow steps and support throughout the process provided by the ASB staff.

After several years of seeking support from Federal, State, Territory and Local government agencies, the ASB was successful in finding an avenue to address compliance by this particular advertiser.

On 8 November 2016, the *Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016* was introduced to Queensland parliament by The Honourable Mark Bailey (Queensland Minister for Main Roads, Road Safety and Ports).

In introducing the Bill, Minister Bailey highlighted the aim of the Bill was to ensure that vehicles registered in Queensland did not display sexist, obscene or otherwise offensive advertising.

The ASB welcomed the introduction of the Bill as a means to supporting enforcement of Advertising Standards Board determinations in relation to vehicles registered in Queensland.

The Bill was the result of extensive co-operation between the Queensland Department of Justice and the Queensland Attorney-General, the Queensland Department of Transport and Main Roads, and the ASB.

The ASB supported the approach contained in the Bill, on the basis that the government will only intervene on a referral from the ASB. A referral will only be made to the Queensland government's Department of Transport and Main Roads if an advertiser fails to comply with an Advertising Standards Board determination. Advertisers are asked to modify or remove an

advertisement if it is found to breach the AANA Code of Ethics.

The approach highlights the effective manner in which Governments can support self-regulation through the use of minimal effective legislative backstops. Such an approach recognises that the vast majority of advertisers voluntarily remove or modify advertising which is found to be offensive.

# Changes made - high standards for wagering advertising set

On 1 July 2016 the Advertising Standards Bureau (ASB) began accepting complaints under the Australian Association of National Advertisers (AANA) [Wagering Advertising & Marketing Communication Code](#).

The new Code covers advertising or marketing communications on any medium which is undertaken by, or on behalf of a licenced operator of wagering product or services.

This includes advertising for betting on horse races, harness races, greyhound races, sporting events, novelty events or other contingencies (or a series of races, events or contingencies); but does not include gaming, such as casino games or electronic gaming machines, keno, lotto and lottery products or trade promotions.

For the purposes of this code, Wagering Product or Service includes betting on fantasy sport teams, odds compilation and tipping services offered or provided by a Licensed Operator.

Companies advertising wagering products or services need to ensure they are familiar with the provisions of the new AANA Code, or risk their campaign being banned.

Between 1 July and 31 December 2016, the Advertising Standards Board considered 10 cases under its provisions and upheld complaints about three under the new [AANA Wagering Advertising & Marketing Communication Code](#) (the Wagering Code).

While the Board previously considered gambling advertising under the Health and Safety provision of the AANA Code of Ethics (and will continue to do so for advertisements not falling within the provisions of the Wagering Code or for non-wagering related issues in a wagering ad), the new Wagering Code has allowed the Board to take a stronger stance on specific issues in wagering advertising, particularly around issues of depiction of minors and excess participation in wagering activities.

Parameters of the Wagering Code were set early with an independent review indicating that the Board was fair to take a broad interpretation of what constitutes a 'wagering activity' (Case [0447/16](#)). The Board has determined that it is not necessary for an advertisement to depict someone placing a wager to constitute a wagering activity, and that depicting someone using a wagering app or website is enough to meet this definition.



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# Advertising Standards Board

The centrepiece of the self-regulation system is the dedication, composition and independence of the Advertising Standards Board. The Board includes people from a broad range of age groups and backgrounds and is gender balanced – representative of the diversity of Australian society.

## New appointments to the Advertising Standards Board



**CARLY WALLACE**  
Appointed April 2016

Carly Wallace is a Dulguburra Yidinji woman from the Atherton Tablelands in Far North Queensland who is now based in Brisbane.

She worked in radio and television for 10 years before joining AIME (Australian Indigenous Mentoring Experience) where she now works as a presenter and communications assistant.

Carly is an AV Myer Award recipient and completed a Graduate Diploma in Radio Broadcasting at the Australian Film Television and Radio School (AFTRS) in 2010 – the first and only Indigenous radio graduate in the school's history.

Her career includes work at various media outlets across the country including, Radio 4K1G in Townsville, ABC 702 in Sydney, ABC 612 in Brisbane, ABC In Cairns, ABC Digital Radio, and most recently, NITV (National Indigenous Television) as a television presenter on TV Programs Around the Traps, Yabun Festival and Our Songs.

Joining AIME in 2014, Carly combined her love of working with Indigenous youth and her media experience into one with her role which sees her travelling across the state of Queensland to deliver the AIME program to Indigenous high school students. Carly also manages the AIME Instagram page and assists in the broader AIME communications team.

Carly considers her work at AIME to be her passion and enjoys sharing her knowledge and her story with the next generation of Indigenous youth.



**MOHAMMAD AL-KHAFAJI**  
Appointed May 2016

Mohammad Al-khafaji is the CEO of Welcome to Australia and the current FECCA Youth Chair. Born in Iraq, he came to Australia in 2003 via Syria as a refugee when he was 13. Since arriving in Australia Mohammad has dedicated himself to his work and studies. He completed a Bachelor of Software Engineering at the University of Adelaide in 2012.

He is passionate about changing the national conversation around asylum seekers to a positive one through education and grass roots movements. In line with this Mohammad was appointed as the CEO of Welcome to Australia in September 2015. He committed to giving new arrivals the same welcome he received when he arrived in 2003.

Mohammad volunteers for a number of organisations and is passionate about empowering young people to reach their full potential. He is the Youth Chair of the Federation of Ethnic Communities' Councils of Australia (FECCA). He was the chairperson of the Minister's Youth Council from 2011 to 2012 in South Australia.

Mohammad was part of the Australian Youth Leadership Conference (Adelaide 2005), a delegate at the Federal Government's 2020 Youth Summit in Canberra in 2008, was awarded the South Australian Governor's Multicultural award for youth achievement in 2012, and last year was a finalist in the Pride of Australia Awards in the Fair Go category.

Mohammad is an active community member. He lives in Adelaide, the best city in Australia.



### **KHADIJA GBLA**

**Appointed May 2016**

Khadija Gbla is a passionate and inspired young African-Australian woman. She is an award winning inspirational speaker, facilitator and consultant who has achieved her aspirations of giving women, youth and minority groups a voice at a local and State level. Khadija is dedicated to her voluntary work and has utilised every opportunity to inspire others to accept the differences in our multicultural society. An optimistic and passionate representative of the African community, Khadija utilises her powerful and inspired voice to advocate equality and acceptance within the community.

Her consultancy offers cultural awareness training and facilitation to government agencies, non-profit organisations and individuals; advocacy and mentoring to culturally and linguistically diverse communities. Khadija is the Executive Director of No FGM Australia, which works to protect Australian girls and support survivors of FGM. She is also an Ambassador for Our Watch, a national, not-for-profit organisation dedicated to preventing violence against women.

Khadija has received numerous awards, including The Advertiser South Australia's 50 Most Influential Women of 2014, the 2013 Madison Magazine Australia's top 100 Inspiring Women, the Amnesty International Human Rights Activists to watch out in 2013, and in 2011 was named Young South Australian of the Year and Young African Australian of the Year.

Khadija arrived in Australia as a refugee from Sierra Leone and lives in Adelaide, South Australia with her young son.



### **CATHERINE POUTASI**

**Appointed December 2016**

Catherine Poutasi was born and raised in Aotearoa, New Zealand and moved to Wollongong, Australia in 2013 with her husband and two children.

She has quickly made in-roads into her new community and is an active community volunteer in the Illawarra region, as well as taking on a position with the Management Committee of the Multicultural Communities Council of Illawarra.

Catherine has a Masters degree in Organisational Psychology and is of Samoan and New Zealand-European descent.

Catherine is the Chair of the Pasifika Foundation in New Zealand which is a Non-Government Organisation with a vision to improve the health, education and social outcomes of Pasifika families. Catherine is also the Director of Integrity Professionals, a small consultancy specialising in project management, service reviews and evaluations. The consultancy partners with culturally and linguistically diverse groups in Australia and Aotearoa New Zealand.

She has extensive experience in both health and social services as a Principal Consultant and has operated her own business since 2007. Before that she held senior roles in the New Zealand public health system.

## Continuing Advertising Standards Board members



**GIULIANA BAGGOLEY**

**Appointed August 2011**

Giuliana is an optometrist. She lives in Canberra where she is married and has two young children.



**SUE BOYCE**

**Appointed September 2014**

Sue served as a Queensland Senator for seven years, retiring on 30 June 2014. She is the mother of three adult children and grandmother of four.



**MARIA COSMIDIS**

**Appointed August 2011**

Maria is currently employed by the South West Sydney Community Legal Centre as the Executive Officer. Maria enjoys watching and playing sport and spending time with her young children.



**PAUL DOORN**

**Appointed September 2014**

Paul is Executive Director of Sport and Recreation in the NSW Office for Sport. 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.



**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 lives in Sydney with her two teenage sons.



**KAREN HAYNES**

**Appointed August 2011**

Karen is from Brisbane and has been a Queensland Baptist Pastor since 2008. In 2016 Karen joined the Royal Australian Air Force as a Chaplain, and is currently based in Wagga Wagga, NSW. In her current role, Karen provides support, counsel and religious ministry to Defence members and their families.

*Contributions from Karen reflect her own views and do not necessarily reflect the views of the Australian Defence Force.*



**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. 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. Prior to her move, Gina worked as an intellectual property lawyer in a top tier Sydney corporate law firm.



**WILLIAM McINNES**

**Appointed September 2014**

William is one of the most accomplished and popular actors on the Australian landscape today. He 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. 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. He and his wife Judi own a small cattle farm in the Southern Highlands of NSW.



**PETER PHILLIPS**  
Appointed August 2011

Peter grew up in Frankston and now lives in Melbourne. Peter is the director of a small regulatory and governance consultancy, specialising in environmental and regulatory frameworks. 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 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 moved to Perth in 1986 with his wife, Meredith and two children.



**ANDREW ROBINSON**  
Appointed September 2014

Andrew is a doctor at the Royal Perth Hospital in Western Australia after having completed his medical degree at Bond University on the Gold Coast in 2015. Born in rural New South Wales, Andrew moved to the Gold Coast and lived there for 17 years before moving to Perth to commence his medical internship in early 2016.



**SUE SMETHURST**  
Appointed September 2014

Sue has worked in a diverse range of fields. She has held senior positions in Australian radio, television, and magazines and is an author. Sue lives in Melbourne and in her spare time 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 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 is a Fellow of the Dietitians Association of Australia, an Honorary Professorial Fellow at the University of Wollongong and an Adjunct Professor of Nutrition and Dietetics at the University of Canberra. In his spare time Peter enjoys cycling, bushwalking and yoga.

## Retiring Board members



**SOPHIE KOWALD**

Appointed August 2006 – Retired  
November 2016

Sophie recently took on a Policy Advisor position with Michelle Rowland, MP, Shadow Minister for Communications. Previously she worked at the Australian Communications and Media Authority (ACMA). Sophie also worked as a research fellow on cross-border tobacco advertising control at the Centre for Media and Communications Law, as a judicial associate and a casual university academic in law and media studies. Sophie holds a Master of Laws from the University of Melbourne.

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 has been closely involved with her local playgroup, toy library and breastfeeding association.

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



**JACK MANNING BANCROFT**

Appointed August 2011 – Retired  
April 2016

Jack 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.

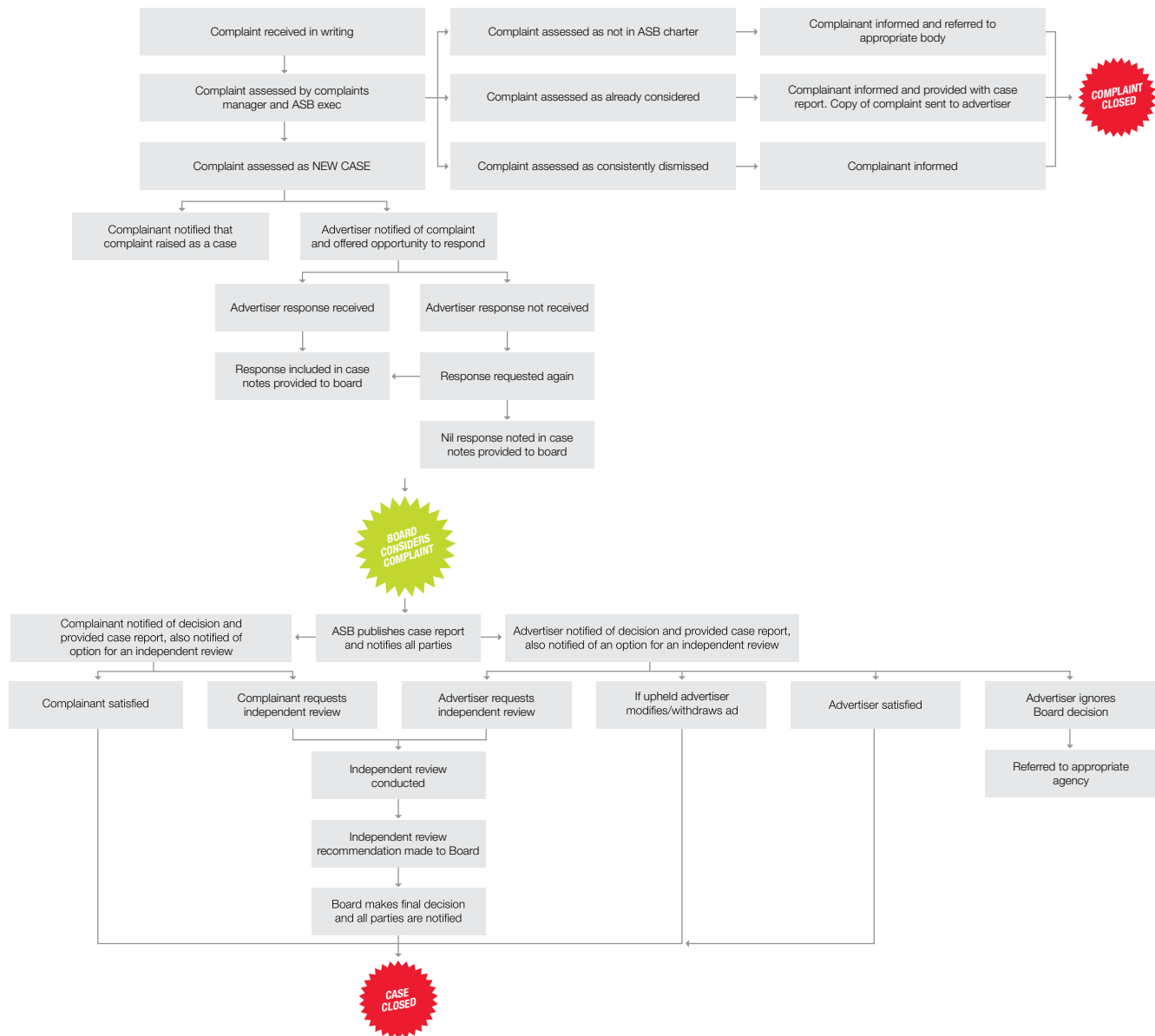
Jack is now one of Australia's youngest CEOs leading a team of nearly 100 staff across the country. Today, AIME works with over 3,500 Indigenous high school students and 1,250 university student acting as mentors across five states in Australia. More than 10,000 high school kids and 5,000 university students have been through the program in the last decade.

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.

# Advertising Standards Board complaints process





# The Board's view

The information included in the Board's view section is offered as a guide to previous determinations and cannot be relied upon as the determination which may be reached by the Board in future cases.

## 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:

- 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
- AANA Wagering Advertising and Marketing Communications Code.

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 until 2017 was 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 and 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 2016 discrimination and vilification was the most complained about issue accounting for 27.23 per cent of complaints, significantly higher than in 2015 (15.76 per cent) but similar to 2014 (27.61 per cent).

For a more in-depth overview of discrimination and vilification cases in 2016 see the [discrimination and vilification determination summary](#) on the ASB website.

## Discrimination against age

In 2016 the Board found two advertisements to breach the Code in relation to this issue. The Board was of the view that:

- Advertising which suggests that someone in a professional role is not good at their job because they are young or they look young is discriminatory towards young people.
  - An online advertisement which states 'don't let your property be managed by a teenager' (Bees Nees City Realty – [0547/16](#)).
- Phrases which create a negative stereotype of older women are vilifying to women on the basis of age.
  - A print advertisement which featured an image of an older woman wearing a nightdress and holding a shot gun and the text 'is your property manager a grumpy old cow?' (Hayeswinckle – [0542/16](#)).

The Board also dismissed complaints against a number of cases in 2016 about this issue and is of the view that:

- Advertising which shows a group of people acting in a wild and inappropriate manner, is not discriminating against young people when the focus of the advertisement is not on their age.
  - A television advertisement which shows a group of tenants acting responsibly or irresponsibly in a house, to promote a

real estate company (First National Real Estate – [0290/16](#)).

- Portraying older people as sexual beings is not discriminatory when they are portrayed in a positive and active manner.
  - A television advertisement where an older woman tells her son she is leaving her money to the attractive gardener (Specsavers Pty Ltd – [0213/16](#)).

## Discrimination on the ground of disability or mental illness

The Board did not find any advertisements to breach the Code in relation to this issue in 2016.

The Board is of the view that:

- Advertisers are free to use whomever they wish in their advertising and acknowledged that while many people would find the use of people suffering from terminal illness to be confronting, the Board considered that the Code does not preclude this use.
  - A television advertisement which features people with terminal illnesses sharing their thoughts on home ownership (Ubank – [0456/16](#)).
- Reference to the word 'suicide' in advertising does not in itself equate to discrimination or vilification of people with mental illness.
  - A billboard advertisement for the movie 'Suicide Squad' with images of the main characters from the movie (Roadshow Film Distributors Pty Ltd – [0351/16](#)).

## 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 a helpful way to assess compliance with the Code.

In 2016 the Board found one advertisement to breach the Code on the basis of discrimination against men. The Board was of the view that:

- Advertising which suggests all husbands are pests is degrading and vilifying of husbands.
  - A radio advertisement in which a woman asks a pest removal company if they 'do husbands' (Allpest WA – [0510/16](#)).

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

- Advertising which highlights facts about gender equality and makes statements about affirmative actions taken to help females, is not in itself discriminatory towards men.
  - A television advertisement which highlighted financial inequality between men and women and affirmative action being taken by the advertiser for their female employees (ANZ Banking Group Ltd – [0118/16](#)).
- Advertising which highlights the causes of violence against women, does not suggest that all men are violent towards women or that men cannot be victims of domestic violence.
  - A television advertisement which shows a man encouraging his son to kick a ball at his wife's head (Department of Premier and Cabinet (Victoria) – [0581/16](#)).
- References to masculine stereotypes are not considered to be discriminating or vilifying of men, where the references are light-hearted and humorous.

- A radio advertisement which features a woman telling her husband to have a 'real look' not a 'man look' (Michael Roach Financial Services – [0265/16](#)).
- Concerns about the depiction of men as incompetent in one advertisement does not suggest that this same situation applies to all men, or that it is specific to men.
  - A television advertisement where a man has trouble setting up his smart TV, before having it pointed out to him that he has not switched it on. His wife makes a comment that at least the TV is smart (Freeview Australia Limited – [0383/16](#)).

## Discrimination against women

Complaints concerning discrimination against women generally attract high complaint numbers. Imagery of women presented in a sexualised manner can also be considered under Sections 2.2 and 2.4 of the Code depending on the content of the advertisement and nature of the complaint.

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

- Advertising which shows women as ridiculous and unable to recognise a dangerous situation incites ridicule towards their behaviour and women in general.
  - A television advertisement which features two women in a car that breaks down on a train crossing (Ultra Tune Australia – [0020/16](#)).

In 2016 the Board upheld a number of transport advertisements from the one company for discriminating against women. The Board upheld these ads for:

- Reducing women to sexual objects for men's pleasure (Wicked Campers – [0154/16](#)).
- Using the term 'bitch' (Wicked Campers – [0116/16](#)).
- Suggesting that women will take men's belongings at the end of a relationship (Wicked Campers – [0027/16](#)).
- Suggesting women cannot make independent decisions (Wicked Campers – [0026/16](#)).

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

- Advertising which makes a comment about one woman is not usually seen as a comment which would apply to all women (Lif3 Global – [0314/16](#)).
- Advertising which uses descriptions of women but does not clearly identify any group of women does not vilify or discriminate against women (Petersham Inn – [0334/16](#)).
- It is not unreasonable for an advertiser to use their registered name in their advertising material. The Board noted that it has no jurisdiction over registered business names, and while some people may consider certain names to be discriminatory or vilifying, where there is no associated imagery or suggestion of discrimination in the advertisement it will not breach the Code (Schnitz n Tits – [0276/16](#)).
- Advertising which trivialises the intimate act of childbirth is not in itself considered discrimination on account of gender (Burger Urge – [0170/16](#)).
- 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 a demeaning manner.
  - Advertisements for underwear or fashion which depict models in the clothes being sold include: Bras N Things ([0576/16](#)), Honey Birdette ([0505/16](#), [0381/16](#) and [0338/16](#)), The Iconic ([0055/16](#)), General Pants Group ([0155/16](#) and [0161/16](#)), 99 Bikes ([0059/16](#)) and Advertising Advantage ([0253/16](#)).
- Advertisers are free to use whomever they choose in an advertisement, and that choosing to use attractive women is not discriminatory towards women (All Tools NT – [0010/16](#) and AAMI – [0134/16](#)).

- Advertising which shows a man interacting with his female partner in way that would be inappropriate for strangers, is highlighting a normal domestic situation and not discriminating against the female., e.g. a husband pinching his wife on the bottom (Unilever Australia – [0177/16](#)) and a man whistling to get a woman's attention (Stihl Pty Ltd – [0157/16](#)).
- The use of female stereotypes, when not used in a negative way, does not amount to discrimination or vilification, e.g. a woman cleaning up after a meal (Techtronic Industries Australia – [0416/16](#)) and a woman asking her partner 'does my bum look big in this' (Western Australian Local Government Association – [0368/16](#)).

## Discrimination against gender

Discrimination against transgender and gender diverse people is considered under section 2.1 of the Code. Concerns generally focus on the representation of gender diverse people in advertisements.

In advertisements where concerns about discrimination against gender diverse people were received, the Board was of the view that:

- Advertising which shows men wearing skirts or tutus, where the representation is positive and the person is not being held up to ridicule does not amount to discrimination or vilification of gender diverse people.
  - A drink driving campaign across multiple mediums which featured a bearded man in a tutu (the Hairy Fairy) speaking about the importance of road safety (Motor Accident Commission SA – [0469/16](#), [0470/16](#) and [0471/16](#)).
- Advertising which features 'gollywog' characters will be seen to breach the Code as these characters represent a symbol that humiliates and ridicules a person on account of the colour of their skin.
  - A television advertisement depicts a man of Indian/Middle Eastern descent attempting to pay for a carton of milk with his phone, other people in the store are shown to be afraid (ANZ Banking Group Ltd – [0218/16](#)).
- Depictions and imagery which are likely to give a negative depiction of people of particular race, ethnicity or nationality are seen to be discriminatory and vilifying.
  - A radio advertisement which features a man who identifies himself as Ping Pong and speaks with an Asian accent.

## 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 2016 the Board determined a number of advertisements breached the Code in this area. The Board's view is:

- The depiction of someone of a particular race being subservient to someone of another race in a way which is reminiscent of historical servitude is considered to be a depiction which is discriminatory.
  - An internet advertisement in which a dark-skinned jockey character is seen acting as a servant and being mistreated by a well-known footballer in a Downton Abbey type setting (Ubet – [0494/16](#)).
- The depiction of someone of a particular racial type being feared by other people leaves a negative impression of people of that ethnicity, and amounts to vilification.
  - A television advertisement depicts a man of Indian/Middle Eastern descent attempting to pay for a carton of milk with his phone, other people in the store are shown to be afraid (ANZ Banking Group Ltd – [0218/16](#)).
- Advertising which features 'gollywog' characters will be seen to breach the Code as these characters represent a symbol that humiliates and ridicules a person on account of the colour of their skin.
  - An advertisement for a sweets company with an animated logo featuring a gollywog character (The Beechworth Sweet Co – [0278/16](#)).
- Depictions and imagery which are likely to give a negative depiction of people of particular race, ethnicity or nationality are seen to be discriminatory and vilifying.
  - A radio advertisement which features a man who identifies himself as Ping Pong and speaks with an Asian accent.

Mr Ping Pong asks someone to fix his driveway right now and offers them sushi. In the background we can hear a woman speaking, although her words are unintelligible (TP Concreting – [0546/16](#)).

- A television advertisement which featured a man with an Indian accent making announcements in an airport which were unable to be understood (Mondelez Australia Pty Ltd – [0309/16](#)).

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

- Although diversity in advertising is to be encouraged, using only one race or ethnicity in an advertisement is not in itself discriminatory towards other races (Aldi Australia – [0458/16](#)).
- Advertising which uses a depiction of people of Asian descent to represent tourists is not a negative depiction (Surf Life Saving Australia – [0559/16](#)).
- Advertising which uses humorous or positive stereotypes of different nationalities, so long as the stereotypes are not negative or derogatory, does not amount to discrimination and vilification, e.g. an American family spending Christmas with an Australian family (Aldi – [0507/16](#)), a man calling a curry hotline (Flavour Makers – [0379/16](#)) and an advertisement which is styled like a spaghetti western and a voice over with a Mexican accent (Fiesta Canvas – [0110/16](#)).
- It is appropriate for an advertisement made by, and for, Aboriginal people to feature Aboriginal voices and this use of Aboriginal voices is not discriminatory.
  - A television advertisement featuring puppets highlighting the dangers of drinking alcohol while pregnant, focusing on Foetal Alcohol Spectrum Disorder (Anyinginyi – [0263/16](#)).
- Advertising which uses Australia Day themes, does not on its own discriminate against or vilify Aboriginal culture (Fruco Beverages Australia – [0098/16](#) and Meat and Livestock Australia – [0017/16](#)).

- Advertisements which use people of different ethnicities in roles where there is no reference to or focus on the person's ethnicity, are not seen to be representative of all people of that ethnicity, e.g. a man of African descent having been abducted by aliens (Now Finance – [0464/16](#)) and a couple who have not been able to sell their home, one of whom is of Asian descent (realestate.com.au – [0249/16](#)).

## Discrimination against religion

In 2016 the Board did not find any advertisements to breach the Code in relation to this issue. The Board is of the view:

- As well as being an important part of the Christian calendar, 'Christmas' has been commercialised as a holiday season and considered that the use of the word Christmas, along with the visuals of a decorated tree and a man dressed as Santa Clause, is a secular portrayal and not a portrayal which is disrespectful or discriminatory towards people with strong Christian beliefs (BCF – [0554/16](#)).
- While some members of the community may find using a depiction of a burger as the head of a religious figure offensive, in the context of a cartoon on a website most members of the community would not find this depiction discriminatory or vilifying of the religion (Grill'd – [0553/16](#)).
- In modern English, 'Hallelujah' is frequently spoken to express happiness that a thing hoped or waited for has happened, without any religious significance, and the use of a popular religious song which contains this word is not vilifying religious beliefs (Fairfax Media – [0411/16](#)).
- While some members of the community could find the use of the Lord's name to be offensive to their faith, most members of the community, including Christians, would find that using the phrases, 'Thank God' and 'Jesus' as expressions of relief and disbelief is not aggressive and is not attacking or discrediting the Christian faith (NPS Medicinewise – [0036/16](#)).

## Discrimination against sexual preference

In 2016 the Board did not find any advertisements to breach the Code in relation to this issue. The Board's view is:

- Advertising which shows a male acting in a flamboyant and effeminate way, where there is no reference to homosexuality, is not intended to mock gay people as the character was using behavioural not sexual traits (ACT Government – [0209/16](#)).
- Light-hearted humour in situations involving male closeness is not homophobic and does not amount to a derogatory sentiment toward homosexual men (Sportsbet – [0044/16](#)).

## 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. The Board has dismissed a number of complaints about advertisements in this area. The Board is of the view that:

- Advertising which links the word 'hairy' to a dangerous situation and linking this to depictions of hairy men is making a humorous link between the commonly used phrase hairy and body hair, and does not discriminate against or vilify people with a lot of body hair (Motor Accident Commission SA – [0469/16](#), [0470/16](#), [0471/16](#), [0533/16](#) and [0476/16](#)).
- Advertising which features a character making a humorous comment about their own hair colour, does not amount to discrimination or vilification of all people with that hair colour (ING Direct – [0463/16](#)).
- Advertising which depicts a person being singled out because of their height and weight, when done in an exaggerated and humorous manner and where the person being singled out is not depicted in a negative light, does not amount to discrimination or vilification (iSelect Pty Ltd – [0407/16](#)).

## Discrimination on the ground of lifestyle choices

In 2016 the Board did not consider many advertisements under this provision. The Board's view is:

- Advertising which makes humorous comments about vegans not eating meat, in a way which is not ridiculing or inciting hatred towards vegans, is not seen to discriminate or vilify a section of the community.
  - An internet and social media advertisement which depicted a team of people 'rescuing' Australian ex-pats to return them home to eat lamb on Australia Day, the mission is aborted when they encounter a vegan (Meat & Livestock Australia Ltd – [0017/16](#), [0018/16](#) and [0019/16](#)).

## Discrimination on the ground of occupation

The Board considers very few complaints under this provision. The Board's view is:

- Advertising which suggests that people may become frustrated when making phone calls to some companies does not suggest that the people who work in any type of call centre environment should be thought less of or treated badly because of the type of job they do (Members Own Health Funds Ltd – [0556/16](#)).
- Advertising which suggests one person is bad at their job, does not suggest that all people who work in that role are bad (Isuzu Ute Australia Pty Ltd – [0262/16](#)).



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

Section 2.2<sup>1</sup> 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 the relevance images may have to the product or service advertised.

Since the introduction of Section 2.2 in 2012, complaint percentages have ranged from 13.98 per cent in 2012 to a low in 2015 of 4.60 per cent and a rise in 2016 to 12.30 per cent.

For a more in-depth overview of exploitative and degrading cases in 2016 see the [exploitative and degrading determination summary](#) on the ASB website.

## Depiction of 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.*

Advertisers are generally responsible when it comes to the depiction of children in advertisements and no advertisements have been found to breach this provision of the Code since 2014.

The Board's view is:

- Advertising which depicts children modelling children's clothing, where the poses of the children are natural and not sexualised, will not be considered exploitative and degrading.
  - An internet advertisement showing a young girl in summer clothing (MixxMix – [0441/16](#)).
  - A television advertisement showing adults and children in the clothing being promoted (Target Australia Pty Ltd – [0138/16](#)).
- 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.

- An online advertisement featuring a still image of a young girl in swimwear playing under a sprinkler (Greater Bank – [0245/16](#)).

## 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 has dismissed a number of complaints about the depiction of men under Section 2.2. The Board's view is:

- Females admiring or commenting on the attractiveness of males is not exploitative and degrading of the male, if they are depicted as confident and enjoying the attention.
  - A television advertisement featuring a woman telling her adult son not to worry about her inheritance, she is leaving it to the gardener who we see is an attractive younger male (Specsavers Pty Ltd – [0213/16](#)).
- 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.
  - A poster advertisement for towels which shows a naked man from behind using a towel (Pacific Brands Holdings Pty Ltd – [0304/16](#)).

1. Section 2.2 was updated in March 2017 and states: *Advertising or Marketing Communications shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative and degrading of any individual or group of people.*



## Depiction of women

### Upheld advertisements

The Board has found a number of 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 is:

- Advertising which reduces a woman to a single part of her body and suggests that she is property or that she exists for the enjoyment of others is exploitative and degrading.
  - An Instagram advertisement depicting a t-shirt with a picture of a woman in underwear from behind. A male hand is grabbing her bottom (TakeClothe – [0582/16](#)).
- Advertisements for lingerie can breach this section of the code, if the advertisement suggests that the woman is the product, rather than the lingerie.
  - A poster advertisement featuring an image of a woman wearing black, lacy lingerie, and included the text “introducing Natalie” and “room service” (Honey Birdette – [0217/16](#)).

### Relevance to product

Advertisers should use caution depicting sexualised or nude images when there is no direct relevance to the product. The Board's view is:

- 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.
  - Women in bikinis to promote a tanning and beauty salon (The Beauty Door – [0504/16](#)) and a surf shop (Offshore Surf – [0034/16](#)).
- It is reasonable for advertisers to use attractive models in their advertisements, if the women are not used in poses or situations which are exploitative and degrading.

- A woman on the beach eating a burger (Carl Jr Burgers – [0015/16](#)) and women promoting a mechanic service (Ultra Tune – [0022/16](#), [0024/16](#), [0040/16](#), [0145/16](#) and [0236/16](#)).

- 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 woman in a bikini to advertise a bikini car wash (Bally Cafe and Splash – [0570/16](#)).
  - A woman with a tool belt and hardhat and the words “tradies wanted” (Zac Homes – [0117/16](#)).
  - Promotions for Oktoberfest with women in traditional German costumes with low-cut tops and steins of beer (Urban Purveyor Group – [0137/16](#) and [0182/16](#)).
- Images which involve women and men in consensual sexual poses is not considered degrading, however may breach other sections of the code.
  - Women and men in lingerie in various poses (Vodka plus – [0193/16](#), [0195/16](#) and [0196/16](#)).
  - A topless woman lying on top of a man (Lonsdale London – [0216/16](#)).
- 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.
  - Women in lingerie shown from behind and the text “Strippers and Topless Waitresses” (Strippers Wanted Agency – [0030/16](#)).
  - Advertisements for adult entertainment venues include: Crazy Horse Revue Pty Ltd ([0361/16](#)), Sin City Night Club ([0285/16](#)), Love and Rockets ([0283/16](#) and [0336/16](#)) and Penthouse Club Perth ([0100/16](#)).
  - Advertisements for adult products include: Adam and Eve ([0084/16](#)).

### 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, include: Capri Body Fashions – Hobart ([0541/16](#)), Bendon Ltd ([0523/16](#)), PVH Brands Australia Pty Ltd ([0378/16](#)), Bras n'Things ([0339/16](#) and [0591/16](#)), Honey Birdette ([0338/16](#) and [0381/16](#)) and Cotton On ([0305/16](#)).
- 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 email advertisement which included a gif of a woman appearing to remove her top and the text “everything 50-70% off” (Planet Blue – [0575/16](#)).
- Advertisements for perfume which contain sexualised images of women that are highly stylised and consistent with high fashion images will not be considered exploitative and degrading where the woman is not posed in a strongly sexualised manner.
  - A woman in a black dress on a rug with a perfume bottle in her hand (Coty Australia Pty Ltd – [0536/16](#)).
  - A woman dancing at a nightclub, capturing the attention of a young man, (Parfums Christian Dior – [0111/16](#)).



## 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 2016 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 rose from 11.8 per cent in 2015 to 17.98 per cent in 2016.

For a more in-depth overview of violence cases in 2016 see the [violence determination summary](#) on the ASB website.

### 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 is:

- 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 man encouraging his son to kick a football at his mother's head to raise awareness of domestic violence (Department of Premier and Cabinet (Victoria) – [0580/16](#)).
- A man being crushed to death after rolling over on his four wheel bike and (WorkSafe Victoria – [0472/16](#)).
- The dangers of speeding highlighted by showing an x-ray of a shattered spine (Road Safety Advisory Council – [0152/16](#)).
- Advertising which uses confronting and graphic imagery to promote important health services are a justifiable use of violence.
- A man coughing blood into a tissue (Department of Health – [0369/16](#)).
- Advertisements which only reference violence, and do not depict it, to raise awareness about an important social issue will not breach the Code.
- The personification of fire talking while a home burns (NSW Rural Fire Service – [0435/16](#)).
- A boy with a 'tattoo' which reads, "I forced her to have sex with me when she didn't want to" (Our Watch – [0287/16](#)).

### Domestic violence

The Board notes that domestic violence is an issue of significant concern in the community and advertising must recognise 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's view is:

- 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 framing store advertisement which reads "we can shoot your wife and frame your mother-in-law, if you want we can hang them too" (Fantastic Framing – [0099/16](#)).
- Advertising which references child neglect in a humorous way may be in bad taste but which does not suggest that child neglect is normal or acceptable behaviour may not breach this part of the Code.
- A young child crying and explaining that they had not seen their mum in days because she is busy with a music production course (Fresh 92.7 FM – [0341/16](#)).
- Where most reasonable members of the community would not reach a conclusion that an advertisement is suggestive of domestic violence it will not breach the Code.
- A man throwing his thong at a woman who was using his pool without permission (Allaro Homes – [0413/16](#)).

- While the Board has dismissed domestic violence complaints where most reasonable community members would not reach this conclusion, the Board does recognise domestic violence as a serious community issue which advertisers must recognise. The Board has previously taken a strict view on domestic violence cases where humour was not enough to negate this issue of concern:
  - A television advertisement in which a woman slaps a man on the back of his head (Camel Tanks – [0491/14](#)).
  - A television advertisement which featured a still shot of a woman raising her fist to a man with him raising his arms in defence (Bathroom Warehouse – [0170/15](#)).

## Entertainment

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

- Although violence in advertising for entertainment products is often justifiable, if an advertisement is likely to cause undue alarm or distress to members of the community, it may still be seen to breach this Section of the Code.
  - A series of advertisements for horror movies some of which were shown during children's viewing times (Roadshow Film Distributors Pty Ltd – [0266/16](#)).
- Depiction of characters from video games when advertising the game is a depiction that portrays violence that is justifiable in the context of the product being sold.
  - A man using his mobile phone as if it is a gun to play a game in the streets (Machine Zone – [0166/16](#)).
- When promoting movies, events and shows, it is reasonable for the advertiser to show violent images or scenes related to the product being promoted.
  - A superhero movie advertisement which featured fight scene excerpts (Roadshow Film Distributors Pty Ltd – [0306/16](#)).

- A medical show advertisement which featured a woman wearing gloves with blood on them (NBC Universal – [0184/16](#)).
- Advertisements about horror movies (Sony Pictures Releasing Pty Ltd – [0375/16](#) and [0388/16](#) and Roadshow Film Distributors Pty Ltd – [0427/16](#) and [0310/16](#)).

## Weaponry

Advertisements using images of weapons are also considered under Section 2.3 of the Code. The Board's view is:

- Advertisements which show weapons used in a threatening or violent manner, especially when not related to the product being promoted, will be found to breach Section 2.3 of the Code.
  - A woman lying on a motorbike with a man holding a gun to her head (Bad Man Clothing – [0403/16](#)).

The Board has also dismissed complaints against some advertisements depicting weapons, where their use is not threatening or dangerous. The Board's view is:

- The depiction of a gun or other weapon in the promotion of a game, movie or show that features weapons is justifiable, if that weapon is not being depicted in an overly threatening or alarming manner.
  - A movie promotion which featured a man with his arm outstretched pointing a gun (Universal Pictures – [0323/16](#)).
- The use of a weapon in an advertisement which is unrealistic, exaggerated and humorous can be considered acceptable where the use of weapons is clearly fantasy and is not a depiction of violence or one that is likely to encourage similar behaviour in real life.
  - A scene of a flamethrower being used on a bowl of kale (Meat & Livestock Australia Ltd – [0018/16](#)).

## Cruelty to animals

The Board's view is:

- Advertising which shows people interacting with animals in a cruel or unhealthy way which could be copied by members of the community, will be found to be in breach of the Code.
  - Giving beer to a kangaroo (Carlton and United Brewers – [0029/16](#)).
- 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 cat falling from a ladder, but getting back up again (Enably.com.au – [0509/16](#)).
  - Scenes of bull riding (Treasury Wine Estates – [0240/16](#)).
- Advertising which suggests, but does not depict, animal hunting will not breach the Code when related to legal hunting equipment and practices.
  - A deer featured next to the company logo (Gun World Australia – [0311/16](#)).
- Advertisements which use computer-generated images (CGI) of animals in situations which may be unsafe for real animals, does not constitute animal cruelty.
  - A CGI bull knocking things over and a woman cleaning up the mess with a vacuum (Godfreys – [0444/16](#)).
- 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 person pops a bottle cork and a bird is seen to drop from the sky (Aldi Australia – [0545/16](#)).



## Bullying

The Board's view is:

- Advertising which shows someone interacting with someone else in a way that would be considered abusive will be considered a breach of the Code.
  - A man pouring a drink over a young boy's head (Muzz Buzz - [0535/16](#)).
- 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 man shoving grass into another man's mouth (Sir Walter Premium Lawn Turf - [0142/16](#)).
- Advertising which shows siblings interacting with each other in a playful and realistic manner will not be seen as bullying, especially if they are seen reacting positively.
  - An older brother protecting his younger brother from bullies (Coca-Cola South Pacific - [0146/16](#)).

## 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's view is:

- Advertising which shows a lack of reaction to a violent event may lessen the impact of the violence and make it appear unrealistic and humorous.
  - A man being bitten on the face by a snake (iSelect Pty Ltd - [0442/16](#)).

- 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 woman lightly jabbing a farmer in the shoulder during a conversation (Sunrice - [0325/16](#)).

## Other violence

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

- Advertising which uses humorous and exaggerated scenes which are clearly fantastical and unlikely to be taken seriously by most members of the community are unlikely to breach the Code.
  - A woman adjusting a chairlift to shoot an engineer through a window (The Smith's Snackfood Co Ltd - [0045/16](#)).
- 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:
  - A man throwing a drink because it was the wrong one (Sanitarium Health Food Company - [0256/16](#)).
- Advertising which shows alarming or frightening scenes, when shown to appropriate audiences, will not be seen as violence.
  - A small kitten is seen playing before a scary face and a scream sound suddenly appears (Hungry Jack's - [0486/16](#)).



## 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 a high number of complaints. In 2016 sex, sexuality and nudity was the second most complained about issue accounting for 22.74 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.

For a more in-depth overview of cases in 2016 see the [sex, sexuality and nudity determination summary](#) on the ASB website.

### Product relevance

Each year the Board receives complaints about the use of sex, sexuality and nudity in the promotion of lingerie, fashion, sex products and services and dating services. In general, using themes of a sexual nature to promote sex shops or lingerie products will be more understandable as the imagery relates to what is sold.

The Board's view is:

- While there is significant community concern about advertising sex products and services, advertisers are legally able to advertise these product, 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: Good Vibrations ([0577/16](#)), Crazy Horse Revue Pty Ltd ([0361/16](#)), Be Daring the Adult Shop ([0350/16](#)), Love and Rockets ([0336/16](#) and [0283/16](#)), Narangba Valley Tavern ([0081/16](#)), Hollywood showgirls ([0038/16](#)), Strippers Wanted ([0030/16](#)), Dollhouse ([0180/16](#)), Sexyland ([0397/16](#) and [0143/16](#)), Sin City Gentleman's Club ([0285/16](#) and [0089/16](#)), Adam & Eve ([0084/16](#)) and Penthouse Club ([0100/16](#) and [0057/16](#)).
- It is appropriate for advertisements for cosmetic surgery or similar services to depict people in limited clothing to highlight the services they offer where the advertisement is not overly sexualised.
  - A breast enhancement advertisement which featured women in bikinis (The Cosmetic Institute Bondi Junction – [0162/16](#)).
- Advertisements for sexual performance enhancers, if they are not overly explicit and are not inappropriate for the relevant audience, will also be found not to breach the Code.
  - Advertisements for sexual performance enhancers include Advanced Medical Institute ([0192/16](#) [0219/16](#) and [0590/16](#)).
- 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 the lingerie and underwear being promoted included: Capri Body Fashions ([0541/16](#)), Victoria's Secret ([0393/16](#)), Myer ([0382/16](#)), Bras n'Things ([0591/16](#), [0576/16](#) and [0339/16](#)), Cotton On ([0317/16](#) and [0305/16](#)), Bendon ([0519/16](#) and [0235/16](#)) and PVH Brands Australia Pty Ltd ([0039/16](#)).
- 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: Shedd ([0451/16](#)), Rip Curl ([0409/16](#)), Pretty Little Thing ([0277/16](#)), Advertising

Advantage ([0253/16](#)), Offshore Surf ([0034/16](#)) and General Pants Group ([0161/16](#) and [0155/16](#)).

- 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 is:
- Advertisements for lingerie can breach section 2.4 of the Code if they are overly sexualised and not appropriate for a broad audience.
  - A woman in a red lacy body stocking through which her nipples were visible, accompanied by the text 'unwrap me' (Honey Birdette – [0544/16](#)).
  - A store window advertisement which featured women in lingerie in highly sexualised poses (City Chic – [0340/16](#)) and one which featured a woman wearing different styles of lingerie moving in a sexualised way (Bras n'Things – [0331/16](#)).
- Although legally allowed to be advertised, sex products or services advertisements can breach Section 2.4 of the code if they are overly sexualised and/or depict a high level of nudity.
  - A woman in a g-string and suspenders shown from behind (Showgirls – [0405/16](#)).
  - A topless woman looking over her shoulder and pulling down her g-string (My Alibi – [0399/16](#)).
  - A woman's legs spread apart and a male lying between them (Sexyland – [0052/16](#)).
  - A female voiceover talking about a new, quieter version of a sex product (Adultshop.com – [0135/16](#)).

## 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 is:

- 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.
  - Two men in suspended egg chairs to represent testicles (Pacific Brands Holdings – [0211/16](#)).
  - A man watching a television show, including a scene which has groaning noises (Foxtel Management – [0159/16](#)).
- Advertisements which use double entendre, where a non-sexualised explanation of the meaning would be taken away by children, were seen to treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.
  - Advertisements with subtle sexual innuendo, which would not easily be understood by a young audience, included: Fairfax Media ([0422/16](#)) Chrysler Australia Pty Ltd ([0049/16](#) and [0079/16](#)), Boost Juice Bars Australia ([0130/16](#)) and Comfort Group ([0096/16](#)).

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

- Advertising which is able to be viewed by children must still treat sex, sexuality and nudity with sensitivity to this audience, regardless of humour used.
  - A number of transport advertisement with inappropriate images and/or phrases (Wicked Campers - [0394/16](#), [0363/16](#), [0252/16](#), [0154/16](#), [0122/16](#), [0109/16](#), [0026/16](#) and [0027/16](#)).

## Nudity

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

- Advertising which contains explicit nudity will often be found to breach this section of the Code, especially if in a medium which is likely to be seen by children.
  - Various images of women including one woman with her full breasts exposed (Bikini Girls Massage – [0497/16](#)).
- Advertising which features naked or semi-naked people may breach the Code if the people are in a sexualised pose, even if there is no explicit nudity.
  - A young woman lifting up her shirt to expose the bottom of her breast (Dope Lemon – [0482/16](#)).
  - Naked and semi-naked couples in sexualised positions (Brand Collective – [0401/16](#)).
  - A topless woman lying on top of a topless man (Lonsdale London – [0216/16](#)).
- 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 cartoon image of a mermaid with large breasts and stars over her nipples (Wet Dreams Aquatics – [0199/16](#)).

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 is:

- Advertising which suggests nudity but where the people featured are adequately covered will usually be considered acceptable where the nudity is not sexualised.
  - A naked actress lying on the ground holding her arm across her breasts (Coca-Cola Amatil – [0588/16](#)).
  - Two women seen from behind lifting their tops up to flash motorists (Coty Australia – [0120/16](#)).

- A higher level of nudity is considered acceptable in mediums which are unlikely to have a young audience.
- An Instagram advertisement which depicted a woman in revealing lingerie (Kiss Kill – [0589/16](#)).
- It is normal to be naked when bathing or showering and advertisements showing people in the shower or bathroom, where there are no breasts or genitals visible, are considered appropriate.
- A naked man from behind, drying himself with a towel (Pacific Brands Holdings – [0304/16](#)).
- The Board has consistently determined that it is not inappropriate to show women breastfeeding in advertisements, and that this is not sexualised and does not constitute inappropriate nudity.
- Advertisements which feature breastfeeding included Medibank ([0062/16](#), [0074/16](#), [0126/16](#) and [0179/16](#)) and Trellis's Tackle World ([0051/16](#)).
- Advertisements showing people's bodies and bare skin for toiletry products, where the images are not sexualised, will usually be considered appropriate.
- A body scrub advertisement which showed women's legs in the air covered in dirt and the phrase 'get naked and cover yourself in coffee, babe' (Mecca Brands – [0501/16](#)).
- 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.
- Use of strategically placed objects to cover two nudists going about daily activities (Henkel – [0519/16](#)).
- 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: The Beauty Door ([0504/16](#)), Jetstar ([0390/16](#)), Vitaco Health Australia ([0223/16](#)), Coty Australia ([0120/16](#)) and Visa International ([0163/16](#)).
- A man cleaning his shower wearing red speedos (Ozkleen – [0511/16](#)).

## Suggestive phrases and acts

Explicit references to sexual acts are usually viewed negatively by the Board. The Board's view is:

- Highly explicit or sexual content may breach this section of the Code even in a medium which is restricted to older audiences.
- An Instagram advertisement which featured a t-shirt with the image of a man grabbing the behind of a woman wearing a g-string (Take Cloth – [0582/16](#)).
- Highly explicit or sexual content in public places which are likely to be viewed by broad audiences including children, will breach the Code.
- A cinema advertisement for a perfume which was played before a PG movie, featured a woman in a short black dress rolling around the floor with a perfume bottle (Coty – [0007/16](#)).
- A television advertisement for a movie which was played before 8pm, included scenes with a man stating "I haven't had sex for 15 years" while admiring women in bikinis, and white liquid squirted over a female actress's bikini clad cleavage which is later revealed to be sunscreen (Entertainment One – [0005/16](#)).

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

- Advertising which features couples kissing or embracing, as long as no private parts are visible, and are appropriate for the intended audiences, would not be seen as explicit sexual content.

- Advertisements which featured couples kissing or embracing, included: Media Dynamics ([0372/16](#)), Coca-Cola South Pacific ([0072/16](#)).
- Advertising which depicts same-sex couples kissing or embracing often generates complaints, and while some members of the community might be uncomfortable with images of men kissing men, or women kissing women, when the depictions of kissing are very brief and are not sexualised or shown to lead to any further intimacy, would not be seen as explicit sexual content.
- Advertisements with same-sex couples included: Medibank – ([0062/16](#), [0074/16](#), [0126/16](#) and [0179/16](#)), Kellogg (Aust) Pty Ltd – [0076/16](#)).
- Advertising which uses factual sexual language to promote an important health or social message will usually be seen to be appropriate when they take into account the sensitivity of the relevant audience.
- Two young boys talking about STDs (Queensland Health – [0572/16](#)).
- A male in tight underwear and the word 'syphilis' (Victorian Aids Council – [0202/16](#)).
- An advertisement which referenced preventing STDs and safe sex (Hero Condoms – [0291/16](#)).

## 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.

There have been very few cases upheld in this area. The Board's view is:

- Advertising which has sexual overtones or connotations relating to a child, even when not intended by an advertiser, will breach this section of the Code.

- A man tipping a drink over a boy's head and then using his finger to wipe some of the drink from the boy's head before sucking his finger clean and saying, "Mmm. Delicious sticky boy" (Muzz Buzz – [0535/16](#)).

The Board has dismissed complaints about sexualisation of children in a number of advertisements. Their view is:

- Advertising which uses adults and children to show a fashion range will not be considered inappropriate, where the children are not depicted in a sexualised manner.
  - An email advertisement which included customer-submitted images of children and adults in the brand's clothing (Pacific Brands Holdings – [0259/16](#)).
- While depicting children as sexual beings is nearly always inappropriate in advertising, where the sexual connotation is mild, relevant to the product and intentionally confronting in order to draw attention to an important issue, images may not breach the Code.
  - A Facebook advertisement which featured an image of a girl with four hotdogs protruding from her mouth, for a theatre production which explored the theme of sexualisation of children and teenagers (Riot Stage Youth Theatre – [0503/16](#)).
- Complaints are often received about advertising which show images of young children in swimwear, underwear or naked. Where these images do not employ sexual appeal, the tone of the advertisement is innocent, the children are appropriately covered and there is no undue attention on the child's body, this is not considered sexualisation of children.
  - Toddlers playing including a brief scene of a young girl who is not wearing any clothing (Attipas – [0438/16](#)).
  - A young girl in the bath, only her head visible through the bubbles (National Australia Bank – [0352/16](#) and [0353/16](#)).
- Advertising which depicts men interacting with their children in regular every-day situations will not be seen by the Board to be sexualised in any way.
  - A father picking up his daughter and hugging her before playing with her and her friends (GlaxoSmithKline Consumer Healthcare Australia – [0268/16](#)).
  - A young girl being carried by her father, waving to a man parking his car (Kia Automotive Australia – [0272/16](#)).
- 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 young woman in a bralette and the phrase 'lust have bralettes' (Cotton On – [0517/16](#)).



## 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 2016 Section 2.5 of the Code accounted for 11.45 per cent of all complaints, slightly below the 14.01 per cent in 2015.

In all cases raised in relation to language in 2016, 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.

For a more in-depth overview of cases in 2016 see the [language determination summary](#) on the ASB website.

### Obscene terms

There are certain words and terms that when expressed in full the Board will consider as a breach of Section 2.5 of the Code. The Board's view is:

- The word 'fuck' expressed in full will almost always be a breach of Section 2.5 as a strong and obscene term.
  - A movie promotion which includes the phrases 'fucking arse' and 'it will fuck you up for life' (Sony Pictures Releasing – [0376/16](#)).

- The use of the 'c word' in full in an advertisement will always be found by the Board to breach Section 2.5.
  - Use of the letters 'CU in the NT' written in a way that made the 'c word' obvious (NT Official – [0515/16](#)).
- 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.
  - Where the letters 'S' 'H' 'T' and 'T' of the word 'Shnitzel' are in bold so the word 'shit' stands out (Grill'd – [0158/16](#)).

The Board acknowledges that some people would prefer certain terms were not used, but 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 is:

- There is a greater acceptability of some obscene terms in advertising which is unlikely to be seen or heard by children, where the terms are appropriate to the context of the advertisement or medium.
  - A cinema advertisement which was played before an M-rated movie which included the word 'fuck' (Roadshow Film Distributors – [0563/16](#)).

Advertising which uses the term 'shit' is often considered not inappropriate, when consistent with common Australian colloquial usage of such a word.

- A movie promotion which included scenes from the movie including one where a female character says 'shit' (Twentieth Century Fox Film Distributors – [0308/16](#)).

### 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 has determined that obscuring a term was not sufficient, and upheld the complaints. The Board's view is:

Where obscene terms have been insufficiently covered in mediums likely to be seen by children they will still be seen to contain strong and obscene language.

- A poster advertisement with 'F\*ck, that's delicious' (SBS Corporation – [0513/16](#)).
- 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 considered as inappropriate by most members of the community, it will still breach Section 2.5 of the Code.
  - Two women yelling at each other with insufficient beeping to cover words like 'fuck', 'shitty' and 'bitch' (Curtain Villa – Kalgoorlie – [0400/16](#)).



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. The Board's view is:

- In advertising, where the term 'fuck' is not used in full, and is not used in conjunction with offensive imagery, it is considered to not amount to an inappropriate use of language or language that would be considered strong or obscene.
  - Advertisements which use the phrase 'BCF'n fun' in a jingle as a play on the business name (BCF – [0434/16](#) and [0457/16](#)).
- 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.
  - Beeps to cover swearing (Airtrain Brisbane – [0324/16](#)).

## Religious expressions

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

- That some members of the community with very strong Christian beliefs could find the use of the Lord's name to be offensive to their faith but considers that most members of the community, including Christians, would find that using the phrases, 'Thank God' and 'Jesus' as expressions of relief and disbelief is not aggressive and is not attacking or discrediting the Christian faith.
  - A man chatting to an attractive woman at a bar then exclaiming, 'Jesus!' when she advises him that she is the personification of Gonorrhoea (NPS Medicinewise – [0036/16](#)).

## Innuendo and sexual references

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

- Advertising which uses explicit sexual terms or references in a medium that would be seen or heard by children will be likely to breach this section of the Code.
  - Advertisements which include sexually explicit language (Wicked Campers – [0027/16](#), [0109/16](#), [0122/16](#) and [0363/16](#)).
- Advertising which uses sexualised images can often give a sexualised meaning to accompanying words, which is not appropriate for broad audiences.
  - A movie promotion which features women in bikinis and a man saying 'I haven't had sex in 15 years' (Entertainment One – [0005/16](#)).

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

- Advertising which uses terms such as 'sex' in a sensitive way which is appropriate for the relevant audience, will not be seen to breach the Code.
  - A condom vending machine advertisement which used words such as 'sex', 'Aids' and 'HIV' (Hero Condoms – [0291/16](#)).
  - Young people discussing sexual health and STDs (Queensland Health – [0572/16](#)).
  - The terms 'premature ejaculation' and 'sex' (Advanced Medical Institute – [0590/16](#)).
- 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 protein ball in a ball box with the disclaimer 'because ball bag would just be rude' (Boost Juice Bars Australia – [0560/16](#)).
- Advertising which features very mild sexual language which may not be understood by children, is considered to be not inappropriate by the Board:
  - Use of the phrase, 'if you're going to have intercourse tonight, please don't do it on company property' (Entertainment One – [0562/16](#)).

- A promotion where each person who buys a drink or a 'lappy' receives a ticket to 'have the dancer of your choice treat you like a wobbly chair' (Doll House Gentleman's Club – [0180/16](#)).

## 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 is:

- Slang terms for body parts that are commonly used will usually be considered appropriate by the Board.
  - The phrase 'I'd rather get kicked in the nuts' (Bizcover – [0557/16](#)).
  - The term 'boobs' is used to refer to the breasts of a woman (Kellogg (Aust) Pty Ltd. – [0076/16](#)).
  - The term 'your boys' to refer to testicles (Pacific Brands Holdings Pty Ltd – [0188/16](#)).
- The use of slang terms are not inappropriate or gratuitous when they are used in their correct form, such as describing urine.
  - The text 'Urine, Piss, Poo, Shit, Crap, Faeces Droppings, whatever you call it' (Biohazard Trauma And Crime Scene Cleaning – [0204/16](#)).

## 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 is:

- Advertising where there is a suggestion of a rude gesture, but the gesture itself is not clear will generally be acceptable.
  - A movie promotion which featured pixelated hands which were presumably covering a rude gesture (Roadshow Film Distributors – [0335/16](#)).



## 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.

Health and safety concerns raised by complainants dropped significantly in 2016 (from 10.46 per cent in 2015) to the lowest recorded percentage of 5.36 per cent of all complaints. For a more in-depth overview of cases in 2016 see the [health and safety determination summary](#) on the ASB website.

### 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. Comparisons to drug and medication use, along with awareness raising about the harms of drugs are viewed more leniently. The Board's view is:

- Advertising which uses the name of a well know brand, where the name is also related to a drug, will not in itself breach of community standards of health and safety.
- A perfume called 'Black Opium' (L'Oreal Australia Pty Ltd – [0201/16](#)).

#### Smoking

There were no cases which raised health and safety concerns around smoking in 2016.

#### Alcohol

All advertisements concerning alcohol are referred to the Alcohol Beverages Advertising Code (ABAC) committee and are 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's view is:

- Advertising which depicts passengers on a boat drinking alcohol, in moderation, will not breach this section of the Code.
  - Passengers on a boat drinking beer, and the driver of the boat drinking water (Lion – [0574/16](#)).
- Advertising which provides factual information on beer, does not present it as being a healthy product.
  - A radio advertisement which promotes some beers as being 99.9% sugar free and preservative free (Lion – [0165/16](#)).
- Advertising which promotes one free drink per person for people attending an event will not be seen to encourage or condone excess drinking.
  - An event promotion where everyone attending would receive one free beer (Gage Roads Brewing Co – [0485/16](#)).

Advertising which promotes alcoholic beverages and is tongue-in-cheek and unlikely to be taken seriously or encourage irresponsible drinking will not be considered to breach the Code.

- A photo of a sign near a bike race, with the words "Keep your fluids up – plenty of water in wine" (Barwon Heads Wine Store – [0053/16](#)).



## Gambling

The Board considers the genuine community concern regarding excessive gambling and notes the problems associated with gambling for certain members of society.

Further information about gambling can be found on the [gambling](#) and [wagering](#) issues pages.

The Board's view is:

- 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.
  - Use of the words 'everyday value' (Tabcorp – [0288/16](#)).
  - A punter being interviewed like he is a sports star (Tabcorp – [0222/16](#)).
- Advertisements for gambling may include some elements which are attractive to children, if the main topic and tone of the advertisement is directed to adults.
  - A fictional education institution where people can learn how to bet (Ubet – [0167/16](#)).

## 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's view is:

- Advertising which depicts people interacting with each other in a friendly and joking way will not be seen as bullying where there is no negative reaction from any of the people.
  - A depiction of the difference between 'mates' and 'real mates' including a scene where a 'real mate' drops his friend's keys down a grate to prevent him from drink driving (Road Safety Advisory Council – [0548/16](#)).

- Advertising where a negative comment is made about someone in a way that is over-the-top and ridiculous will not be considered bullying.
  - A loaf of bread calls a man 'shiny lobster face' because he is sunburnt (Aldi Australia – [0594/16](#)).
- Advertising which shows someone making over-the-top comments about a person or group of people in a tongue-in-cheek way, will not be considered bullying if the reaction of the people to the comments are not negative.
  - A series of advertisements where a representative of a hardware store makes comments about a group of tradies not being 'tough' enough and suggesting that they use inferior products (HTH Group – [0460/16](#), [0261/16](#), [0233/16](#) and [0260/16](#)).

## 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.

The Board has upheld a number of advertisements for promoting unsafe driving practices. The Board's view is:

- Advertising which shows unsafe driving will breach Section 2.6 of the Code.
  - A woman standing in a vehicle with her head and arms out of the sunroof (Super Cheap Auto – [0564/16](#)).
  - Vehicles racing through city streets (Super Cheap Auto – [0532/16](#)).

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

- Depictions of animated vehicles racing in advertisements for video games will not be seen to encourage unsafe driving on actual roads.
  - A video game which depicted footage from the game (Microsoft – [0459/16](#)).

- Depicting a person driving a car while engaged in unsafe behaviour will not be considered a breach of the Code, if the negative consequences of this action are also depicted in the advertisement.
  - A man driving under the influence of alcohol and being arrested (Road Safety Commission WA – [0584/16](#)).
  - A woman having an accident after texting on a mobile phone while driving (AICS – [0008/16](#)).

## Unsafe behaviour

The Board has considered a number of complaints concerning unsafe behaviour in advertisements and found that they breached the Code. The Board's view is:

- Advertising which shows a product being used incorrectly in a manner which could result in injury may breach this section of the Code.
  - A tradie cutting his sandwich with a drop saw (HTH Group – [0406/16](#)).
- Advertising which suggests that to be a supermodel you can only have water as a meal is seen as promoting an unsafe eating behaviour.
  - A reference to a free bottle of water as a 'supermodel's lunch' (Liquor Alliance – [0006/16](#)).

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 is:

- Advertising which raises safety concerns about behaviours which are unlikely to be copied by children and are in line with prevailing community standards of health and safety will generally not be seen to be a breach of Section 2.6.
  - A man holding a cobra and being bitten by it (iSelect – [0442/16](#)).
  - A woman eating a plastic bag like a salad (Greenpeace – [0281/16](#)).

- A man strapping a chicken to his back, before another man lets a dog loose to chase him (Aussie Broadband – [0068/16](#)).
- Advertising which is consistent with safe working practices will not breach Section 2.6 of the Code.
  - A man and his son changing a tyre at night (Energizer Australia – [0404/16](#)).
  - A boat pulling away from a boat ramp (Isuzu UTE Australia Pty Ltd – [0129/16](#)).

## 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 is:

- 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 meerkat character propelling himself in an office chair by using a fire extinguisher (Comparethemarket.com.au – [0432/16](#)).
  - Someone in a chicken suit riding a skateboard down a mountain without a helmet (Yum Restaurants International – [0028/16](#)).
  - A man using parts of his body to flick peanuts into the air and catch them with his mouth (iSelect Pty Ltd – [0275/16](#)).

## Safety in the home

The Board has upheld a number of advertisements for showing unsafe behaviour in the home. The Board's view is:

- Advertisements which undermine the important issue of fire safety will be upheld, even where the scenarios in the advertisements are humorous and unlikely.
  - A man starting a BBQ with a large amount of lighter fluid (Sportsbet – [0071/16](#)).

- Showing children in potentially unsafe situations in the home, which may be copied by other children or parents and result in injury, will breach the Code.
  - A baby with a large elephant shaped cushion, where the accompanying text suggested the toy could be left in a baby's cot overnight (Favworld – [0508/16](#)).
  - A baby seated in a baby-chair on a kitchen bench, when the baby-chair product advises it should only be used on the floor (Mitsubishi Electric Australia – [0362/16](#)).
  - A child cooking on a realistic-looking toy stove (Caputo and Sons – [0070/16](#)).

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

- Advertising which shows a potentially unsafe setup for a cot or nursery may not breach this section of the Code if the unsafe setup is shown only briefly and is not the focus of the advertisement.
  - A pregnant woman and her husband discussing their future in a nursery where the cot is situated near windows with blinds (Real life Insurance – [0349/16](#)).
- Advertising which shows babies being appropriately supervised while in situations that may otherwise be unsafe do not breach prevailing community standards on health and safety.
  - A baby climbing upstairs, and a toddler on a slippery dip (Danone – [0502/16](#)).

## Protective gear

Advertising which shows people engaging in activities which require safety equipment, should usually show people using that safety equipment. The Board's view is:

- Advertising which shows people on a moving motorcycle, without helmets, will breach this section of the Code, regardless of the laws of the country where the advertisement was set.
  - A man driving a motorcycle and his passenger standing behind him (Lebara Mobile – [0345/16](#)).

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 is:

- Advertising which features people on boats or watercraft will often receive complaints if they are not clearly wearing life jackets, however if the craft is stationary or close to shore or the occupants are wearing other inflatable safety devices the advertising will not breach this section of the Code.
  - Advertisements where people are shown on a stationary boat in calm waters, not wearing life jackets include: Lion ([0574/16](#)) and Fair Dinkum Sheds ([0164/16](#)).
  - Advertisement where a man on a board is wearing some kind of floatation device include: Suzuki Marine ([0420/16](#)) and Yamaha Motor Aust Pty Ltd ([0221/16](#)).

## Other health and safety issues

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

The Board's view is:

- Advertising which shows people engaging in behaviour that would breach the law, and place a community member in danger, will be seen to be contrary to prevailing community standards on health and safety.
  - A scene showing people stealing a pizza from a delivery driver (McCain Australia and New Zealand – [0139/16](#)).
- 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 woman with a rainbow noose around her neck and the words "same sex marriage increases PC bullying in the workplace" (Marriage Alliance – [0064/16](#)).

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

- Advertising which mentions suicide in an appropriate way which is unlikely to undermine the serious issue will not breach this section of the Code.
  - Highlighting the high suicide rates of returned servicemen and women (Walking Wounded – [0080/16](#)).
  - Advertising for the movie Suicide Squad (Roadshow Film Distributors – [0306/16](#), [0351/16](#) and [0358/16](#)).
- While infant car safety is a significant issue, advertising which depicts parents forgetting a child is in the car, when the child is not left unattended in the car and is old enough to get themselves out of the car, will not be seen as a breach of this section of the Code.
  - A television advertisement where parents having a conversation forget that their daughter is in the back seat (Volkswagen – [0429/16](#)).
- 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 woman describing how she lost weight before a wedding by using the advertised product (Hypoxi Head Office – [0373/16](#)).
  - A 'skinny' weight loss product (Pharmabrand Labs – [0058/16](#) and [0066/16](#)).
- While advertising should avoid normalising inappropriate behaviours such as theft, this behaviour does not on its own contravene community standards of health and safety.
  - A man taking a variety of objects from a hotel, including a lamp and a robe (Sportsbet – [0428/16](#)).
- 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 puppy licking a girl's face (Ferrero Australia Pty Ltd – [0033/16](#)).



# 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 2016, 21 cases were considered under the AANA Food Code, two of which were also considered under the RCMI or QSRI and are discussed below.

The main issues in cases considered primarily under the AANA Food Code during 2016 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 maintenance of confidence in advertising.

An independent expert is consulted by the ASB and provides advice to the Board on technical matters.

During 2016, 16 cases were considered under this Section of the Code.

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

- a spread is made from both butter and olive oil (Unilever Australasia – [0229/16](#)).
- the advertised dessert product is made from Australian dairy (Unilever Australasia – [0302/16](#)).
- a confectionary advertisement that stated wellness was having loads of fun but staying balanced (Nestle Australia Ltd – [0385/16](#)).
- toddler milk containing A2 protein, not A1 protein, was good for toddlers' development (A2 Milk – [0241/16](#)).
- chickens depicted in advertisements were an accurate representation of how the chickens were actually housed (Milne Agri Group (Mt Barker) – [0035/16](#) and Baiada Poultry Pty Ltd – [0121/16](#)).

- a protein ball was a good source of protein (Boost Juice Bars – [0207/16](#)).
- a product is Australian although owned by an overseas company (Coca-Cola Amatil – [0446/16](#)).
- an energy drink will allow you to 'skill up' and develop skills like escaping alien abduction and detecting a lie (Frucor Beverages Australia – [0528/16](#)).
- all beef patties sold at the chain are 100% Australian and have no added hormones (Hungry Jacks – [0095/16](#)).
- the advertised almond milk was high in calcium (Sanitarium Health and Wellbeing – [0534/16](#)).
- the supermarket with the phrase 'we grow it' suggests they grow every product sold in their stores (Spud Shed – [0191/16](#)).
- an advertisement that sold caramel products was promoting them as having 'no added sugar' (Stuart Alexander & Co Pty Ltd – [0344/16](#)).
- a statement is made suggesting the average adult daily energy intake is 8,700kJ (Subway Franchisee Advertising Fund – [0043/16](#)).

In each of these cases the complaint was dismissed.

In 2016 two complaints were upheld under Section 2.1 for being misleading or deceptive.

- A website advertisement that stated a high acidic diet could result in increased likelihood of developing cancer, heart disease and diabetes and suggested that the advertised product is part of a solution to these serious illnesses (Alka Power – [0332/16](#)).
- A radio advertisement which stated that drinking the advertised product may help relieve migraines, asthma, diabetes and high blood pressure (Lithgow Valley Springs – [0348/16](#)).

## 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 2016 seven advertisements were considered by the Board in relation to this Section of the Food Code.

- An advertisement for confectionary which showed bags of lollies being shared by people (Nestle Australia Ltd – [0385/16](#)) had complaints dismissed as the focus was on portion control and each person was seen to only take one lolly.
- An advertisement for a soft drink which showed two boys drinking the product on various occasions (Coca-Cola South Pacific – [0146/16](#)) had the complaints dismissed as the advertisement did not suggest the product should be consumed all the time, merely focussed on a few moments.
- An advertisement for an energy drink where each can had a different skill listed on it with the caption 'drink up, skill up' (Frucor Beverages Australia – [0528/16](#)) had the complaint dismissed by the Board as the advertisement did not suggest you needed to drink all the cans merely that you could select the can with the skill you would most like.
- An advertisement for cereal products which included a brief scene of a woman tipping cereal into her mouth directly from the box (Kellogg (Aust) Pty Ltd – [0147/16](#)) had the complaint dismissed by the Board as the advertisement did not show the woman consuming an excessive amount of food, rather highlighting one of the many ways their product could be consumed.

- An advertisement for chocolate which showed two adults sharing a block of chocolate (Mondelez Australia Pty Ltd – [0299/16](#) and [0300/16](#)) had the complaint dismissed as there was no language or visuals in the advertisement that would encourage excess consumption.
- An advertisement which states 'nothing beats the heat of an Aussie Christmas' like the advertised product (Woolworths Supermarkets – [0593/16](#)) had the complaint dismissed as the advertisement was using puffery and was not suggesting that the product should be consumed instead of water.

## Section 2.3 – unsupported nutritional/ health claims

Section 2.3 of the AANA Food Code states:

*Advertising or Marketing Communications for Food or Beverage Products that include what an Average Consumer, acting reasonably, might interpret as health or nutrition claims shall be supportable by appropriate scientific evidence meeting the requirements of the Australia New Zealand Food Standards Code.*

In 2016 the Board dismissed a complaint against one advertisement under this section of the Code.

- An advertisement for protein balls raised concerns because the balls contained more carbohydrates than protein. Boost Juice Bars – ([0207/16](#)) had the complaint dismissed because the balls contained at least 5.1 grams of protein and according to Australian New Zealand Food Standards Code can therefore be referred to as a source of protein.



## Section 2.6 – inaccurate taste/size/content/nutrition/health claim

Section 2.6 of the AANA Food Code states:

*Advertising or Marketing Communications for Food or Beverage Products including claims relating to material characteristics such as taste, size, content, nutrition and health benefits, shall be specific to the promoted product/s and accurate in all such representations.*

In 2016 one advertisement was considered by the Board and found to breach this section of the Food Code:

- An advertisement that stated a high acidic diet could result in increased likelihood of developing cancer, heart disease and diabetes and suggested that the advertised product is part of a solution to these serious illnesses (Alka Power – [0332/16](#)).

## Section 3 – Advertising to children

Section 3 of the AANA Food Code relates to advertising food or beverage products to children. In 2016 the Board did not consider any cases under this Section of the Code.

If an advertisement is to be considered under this section of the Code, it must be:

- directed primarily to children under 14;
- be for a children's product.

## The AFGC Quick Service Restaurant Initiative

Complaints relating to the 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.

During 2016, the Board considered complaints against one advertisement under the provisions of the QSRI. The Board determined that the content of the advertisement under complaint complied with the provisions of the QSR Initiative.

### Independent Arbitrer

Under the provisions of the QSRI signatories must develop a Company Action Plan which outlines what constitutes a healthier choice. An independent arbitrer will advise the ASB whether the product or meal advertised represents a healthier choice. During 2016 the Board did not need to consult with an independent arbitrer for any cases.

### Key issue

The key issue to be drawn from the case considered by the Board during 2016 was:

- the Board considered the media the advertisement appeared in was not directed primarily to children and did not have greater than 35 per cent audience share of children and therefore the QSRI did not apply, specifically:
  - A Facebook advertisement (McDonald's Aust Ltd - [0239/16](#)) with a still frame of a woman and a child sitting at a table and a Create Your Taste meal in the foreground and a Happy Meal box in the background. A hand reaches into the frame from the right and removes a single fry from the Create Your Taste meal. The hand motion is repeated until the viewer scrolls away or pauses the video.

## The AFGC Responsible Children's Marketing Initiative

Complaints under the Australian Food and Grocery Council'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 Arbitrer

Under the provisions of the RCMI signatories must develop a Company Action Plan which outlines what constitutes a healthy dietary choice. An independent arbitrer will advise the ASB whether the product or meal advertised represents a healthy dietary choice. During 2016 the Board consulted with an independent arbitrer in the following case:

- [0512/16](#), Unilever Australia: Independent Arbitrer confirmed that the product did not meet the criteria for a healthier choice product based on classification of the product, due to order of ingredients listed.

### Key issues

During 2016, the Board considered complaints against six advertisements under the provisions of the RCMI. One advertisement was found

to breach the Initiative. Two were online advertisements, two were via social media channels, one was on a poster; and one was broadcast on free to air television.

Key issues to be drawn from cases considered by the Board during 2016 were:

- the Board determining although advertisements were attractive to children they were not directly primarily to children under 12; did not appear in media directed primarily to children; or did not appear in media attracting an audience share of greater than 35 per cent, and therefore the RCMI did not apply.
  - A video advertisement showing several teenage boys training to play basketball, Nestle Australia Ltd: [0297/16](#) (TV) and [0298/16](#) (Internet – Social Other).
  - An animated internet advertisement featuring a male voice over describing a story about two best friends - including a square of Dairy Milk walking along a path, Mondelez Australia Pty Ltd: [0300/16](#).
  - An internet advertisement featuring colourful images and text including, “Create your own LCMs Handball Legends highlight reel this school holidays!”, Kellogg (Aust) Pty Ltd: [0421/16](#).
  - A poster advertisement featuring a cartoon lion holding a Twirly Pop, Unilever Australasia: [0465/16](#).
- the Board determining an advertisement was directly primarily to children and did not meet the criteria for a healthier choice product.
  - A fifteen second film clip on YouTube showing two young children playing on a beach who discover a treasure chest with a Twirly Pop hovering inside, Unilever Australasia: [0512/16](#).

# 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.

The Children's Code only applies to advertisements for children's products. There were no advertisements considered under the provisions of the Children's Code in 2016.

In 2016 the Board considered a number of advertisements not to fall within this Code as they were not an advertisement for a children's product. These advertisements included:

- A billboard advertisement for Streets icecreams which featured a Bubble O Bill ice cream and a Splice ice cream. The Board considered that Bubble O Bill with its cowboy face and pastel colours would be of strong appeal to children 14 and under, however that Streets Splice ice cream is of more appeal to adults and is not a product that is targeted to and of principal appeal to children (Unilever Australasia – [0016/16](#)).
- A television advertisement for a jeep featured a young boy stating he wished his parents had a Jeep. The Board noted that the advertisement is for a motor vehicle and considered that this is not a product directed primarily to children (Chrysler Australia Pty Ltd – [0090/16](#)).
- This television advertisement for domestic violence awareness which features a young boy being disrespectful towards a female and this pattern of behaviour continuing throughout his life. The Board noted that the advertisement is for raising community awareness about domestic violence and considered that this is not a product directed primarily to children. (Department of Social Services – [0212/16](#)).
- This advertisement on Facebook and the internet for cadbury oreo chocolate featured an animated story of a chocolate and an oreo meeting and falling in love. The Board determined that this product was of appeal to adults and children alike (Mondelez Australia Pty Ltd – [0299/16](#) and [0300/16](#)).
- This advertisement on Facebook and the internet for Grill'd featured a promotion where if children wore their AFL gear into the store and purchased something they could win a prize. Overall the Board considered that although the advertisement is directed primarily to children, the product is not a product directed primarily to children therefore the provisions of the Children's Code do not apply. (Grill'd – [0346/16](#) and [0347/16](#)).
- This print advertisement for V energy drinks featured cans of the product with skills printed on them, such as 'escaping alien abduction'. The Board considered that the product is aimed primarily at adults, and not to children (Fruco Beverages Australia – [0528/16](#)).







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

In 2016 there were 10 cases considered under the FCAI Code, with one advertisement found to breach the 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 eight advertisements considered under this Section in 2016, with one advertisement found to breach the FCAI Code.

The advertisement found to breach this Clause of the FCAI Code was:

- An internet advertisement for the Bentley Continental GT Speed is preceded with information advising that the vehicle is driven by John Bowe, former racing driver and it is driven in controlled conditions on a section of the Stuart Highway with an unrestricted speed limit. The focus is on the speed able to be achieved by the car and as the car drives

along shots of the speedometer are shown. By the final scene the speedometer has reached 206 miles an hour (Bentley Motors Ltd – [0230/16](#)). This advertisement was also upheld under Clause 2(b).

Complaints were dismissed for:

- An internet advertisement depicting a stripped back prototype Volkswagen Amarok in a testing environment set in open country to demonstrate its four-wheel drive and off-road capability. The 'prototype' is driven through open terrain by a 'precision driver' dressed in protective clothing and wearing a helmet, crossing open terrain, traversing a small rise, cornering and travelling through very shallow water (Volkswagen Group Australia Pty Limited – [0205/16](#)).
- An internet advertisement depicting a vehicle driving through picturesque mountains to a ferry port. A couple emerge and the man states "If we take the ferry we could save an hour". The female responds with "challenge accepted". The couple get back into the C-Class Coupe and drive through the Alps (Mercedes-Benz Aust/Pacific P/L – [0231/16](#)). This advertisement was also considered under Clause 2(b).
- An internet advertisement depicting two members of the public, a bird watcher and a callisthenics teacher, described as ordinary drivers. These two drivers are taken to a secret training facility to be given intense driver training in Volkswagens. After they have completed their training they take their unsuspecting family members out for a drive on the race track and proceed to scare and amaze them with their new driving skills which include cornering at speed and zig-zagging between cones (Volkswagen Group Australia Pty Limited – [0425/16](#)). This advertisement was also considered under Clause 2(b).
- An internet advertisement depicting a vehicle driving on a scenic mountain route. The marketing campaign focuses on the vehicles performance rather than the "actors" performance to sell the vehicle with the final proposition "For those who buy the car and not the ad". A super appears at the end of the advertisement that reads "ŠKODA Octavia, 0-100 in 6.9 seconds" (Volkswagen Group Australia Pty Limited – [0437/16](#)).
- A Pay-TV advertisement featuring vehicles driving through long plains, straight dessert roads, and through industrial areas. The on-screen text includes, 'Ultimate Power', 'Ultimate Action', 'Ultimate Control', 'Ultimate Thrills', 'Ultimate Style', 'Ultimate Design', 'Ultimate Luxury', and 'Ultimate Driving Experience' (BMW Group Australia – [0466/16](#)). This advertisement was also considered under Clause 2(b).

- A Facebook advertisement which includes a video depicting two cars racing around a track. The cars are shown driving at speed with driving practices including crossing lines, fishtailing and fast acceleration. The caption above the video on Facebook says ‘With looks that set hearts racing, the BMW M4 GTS boasts a 0 to 100 time of just 3.8 seconds.’ (BMW Group Australia – [0493/16](#)).
- A television advertisement depicting a vehicle on a flat gravel driveway. Two other vehicles are shown shortly behind the main vehicle as a number of shots show the vehicles exterior design features. The camera focuses on the 4CONTROL badge and the vehicle makes a quick turn to demonstrate the enhanced handling provided by this feature. This turn distances the main vehicle from the other vehicles following it. The vehicle then comes to a stand still for the price pointed end frame (Renault Australia – [0499/16](#)).

## 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 2016 there was one case upheld under this clause (Bentley Motors Ltd – [0230/16](#)), and three dismissed. All cases considered under Clause 2(b) in 2016 were also considered under Clause 2(a).

## 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.*

To breach this clause it must be a clear what the speed limit is and the speed the vehicle is travelling.

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

- A Pay-TV ad for a vehicle depicted driving in broad daylight along a scenic country road. There are roughly 10 seconds of driving footage in the advertisement, during which the vehicle is briefly shown alone. After this, the Discovery is shown approaching another vehicle, then passing it on the right over broken white lines (Jaguar Land Rover Australia Pty Ltd – [0186/16](#)).
- A television advertisement highlighting ŠKODA's SmartLink that allows seamless smartphone integration within the vehicles infotainment system (Volkswagen Group Australia Pty Limited – [0365/16](#)).

## 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 2016 only one case was considered under this Clause:

- A television advertisement depicting a group of five cheetah cubs playing with one another in a field. As they run towards the camera we see them morph into a Mazda CX-5s. We see the five cars driving across the field in formation as well as some interior shots, and a male voice over describes the features of the cars. The final scene shows the cars morph back in to cheetahs (Mazda Australia Pty Limited – [0296/16](#)).



# AANA Wagering Code

## Directed primarily to minors

Section 2.1 of the Wagering Code states:  
*Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to the theme, visuals and language used, be directed primarily to Minors.*

In 2016 the Board considered two cases under this section.

There are no specific provisions restricting the placement and frequency of a wagering advertisement under the Wagering Code. An advertisement which is not attractive to children as a result of its theme, visuals and language will not breach this provision of the Wagering Code.

- The Board dismissed a complaint about a wagering ad which showed a horse race and details of a wagering promotion as it was not directed to children (Crownbet – [0506/16](#)).
- The Board dismissed a complaint about a wagering ad which was broadcast during a children's show on Pandora Radio, as the advertisement itself was not directed to children (Ladbroke.com.au – [0445/16](#)).

## Depiction of minors

Section 2.2 of the Wagering Code states:  
*Advertising or Marketing Communication for a Wagering Product or Service must not depict a person who is a Minor unless the person is shown in an incidental role in a natural situation and where there is no implication they will engage in wagering activities.*

In 2016 the Board upheld a complaint against one advertisement under this section, noting the wording is very specific with regards to minors not being used in advertising material for wagering products or services unless in an incidental role.

- The Board upheld a complaint about a television advertisement promoting a wagering activity which depicted minors discussing what they would buy if they had a lot of money (Make a Wish – [0551/16](#)).

## Consumption of alcohol

Section 2.4 of the Wagering Code states:  
*Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage wagering in combination with the consumption of alcohol.*

In 2016 the Board considered two cases under this section. In both cases although people were shown drinking, the Board considered that if it is not clear that it is alcohol, the advertising is not in breach of this section.

- The Board dismissed a complaint about an advertisement on television and cinema which shows a man spitting while cheering but did not show consumption of any alcohol (Ladbroke.com.au – [0370/16](#) and [0371/16](#)).

## Promise of winning

Section 2.5 of the Wagering Code states:  
*Advertising or Marketing Communication for a Wagering Product or Service must not state or imply a promise of winning.*

In 2016 the Board considered six cases under this section.

The Board determined that advertising for wagering products or services which include promotions such as a 'matched bonus bet' or 'money back' does not imply a promise of winning.

- The Board dismissed a complaint about a television advertisement which included a promotion of receiving a matched bonus bet up to \$50 if you place a certain bet on certain races and your horse comes second or third (Crownbet – [0506/16](#)).
- The Board dismissed a complaint about a television advertisement which depicted a female presenter on screen talking about a betting 'special offer'. A male then walks into the frame and queries whether the 'special offer' is as special as a money back offer (William Hill – [0329/16](#)).

The Board also determined that using language such as being ‘up for the challenge’ is suggestive of taking a chance rather than a promise of winning.

- The Board dismissed a complaint about an advertisement on TV and Cinema which contains a montage of athletes competing and concludes with ‘Ladbrokes. Up for the Challenge. Since 1886’ on screen (Ladbroke.com.au – [0370/16](#) and [0371/16](#)).

In the Board’s view advertising for wagering products or services which suggest that if you do your research you may increase your luck, does not imply a promise of winning.

- The Board dismissed a complaint about a pay TV advertisement which shows three men discussing whether a footballer will score based on his height vs a defender who uses a hair gel that will get in their eyes and make it hard for them to defend (Unibet – [0475/16](#)).
- The Board dismissed a complaint about a television advertisement which featured a man commenting on a football match and noting that the soccer referee is on a ‘short list’ for being appointed for the final of the tournament. As a consequence, the gamblers conclude they might ‘beat the odds’ by predicting the decisions of the referee (Unibet – [0474/16](#)).

## Excessive participation

Section 2.8 of the Wagering Code states:  
*Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities.*

In 2016 the Board upheld complaints against two advertisements under this section.

The Board determined that advertising which suggested that wagering is a behaviour that needs to be hidden and that isolates someone from their family shows wagering taking precedence in someone’s life, and that this behaviour is an example of excessive participation in wagering activities.

- The Board upheld a complaint about a television advertisement which depicted a man hiding from his family under a table and accessing a wagering website on his phone (Lottoland – [0552/16](#)).

The Board determined that showing excessive participation in a wagering activity can take place in a short amount of time and that an advertisement does not need to suggest this participation is of long-standing for it to breach this section of the Code.

- The Board upheld a complaint about a television advertisement which depicted a man reminiscing about a boys’ weekend which shows the men looking at live and replay racing on a wagering app while ignoring other activities such as food cooking (Tabcorp – [0447/16](#)).

For more information see the [Wagering advertising determination summary](#).



# AANA Environmental Claims in Advertising and Marketing Code

There were no cases considered under the AANA Environmental Claims in Advertising and Marketing Code in 2016.

# 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 – 2016

One case was considered by the ACB in 2016.

### Claims Board find in favour of Uber

Advertising and marketing material from the NSW Taxi Council was [found to be misleading](#). The complaint was lodged by Uber Australia.

The complaint related to two radio and two print advertisements which were accessible via links on the NSW Taxi Council's website. Uber Australia alleged that the advertisements gave the impression that ridesharing services are not safe.

Uber Australia submitted that the claims were misleading and deceptive because their ridesharing services are safe.

The NSW Taxi Council responded to the complaints stating that all claims made in the advertisements could be reasonably substantiated.

The NSW Taxi Council also argued that the complaint was outside the scope of the Claims Board because the complaint was made after advertising had already ceased to be published or broadcast, and the advertisements were only available via the Council's website, as part of excluded public relations communications.

Notwithstanding the discontinuation of the advertisements, the Claims Board determined the complaint finding that the advertisements were “published” on the advertiser’s website and therefore available to the public, well after the complaint was lodged. The public relations exclusion was found not to apply because the advertisements were targeted to consumers and related to the complainant’s (a rival) activities. The Claims Board also said that considering the substantive complaint, despite the removal of the advertisements, could assist the parties due to the potential for future advertisements that use similar messaging or themes.

The Claims Board determined that the advertisements breached sections 1.2 and 1.3 of the [Code of Ethics](#), finding that they were likely to be misleading and likely to cause damage to a competitor.

The NSW Taxi Council responded that the advertising had already been discontinued and that remaining links to the advertisements had been removed.

# Independent review

Cases reviewed in 2016

Independent Reviewers

# Independent review

## Cases reviewed in 2016

People who originally made a complaint, or the advertiser 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 2016, three cases submitted for the Independent Review process were finalised.

The full case reports are available on the Advertising Standards Bureau website.

## Precis of cases reviewed

### Tabcorp - Camping trip (November 2016)

Case number [0447/16](#)

In this case the initial Board determination was to **uphold** complaints. A review was requested by the advertiser, with the Independent Reviewer recommending that the initial Board determination be **confirmed**.

Time taken to complete the review was 15 days.

### Ultra Tune - Train track modified

(May 2016)

Case number [0175/16](#)

In this case the initial Board determination was to **uphold** complaints. A review was requested by the advertiser, with the Independent Reviewer recommending that the initial Board determination be **confirmed**.

Time taken to complete the review was 19 days.

### Ultra Tune - Train track (February 2016)

Case number [0020/16](#)

In this case the initial Board determination was to **uphold** complaints. A review was requested by the advertiser, with the Independent Reviewer recommending that the Board **review its original determination**.

On reviewing its original determination the Board noted the determination of the Independent Reviewer which recommended that the Board: *Review its consideration under Section 2.1 giving more precision to its consideration of the definition of vilification, the use of humour and the effect the final scene in the advertisement has on the overall tone.*

In reconsidering the case the Board specifically considered the elements outlined in the AANA Practice Note for Section 2.1: *Discrimination – unfair or less favourable treatment; and Vilification – humiliates, intimidates, incites hatred, contempt or ridicule of women. The Board noted the Macquarie Dictionary definition of ridicule: – “1. Words or actions intended to excite contemptuous laughter at a person or thing; 2. To deride”.* The Board considered that the advertisement ridicules people of a certain group, namely women, and depicts women in a manner which suggests they are unintelligent, unable to recognise a dangerous situation and presents women as ridiculous.

The Board determined to **uphold** complaints. Time taken to complete the review was 40 days.



# Independent Reviewers

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

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

Independent Reviewers are Victoria Rubensohn AM and Robin Creyke.

## 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.

# 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.

# Statistics

Advertising complaints statistics

# Advertising complaints statistics

In 2016 the ASB received 5,529 complaints, the second highest number of complaints in the past 10 years, although close to the record number of complaints received in 2014 (5,735).

From the 5,529 complaints the board considered 533 advertisements, with an additional 43 withdrawn by advertisers before Board consideration. Of the advertisements considered, 71 advertisements were found to breach the Codes or Initiatives.

The higher level of complaint numbers in 2016 corresponded to a higher than average number of actual advertisements complained about. The total number of separate advertisements complained about (595) matched the number of advertisements complained about in 2009. In the 10 years to 2016 the average number of advertisements receiving complaints per year is 525.

In 2016 discrimination and vilification was the most complained about issue accounting for 27.23 per cent of complaints. Complaints about the issue of sex, sexuality and nudity dropped slightly from 27.32 per cent of complaints 2015 to just 22.74 per cent in 2016. Violence came in third highest at 17.98 per cent.

Advertisements for food and beverages topped the product category list in 2016, with 26.26 per cent of all complaints. The automotive product

category came in a close second at 23.54 per cent. Both of these categories had higher than usual complaint percentages due to one or two advertisements which received a high level of complaint.

The percentage of complaints received from most States and Territories remained consistent with previous years, with the only slight change being that complaints from South Australia dropped by just more than two per cent from 8.95 per cent in 2015 to 6.61 per cent in 2016.

## Number of advertisements considered and outcome of complaints

Of the total 5,529 complaints received, 914 complaints were in relation to advertisements previously considered by the Board. Of the 914 complaints about already considered advertisements, 578 complaints were about advertisements which had been complained about earlier in 2016 but the Board found did not breach the Code.

A total of 115 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 4,815 complaints were received about the 533 advertisements considered by the Board.

There were 573 complaints against the 71 advertisements which were found to breach the

Code, with the remaining 462 ads accounting for 4,242 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 13.32 per cent.

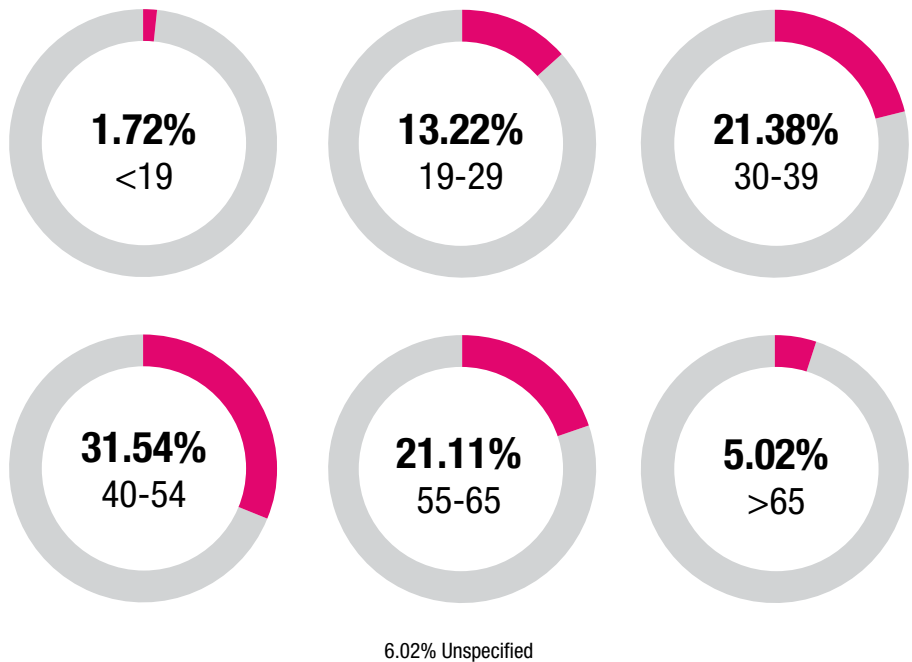
On receiving advice that there had been a complaint 43 advertisers removed their advertisement prior to consideration by the Board. This is the highest recorded number of advertisements withdrawn.

When complaints against advertisements were upheld by the Board, the vast majority of advertisers removed or modified their advertisement from broadcast or publication. One advertiser accounted for 11 of the 17 advertisements which were not removed or modified. 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 2016 came from people in the 40 to 54 year age group, accounting for 31.54 per cent of all complaints received. The age group from 30 to 39 years account for 21.38 per cent of complaints, while the age group 55 to 65 was close behind at 21.11 per cent. These ratios have been similar since this data began being recorded in 2008.

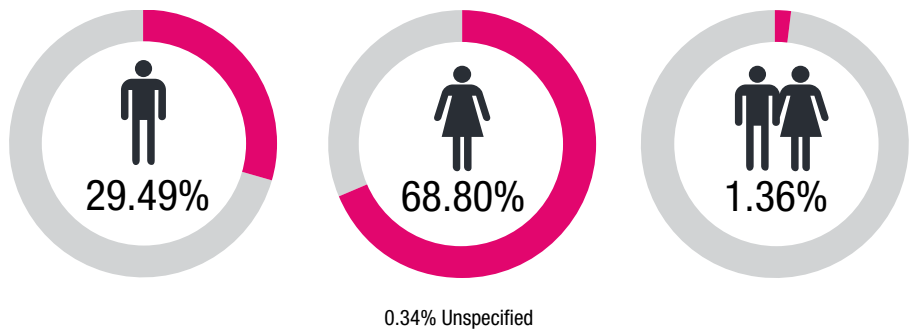
In 2016, 19 to 29 year olds accounted for 13.22 per cent of with the lowest number of complaints from people under 19 years of age (1.72 per cent), and the second lowest, people over 65 at 5.02 per cent. The percentage of complainants with an unspecified age (6.02 per cent) made up the remainder.



## Who is complaining?

In 2016 females were more likely to complain than males, with 68.80 per cent of complaints coming from females. This is consistent with the previous year.

The percentage of complaints from males (29.49 per cent) is the lowest recorded percentage of male complaint. The second lowest was in 2010 when only 29.90 per cent of complaints were from males. All other years since 2005 more than 30 per cent of complaints were from males – the highest being in 2012, when 39.60 per cent of complaints were made by males.

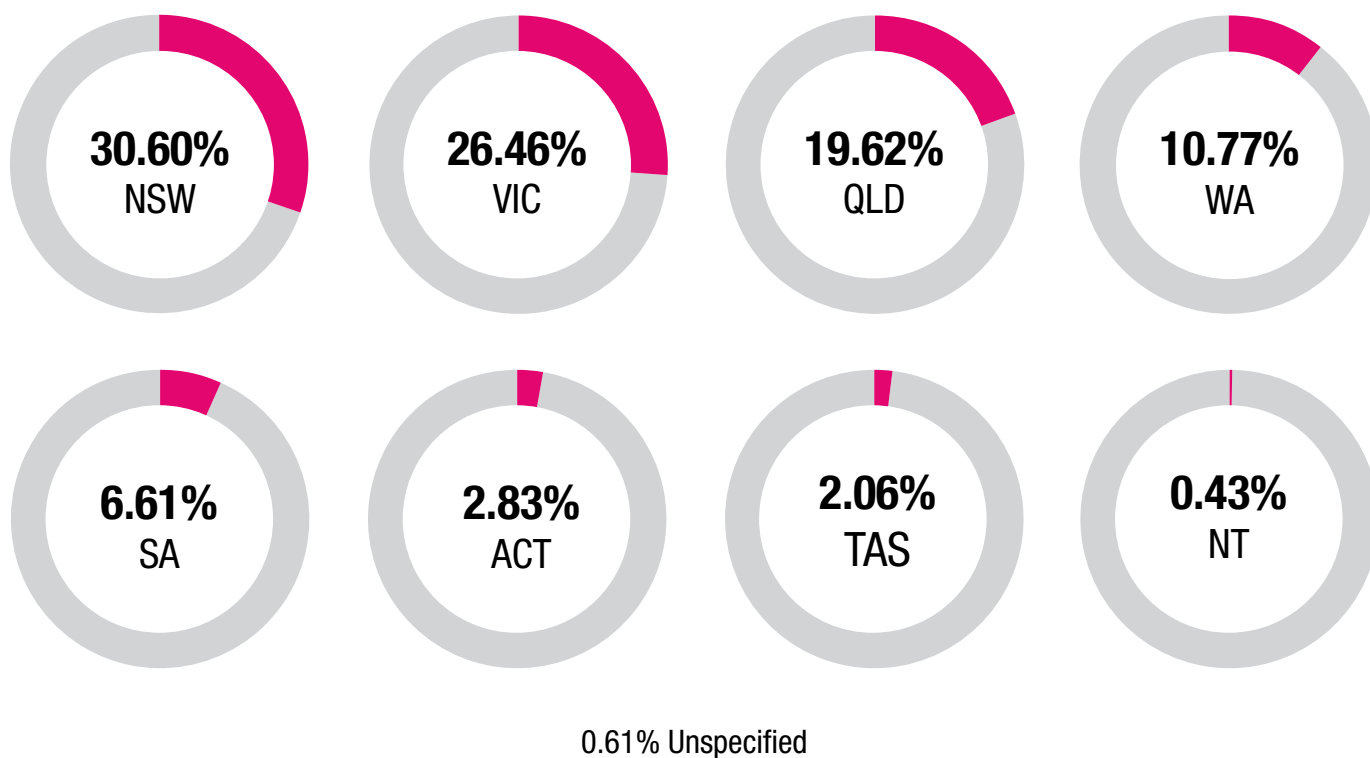


## Where are complaints coming from?

The percentage of complaints received from most States and Territories remained consistent with previous years, with the only slight change being that complaints from South Australia dropped by just more than two per cent from 8.95 per cent in 2015 to 6.61 per cent in 2016.

Tasmania (2.06 per cent) and the ACT (2.83 per cent) remain close in percentage of complaints with these two regions continuing the trend toward lower level of complaints as with the Northern Territory (0.43 per cent) which had a lower percentage than the unspecified source of complaint (0.61 per cent).

As with previous years, the most populous state, New South Wales, topped the percentage of complaints received (30.60 per cent), followed by Victoria with 26.46 per cent. Complaints received from the other States included, Queensland (19.62 per cent), and Western Australia (10.77 per cent) – similar to previous years.



## What do people complain about?

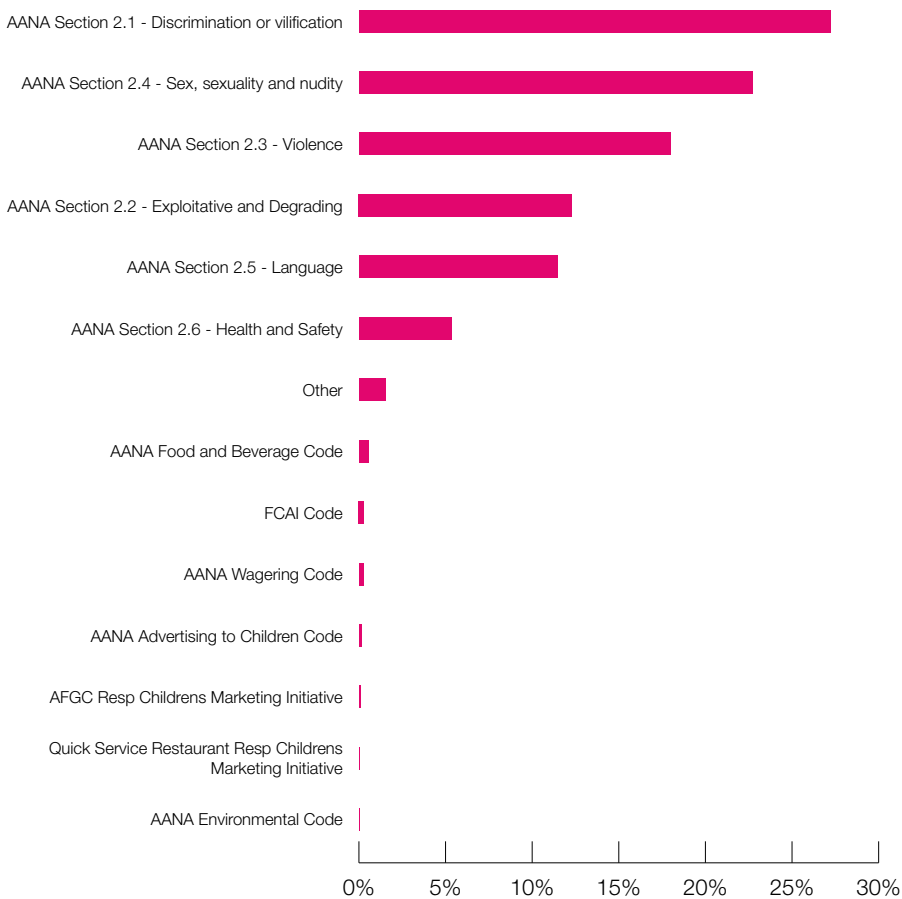
The fluctuation between sex, sexuality and nudity and the issue of discrimination and vilification as the most complained about issue over the years continued in 2016, with these two issues again taking out the top two spots. Discrimination and vilification accounted for 27.23 per cent of complaints, with sex, sexuality and nudity accounting for 22.74 per cent.

The fluctuation in complaints about other issues has also continued. In the years (2006-2015) the percentage of complaints about violence ranged from 5.92 per cent to 18.01 per cent, with 2016 in the higher range at 17.98 per cent. The percentage of concerns raised about language has seen a similar fluctuation, ranging from 1.68 per cent in 2007 to a high in 2015 of 14.01 per cent, with 2016 also in the higher range at 11.45 per cent of complaints. Health and safety concerns raised by complainants dropped significantly in 2016 to the lowest recorded percentage of 5.36 per cent of all complaints.

Since the introduction of Section 2.2 (Exploitative and degrading images) section in 2012, complaint percentages have ranged from 13.98 per cent in 2012 to a low in 2015 of 4.60 per cent and a rise in 2016 to 12.30 per cent.

A continued low complaint percentage (0.17 per cent in 2016) in relation to the issues raised under the AANA Advertising to Children support results from research conducted in 2015 into community perceptions about advertising directed to children. 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 also support results from the research. 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 (0.56%) in 2016. Similarly, complaint percentages relating to the Quick Service Restaurant Responsible Children's Marketing Initiative is low and in 2016 received only 0.03 per cent of all complaints and complaints relating to the AFGC Responsible Children's Marketing Initiative received just 0.09 per cent.

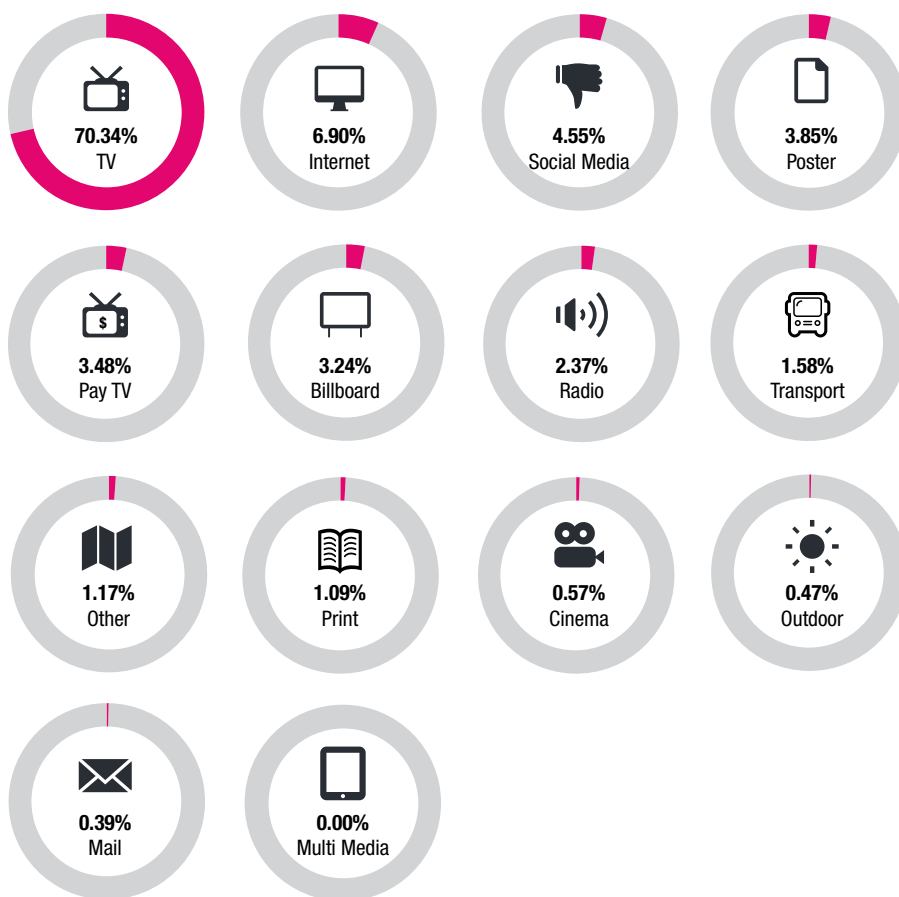


## Which mediums attracted complaints?

Consistent with previous years, in 2016, the majority of complaints (70.34 per cent) related to advertisements shown on television. The highest percentage was in 2006 when 85.81 per cent of complaints related to television advertisements.

In 2016 complaints relating to internet advertising almost doubled from 3.7 per cent in 2015 to 6.90 per cent, with social media advertising also doubling from 1.99 per cent in 2016 to 4.55 per cent in 2016.

Complaints about radio advertising was slightly lower at 2.37 per cent of all complaints than the previous year, 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. Complaints relating to billboard advertisements were at similar levels to the previous year at 3.24 per cent, dropping from a high in 2011 of 26.35 per cent when one billboard campaign generated a significant number of complaints. Advertisements on transport (buses, bus shelters) received just 1.58 per cent of all complaints, with other outdoor advertising (signage outside stores and road side signs) receiving less than one per cent (0.47 per cent) of all complaints.



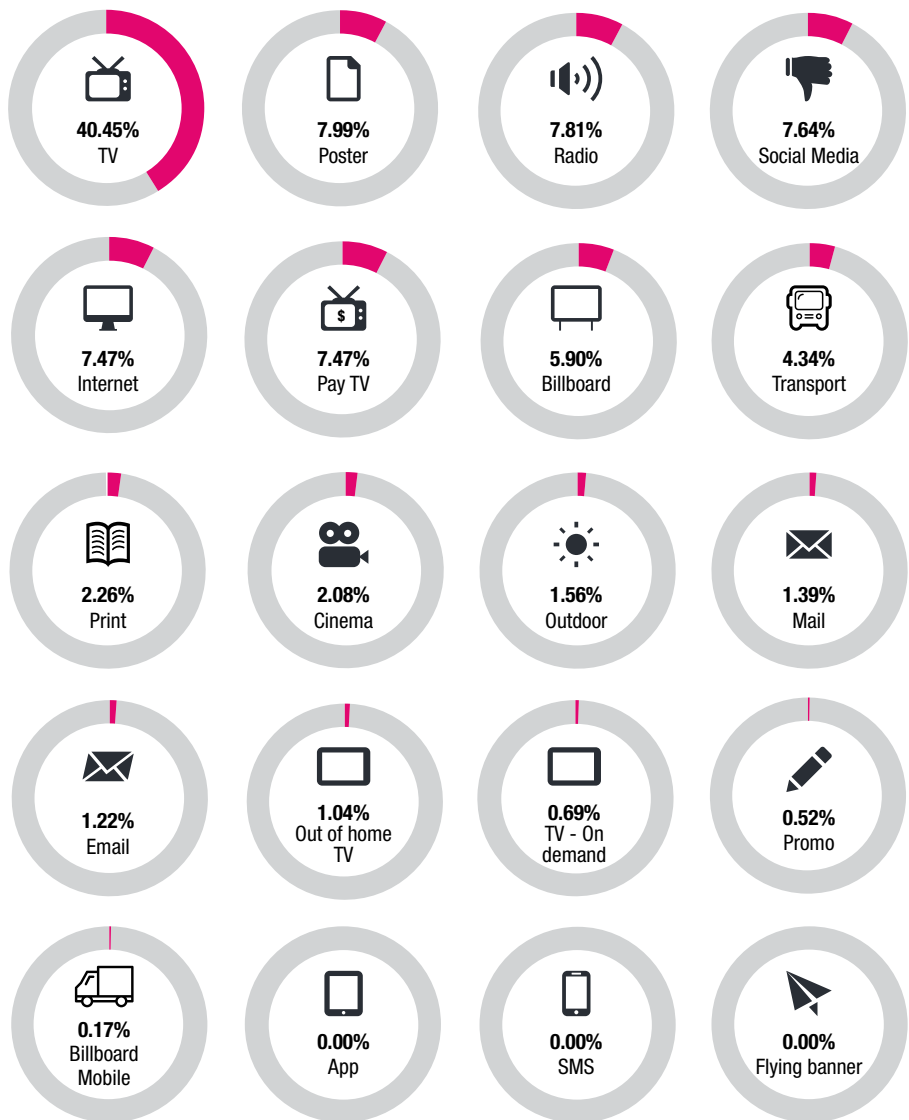


## Which medium were cases seen and heard on?

Of the advertisements complained about which were raised as cases, the vast majority (40.45 per cent) were advertisements seen on television, this is consistent with previous years. A further 7.47 per cent of advertisements complained about were seen on Pay TV. Advertisement appearing on On-Demand TV raised 0.69 per cent of cases.

Posters accounted for the second highest overall percentage of cases (7.99 per cent) and radio the third at 7.81 per cent. These were followed closely by Internet (social media) at 7.64 per cent of cases and Internet at 7.47 per cent. Cases about static billboards dropped by two per cent to 5.90 per cent, with cases about mobile billboards decreasing to almost zero, at 0.17 per cent of cases.

Other mediums with less than five per cent include transport (4.34 per cent), print (2.26 per cent), cinema (2.08 per cent) mail (1.39 per cent) and email (1.22 per cent). Other mediums each accounted for less than one per cent of cases.



## What products attracted complaints?

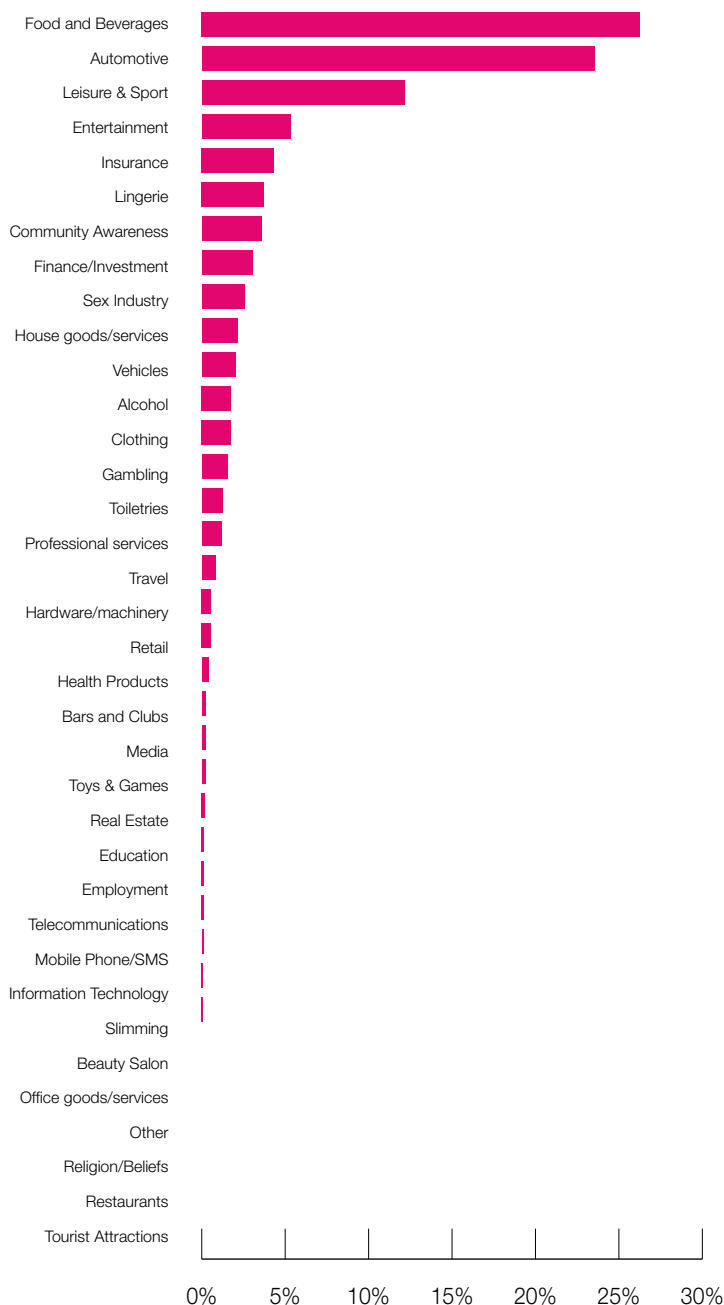
Of the 36 product categories recorded, two categories accounted for just under half (49.8 per cent) of the complaints in 2016. These were food and beverages (26.26 per cent) and automotive (23.54 per cent).

Food and beverage topped the list in 2016 due to one advertisement which raised a significant number of complaints, with automotive second due to a series of advertisements by one other advertiser. The product category of leisure and sport (12.15 per cent) saw a large spike in comparison to previous records also due to a series of advertisement from one advertiser.

The entertainment category was the only other product category which received more than five per cent of all complaints (5.31 per cent), with insurance product advertisement just under at 4.34 per cent. Complaints about community awareness advertisement dropped below the five per cent (3.58 per cent) for only the second recorded time since records have been kept.

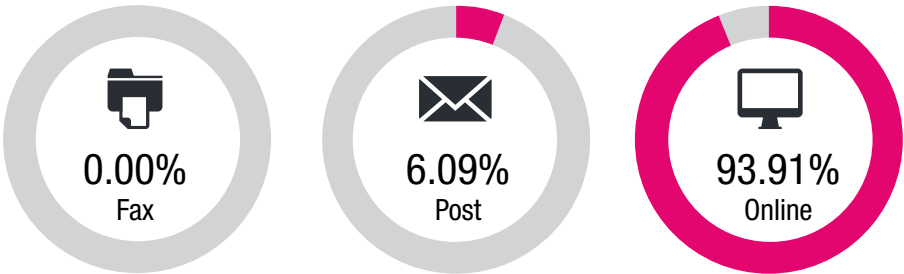
Lingerie increased slightly to 3.74 per cent of all complaints with finance (3.04 per cent) the only other category to attract more than three per cent of complaints.

Of the product categories listed, less than one per cent of complaints were recorded against 20 categories. Several product categories received no complaints, including tourist attractions, religion and restaurants.



## How do people complain?

The number of people choosing to lodge their complaints through the online system in 2016 continued to reflect the community's preference for online accessibility, with 93.91 per cent of submissions made via ASB's online complaints system. Postal submissions accounted for 6.09 per cent. In 2016 no complaints were received by fax.



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

Complaints within 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.											
Complaints outside jurisdiction		1491	1720	983	2309	1591	3134					
Complaints about already considered advertisements (current year)		1181	1280	1078	1197	1589	1322					
Complaints about already considered advertisements (previous years)		443	290	308	1838	601	578					
Consistently dismissed complaints		138	211	212	209	447	336					
Not allocated at 31 December		113	102	170	174	194	115					
		50	37	22	8	8	44					
TOTAL		4,044	2,602	3,596	3,796	3,526	3,416	3,640	2,773	5,735	4,430	5,529

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

Number of complaints about ads which did not breach the Code (current year)	See table below for previous year statistics. ASB	1569	1440	911	3981	1790	4242
Number of complaints about ads which did not breach the Code (pre reporting year)	is now able to maintain statistics that show if a complaint was related to an advertisement	138	211	212	203	438	336
Number of complaints about ads which were found to breach the Code	considered by the Board in the current year or previous years.	353	280	225	202	363	573
Number of complaints about ads that were withdrawn		12	45	17	56	48	49
<b>TOTAL</b>		<b>2,072</b>	<b>1,976</b>	<b>1,365</b>	<b>4,442</b>	<b>2,639</b>	<b>5,200</b>

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

Dismissed	2648	1730	2263	2278	1692	see table above
Upheld	164	280	477	521	361	
Withdrawn before board determination	20	15	57	56	53	
Already considered advertisements * #					708	
Consistently dismissed complaints *					92	
Not proceeding to a case	1212	577	799	941	620	
<b>TOTAL</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.

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>BOARD DETERMINATIONS (No., by Advertisement)</b>											
Withdrawn before board determination	13	5	10	11	29	10	24	17	30	30	43
Upheld	28	36	62	81	49	54	69	61	62	80	71
Dismissed	488	405	477	503	442	412	404	348	453	391	462
Not proceeding to Board						38	11	16	21	11	19
<b>TOTAL</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>595</b>

**AGE RANGE OF COMPLAINTS (%)**

< 19			2.25%	1.81%	1.80%	1.86%	1.74%	1.15%	2.52%	2.10%	1.72%
19 - 29			14.99%	15.81%	15.62%	18.72%	18.38%	13.34%	14.79%	14.88%	13.22%
30 - 39			23.11%	22.35%	22.55%	25.35%	22.24%	21.13%	20.15%	20.67%	21.38%
40 - 54			30.56%	28.34%	25.36%	29.68%	31.22%	34.66%	31.00%	30.77%	31.54%
55 - 65			11.15%	11.40%	9.88%	11.77%	12.46%	15.18%	14.16%	14.63%	21.11%
> 65			3.28%	3.44%	3.09%	3.91%	3.55%	4.51%	5.64%	5.35%	5.02%
Unspecified			14.66%	16.85%	21.70%	8.72%	10.42%	10.03%	11.73%	11.60%	6.02%
<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>

**GEOGRAPHIC SOURCE OF COMPLAINTS (%)**

NSW	36.77%	35.63%	34.47%	36.77%	35.98%	29.16%	32.52%	31.77%	37.63%	30.00%	30.60%
VIC	22.59%	20.18%	23.53%	21.16%	24.22%	21.49%	22.24%	23.08%	25.43%	25.64%	26.46%
QLD	17.01%	19.79%	20.51%	18.38%	22.73%	27.82%	21.88%	20.84%	14.58%	19.12%	19.62%
WA	7.84%	9.80%	7.17%	9.63%	6.81%	8.43%	9.26%	9.52%	9.79%	10.94%	10.77%
SA	10.08%	9.80%	9.24%	9.83%	6.53%	9.81%	9.81%	9.05%	8.96%	8.95%	6.61%
TAS	2.31%	1.54%	1.48%	1.62%	1.07%	1.00%	1.98%	2.99%	1.25%	2.39%	2.83%
ACT	2.58%	2.50%	2.90%	2.16%	2.29%	1.38%	1.98%	2.13%	1.93%	1.88%	2.06%
NT	0.84%	0.77%	0.70%	0.45%	0.37%	0.91%	0.33%	0.50%	0.33%	0.84%	0.61%
Unspecified	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.11%	0.10%	0.24%	0.43%
<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>

**GENDER OF COMPLAINANTS (%)**

Female	60.45%	65.33%	59.04%	58.68%	69.03%	68.51%	59.11%	60.80%	63.84%	63.73%	68.80%
Male	36.75%	32.67%	36.93%	36.21%	29.90%	30.87%	39.60%	38.66%	35.71%	35.04%	29.49%
Unspecified	1.45%	1.08%	3.11%	4.29%	0.58%	0.43%	1.24%	0.47%	0.26%	0.71%	1.36%
Couple	1.35%	0.92%	0.92%	0.82%	0.49%	0.19%	0.06%	0.07%	0.19%	0.53%	0.34%
<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>

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b><i>ISSUES ATTRACTING COMPLAINT (%)</i></b>											
AANA Section 2.1 - Discrimination or vilification	23.25%	28.05%	22.76%	16.31%	19.58%	20.68%	28.49%	18.10%	27.61%	15.76%	27.23%
AANA Section 2.4 - Sex, sexuality and nudity	22.23%	37.91%	25.61%	40.54%	45.23%	32.05%	23.41%	23.12%	14.27%	27.32%	22.74%
AANA Section 2.3 - Violence	18.01%	8.42%	17.67%	7.93%	9.62%	11.82%	5.92%	16.11%	12.13%	11.80%	17.98%
AANA Section 2.2 - Exploitative and Degrading	-	-	-	-	-	-	13.98%	8.31%	11.51%	4.60%	12.30%
AANA Section 2.5 - Language	7.55%	1.68%	7.24%	5.35%	4.85%	6.06%	12.17%	7.07%	5.23%	14.01%	11.45%
AANA Section 2.6 - Health and Safety	9.70%	10.85%	6.04%	8.38%	9.62%	13.59%	9.50%	15.64%	9.38%	10.46%	5.36%
Other	14.69%	4.86%	15.84%	17.04%	3.12%	1.33%	2.10%	5.57%	16.61%	12.06%	1.52%
AANA Food and Beverage Code	0.00%	0.37%	1.26%	2.47%	3.08%	6.35%	1.03%	1.09%	1.87%	0.76%	0.56%
FCAI Code	1.84%	4.91%	3.09%	1.19%	1.13%	3.55%	1.87%	4.35%	1.25%	2.56%	0.29%
AANA Wagering Code	-	-	-	-	-	-	-	-	-	-	0.26%
AANA Advertising to Children Code	2.73%	2.95%	0.49%	0.63%	2.34%	1.33%	0.76%	0.00%	0.05%	0.23%	0.17%
AFGC Resp Childrens Marketing Initiative	0.00%	0.00%	0.00%	0.00%	0.87%	1.03%	0.16%	0.39%	0.04%	0.12%	0.09%
Quick Service Restaurant Resp Childrens Marketing Initiative	0.00%	0.00%	0.00%	0.16%	0.52%	1.48%	0.41%	0.21%	0.04%	0.17%	0.03%
AANA Environmental Code	0.00%	0.00%	0.00%	0.00%	0.04%	0.74%	0.21%	0.05%	0.01%	0.15%	0.03%
<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>

**REASON COMPLAINTS FELL OUTSIDE CHARTER (No.) ##**

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

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

Ad not broadcast in Australia	4	7	4	0	2	6	12
ASB complainant dissatisfied	3	2	6	0	11	4	22
Dissatisfied - ASB Ineffective enforcement	0	0	0	14	0	0	0
ASB - not pre-screening body	0	0	1	0	0	0	1
ASB Claims Board Competitor	0	0	3	1	2	3	7
ASB Public Awareness campaign	0	2	1	0	0	0	0
Business Practices Unethical	0	2	1	1	3	5	2
Community Service Announcement	3	11	0	0	0	0	0
Competition coupons	0	0	0	1	0	0	0
Dislike of Advertising - AMI radio ads	2	0	2	2	8	16	18
Dislike of Advertising - AMI TV Ads	14	1	0	0	5	15	1
Editorial	7	5	6	20	8	8	10
Gambling odds in commentary	2	0	2	2	0	0	1
Gambling product - timing TV	0	0	0	83	74	85	150
Insufficient information to identify ad - general	46	56	59	58	48	55	85
Insufficient information to identify ad - adult content	5	1	0	0	4	0	0
Legality	8	10	13	21	15	13	21
Loud ads	7	2	1	0	1	4	14
Misleading Truth and Accuracy - NOT FOOD	43	118	142	134	177	136	118
Misleading country of origin	0	1	1	1	0	0	0
Not an Ad - Food packaging	0	6	0	10	10	6	3
RCMI-Not an ad in Media	0	0	0	2	0	0	1
Not an Ad - General	14	61	44	35	44	26	34
Not an ad - Point of Sale	1	0	0	0	0	1	0
Not an ad - Other Social Media	0	0	0	2	1	1	0
Not an ad - signage on premises	1	2	0	6	0	0	0
Not S2 - ABAC	14	34	31	50	23	49	60
Not S2 - ACMA	0	3	18	11	9	9	12
Not S2 - ADMA	1	0	3	5	4	0	2
Not S2 - e-cigarettes	0	0	0	0	1	1	0
Not S2 - Inappropriate behaviour	0	0	0	20	54	8	11
Not S2 - Disagree with content	0	0	0	80	163	187	218
Not S2 - General	103	262	214	93	32	46	19
Not S2 - Dislike Advertising	0	0	0	2	5	8	4
Not S2 - Freedom of Speech	0	0	0	13	14	50	91
Not S2 - Grammar in advertisements	0	0	0	3	2	5	4
Not S2 - Not Discrimination	0	0	0	6	8	5	19
Not S2 - Personal Issue	0	0	0	18	26	55	38
Not S2 - Unfortunate Placement	0	0	0	4	6	2	4
Not S2 - Use of a Personality	0	0	0	2	3	0	12
Not S2 - Use of Children	0	0	0	2	0	2	0
Not S2 - not Wagering code							1



	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b><i>REASON COMPLAINT DID NOT PROCEED TO A CASE (No.) ** continued ...</i></b>											
Overseas complaint				1	0	2	1	2	3	8	
Overseas web site with no Aust connection				1	2	0	0	2	1	1	
Political Advertising				40	180	307	35	20	15	29	
Product or service - food				0	4	13	0	5	2	1	
Product or service - general				39	98	83	63	67	71	36	
Product or service - on radio				4	0	1	0	1		2	
Programming and content				4	16	11	11	17	11	16	
Promotion TV and Radio				37	166	161	49	46	32	27	
Prohibited Online Content				0	0	0	5	4	2	0	
Subliminal advertising				7	8	7	6	4	2	2	
Social Issues				0	0	0	0	80	499	78	
Tasteless advertising				39	44	45	19	10	16	12	
Therapeutic Goods				0	3	8	12	10	12	13	
Timing - Cinema				3	1	2	0	0	0	4	
Timing - Radio broadcast				4	0	2	0	1	4	0	
Timing - TV				23	27	42	19	47	39	36	
Tobacco advertising				13	4	2	2	3	1	1	
Too many ads				3	3	8	9	4	6	12	
Unsolicited mail and products				0	1	0	2	4	5	8	
Weight management				4	0	3	12	2	1	0	
Wicked Campers - need for detailed information				12	2	5	22	27	29	17	
Wicked Campers - dislike of advertising				0	0	0	0	11	4	6	
Advertisement Withdrawn/Discontinued before case established				108	36	26	109	67	34	18	
<b>TOTAL</b>				<b>620</b>	<b>1181</b>	<b>1280</b>	<b>1078</b>	<b>1197</b>	<b>1600</b>	<b>1322</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.

2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016

**CONSISTENTLY DISMISSED COMPLAINTS (No.) \***

- unlikely interpretation					35	49	51	50	73	87	47
- consistently dismissed issue					18	15	16	29	36	60	29
- not of concern to broad community					22	20	9	12	17	22	9
- incorrect about content					3	5	4	13	26	13	5
- images of food					0	1	6	5	3	4	2
- food / beverage logos					0	0	1	1	0	3	0
- consistently dismissed language					12	10	14	17	13	2	10
- multicultural community					2	5	0	10	6	2	8
- product name					0	8	1	0	0	1	1
- consistently dismissed - MLA					0	0	0	33	0	0	1
- stereotypical depictions					-	-	-	-	-	-	3
<b>TOTAL</b>					<b>90</b>	<b>113</b>	<b>102</b>	<b>170</b>	<b>174</b>	<b>194</b>	<b>115</b>

\* Statistics not separately captured prior to 2010

**MEDIA ATTRACTING COMPLAINT (%)**

TV	85.81%	75.10%	68.59%	59.83%	62.25%	44.16%	65.47%	62.10%	77.72%	71.86%	70.34%
Pay TV	0.18%	0.44%	1.46%	5.61%	2.42%	1.95%	2.90%	3.46%	4.09%	5.15%	6.90%
Internet	0.25%	1.13%	1.13%	2.58%	7.55%	5.57%	7.84%	5.45%	2.08%	3.67%	4.55%
Radio	4.10%	2.36%	2.77%	3.12%	1.66%	3.24%	4.09%	3.57%	1.80%	3.23%	3.85%
Billboard ***					9.69%	26.35%	4.80%	9.59%	5.32%	3.12%	3.48%
Transport	1.73%	1.62%	3.64%	2.46%	0.76%	3.67%	1.49%	3.50%	2.32%	2.70%	3.24%
Other	0.00%	0.00%	0.40%	0.15%	0.00%	0.00%	0.06%	0.72%	0.99%	2.63%	2.37%
Poster ***					1.99%	7.43%	1.88%	2.13%	2.22%	2.43%	1.58%
Internet - Social Media					-	-	2.59%	1.91%	1.58%	1.99%	1.17%
Print	3.85%	4.08%	4.73%	1.92%	3.56%	4.86%	4.94%	4.54%	0.94%	1.46%	1.09%
Outdoor	3.67%	12.80%	16.48%	23.92%	8.40%	1.67%	1.38%	1.55%	0.54%	1.02%	0.57%
Mail	0.00%	0.00%	0.00%	0.29%	1.28%	0.91%	1.16%	0.69%	0.07%	0.44%	0.47%
Cinema	0.42%	2.46%	0.80%	0.11%	0.43%	0.19%	1.41%	0.79%	0.33%	0.31%	0.39%
Multiple Media	0.00%	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.

2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016

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

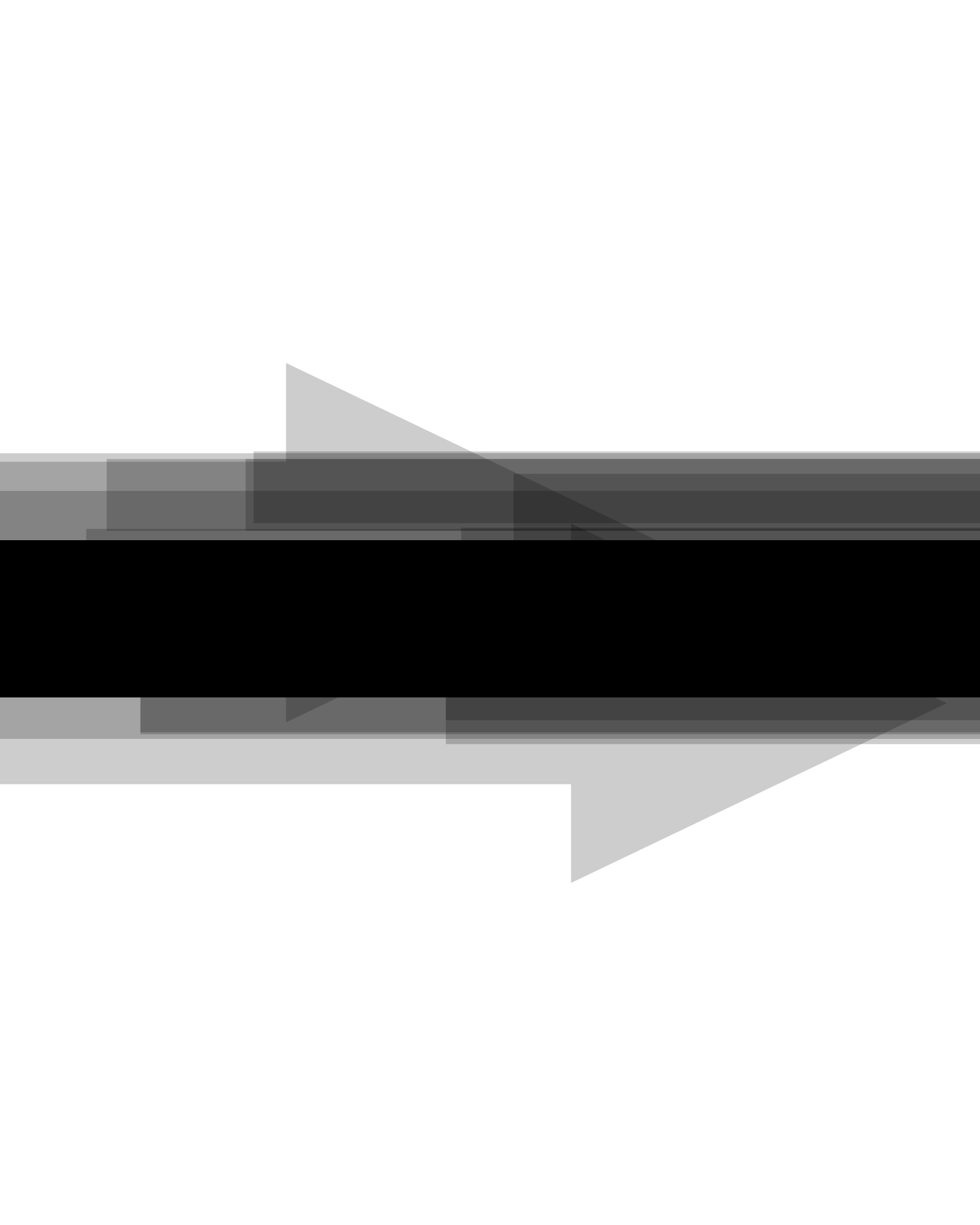
TV - Free to air	52.12%	42.02%	45.07%	44.13%	44.77%	42.71%	40.45%
Poster	4.23%	8.40%	4.02%	5.87%	6.42%	5.99%	7.99%
Radio	5.96%	6.93%	5.63%	6.81%	7.16%	6.59%	7.81%
Internet - Social Media	0.00%	0.00%	3.02%	1.41%	2.20%	3.59%	7.64%
Internet	6.73%	6.93%	10.26%	7.04%	7.16%	6.39%	7.47%
TV - Pay	5.77%	5.04%	5.43%	7.98%	7.34%	8.38%	7.47%
Billboard - static	5.77%	11.55%	8.45%	8.45%	5.14%	6.99%	5.90%
Transport	2.50%	4.62%	3.82%	5.40%	7.89%	6.59%	4.34%
Print	9.62%	8.19%	6.44%	5.87%	5.14%	4.39%	2.26%
Cinema	1.35%	0.42%	1.41%	2.35%	1.47%	0.80%	2.08%
Outdoor	5.00%	3.15%	4.23%	3.52%	2.94%	2.40%	1.56%
Mail	0.96%	2.73%	2.01%	0.47%	0.55%	1.40%	1.39%
Email	-	-	-	-	-	-	1.22%
TV - Out of Home	-	-	-	-	0.55%	0.40%	1.04%
TV-On demand	-	-	-	-	-	1.00%	0.69%
Promo material	0.00%	0.00%	0.00%	0.23%	0.37%	1.00%	0.52%
Billboard - mobile	-	-	-	-	0.18%	0.80%	0.17%
App	0.00%	0.00%	0.00%	0.23%	0.55%	0.60%	0.00%
Flying banner	0.00%	0.00%	0.00%	0.23%	0.18%	0.00%	0.00%
SMS	0.00%	0.00%	0.20%	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>

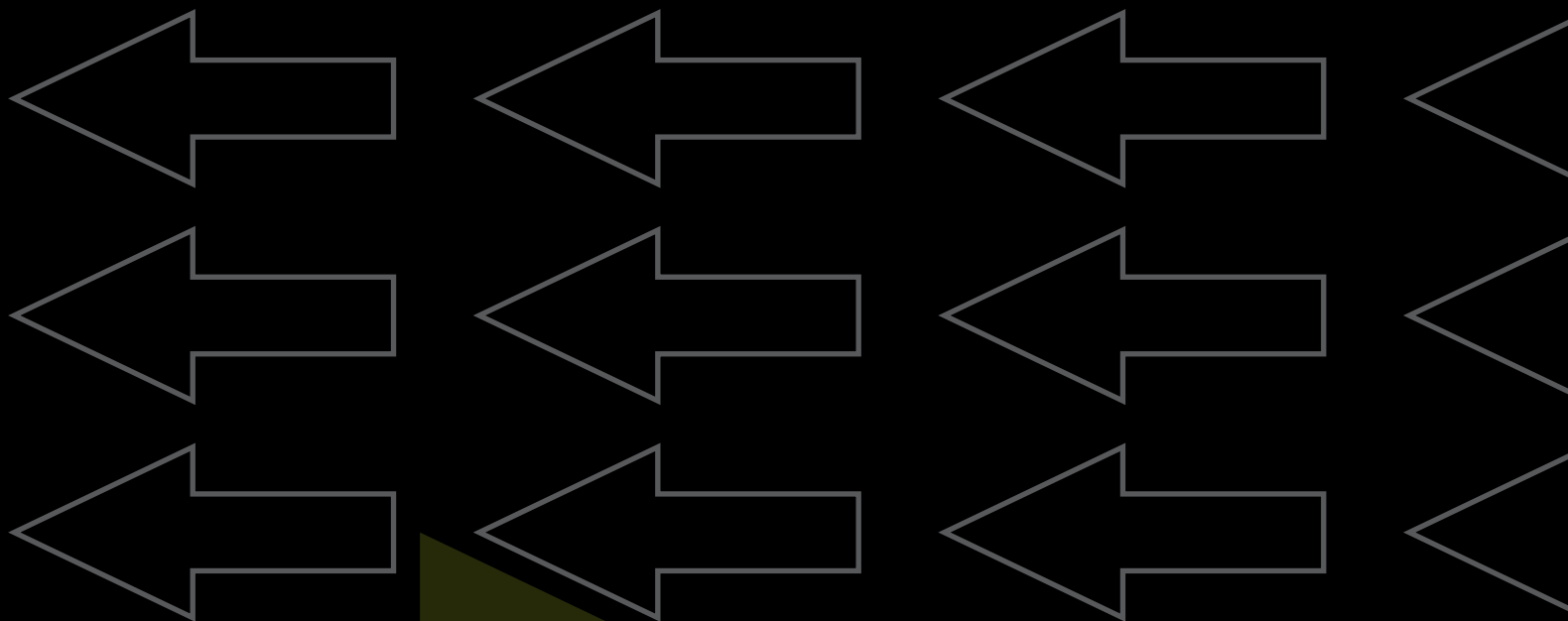
\*\*\*\* This table relates to individual cases, not complaints

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>PRODUCT CATEGORY ATTRACTING COMPLAINT (%)</b>											
Food and Beverages	28.14%	33.25%	14.39%	24.08%	21.92%	18.28%	23.74%	7.99%	7.91%	12.67%	26.26%
Automotive	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.37%	20.51%	0.59%	23.54%
Leisure & Sport	1.73%	2.14%	1.09%	2.84%	3.85%	1.47%	2.01%	2.12%	0.26%	0.45%	12.15%
Entertainment	2.90%	3.09%	3.28%	4.85%	2.88%	7.98%	6.64%	2.05%	2.46%	7.27%	5.31%
Insurance	2.97%	2.44%	5.10%	3.51%	3.27%	2.73%	2.82%	1.17%	2.98%	4.41%	4.34%
Lingerie	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	7.91%	0.94%	3.00%	3.74%
Community Awareness	12.29%	3.39%	9.29%	5.69%	5.58%	7.14%	6.04%	5.42%	11.41%	5.86%	3.58%
Finance/Investment	1.80%	1.30%	2.37%	1.34%	3.46%	0.63%	1.81%	3.15%	0.80%	3.09%	3.04%
Sex Industry	0.00%	0.00%	0.36%	4.35%	5.00%	5.67%	2.82%	4.62%	15.40%	1.18%	2.56%
House goods/services	2.15%	6.03%	7.65%	6.86%	4.42%	4.20%	4.43%	2.20%	1.65%	4.13%	2.13%
Vehicles	8.37%	9.92%	5.28%	5.69%	4.81%	6.51%	6.64%	13.92%	3.00%	14.26%	2.02%
Alcohol	3.14%	2.44%	6.38%	4.00%	5.19%	3.78%	3.02%	7.84%	1.30%	0.73%	1.75%
Clothing	4.31%	2.24%	5.83%	7.69%	7.31%	13.45%	7.44%	8.94%	1.80%	1.77%	1.75%
Gambling	0.00%	0.00%	0.73%	1.51%	0.96%	2.94%	2.21%	1.32%	3.45%	6.54%	1.54%
Toiletries	2.86%	2.94%	3.46%	3.51%	7.88%	6.30%	5.63%	4.25%	11.46%	14.62%	1.24%
Professional services	5.61%	10.77%	5.10%	5.18%	5.38%	5.25%	5.23%	1.32%	9.02%	10.67%	1.19%
Travel	1.09%	0.15%	2.37%	2.01%	0.96%	0.63%	2.41%	4.03%	2.03%	1.32%	0.83%
Hardware/machinery	0.00%	0.00%	1.09%	1.34%	1.35%	1.05%	1.21%	0.37%	0.21%	0.41%	0.54%
Retail	1.17%	1.65%	2.37%	0.33%	1.54%	2.73%	4.23%	4.54%	0.59%	2.18%	0.54%
Health Products	7.94%	1.40%	1.46%	4.35%	3.46%	0.84%	3.02%	2.64%	0.57%	2.09%	0.40%
Bars and Clubs	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.44%	0.19%	0.77%	0.22%
Media	2.22%	2.84%	3.28%	0.17%	1.54%	0.84%	1.81%	0.29%	0.05%	0.00%	0.22%
Toys & Games	0.00%	0.00%	1.09%	0.67%	0.77%	0.84%	1.01%	0.44%	0.14%	0.23%	0.22%
Real Estate	0.00%	0.00%	0.55%	1.00%	0.19%	0.84%	0.80%	1.17%	0.05%	0.23%	0.19%
Education	0.00%	0.00%	0.18%	0.00%	0.96%	0.00%	0.00%	0.00%	0.38%	0.05%	0.13%
Employment	0.00%	0.00%	0.00%	0.00%	0.19%	0.00%	0.00%	0.00%	0.00%	0.14%	0.13%
Telecommunications	2.40%	2.24%	3.46%	3.18%	2.88%	1.47%	1.21%	3.22%	0.24%	0.00%	0.13%
Mobile Phone/SMS	2.44%	2.04%	5.46%	2.17%	0.38%	0.42%	0.00%	1.61%	0.07%	0.09%	0.11%
Information Technology	0.00%	0.00%	0.18%	1.00%	0.77%	0.21%	0.60%	0.15%	0.40%	0.23%	0.08%
Slimming	0.00%	0.00%	0.36%	0.00%	0.19%	0.00%	0.00%	0.00%	0.24%	0.23%	0.08%
Beauty Salon	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.22%	0.19%	0.14%	0.03%
Office goods/services	0.00%	0.00%	0.91%	0.17%	0.00%	0.42%	0.00%	0.00%	0.00%	0.00%	0.03%
Other	5.30%	3.94%	4.74%	2.01%	2.88%	2.10%	1.41%	0.73%	0.19%	0.68%	0.00%
Religion/Beliefs	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.25%	0.00%	0.00%	0.00%
Restaurants	1.17%	5.78%	2.19%	0.50%	0.00%	1.26%	1.81%	4.03%	0.00%	0.00%	0.00%
Tourist Attractions	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.29%	0.12%	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>

#### **METHOD OF COMPLAINT (%)**

Online	82.71%	84.05%	87.07%	85.30%	87.76%	93.23%	93.65%	89.61%	87.90%	88.13%	93.91%
Post	14.47%	13.87%	10.22%	11.85%	11.97%	6.72%	6.34%	10.24%	12.08%	11.83%	6.09%
Fax	2.82%	2.08%	2.71%	2.85%	0.27%	0.05%	0.01%	0.14%	0.02%	0.04%	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>





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