



ADVERTISING
STANDARDS
BUREAU

Advertising Standards Bureau
Review of Operations

2008



10 years | 1998–2008

Mission

To provide a well respected, effective and independent advertising complaints resolution service which benefits the community, industry and government by keeping advertising standards in line with community values.

Values

- *Transparent*
- *Accountable*
- *Responsive*
- *Independent*



10 years | 1998–2008

Who we are

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

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

The Bureau was established for the purposes of:

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

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

In 2008 the ASB administered the following codes of practice:

- AANA Advertiser Code of Ethics
- AANA Code for Advertising and Marketing Communications to Children
- AANA Food and Beverages Advertising and Marketing Communication Code
- Federal Chamber of Automotive Industries (FCAI) Voluntary Code of Practice for Motor Vehicle Advertising

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

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

- health and safety
- use of language
- discriminatory portrayal of people
- concern for children
- portrayal of violence, sex, sexuality and nudity
- advertising to children
- advertising of food and beverages
- advertising of cars under the FCAI Voluntary Code of Practice for Motor Vehicle Advertising

During 2008 an independent review process has been established to consider consumer and advertiser disagreement with Board determinations.

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.

Advertising self-regulation

The Advertising Standards Bureau

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

The Advertising Standards Board

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

The Advertising Claims Board

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

FCAI

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

AANA

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

ABAC

The Alcohol Beverages Advertising Code is the code for alcohol advertising self-regulation by the ABAC Complaints Panel. All complaints concerning alcohol are received by ASB and forwarded to ABAC. Both ASB and ABAC may look at complaints pertaining to alcohol advertising independently.

Funding advertising self-regulation

The Advertising Standards Bureau is not funded by Government in Australia.

Self-regulation of the Australian advertising industry is funded by a levy paid by advertisers.

Responsible advertisers pay a levy to the ASB in recognition of the value self-regulation provides to the broader community, advertisers and their agencies. The amount of the levy is based on their advertising spend and is set at 35 cents per \$1,000 (0.035 per cent) of gross media expenditure.

The levy is collected through media buying agencies, as well as some advertisers and advertising agencies which buy their own media space.

The levy is remitted to the Australian Advertising Standards Council (AASC) as the funding body of advertising self-regulation. The AASC is a separate legal entity. Levy funds provided to the AASC can only be transferred to the ASB and used for purposes of the advertising self-regulation system.

The AASC was created by the AANA at the same time as the Advertising Standards Bureau. The independent nature of the AASC ensures commercial confidentiality in relation to the expenditure of individual advertisers on particular products and services, and provides for proper accountability for the monies applied to the operational and promotional activities of the ASB.

All monies collected by the voluntary levy system are applied exclusively to activities necessary to the maintenance of the self-regulation system, with management of the funds outsourced and accounts audited by separate firms of chartered accountants.

2008 snapshot

Number of complaints received

2,422

Number of complaints
made about matters outside
ASB jurisdiction

99

Number of advertisements
complained about

547

Number of advertisements
withdrawn voluntarily before
consideration by the Board

12

Number of advertisements found
by the Board to breach the
AANA code

60

Number of advertisements
the Board found consistent
with AANA code

475

Number of advertisements
which were NOT modified
or discontinued after
a complaint was upheld

0
(nil)

Contents

Who we are	i	Most complained about ads for past ten years	20
Advertising self-regulation	ii		
Funding of advertising self-regulation	iii	<i>Board reports</i>	
2008 snapshot	iv	Advertising Standards Board	21
		Board Members	23
<i>Executive reports</i>		Board view	31
Chairman's report	3	Advertising Claims Board	39
CEO's report	4		
ASB Board of Directors	5	Most complained about in each of the ten years	41
		<i>Statistics</i>	
<i>10 Years of operation</i>		Advertising complaints	42
Ten years and growing	6	Top 10 most complained-about ads for 2008	50
		<i>Appendices</i>	
<i>Objectives</i>		Advertising Standards Board complaints process	52
Achievements against objectives and highlights	14	Independent Review process	53
Objective 1. – Position the ASB as the foremost body for self-regulation of advertising in Australia	15	AANA Advertiser Code of Ethics	55
Objective 2. – Provide a best practice complaints resolution service	16	AANA Code for Advertising and Marketing Communications to Children	57
Objective 3. – Raise and maintain awareness and profile of the ASB	17	AANA Food and Beverages Advertising and Marketing Communications Code	60
Objective 4. – Ensure a robust and respected decision-making body	18	FCAI Voluntary Code of Practice for Motor Vehicle Advertising	63
Objective 5. – Ensure effective outcomes of the self-regulation system	19	Alcohol Beverages Advertising Code	66

IF YOU FIND AN AD

FFENSIVE,

SEXIST

IF YOU FIND AN AD

VIOLENT,

Then & Now

WRITE

The Advertising Standards Authority (ASA) has the power to take action against advertisers if they find an advertisement to be offensive, misleading or otherwise in breach of the rules. The ASA has the power to require an advertiser to withdraw an advertisement or to amend it. The ASA can also impose a fine on an advertiser if it finds that an advertisement is in breach of the rules. The ASA can also refer an advertiser to the courts if it finds that an advertisement is in breach of the rules.

TELL SOMEONE



Chairman's report

At the end of 1996 the Australian Association of National Advertisers announced it would continue its long standing initiative of developing a more effective system of self-regulation for the advertising industry.

This followed the disbanding at the end of 1996 of the Media Council of Australia's system of advertising codes and regulations including the Advertising Standards Council.

The new self-regulation system had three important parts:

- the AANA Advertiser Code of Ethics
- the Advertising Standards Board – a new body made up of members of the public to maintain standards of taste and decency in advertising, and
- the Advertising Claims Board – a new dispute resolution process for competitor complaints.

In 1996 the AANA commented that:

“The authority of the Advertising Standards Board and the Advertising Claims Board rests on:

- the standing and reputation in the community of the members, the quality and timeliness of their decisions
- the willingness of advertisers to adhere to ethical standards
- the persuasive powers over media proprietors to comply with Board decisions
- the persuasive powers of government agencies to initiate regulatory actions, and
- the efficiency and effectiveness with which public complaints are handled.”

In the 10 years the new system of advertising self-regulation has operated, the system has grown and developed . Key achievements over the past 10 years focus around the overall objective of the self-regulation system – **maintaining standards in advertising having regard to prevailing community standards.**

Importantly we operate in an environment where there are international standards against which we can measure our own performance and operation. The World Federation of Advertisers and, more recently, the European Advertising Standards Alliance, provide important benchmarks against which our performance can be measured.

In addition to this the ASB has introduced its own world's first research into the views of the community to ensure that the decisions of the Board stay in harmony with community standards on the matters outlined in the AANA Codes and, in the future, other industry initiatives.

While the decisions of the Board will never please everybody, the community, industry and government can be assured that the system they support meets world best practice.

CEO's report

Established in 1997 by the Australian Association of National Advertisers, the Advertising Standards Bureau and its Board administer the complaints component of advertising self-regulation in Australia.

Self-regulation is achieved by means of rules or principles of best practice, by which the advertising industry voluntarily agrees to be bound. The rules are applied by the Advertising Standards Bureau, set up specifically for the purpose. The aim is to ensure high standards in advertising and maintain consumer trust and confidence.

Supported and funded by advertisers, creative agencies, media buying and placement agencies and the media, the system meets world best practice in advertising self-regulation.

There are significant benefits to industry, consumers and government from self-regulation. Codes that form the basis of the system can be easily and quickly amended to reflect changing community standards and concerns. An accessible, transparent and prompt system also means complaints are heard quickly, with complainants and industry able to have their points of view put forward and heard by the independent Board without having to navigate a complex and time consuming government process. In 2008 the AANA made significant changes to its Codes broadening the scope of

complaints that can be heard by the ASB to include 'marketing' communications. The ASB ensures issues about the scope of the Codes are brought to the attention of AANA as necessary, and in particular as reviews of the Codes progress.

There are always challenges to self-regulation. Sectors of the community will dislike either the decisions that the Board makes or the nature of the system itself. We work continuously to ensure decisions of the Board and the structure of the system meet world-best practice and the needs of the Australian community.

Responding to concerns about the process, we introduced the Independent Review mechanism during 2008. We are delighted to have the Hon Deirdre O'Connor as our inaugural Independent Reviewer. The Independent Review process provides a mechanism for people concerned about the process and outcomes to get an impartial opinion, and possibly a different decision by the Board.

Lack of enforcement powers is a criticism of any form of self-regulation. In reality the advertising self-regulation system achieves outstanding compliance through cooperation. The ASB has an impressive record of working with advertisers and the media to ensure compliance with Board decisions – industry has a record of virtually 100 per cent compliance.

Nearly all advertisers remove their advertisements promptly, without complaint, following an adverse finding by the Board. One or two advertisers each year push the boundaries in the time it takes to remove an advertisement. In such instances the ASB works with media partners to assist the advertiser to comply in a timely manner. Very occasionally the ASB will also contact regulators should a problem continue.

Lack of enforcement powers is often confused with a dislike of the Board's decisions. Because a section of the community doesn't like a decision of the Board doesn't mean there is inadequate enforcement.

Critics state that particular decisions show that the Board is 'out of step' with community standards. Our commitment to robust Board decisions is reflected in several ways, including in the composition of the Board. During 2008 the Board was expanded to 20 members. It is a balance of men and women and its members bring a diverse mix of professional, social and cultural views to Board decisions. It is not difficult to see that changing community standards are being reflected in Board decisions – particularly decisions around the depiction of women. We look forward to continuing to meet the challenges of 2009 and beyond.

Advertising Standards Bureau Board of Directors

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

The Board of Directors is responsible for management of the business of the ASB consistent with the objectives of the ASB.

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

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

Board of Directors

Ian Alwill

Chairman, ASB
Director – Group Marketing & Communication, Nestle Australia

Jane Emery

Director, ASB
Managing Director, Grey Worldwide

Leigh Clapham

Director, ASB
Vice-President Australasia, MasterCard International

Hayden Hills

Director, ASB
Business Management Consultant

Michael Duncan

Director, ASB
Agency Client Director, Nova 106.9 Radio

John Sintras

Director, ASB
Chief Executive Officer, Starcom Media Vest Group

Meetings

The Board of Directors met 7 times during 2008.

Board member	Position	Meetings attended	Period of membership
Ian Alwill	Chairman	7	December 2004 (continuing)
Leigh Clapham	Director	0	December 2005 to June 2008
Michael Duncan	Director	7	November 2001 (continuing)
Jane Emery	Director	5	March 2008 to February 2009
Hayden Hills	Director	7	December 2004 (continuing)
John Sintras	Director	7	December 2005 (continuing)

10 years | 1998–2008

The Advertising Standards Bureau was created in 1998 following the adoption of advertising self-regulation in Australia.

During the past ten years we have grown, achieved goals we set for ourselves and reached important milestones. The people and the activities involved over the past decade have contributed to the vibrancy and resilience of the organisation.

The head of the organisation has changed several times during our ten years of operation.

The first Chairman of the Advertising Standards Bureau was Robert Koltai. He remained in the Chairman's role until July 2005. The role was handed over to current Chair of the Bureau Board, Ian Alwill in September 2005.

The first Executive Administrator was Helen Fraser who led the secretariat and administrative team from early 1998 to December 1999. The position of Executive Director was then taken on by Heather Oswald during 2000.

Between 2001 and 2005 the Advertising Standards Bureau secretariat was managed by a range of administrative and consultative staff who were led by the Bureau Board Chairman Robert Koltai.

A consultant to the Advertising Standards Bureau, Collin Segelov, played a leading role in managing the complaints process from early 2001 to September 2003. He retired from his position as Executive Director of the Australian Association of National Advertisers in 2008.



10 years | 1998–2008

Ten years and growing

The first and current Chief Executive Officer of the Advertising Standards Bureau, Fiona Jolly, was appointed in October 2005.

Inaugural members appointed to the Advertising Standards Board in June 1997 were:

Joanna Cohen

(continuing)

Trisha Goddard

(retired September 1998)

Sara Henderson

(retired late 1999)

Tom Keneally AO

(continuing)

Mary Kostakidis

(retired July 2002)

Geoff Lawson OAM

(retired July 2006)

Catharine Lumby

(retired August 2008)

Wendy McCarthy AO

(retired March 2002)

Margaret Pomeranz

(retired July 2002)

Brian Sweeney

(retired October 2004)

Carmel Travers

(retired August 2002)

Kate Williams

(retired July 2002)

Since 1997 other Board members appointed to the Board are:

Tanveer Ahmed

(continuing, appointed August 2006)

John Bokor

(August 1999 to August 2008)

The Hon. John Brown AO

(continuing, appointed May 1998)

Sibylla Budd

(continuing, appointed August 2006)

Julia Carland

(May 2004 to July 2006)

Graham Cox

(August 1998 to July 2006)

Barbara David

(continuing, appointed August 2008)

Khoa Do

(continuing, appointed August 2006)

Ann Drummond

(continuing, appointed August 2006)

Rachel Grant

(continuing, appointed August 2008)

Sophie Killen

(continuing, appointed August 2006)

John Konrads

(May 1998 to August 2008)

John Lee

(continuing, appointed August 2006)

Paul McCarthy

(continuing, appointed August 2006)

Paula McNamara

(continuing, appointed August 2008)

JaneMaree Maher

(continuing, appointed August 2008)

Roy Masters

(May 1998 to July 2006)

Gary Rice

(continuing, appointed August 2008)

Graham Rixon

(continuing, appointed August 2008)

Natasha Stott Despoja

(continuing, appointed August 2008)

Josephine Tiddy

(continuing, appointed August 2006)

Emma Tom

(May 2003 to August 2008)

Craig White

(continuing, appointed August 2008)

Helen Wicks

(continuing, appointed August 2006)

Liz Wise

(May 2001 to July 2006)

1998

The Advertising Standards Board opened its doors to complaints in January 1998, with the Advertising Claims Board following soon after.

Advertisers and agencies began supporting the new system by voluntarily contributing to the levy system.

The first Board meeting to consider complaints was held early in the year with inaugural Board members attending. Some other Board members were appointed during 1998 to join the inaugural members in their deliberations.

In 1998 the majority of complaints were about television advertisements. Food was the leading category of complaint, with female complainants outnumbering male.

The ASB received a total of 1382 complaints about 267 advertisements in 1998. Five of the advertisements considered by the Board were responsible for a total of 269 complaints.

Notable cases

— *A television advertisement for crisps depicting an animated stick figure driving a bus, full of Asian tourists, around an Australian town was found to discriminate against people on the basis of race.*

— *A television advertisement which depicted a frustrated parent and distressed child held up in traffic was found to not breach the Code, but came close to depicting material contrary to prevailing community standards on health and safety.*

1999

The first public awareness campaign of the complaint service led to a large increase in complaint numbers.

The total number of complaints received was 2065, an increase of 42% on the previous year's numbers.

Complaints about food products was again the leading category of complaint, although the percentage dropped to 11.4% of all complaints from its high of 16.7% in 1998.

The Board considered 445 advertisements with television remaining most complained about medium.

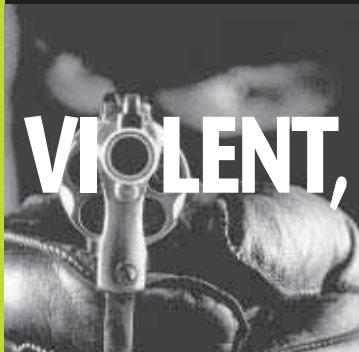
Notable cases

— *A television advertisement in which the statue of the Virgin Mary is featured weeping in a darkened church, followed by a voiceover saying: 'Feeling lonely? Well, you should have gone to Thredbo'. The Board determined the advertisement constituted vilification on the basis of religious belief and subjected a central icon of the Catholic faith to ridicule.*

— *A television advertisement in which a farmer repeats the word 'bugger' in response to various mishaps. The Board dismissed complaints, taking the view that the word complained about was an expression in widespread and innocuous use in the Australian community and had lost its stigma to its original, literal definition.*

1999

IF YOU FIND AN AD



WRITE TO US.

The Advertising Standards Board has been set up to help maintain standards in advertising. So if you find an ad overtly sexist, violent or in some way offensive you can bring it to the attention of the Advertising Standards Board by writing to 97 Northbourne Avenue, Turner ACT 2612. You can also fax your complaint to (02) 6262 9833, or complain online at www.advertisingstandardsbureau.com.au

ADVERTISING STANDARDS BOARD

IF YOU FIND AN AD



WRITE TO US.

The Advertising Standards Board has been set up to help maintain standards in advertising. So if you find an ad overtly sexist, violent or in some way offensive you can bring it to the attention of the Advertising Standards Board by writing to 97 Northbourne Avenue, Turner ACT 2612. You can also fax your complaint to (02) 6262 9833, or complain online at www.advertisingstandardsbureau.com.au

ADVERTISING STANDARDS BOARD

ASB's first public awareness campaign in 1999

2000

The work of the Board involved increased attention to outdoor advertising with complaints high about two advertisements which reflected the community concern about the portrayal and use of sex, sexuality and nudity in advertising.

Complaints about television advertising remained highest with the first complaints about advertising on Pay TV also received in 2000. The trend of female complainants continued, with complaints from females outnumbering those from men by about three to one.

Clothing advertisements overtook food as the most complained about product category, with a total of 2558 complaints received about 392 advertisements.

The ASB also adopted a new logo moving from stylised (ASB) to the current triangular logo.



Old logo

Notable cases

— *The Board upheld complaints about a billboard advertisement showing a seated woman with her legs apart and her underpants on display. A fully clothed man, whose head is out of frame, stands in front of the woman and holds her chin in line with his groin. The Board believed the image was highly sexually suggestive and was inappropriate for the broad audience available to a billboard advertisement and upheld complaints. The media contractor which owned the billboards stepped in and removed the advertisements.*

— *A billboard showing a woman alighting from a car wearing a short skirt and strappy sandals. Her head is out of frame and a caption to her right read: 'Yes, God is a man'. The Board considered that this advertisement was not unnecessarily sexually explicit and also that portraying a woman as attractive did not constitute discrimination or vilification of women. The Board also agreed that the text was clearly not a statement of fact but a provocative tongue-in-cheek remark and dismissed complaints.*



New logo

2004

10 years of headlines

BAKERY UNDER FIRE OVER SINGING NUN AD

8 December 2004 – *The Age*

...a complaint had been made to the Advertising Standards Bureau (ASB) that the recently launched "Give us this day our daily bread" television commercials discriminated against nuns.

2005

10 years of headlines

INDUSTRY MAY CURB JUNK FOOD ADVERTISING

Julian Lee – 16 June 2005 –

The Sydney Morning Herald

The marketing industry is considering a separate advertising code for food manufacturers in its drive to curb junk food advertising and allay consumer fears about rising obesity.

2000

2001

The organisation registered its domain name in August 2001 – www.advertisingstandardsbureau.com.au

A selection of case reports were first uploaded to the website later that year. This provided greater access to the public, advertisers, media and government to the decision making process.

The number of complaints received in 2001 fell away to 1705. Although the number of advertisements complained about also dropped to 369, the number of determinations to uphold complaints were at similar levels to the previous year (six upheld in 2001 and 8 in 2000).

Notable cases

— A print advertisement for timber venetian blinds used a colour photograph of a young child with the text reading:

'Imagine this child being raped or murdered'. Beneath the photograph the text read: 'Then imagine society rewarding the criminals by giving them money... just like it does when our virgin forests are raped and our wildlife murdered'. Complainants found the analogy between child rape and murder and the deforestation of virgin bushland to be excessive and in bad taste, as well as distressing.

The Board deplored the use of the photograph and wording in the context used and determined that the advertisement contravened Sections 2.2 (shall not present or portray violence unless it is justifiable in the context of the product or service advertised) and 2.5 of the Code (shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.

— A television advertisement with the highest number of complaints in 2001 depicted a young male queuing for service at the bar, repeating his intended order: 'Two gin and tonics, two vodkas, and a scotch'. When he eventually reached the bar, he stared at the barmaid and said: 'Five Cougars thanks'. The shot changed to show his point of view – the large-breasted barmaid was seen wearing a top with 'Cougar Bourbon' emblazoned across her chest. Complainants found the advertisement sexist, offensive and demeaning of women, but the Board believed most television viewers would see humour in the commercial, and determined that it did not contravene the Code in relation to the portrayal of sex/sexuality/nudity.

2002

In January 2002 the Advertising Standards Bureau office moved from Sydney to Canberra. As with many peak industry bodies, it was decided it would be sensible to have more ready access to Parliamentarians, government officials and other related agencies. Interest has continued to be shown by Federal government about advertising regulation in Australia.

The introduction of the Voluntary Code of Practice for Motor Vehicle Advertising, adopted by the Federal Chamber of Automotive Industries, also occurred in 2002. The new Code was endorsed by a meeting of Federal, State and Territory Transport Ministers. The first advertisement considered under the FCAI code by the Board was in December 2002.

The year 2002 also saw the lowest number of complaints received (1572) in the 10 years of operation, the lowest number of determinations to uphold complaints (11), which could be reflected in the number of advertisers opting to withdraw advertisements before a Board consideration (6). The number of advertisements complained about (300) was also down on the previous year.

The introduction of the website in the previous year and the option of complaint by email was starting to pick up, with 47 per cent of all complaints received by email, compared to 10 per cent in 2001.

Notable cases

— An outdoor advertisement for Levi Strauss depicted five women in a restroom, with two of them kissing. In a reversal from

the norm, in this case complaints from males were nine per cent higher than complaints from females. The Board considered that the act portrayed in the advertisement was legal and though it may offend some people, a prevailing community standard also includes tolerance and determined that it did not contravene the Code.

— A television advertisement from Unilever for its Magnum Ice Cream tub depicted a bedroom scene with a man and woman embracing and moving toward the bed. The woman reaches for a knife and brings it down, striking through a tub of ice cream. A second version shows the man's alarmed face. In this case the advertiser voluntarily discontinued use of the second version and rescheduled the advertisements to show only after 8.30pm. With this in mind, the Board dismissed complaints.

2003

As a supplement to the AANA Advertiser Code of Ethics, this year saw the development of the AANA Code for Advertising to Children. The Code was developed as a key component of the advertising community's response to public and political concerns about advertising to children.

The Advertising Standards Bureau was also involved in the National Committee for the Review of Alcohol. The committee report recommended the continued consideration by the Advertising Standards Board of complaints relating to alcoholic beverages.

This system for complaints about alcohol advertising continues today.

All complaints received are assessed for compliance with the AANA Code of Ethics as well as being forwarded to a separate Board for review under the Alcoholic Beverages Advertising Code.

A revised public education campaign on radio, television and print, using the same themes as the original campaign, was supported by industry and run as a community awareness spot. The resulting complaint numbers for the year were up by more than 1000 from the previous, totalling 2620. The rise saw an increase in complaints about language, a substantial decrease in complaints about food and clothing, but a continued 100 per cent compliance with Board determinations.

Notable cases

— *The most complaints in 2003 were received about an alcohol advertisement which featured a tongue leaving a man's mouth and travelling by itself until it finds a bottle of beer. The Board considered that while some people thought the advertisement was in bad taste, the majority would regard it as fantasy and intended to be humorous. Complaints were dismissed.*

— *Complaints about a t-shirt advertisement aimed at teenagers were upheld. The advertisement featured teenagers riding BMX bikes, jumping off ramps and into bushes – only one rider wore a helmet. The Board view was that the actions shown were contrary to prevailing community standards relating to health and safety.*

2004

Looking at the advertisements of 2004 which attracted the largest number of complaints, all fell into one of three categories – sex, discrimination and violence. Additionally, all of the most complained about advertisements were television commercials.

The discriminatory portrayal of people, particularly on the basis of gender, was the issue most complained about in 2004, receiving more than 36 per cent of all complaints.

The year saw a significant increase in advertisements withdrawn before being considered by the Board (20), with the complaints process itself drawing industry attention to the public's response to advertisements.

The ASB began considering cases about the AANA Code for Advertising to Children in 2004. This specific Code is to ensure that advertisers develop and maintain a high sense of social responsibility in their advertising targeted at children.

Notable cases

— *An alcohol advertisement showing people using cane toads as golf balls promoted received the highest number of complaints for 2004, consequently complaints logged under the violence category rose markedly. Due to the overwhelming public response to this advertisement, it was also responsible for promoting alcohol to the leading product category receiving complaints. The advertiser withdrew the advertisement before it was considered by the Board.*

— *The norm over the years is for women to complain more than men about gender-based discrimination, but an advertisement for a car where a woman is shown looking in rear view mirror at men's crotches attracted around 30 complaints, the majority from males. A government advertising campaign about domestic violence also attracted a large number of complaints, 80 per cent from males who felt the commercials presented an image of all men as violent.*

2005

More than half of all complaints in 2005 fell into two categories – discrimination and portrayal of sex, sexuality and nudity.

The Advertising Standards Board received complaints about four advertisements under the AANA Code for Advertising to Children. Issues considered by the Board included whether the advertisements breached the Code in relation to:

- undermining the authority, responsibility or judgment of parents or carers
- creating a false or misleading impression in the minds of children about the nature of the product, and
- making the terms of the offer clear.

The levy system was changed to an 'opt out' system in 2005 whereby levy was charged to all advertisers unless they specifically 'opted out'. Although this system was introduced, a very low level of opt out decisions saw the financial security of the ASB continue.

A new system was introduced to the Advertising Standards Bureau through which all the case reports for decisions from Board meetings were able to be loaded to the website, along

with annual statistics, media releases and updated Board member profiles.

The ASB also introduced a new look with branding and design advice and work by CRE8IVE. The branding remains in place today.

Notable cases

— *One advertisement which raised the ire of the Board was a print offering featuring pictures of a porn DVD which was for sale. The DVD cover contained images of naked women and in the Board's view were pornographic, highly eroticised, not artistic and not sensitive to the relevant audience of a daily newspaper. The Board noted the use of full frontal nudity and explicit pornographic language in the DVD titles which were also not appropriate.*

— *A television road safety advertisement featuring a speeding car hitting a mother walking her baby in a pram received a large number of complaints. The baby is shown being thrown from the pram, screaming while the mother lies motionless on the ground. The powerful, graphic images struck a chord with viewers and the Board, but the Board noted that despite the display of graphic violence it was justified given the cause it was promoting.*

2006

Highest number of complaints (4,044) for the ten years of operation, with 516 advertisements considered by the Board. The most complained about issue was discrimination and vilification (23 per cent), although it was only slightly ahead of sex, sexuality and nudity (22 per cent).

For the first time membership of the Advertising Standards Board was open to members of the public. In March the ASB called for applications for additional members through a public advertisement and selection process. On completion of the selection process the Board increased from 12 to 16 community members.

In its work to provide a best practice model for advertising complaints resolutions, the ASB joined the European Advertising Standards Alliance in 2006. This membership provides access to international counterparts (self-regulatory agencies) and support and information for further development of Australia's system in line with international standards.

The first research into awareness of the ASB and the advertising self regulation system conducted by the ASB since its inception was undertaken in 2006. The research tested public awareness about advertising self regulation and about lodging complaints against advertisements. Results were encouraging, finding that 78 per cent of the respondents believed the role of the ASB was important.

2006



Secondary research was conducted to gauge industry awareness, understanding and support of the self-regulatory system with a majority aware of the Code of Advertising to Children (89 per cent) and the Advertiser Code of Ethics (81 per cent).

During 2006 the ASB initiated a quarterly newsletter AdStandards News. This was distributed to industry and government stakeholders with information about complaints, trends in Board decisions, interviews with Board members and information about current advertising self-regulation issues.

Notable cases

— *An advertisement which complainants believed depicted dangerous antics was found to breach the Code in relation to safe behaviour in the use of public transport and other vehicles. A young man drinking a soft drink was shown leaning out of a moving bus collecting witches hats before climbing onto its roof. The man was propelled into the ocean when the bus came to a halt at the beach.*

— *The word 'bloody' used by a daughter and mother in an advertisement for chicken caused a large number of complaints. While the Board recognised that some people in the community would be offended by use of the word, it noted that the advertisement had been classified as PG and also shows the child being chastised by the adult for using inappropriate language. The Board also considered the word is part of the Australian vernacular and is used colloquially.*

2007

The ASB web-based complaints management system, introduced in 2006, was further streamlined with the introduction of an online complaints lodgement system. The online system effectively directed complainants to the most appropriate agency in the first instance, reducing the complaints received about issues outside the ASB charter to a third of those received in the year before – from 1,212 to 577. The total number of complaints received was 2,602, equating to 446 advertisements.

A significant project during 2007 was research which assessed the Board's decisions against community standards. This research was the first of its kind conducted in the world in relation to advertising and was well received by industry, government and the media. The research showed that Board decisions were broadly in line with community standards.

An internet advertising position paper was developed and published to alert industry to the changing jurisdiction of the ASB. The medium was introduced to the Board's jurisdiction in June 2007. The ASB received about 25 complaints regarding internet advertisements between June and December 2007.

The Advertising Standards Board began applying the food and beverages code, where relevant, in addition to the AANA Advertiser Code of Ethics and Advertising to Children, to complaints from 1 March 2007. The new food and beverages code came into effect on 1 November 2006, but as part of the phasing in of the code, advertising that already existed or was in-production

was exempt until 1 March 2007. From that date all advertising and marketing for food and drinks was expected to comply with the code or risk having complaints upheld against it. Among the provisions of the new code, advertising for food and beverages was not to undermine the importance of healthy and active lifestyles and the promotion of healthy balanced diets, nor make unsubstantiated health and nutritional claims.

Notable cases

— *The animated character Shrek came in for debate under the Advertising to Children Code and was the first series of advertisements to be considered under the Food and Beverages Code. The Board examined seven advertisements all featuring Shrek, with complainants concerned they encouraged children to engage in pester power. The Board determined that use of a cartoon character or an offer of a toy in an advertisement did not, of itself, breach the code and noted that none of the advertisements contained any direct appeal to a child to ask a parent to buy the product.*

— *A road safety advertisement, known as the 'Pinkie', received a high level of complaints as well as much media coverage and discussion on social networking forums. Complainants were concerned that it discriminated against the target audience – young males. The Board accepted that it was legitimate for the campaign to focus on young men and considered it was not a depiction that was discriminatory or vilifying of young men. The Board considered that the use of the sign in this advertisement was consistent with the message that the driving behaviour demonstrated was not 'cool' or desirable.*

*Achievements
against objectives
and highlights*

Mission

To provide a well respected, effective and independent advertising complaints resolution service which benefits the community, industry and government by keeping advertising standards in line with community values.

Strategic Objectives

The Advertising Standards Bureau Board, in the context of the Advertising Standards Bureau's role of running the advertising self-regulation system and the dynamic advertising and regulatory landscape, identified the following strategic priorities.

Objective 1

Position the ASB as the foremost body for self-regulation of advertising in Australia.

Highlight

Gold standard in advertising self-regulation

Our work with overseas and Australian bodies continues. This includes the European Advertising Standards Alliance (EASA), as well as Australian and other international agencies involved in advertising self-regulation.

At a meeting of the World Federation of Advertisers (WFA), the Advertising Standards Bureau and the Australian Association of National Advertisers scored 100 per cent compliance with the WFA's gold standard for advertising and marketing communications self-regulation. Australia's self-regulation system met what the WFA has declared to be the 10 essential criteria for gold standard status:

- Universality (covering all advertising and backed by advertisers, agencies and media)
- Sustained and effective funding
- Efficient and resourced administration
- Universal and effective codes
- Advice and information
- Prompt and efficient complaint handling
- Independent and impartial adjudication
- Effective sanctions
- Efficient sanctions

- Efficient compliance and monitoring
- Effective industry and consumer awareness

Other work

— *Provided information to Secretariat for the Advertising and Marketing Practices State and Territory Working Party and the Fair Trading Operations Advisory Committee.*

— *In 2007–2008 the ASB received complaints about a number of billboards and worked closely with the Outdoor Media Association. The work proved to be of benefit to both agencies. Information from the OMA helped the ASB identify advertisers and the location of billboards resulting in faster complaint resolution, while information provided by the ASB to the OMA about the nature of complaints helped OMA develop policies for its members.*

Objective 2

Provide a best practice complaints resolution service.

Highlight:

Introduction of Independent Reviewer

An independent review process for Advertising Standards Board decisions was implemented in April 2008. As part of our ongoing commitment to international best practice in advertising self-regulation, we undertook research and analysis of EASA and other international approaches to appeals and review.

From this information we implemented an independent review process and appointed Ms Deirdre O'Connor as our first Independent Reviewer. Ms O'Connor is a lawyer who, in addition to many judicial appointments since being admitted to the NSW Bar in 1980, was the first female appointed as a Justice of the Federal Court of Australia, President of the Administrative Appeals Tribunal and President of the Australian Industrial Relations Commission.

There are three grounds for review of determinations. Where new or additional relevant evidence which could have a significant bearing on the decision becomes available, where there was a substantial flaw in the Board's decision, and where there was a substantial flaw in the process by which the decision was made.

During 2008 four advertisers and two complainants accessed the independent review process. Of these requests, two were not accepted as cases due to the request arriving past the allotted review request time and the other was a request for review from a person who was not the original complainant.

Of the four reviews conducted the Independent Reviewer recommendation confirmed two of the determinations made by the Board and recommended that the Board review two of its determinations. In reviewing its determinations, the Board changed its view in one of the cases and maintained its view about the other case.

Other work

— *Timely management of the case load during a time of high media and community scrutiny due to a number of high profile cases.*

— *Successfully negotiated with advertisers to maintain record of full compliance with Board determinations.*

Objective 3

Raise and maintain awareness and profile of the ASB

Highlight:

Launch of 'Tell someone who cares' public education campaign

A series of 'Tell someone who cares' advertisements was launched on 9 July 2008. The campaign was screened first on television on Sunday 13 July 2008 and since then has appeared on the television, in newspapers and on the radio.

The campaign was in response to research, conducted by us in November 2006, which showed that awareness levels of ASB should be improved to ensure that people knew who to tell when they wanted to complain.

The campaign highlights the complaints process available through the Advertising Standards Bureau and received support from Minister for Broadband, Communications and the Digital Economy, the Hon. Senator Stephen Conroy as well as the advertising industry itself. George Patterson Y&R in Melbourne provided pro-bono work on the concept and creative aspects, while media outlets provided free and discounted placement of the advertisements.



Tom Keneally



The creative team from George Patterson Y&R (Melbourne) (from left) Mr Paul Meates, Mr Adrian Mills and Ms Vanilla Stener.



Board members (from left) Paul McCarthy, Dr Josephine Tiddy, Tanveer Ahmed (obscured), Ann Drummond and Sophie Killen were among guests at the launch.

Other work

— *Interacted extensively with media to explain the complaints handling process, determinations made by the Board, and to take part in the general debate about the role of the ASB self-regulation system.*

— *Achieved a high level take up of the new ASB advertisements across television radio and print media.*

— *Continued sponsorship of industry advertising and media awards.*

Objective 4

Ensure a robust and respected decision-making body

Highlight

Appointment of new Board members

In 2008 we increased the number of Advertising Standards Board members to 20 with the appointment of eight new members.

The new members, selected from a public application process, attended their first official Board meeting in September 2008. More than 150 applications were received in the recruitment process.

The Board is based on a community representative model. It does not include experts or lobbyists from industry or consumer groups. The role of the Board is to be aware of the community views and, as members of the various parts of the community themselves, decide whether advertisements contravene community standards on specific matters.

Other work

— *Research conducted into discrimination and vilification, aspects of commercial freedom of speech and began work on violence research.*

— *Conducted a Board training day for new and continuing Board members which included presentations from industry, researchers and ASB staff.*

Objective 5

Ensure effective outcomes of the self-regulation system

Highlight

Adoption of two Board meetings each month

As an organisation we are continually evolving in line with community, government and industry requirement and as part of our constant work to improve Australia's advertising complaints system, two Board meetings are now held each month.

Part of the reason for moving to more frequent Board meetings was a gradual increase in complaints over the past two years and a significant increase following the launch of the ASB public education campaign. Another reason is to increase timeliness of the consideration of complaints.

The new system of holding more regular Board meetings began in October after induction of our new Board members in September.

Highlight

Involvement in Senate enquiry

Recommendations of a Senate Standing Committee on Environment, Communication and the Arts report on sexualisation of children added momentum and support to work being done by the Advertising Standards Bureau.

The report offered a balanced and appropriate way forward for the continuation of advertising self-regulation in Australia. It recognised the work the ASB had done. Some of the recommendations included in the report had already been implemented, including community consultation and research to act as benchmarks for Advertising Standards Board determinations.

Other work

— *Met with Federal and State Government representatives to ensure continued support of the levy.*

X

10 years | 1998–2008

Ten most complained about advertisements between 1998 and 2008

1. 156/07 – Nando’s Australia Pty Ltd (TV) – woman in business suit describes how she can’t afford to have cravings at work. She is then seen pole-dancing and wearing a g-string in a club.

Grounds for complaint: section 2.1 – Discrimination or vilification Gender

Board determination: Dismissed

Number of complaints: 355+

2. 410/06 – Stuart Alexander & Co Pty Ltd (TV) – Mentos Ice Chewing Gum – man’s nipples get longer as he eats Mentos as he walks around town

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 280+

3. 20/07 – Advanced Medical Institute (Billboard) – Want longer lasting sex?

Grounds for complaint: section 2.5 – Language – use of offensive language

Board determination: Dismissed

Number of complaints: 260+

NOTE: This billboard was reconsidered in 2008 (see case 278/08) and the Board determined to uphold complaints.

4. 313/06 – Quit Victoria (TV) – Mouth Cancer – a woman is shown with the effects of mouth cancer

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 205+

5. 118/04 – Lion Nathan Aust Pty Ltd (TV) – Tooheys New – golfers clubbing cane toads over NSW border

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Withdrawn/discontinued

before Board meeting

Number of complaints: 205+

6. 284/05 – Advanced Medical Institute (TV) – Sniff n Stiff – two men in tuxedos standing behind grand piano – they drop pants and undies and start playing the piano with their penises.

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 195+

7. 95/08 – Kimberly-Clark Aust Pty Ltd (TV) – Kotex U – beaver accompanies young woman on daily activities “You only have one of them, so look after it”

Grounds for complaint: – section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 185+

8. 198/03 – Lion Nathan Aust Pty Ltd (TV) – Tooheys Extra Dry (TV) – Quest-tongue goes in search of beer.

Grounds for complaint: section 2.6 – Health and safety

Board determination: Dismissed

Number of complaints: 165+

9. 242/05 – Holden Ltd (TV) – 2 TV ads – (1) naked couple (genitals obscured) leave house, drive car and walk among shoppers who are clearly startled. (2) naked couple drive to charity bin to dump clothes not needed anymore

Grounds for complaint: section 2.3 – Portrayal of sex/sexuality/nudity

Board determination: Dismissed

Number of complaints: 165+

10. 259/02 – Levi Strauss (Aust) Pty Ltd – Women kissing in toilet – various composite images of same girl (Chloe) – “different fits for you”.

Grounds for complaint: section 2.1 – Discrimination or vilification – Religion

Board determination: Dismissed

Number of complaints: 165+

Advertising Standards Board

Australia's advertising self-regulation system depends on the dedication, composition and independence of the Advertising Standards Board.

The Board includes 20 people from a broad range of age groups and backgrounds and is gender balanced – representative of the diversity of Australian society.

The Board members are individually and collectively independent of the advertising industry and discharge their responsibilities with fairness, impartiality and a keen sense of prevailing community attitudes.

The Board's task is often difficult and the determinations made will not and cannot always please everyone. When considering complaints about advertising, the Board is bound by section 2 of the Australian Association of National Advertisers (AANA) Code of Ethics. The AANA code determines what issues the Board can look at when considering complaints.

Membership of the Board is on a fixed term basis. New appointments are staggered to ensure it retains a mix of corporate knowledge and at the same time introducing people with different experiences, views and skills.

10 years of headlines

**"WOMEN ON
WARPATH" –
STANDARDS BOARD IN
FORUM'S SIGHTS OVER
POLE DANCER AD**

22 July 2007 – Sun Herald

Board meetings

The Board holds regular meetings as well as convening to consider urgent matters. In 2008 the Board met 18 times.

After the appointment of new Board members in August, bringing the number of members to 20, the Board began holding two regular monthly meetings. This was adopted due to the increasing number of cases which needed to be considered and to further minimise the time taken between complaint receipt and determination.

The position of Chair is rotated among Board members on a meeting-by-meeting basis. The Chair for each meeting is generally set at the beginning of each year but can be varied to accommodate changes in individuals' schedules.

Board members must disclose any personal interest in a matter that is the subject of a complaint. The member concerned must withdraw from contributing to the debate and decision and/or approving the case report in relation to those complaints.

If a Board member's duties to another Board or organisation require that they breach their duty of loyalty or confidentiality to the Board for a period of time, then the member must disclose this position to the Board.

A general conflict with the Board would require that the member withdraw from their duties to the Advertising Standards Board during the period that the conflict continues.

The Board reaches its decision by way of a simple majority. In the event of a tied vote, the Chair has the casting vote.

10 years of headlines

ADLAND TIGER EARNS STRIPES AT LAST

*Simon Canning – 3 April 2008 –
The Australian*

It is difficult to believe, but in the 10-year history of the advertising watchdog, no one ever thought the system should have a review process in place to consider the voice of those that disagreed.

Attendance at Board meetings in 2008

There were 18 Board meetings held in 2008.

BOARD MEMBER	MEETINGS ATTENDED
Tanveer Ahmed	10 (of 18)
John Bokor (retired August 2008)	8 (of 9)
John Brown	7 (of 18)
Sibylla Budd	11 (of 18)
Joanna Cohen	11 (of 18)
Barbara David (appointed August 2008)	4 (of 8)
Khoa Do	8 (of 18)
Ann Drummond	16 (of 18)
Rachel Grant (appointed August 2008)	6 (of 8)
Thomas Keneally	9 (of 18)
Sophie Killen	15 (of 18)
John Konrads (retired August 2008)	9 (of 9)
John Lee	10 (of 18)
Catharine Lumby (retired August 2008)	3 (of 9)
JaneMaree Maher (appointed August 2008)	6 (of 8)
Paul McCarthy	17 (of 18)
Paula McNamara (appointed August 2008)	5 (of 8)
Gary Rice (appointed August 2008)	7 (of 8)
Graham Rixon (appointed August 2008)	7 (of 8)
Natasha Stott Despoja (appointed August 2008)	6 (of 8)
Josephine Tiddy	9 (of 18)
Emma Tom (retired August 2008)	9 (of 9)
Craig White (appointed August 2008)	3 (of 8)
Helen Wicks	16 (of 18)

Advertising Standards Board

Board members – 2008



Tanveer Ahmed

Appointed August 2006

Tanveer Ahmed is a psychiatry registrar and writer. He is a regular contributor to the country's major newspapers, writing on matters social and political. Tanveer transiently left medicine for a couple of years to pursue a career in journalism and worked as a television journalist for SBS in 2003.

He has been chosen by a Prime Minister's Committee as one of 100 future leaders of Australia under the age of 40. Tanveer is also a UN ambassador representing men against domestic violence.

Tanveer has previously been a board member for the Australian Medical Association, where he was the national representative for training doctors.

Adding to his list of pursuits, Tanveer has also performed comedy as well as playing the role of the Bingo Commissioner on the Channel 7 gameshow *National Bingo Night*.



John Bokor

Appointed August 1999 – retired September 2008

John Bokor is a working artist who also manages an art gallery. John graduated from the National Art School in 1993. His paintings have been regularly exhibited with four solo shows earning critical acclaim.

John is in his mid-twenties and has a strong understanding of, and enthusiasm for, popular culture as well as an extensive knowledge of literature, film and contemporary art.

He is also a joint editor of *A Public of Individuals*, a journal of art criticism.



The Hon John Brown AO

Appointed May 1998

Former Federal Tourism Minister John Brown was a member of the Commonwealth Parliament for 13 years.

John has been awarded the Olympic Silver Order of Merit and Australian Institute of Marketing Gold Medal. He was elected a Life Member of the Australian Institute of Sport and is a member of the President's Council of the Surf Lifesaving Association. He is also the Emeritus Chairman of Spinesafe and the Transport and Tourism Forum.

Born and bred in Concord in Sydney, John has five adult children and 11 grandchildren.



Sibylla Budd

Appointed August 2006

Sibylla Budd is one of the young and emerging stars of the acting profession in Australia. She grew up in Canberra and moved to Melbourne to study at the Victorian College of the Arts, where she graduated with a degree in Dramatic Art.

Since then, Sibylla has shot to prominence with her role in the Australian drama, *The Secret Life of Us*, although her acting experience extends far beyond the popular series. Her other television work has included roles in *The Farm*, *All Saints*, *Something In The Air*, and *Kath and Kim*. Most recently, Sibylla starred in the popular television series *Sea Patrol* and *Canal Road*.

Sibylla's film credits include *September*, *The Bank*, Anna Kokkinos' *The Book of Revelation* and *The Bet*. Sibylla has also been involved in numerous theatre projects.

Sibylla describes one of her most rewarding projects as a documentary she filmed with children from remote villages of Tanzania for World Vision Australia.



Joanna Cohen

Inaugural Member appointed 1997

Joanna Cohen is the editor of film reviewing website, Rotten Tomatoes and the Marketing Manager for three Fox Interactive Media websites.

For many years Joanna worked in marketing and communication at the University of Sydney and, reflecting her diverse talents, has also managed a Sydney rock band, run a small film festival and worked as a freelance writer.

Joanna has a Bachelor of Arts in Communications and a Master of Arts in English Literature.

Joanna has lived most of her life in the inner western suburbs of Sydney but spent some of her childhood in the central west of New South Wales, and has also lived and worked in London.



Barbara David

Appointed August 2008

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

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

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



Khoa Do

Appointed August 2006

Khoa Do was born in Vietnam and came to Australia as a refugee when he was two years old. Khoa began working in the performing arts in the late 1990s, developing and producing a number of shows and films. He is now a film director in his own right, having achieved significant success in his short career.

Khoa's most recent works include *Footy Legends* in 2006, starring Anh Do, Angus Sampson and Claudia Karvan). His first feature film, *The Finished People*, was a gritty and realistic story about at-risk adolescents on the edge of survival. The film won international acclaim and was nominated for an Australian Film Industry Award for Best Direction, and Film Critics Circle of Australia Awards for Best Film and Best Director. It won the Independent Film Independent Spirit Award in 2003.

Khoa has also worked as a volunteer with Open Family Australia at Cabramatta in Sydney, assisting at-risk youths. He was awarded Bankstown City's Young Citizen of the Year Award in 2002. Khoa was named Young Australian of the Year in 2005.

He is currently working on a theatre show called *Mother Fish* and a film called *Four Corners* which is set inside Australia's prison system.



Ann Drummond

Appointed August 2006

Ann Drummond was born in Scotland where she spent her early childhood years before her family migrated to Canada. Ann lived in Canada for 16 years before moving to Australia in 1975. She now lives in St Kilda in Melbourne. Ann has two grown step-children.

Ann has a degree in both theology and early childhood education. She is a retired Uniting Church minister but continues her involvement as a seminar leader, conducting 'Code of Ethics and Prevention of Sexual Misconduct' workshops for clergy of the Uniting Church's Synod of Victoria and Tasmania.

Ann has extensive experience in the fields of child education and children's services. She has managed government programs which delivered services to the community for maternal and child health, child care, youth development, and aged and community care.

Ann is an active member in many groups including YWCA Victoria, Victorian Women's Trust and Friends of the St Kilda Botanical Gardens.



Rachel Grant

Appointed August 2008

Rachel Grant grew up in Ballina, northern New South Wales, before moving to Brisbane to complete a Bachelor of Business Communications at the Queensland University of Technology.

Since graduating with a major in public relations in 1990, she has worked for a range of organisations including electricity distributor SEQEB/ENERGEX, financial advisory firm BDO Kendalls, State Government-owned ICT entity CITEC, and the Keep Australia Beautiful Council (Qld) Inc. In this last role Rachel was responsible for promoting the Tidy Towns program, Clean Beach Challenge and Green & Healthy Schools. Her current clients include the Outback Festival (Winton, Queensland) and cable manufacturer Olex.

Rachel has a keen interest in her local area and is committed to working to improve facilities and create a sense of community for her children. She is currently the Secretary of the Parents and Friends Committee at her son's primary school and a volunteer organiser of the school's social events. Rachel is also a member of the parent committee at Church St Kindergarten and Preschool.

Rachel lives in Ipswich with her husband and two young sons and is an avid reader when time permits



Thomas Keneally AO

Inaugural Member appointed 1997

Thomas Keneally is a best-selling, multi award-winning author, playwright, scriptwriter, English professor and holder of a number of honorary doctorates. Tom has written more than 20 novels including *The Chant of Jimmy Blacksmith* and *Schindler's Ark*.

He was the inaugural chairman of the Australian Republican Movement and is now a director of the organisation.

Tom spent his early years in country towns in northern New South Wales before moving to Sydney. He is married with two children and several grandchildren, and is widely-known as an obsessive rugby league fan.



Sophie Killen

Appointed August 2006

Sophie is undertaking a Master of Laws at the University of Melbourne and works as a policy analyst/researcher at the Australian Communications and Media Authority.

Previously Sophie worked as a research fellow at the Centre for Media and Communications Law at the University of Melbourne where she researched a paper on the control of cross-border tobacco advertising, promotion and sponsorship in a joint project with the VicHealth Centre for Tobacco Control. She has also worked as a judicial associate in the Federal Magistrates Court of Australia and as a casual academic in law and media studies at four universities.

For many years Sophie has been a singer in choirs including The Australian Voices, Canticum, The Melbourne Chorale and most recently, the Sydney Philharmonia choirs. In this capacity, Sophie has participated in a number of festivals, concerts and educational workshops with children living in metropolitan and regional Australia.

Born in Canberra, Sophie was raised in Brisbane, recently enjoyed three years in Melbourne and now lives in Sydney.



John Konrads

Appointed May 1998 –

retired September 2008

Olympic gold medallist and triple Commonwealth gold medallist, John Konrads, brings to the Board extensive experience in industry and sport.

He has contributed to the evolution of numerous consumer regulations and, as an executive for many years of a number of high profile Australian companies, has vast experience in marketing and advertising.

John's experience in sport administration has seen him play important roles in the success of the Formula One Grand Prix in Melbourne and the Motorcycle Grand Prix on Phillip Island.

He is now the Director of the Cook + Phillip Park Aquatic Centre in Sydney, and a board member of the Black Dog Institute.

John was born in Latvia and spent his youth living in Sydney. He has also lived and worked in Los Angeles, Paris and Melbourne, before returning to Sydney. He is married with three adult children.



John Lee

Appointed August 2006

John Lee has worked in senior roles in both the public and private sectors. He is currently the Director General of the NSW Department of Premier and Cabinet which oversees all activities of the NSW Government including policy formulation, major community initiatives and setting the agenda for public sector management.

John's previous roles include Director General of the NSW Department of Commerce, CEO of the NSW State Transit Authority, Director-General of Transport (NSW) and Head of Communications and Marketing at CityRail. He was a key member of the team that successfully delivered transport for the Sydney 2000 Olympic Games.

John has spent most of his life based in western Sydney where he has been involved in numerous community and charity projects. He is a current member of the Council for the Order of Australia and the Mary MacKillop Foundation.

John is married with a young family including two daughters and a son.



Catharine Lumby

Inaugural Member appointed 1997 – retired September 2008

Catharine Lumby is an Associate Professor of Media Studies at Sydney University and writes regularly for the Sydney Morning Herald and The Age opinion pages.

Catharine has recently authored a book with her partner, called *Why TV Is Good For Kids*, about the impact of television on the development of children. She has written widely on feminism, culture and the media, and is the author of the book, *Bad Girls: The Media, Sex and Feminism in the 90s*. Catharine is also a member of the Education and Welfare Committee of the National Rugby League.

Catharine is the mother of two boys. She was born in Newcastle and has worked in Adelaide and New York before settling in Sydney.



Janemaree Maher

Appointed August 2008

JaneMaree Maher is Director of the Centre for Women's Studies and Gender Research, in the School of Political and Social Inquiry, at Monash University in Melbourne. She has degrees in Law and Arts (Hons) from the University of Melbourne (1991) and gained her PhD in 1999 from La Trobe University.

JaneMaree's research focuses on birthing, pregnancy, women, family life and work. She is currently involved in research focused on how families manage working and caring. JaneMaree teaches media and popular culture studies, focusing on gender and power.

JaneMaree has experience as a board member in girls' education and recently participated in the Victorian Government Centenary of Suffrage Reference Group, celebrating women's right to vote.

She has three teenage daughters who share her passion for the Essendon Football Club.



Paul McCarthy

Appointed August 2006

Paul McCarthy grew up in Queensland before moving to Sydney to work for the Office of Film and Literature Classification in January 2003.

A career public servant, Paul has worked in human services policy development, arts policy, censorship policy and media regulation, and privacy and complaints handling. His work for Commonwealth, State and local governments has included consulting with industry and the community on a range of projects. While at the Office of Film and Literature he advised on the statutory framework for the application of community standards to films, computer games and publications.

Paul's first professional job was as a therapist in a child guidance clinic and he has been a member of the Speech Pathologists Board of Queensland.

Paul is a vegetarian with interests in spirituality, holistic health, fitness, individual rights and film.



Paula McNamara

Appointed August 2008

Paula was born in country Victoria and has lived in Sydney's Eastern suburbs since 1993.

Growing up with parents in the hospitality industry, she made her first coffee at 15 and has worked in a variety of restaurants and cafes in Melbourne, London and Sydney. Preferring to work in cafes Paula loves the sense of community and familiarity that builds up over time between the regular customers and staff. 'In a big city that can be quite anonymous, cafes can be a small haven.'

Paula is also involved in her daughter's school community and sports club, which keeps her involved in the community as well as busy while she isn't studying.

Paula is completing her Arts Degree at Sydney University, majoring in English Literature and has a strong interest in theatre, film and television. 'Time constraints have made television my main form of entertainment and I love documentaries, particularly stories about real people and the challenges life throws our way.'



Gary Rice

Appointed August 2008

Formerly Managing Director and CEO of Seven Network Limited, Gary Rice had a career of nearly 30 years in the television and radio industries.

Before taking on the role at Seven, he was Managing Director and CEO of the Australian Radio Network (formerly Wesgo Limited) and before that he was Managing Director and CEO of Network Ten. Gary was with the Nine Network for several years in both Sydney and Melbourne which culminated in him becoming Managing Director of the Network. He began his television career in Ballarat.

In a move away from television Gary became involved in the hospitality industry. He has had continued success with accommodation complexes in Mooloolaba on Queensland's Sunshine Coast, where his family-owned company, Oceans Queensland Pty Ltd is based.

Gary is also active in the tourism industry and is a judge for the Queensland Tourism Awards.

Gary has completed the Program for Management Development at Harvard Business School, is a Fellow of the Advertising Institute of Australia and an Associate of the Australian Marketing Institute.



Graham Rixon

Appointed August 2008

Graham Rixon is currently engaged in part-time educational consultancy work. He stepped down as Principal of Penrhos College, Perth, Western Australia at the end of 2007 – a position he held since September 1986.

Graham is a passionate educator and has worked on a number of state and national committees aiming to improve the quality of education in both government and non-government schools.

He regularly presents workshops, seminars and papers about middle schooling, technology in education and strategic planning at state, national and international conferences.

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



Natasha Stott Despoja

Appointed August 2008

Natasha Stott Despoja is a former Senator for South Australia (1995-2008) and former Leader of the Australian Democrats.

Natasha has made a significant contribution to a wide range of policy debates. She was a spokesperson on portfolios including foreign affairs, higher education, science and biotechnology, Attorney-General's, privacy, women, work and family.

Natasha is an Honorary Visiting Research Fellow at The University of Adelaide and does a regular radio spot on ABC Radio Adelaide and a fortnightly column for The Advertiser.

She is a Director of beyondblue and the Burnet Institute.

Natasha lives in Adelaide with husband Ian and their two children.



Dr Josephine Tiddy

Appointed August 2006

Josephine is the Managing Director and Principal Consultant of consultancy firm, JTCT, specialising in culture change, investigating and resolving complaints from consumers, and disputes in the workplace.

Dr Tiddy was Australia's longest-serving Commissioner for Equal Opportunity and Chief Executive of the Equal Opportunity Commission in South Australia for 16 years.

She was awarded a honorary doctorate by Flinders University in recognition of her national contribution to the field of administrative law, specifically discrimination law and social policy, conciliation of complaints and legislative reform.

Josephine has written widely on equality, fair treatment and discrimination.

Josephine lives in Adelaide where she is heavily involved in community organisations as well as being a serving member of numerous boards and committees.

Josephine enjoys life with her three married children and five grandchildren. She is also a keen participant in the arts, particularly theatre, as well as tennis and swimming.

**Emma Tom**

*Appointed May 2003 –
retired September 2008*

Emma Tom is a writer with five books to her credit, most recently *Bali: Paradise Lost?* which deals with Australia's on-again off-again relationship with Bali. Her first novel, *Deadset*, won the 1998 Commonwealth Writers' Prize for Asia and the South Pacific for Best First Novel. Her next book, *Attack of the Fifty Foot Hormones*, is a survival guide to pregnancy and will be published by HarperCollins in 2008.

Emma has worked in radio and television, including as a reporter on Channel Seven's *The Late Report*. In 2001, the Women's Electoral Lobby awarded Emma the Edna Ryan Humour Award for "using wit to promote women's interests". She has also received the Henry Lawson Award for Journalism, and currently writes a weekly newspaper column for *The Australian*.

Emma, who grew up in regional New South Wales, has recently given birth to her first child and is currently completing a PhD at the University of Sydney. She is also involved in community radio and plays in a band that has performed to raise money for a number of charities.

**Craig White**

Appointed August 2008

Craig is a Police Officer and is currently in charge of the Gladstone Police Station in Queensland.

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

In the past 18 years Craig has served throughout Queensland including 10 years working in remote communities in Far Northern and Central Western Queensland. During that time Craig was involved in implementing a number of publicly funded projects aimed at reducing substance abuse and domestic violence.

Craig is currently involved in a number of community organisations as well as being a serving member on numerous boards and committees.

Craig holds a Masters Degree in Business, Graduate Diploma in Human Resources and a Diploma in Public Safety (Policing).

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

**Helen Wicks**

Appointed 2006

Helen Wicks is a full-time mother of three children who has a long association with community organisations in professional and volunteer capacities.

Helen has been a member of the Australian Breastfeeding Association since 1998. In 2005, she qualified as a breastfeeding counsellor and now conducts information and discussion groups for new mothers as well as providing her expertise on the Helpline telephone advisory service.

Helen has been a member of Playgroup NSW since 1999, and will soon complete her second and final term as President. She is the first country-based member to serve as President and since becoming a member Helen has occupied several committee positions. She was elected to the board of Playgroup NSW as the Country zone representative in 2003 and in 2006 was elected to the position of Vice-President.

Helen also has an active role in the church and school communities in her hometown of Armidale, NSW.

The Board's view

Applying the Codes of Practice

When considering complaints about advertising, the Advertising Standards Board is bound by section 2 of the *Advertiser Code of Ethics* (Section 2). This code determines what issues the Board can look at when considering complaints. These issues fall broadly into eight categories:

- discrimination
- violence
- portrayal of sex, sexuality and nudity
- use of language
- health and safety
- advertising to children
- motor vehicle advertising
- food and beverage

Following amendments to the Children's Code, consequential amendments to the Code of Ethics were made during 2008, effective April 23 2008. The amendments to the Code were:

- The expansion of the definition of 'advertising' to capture 'marketing communications' so that direct-to-consumer marketing, such as product websites or sampling activity targeted primarily at children, are subject to the Code.

In 2008 the sex, sexuality and nudity category attracted the highest percentage of complaints (25.66 per cent) with discrimination and vilification only slightly lower (22.85 per cent). Violence followed the top two categories at 17.88 per cent. Another grouping which captures "other" legitimate issues attracted the fourth highest number of complaints in 2008 (15.88 per cent). There was then a drop to language complaints (7.26 per cent) and health and safety at 6.06 per cent. The Food and Beverage Code had the lowest percentage of complaints at 0.60 per cent and the Advertising to Children Code second lowest at 0.74 per cent. The FCAI Code received 3.08 per cent of all complaints.

Issues attracting complaint

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

The Issue of discrimination and vilification is a complex one in the law. The Board asked for the Bureau to provide advice or guidelines about the interpretation of legal standards for discrimination and vilification, and how they may differ from those in the Code. Research on this issue was commissioned towards the end of 2008 and will be released and form the basis of advisory guidelines in 2009.

In the meantime, section 2.1 is a broad category which includes discrimination or vilification on the basis of race, ethnicity, nationality, sex, disability and age. The percentage of complaints about the portrayal of people in a way which discriminates or vilifies fell slightly in 2008 (from 28.05 per cent in 2007 to 22.85 per cent).

One of the most talked about advertisements considered in this category was a series of Roads and Traffic Authority advertisement known as the "Pinkie" in which people are shown bending their pinkies to show their dislike of speeding. Complainants suggested the bent finger alluded to male genitals and in that way was an attempt to humiliate and discriminate. The Board considered that most people would take the sign to be consistent with the message that the driving behaviour shown was not "cool" or desirable and dismissed complaints.

Another series of advertisements which complainants considered were discriminatory were from Cadbury Schweppes for its Solo Strong product. A man was shown with a smaller man attached to him and the creative was based on the slogan "One and a half times the man". Complainants suggested the advertisements made

people of short stature appear inferior and harmed their acceptance in the community. While the Board agreed the depiction of the person of short stature was not necessarily negative, but shown as a valuable addition to the power of a tall person, it upheld complaints and the advertisement was modified. The Board agreed that the images combined with the slogan did suggest that a person of short stature was half a man and that this suggestion was not limited to height, but also suggested that a person of short stature was less of a person.

Violence

(Section 2.2, AANA Code of Ethics)

Section 2.2 of the Code is strictly worded – there can be no violence in advertising unless it is justifiable in the context of the product or service advertised. The advertising of very few products or services realistically justify the depiction of violence. However the Board applies this provision pragmatically, and considers the context of any perceived violence, whether the violence is ‘slapstick’, animated, shows realistic consequences etc. Included within this category are ‘graphic’ depictions of the consequences of violence or ‘graphic’ depictions of the consequences of matters such as smoking.

The percentage of complaints about violence issues in advertising rose to 17.88 per cent from its low in 2007 of 8.42 per cent. The percentage in 2005 was 17.38 per cent and 18.01 per cent in 2006.

One advertisement which the Board found was in breach of the code was from Coca Cola for its “Mother” drink. The television advertisement depicted a SWAT team crashing through windows into a laboratory, attacking the workers and destroying equipment. Complainants believed the violence depicted was unnecessary and promoted violence and aggression. The Board agreed that the violence depicted was gritty and realistic and noted the look of fear on the faces of those being attacked. The Board considered that in the context of the product being advertised the violence was unacceptable.

Complaints about a Wotif advertisement depicting a squid festival in a fictional town were considered under this section of the code. Competitors were shown bobbing for squid, with one man shown with a squid trapped between his teeth and black ink spraying on his face. Complainants suggested the advertisement showed blatant cruelty to animals and was morally repugnant and disturbing. The Board was strong in its view that the activity depicted was graphic and gratuitous and considered the images did not depict humane treatment of a squid. It upheld complaints, agreeing that although there was an intention to be humorous, the violence portrayed was not justifiable in the context of the advertisement.

Sex, sexuality and nudity

(Section 2.3, AANA Code of Ethics)

The portrayal of sex, sexuality and nudity continues to be a dominant issue in complaints about advertising. For the past two years it has been the most complained about category, with 25.66 per cent of complaints in 2008 and a high 37.91 per cent in 2007.

Outdoor advertising made up a sizeable proportion of complaints in this section. A billboard from the Advanced Medical Institute was considered again after continued high level complaints from the public. The Board upheld complaints and the advertiser removed the offending billboards among much media and community interest.

10 years of headlines

ADVERTISING BUREAU PUTS BRAKES ON VAN SLOGANS

22 July 2008 – Courier Mail

Another outdoor offering from SSL Australia for condoms depicted a man about to kiss the neck of a woman. The image tested people’s levels of acceptability. In dismissing complaints about this advertisement the Board noted that prevailing community standards support the promotion of condoms and considered that the reference to sex was implied and that condoms are legal products. The Board also determined that the language used was neither offensive or inappropriate.

Television advertising showing people engaged in sexual activity also came under some scrutiny.

An advertisement from Service Central for its carpet cleaning service was modified after the Board determined the original version contained images which breached the Code. The Board observed that a close up on the man's hand on the woman's breast was unsuitable for children to view. The Board also considered whether the advertisement portrayed sex or sexuality with sensitivity to the relevant audience and relevant program time zone noting that it had been shown during the correct program time zone, but had not taken into account the "exercise care" clause of the classification. The Board considered the rest of the advertisement and found it to be humorous and not inappropriate in its portrayal of sex and nudity. However on the basis of the scene involving the man's hand on the breast, the Board upheld the complaint.

Another advertisement considered under this section was from Virgin Money and depicted an older couple embracing and kissing passionately after working in the garden. The Board noted complainants' concerns that the advertisement was a crude representation of an older couple. The Board considered that the depiction of the couple disappearing behind the bushes was not offensive and since only their lower legs were visible that it was not an inappropriate depiction of sexual intercourse. The Board considered that the depiction of both the man and the woman was a respectful and appropriate portrayal of a long term relationship.

Language

(Section 2.5, AANA Code of Ethics)

Complaints about the language used in advertising made up 7.26 per cent of all complaints in 2008, which was up from a low of just 1.68 per cent in the previous year, but similar to the percentage in 2006 (7.55 per cent).

The word *Supercalafreakinawesome* used in a television advertisement by Domino's Pizza Australia resulted in a large number of complaints. The 'freakin' part of the word was offensive to many viewers who believed it was an obvious replacement for another word. The Board noted the over-the-top caricature of the childlike character *Many Toppings* was an obvious parody of Mary Poppins. It also noted that this theme continued with the use of the word *SuperCalaFreakinAwesome* and considered the word should be taken in its entirety and not broken into separate parts. The Board further considered that the word freaking in itself is not an obscenity and when it forms part of a larger word it cannot be considered as the substitute for a swear word or strong or obscene language.

Complaints against a campervan hire company, Wicked Campers, were received throughout 2008 about the language used on several of its vans. Complaints were about both the swear words used and the vulgarity of some of the slogans – some of which the Board determined overstepped the standards that the community would find acceptable.

The Advanced Medical Institute quickly took down a trial billboard after it received almost 50 complaints in an extremely short time for the use of the word 'bonk'. This billboard was withdrawn by the advertiser before it was considered by the Board.

10 years of headlines

BOARD RIGID: ADS GO UP AND DOWN

Jonathan Dart – 16 November 2008
– The Sydney Morning Herald

Health and safety

(Section 2.6, AANA Code of Ethics)

Complaints about health and safety issues in advertising dropped in 2008, down from 10.85 per cent in 2007 to 6.06 per cent.

A graphic and realistic campaign from WorkCover Victoria caused concern from the community about the repulsiveness and disturbing nature of the images on the outdoor advertising and the vision shown in the television advertisements. One advertisement shows a woman with severe burns, another shows a man with a blackened and swollen eye and the other a man with an amputated arm. In each case the Board considered that the image depicted was justifiable in the context of the service advertised and also that the advertisement sent an important public safety message to young people and their parents, encouraging them to speak up and ask their employers if they are unsure about how to do their job, thereby avoiding or minimising workplace injury.

Activities which seem innocent have also resulted in complaints from the community.

Ensuring that people riding scooters or bikes were wearing a helmet (the law in Australia) would have staved off complaints about a Qantas Australia internet advertisement and an Emirates Australia outdoor advertisement. Both advertisements were found to breach section 2.6 of the code simply because people were not wearing helmets.

An advertisement from IKEA also caused concern and was found in breach of the Code as it depicted a woman removing a light bulb from a lamp while the lamp is still switched on. The Board viewed the television advertisement and noted that the woman also placed the bulb into another light fitting. The second socket was also 'live' as the globe immediately lit up. The Board considered removing and replacing light globes when there is a live electricity current running through the socket to be a dangerous practice and upheld complaints.

"Other" issues

In the interests of the self-regulation system, matters that are raised that are not strictly within Section 2, but are unable to be referred to any other regulatory or self-regulatory body, are often considered by the Board so that complainants are not left without an entity to consider their complaints. This type of matter may include complaints about the content of an advertisement such as depictions of cruelty to animals, causing alarm and distress, discrimination on grounds of occupation, and environmental concern.

"Other" issues received the fourth highest number of complaints (15.88 per cent) in 2008. This category includes cases in which complainants have raised concerns about causing alarm and distress, environmental issues, the portrayal of people (occupation), and social values.

10 years of headlines

AD STANDARDS BUREAU A 'TOOTHLESS TIGER' ON SEX

*29 November 2000 – Natasha Bita –
The Australian*

A large number of complaints were received about a pamphlet from Tell the Truth Coalition and was considered under other issues as causing alarm and distress. The pamphlet dealt with abortion and used graphic photographs of aborted fetuses. In upholding complaints the Board agreed that the images were extremely graphic and had the potential to cause alarm and distress. It considered the images could impact negatively on the mental health of women who had experienced a miscarriage and that the content of the advertisement had the potential to affect the mental health of women who have had an abortion or women who are pregnant and not happy with their situation. The Board further noted the possibility that the images could be viewed by young people or children and that this would cause alarm and distress. The Board considered the advertiser's right to free speech, but considered on balance that the images depicted were contrary to prevailing community standards on health and safety.

Environmental issues were also taken up by concerned consumers. Complaints were received about two television advertisements – a policeman who kicks an empty can away rather than picking it up and putting it in a bin (an animated advertisement from Red Bull) and also about a man chopping down a tree (Lion Nathan). The Board believed the fantasy situation in the Red Bull advertisement was not a realistic or accurate portrayal of littering and dismissed complaints. It also considered that most community members would recognise the tongue-in-cheek nature of the Lion Nathan advertisement and would not regard the depiction as a serious attack on the environment.

The issue of theft was raised by some complainants in two television advertisements. One advertisement showed a woman wandering around an art gallery admiring shoes and then trying on a pair which are part of the display and walking away in them. Another advertisement depicts the 'lifecycle' of a pen as it is passed from user to user and eventually finds its way back to its original owner. In dismissing complaints in both cases the Board agreed that the advertisements were not advocating stealing and also did not consider the actions of the characters in the advertisements to be malicious.

Children

(Section 2.4, AANA Code of Ethics and AANA Code for Advertising and Marketing Communication to Children)

The AANA Code for advertising to Children was introduced in 2004. During 2008 it was amended (effective 1 July 2008). The major changes between the former AANA Advertising to Children Code and the Children's Advertising & Marketing Communications Code are as follows:

- The expansion of the definition of 'advertising' to capture 'marketing communications' so that direct-to-consumer marketing, such as product websites or sampling activity targeted primarily at children, are subject to the Code.
- A prohibition against the sexualisation of children or using sexual imagery in advertising/marketing communications to children that is contrary to prevailing community standards.
- The widening of the definition of 'alcohol' to capture all alcohol products or products that are associated in any way with alcohol.
- A prohibition against 'pester power'.
- A requirement that a commercial communication to children is distinguishable to them as such and is not confused with program or editorial content. This prohibition applies also when a popular personality is used to promote a product targeted at children.
- A prohibition against the placement of advertising/marketing communications targeted at children in media unsuitable for children.
- A prohibition against suggesting that a product targeted at children is affordable for all families.

- A requirement that the use of premiums does not promote irresponsible or excessive consumption of a product.
- A strengthening of the privacy provision to ensure parental knowledge and approval is granted before a child supplies personal information in response to advertising/marketing communications targeted at children.

10 years of headlines

UNHOLY ADS AXED

22 July 1999 – Australian Financial Review

During 2008 there were complaints about eight advertisements to children.

Of the eight advertisements considered under the Children's Code, one was upheld.

One television advertisement was upheld as it depicted children using water guns near electronic computer equipment in breach of section 2.2 (as it then was, now section 2.5) of the Children's Code.

In a number of other cases the threshold issue arose of whether or not the advertisement is within the jurisdiction of the Children's Code. To come within the Children's code the advertisement must be 'directed to children' and must be for 'product'. 'Product' is defined as 'goods/services and/or facilities which are targeted toward and have principal appeal to children.'

In two pizza advertisements the Board considered this issue. In 555/08 Dominos the Board considered that although the product may be attractive to children, it is a product for adults and the particular advertisements were directed to a primarily adult audience. By contrast 467/08 Tartarus Hell's Pizza, the print advertisements included images of children, referred to children and with images of Halloween, was likely to be attractive to children. In this case the Board considered that the provisions of the Children's Code would apply, although it ultimately determined that there was no breach of the Children's Code.

During the year two advertisements were considered on the basis that they included cross promotions with children's movies or toys.

In 297/08 Hungry Jack's the Board considered that the advertisement for the children's meal clearly depicted the content of the meal and did not create any misleading impression of the product. In 31/08 Nesquik the Board considered the depiction of the product in association with promotional material related to a movie. The Board noted:

"The advertisement did separate the body of the advertisement and the last part of the advertisement related to the Golden Compass. While the two parts of the advertisement were shown together the Board considered that the advertisement:

- did not create a false or misleading impression in the minds of children about the nature or content of the product;

- did not create a false or misleading impression in the minds of children that the product advertised is the premium rather than the product, and
- the advertisement did make clear the terms of the offer.

On this basis the Board determined that the advertisement did not breach Section 2.8 of the Children's Code. The Board noted that were the last ten seconds of the advertisement shown on its own it may have made a different determination.

In one advertisement the Board considered whether an advertisement to children presented sexualised images. In 25/08 Target Australia the Board considered the depiction of a Barbie and commented that:

"The Board considered the section featuring the Barbie dolls was a very small part of the advertisement. The Board considered that the actions of the cheer leading Barbie doll were not sexualised and noted that the doll was fully clothed in sports gear. The Board also noted that the music accompanying the doll's cheer leading routine was that which is normally associated with cheer leading and at best it could be considered raunchy but was not sexy or reminiscent of a strip show as asserted by the complainant."

Food and Beverages

(Section 2.8, AANA Code of Ethics and AANA Food and Beverages Advertising and Marketing Communications Code)

Following amendments to the Children's Code, consequential amendments to the Food Code were made during 2008. The amendment to the Food Code was:

- The expansion of the definition of 'advertising' to capture 'marketing communications' so that direct-to-consumer marketing, such as product websites or sampling activity targeted primarily at children, are subject to the Code.

This amendment was effective from April 23, 2008.

During 2008 there were complaints about 13 advertisements for food and beverages that raised issues under the AANA Food and Beverages Code.

Key issues complained about concerned the use of cross promotional material in advertisements.

10 years of headlines

CLAMP ON ADS THAT MAKE OUR KIDS ACT LIKE FOOLS

28 March 2004 – Sunday Mail (QLD)

HIP but dangerous advertisements are being pulled from television as more young people are hurt

In 31/08 Nesquik the Board determined made several comments about the interpretation of the Code:

"The Board considered the provisions of the Food Code and noted that there is no prohibition on advertising any particular type of food to young children – only requirements about the accurate representation of the nutritional profile of such products if there is any reference to the nutritional profile of the food. There is therefore no provision which would prevent an advertiser marketing a particular product to children. The Board also noted that the advertisement does not suggest or state that the product is of any particular nutritional profile – suggesting only that it is a product that children will like to eat. The Board considered that this statement does not contain any material that is prohibited by the Food Code."

The Board then considered the advertisement's reference to the Golden Compass movie and the collectible toys that can be obtained with purchase of this product.

The Board considered Section 3.7 of the Food Code which provides:

'Advertising and/or marketing communications directed towards children for food and/or beverage products or services shall not feature ingredients or premiums that are not an integral element of the product/s or service/s being provided.'

The Board also noted the Practice Note to Section 3.7 of the Food Code which states (in part):

...‘in testing whether or not an advertisement or marketing communication features ingredients or premiums that are not an integral part of the product or service, the Board will consider whether the ingredient or premium is given undue prominence by way of being made the dominant feature or otherwise occupies more than half of the advertisement...the Board will consider whether the advertisement...features inclusions in a manner that accords them undue prominence in relation to the product being promoted, taking account of the fact that it is not the intent of this clause to prohibit legitimate promotion of special offers, but rather to impose a reasonable limit, based on the Board’s representation of prevailing community standards, on the extent to which an average child within the target audience might regard the advertisement...being for a featured ingredient or premium rather than the product itself.’

The Board considered that the Golden Compass ‘toy’ was not an integral part of the Nesquik cereal – as a result it is therefore important that the references to the ‘toy’ are not made the dominant feature of the advertisement and cannot occupy more than half of the advertisement. The Board noted that the references to the toy come at the end of the main advertisement. It was clear that the toy references comprised less than half of the advertisement in total.

The Board also considered that the primary part of the advertisement which depicted the children attempting to gain access to the cereal was a complex and self-contained advertisement which did not incorporate any references to the toy. The Board considered that the references to the toy were not the dominant feature of the advertisement and did not breach Section 3.7 of the Code. On this basis the Board determined that the advertisement did not breach the Food Code.

By contrast, in 73/08 Hungry Jack’s the toy component of the children’s meal is an integral part of the product and the premium provision of the Code does not apply. In such instances the Board must consider whether the advertisement accurately and clearly depicts the product advertised and in this case the Board found no breach of the Food Code.

Complaints that an advertisement undermined a balanced diet and undermined a healthy lifestyle were considered in 298/08 Patties Foods Four’n Twenty – Salad Plate. In this matter the Board considered that this advertisement, directed to an adult audience, ‘contained tongue-in-cheek humour and it would not encourage people to make unhealthy dietary choices.’

10 years of headlines

BLOKES POINT THE FINGER AT RTA

*By Linda Silmalis – 5 August 2007 –
The Daily Telegraph*

AN RTA road safety campaign that suggests car hoons have small penises has unleashed a flood of complaints to the advertising standards bureau – from blokes.

The Board also considered complaints about inaccurate or incomplete nutritional information in an advertisement. In 446/08 and 471/08 both for Ferrero Australia Pty Ltd Nutella, the Board considered that: *“the advertisement was careful not to state that the product is a ‘healthy product’, rather the product was depicted as part of a balanced breakfast. The Board also noted that the advertisement depicts the child being very active. The Board considered that the representation of the product in the advertisement was as part of a balanced diet and in the context of an active lifestyle. The Board noted that the advertisement does not mention the sugar or saturated fat content of the product, but that the F&B Code does not require that all ingredients of a product are described in an advertisement.”*

The Board also considered complaints that a number of beverage advertisements were misleading and deceptive. These advertisements produced by Coca-Cola and the NSW Health Department were found not to breach the Food Code.

Cars

(Section 2.7, AANA Code of Ethics and Federal Chamber of Automotive Industries Code of Practice for Advertising of Motor Vehicles)

Under the advertising self-regulation system the community can raise concerns about the driving shown in advertisements for vehicles as well as non-safety related issues in vehicle advertisements (eg. issues related to sex, violence etc).

During 2008 there were complaints about 19 car advertisements which raised issues related to the FCAI Code.

Issues complained about:

- driving practices (3)
- unsafe driving – (6)
- excessive speed – (5)
- association with racing cars – (2)
- depiction of off-road vehicles – on beaches and bush, environmental damage (3)

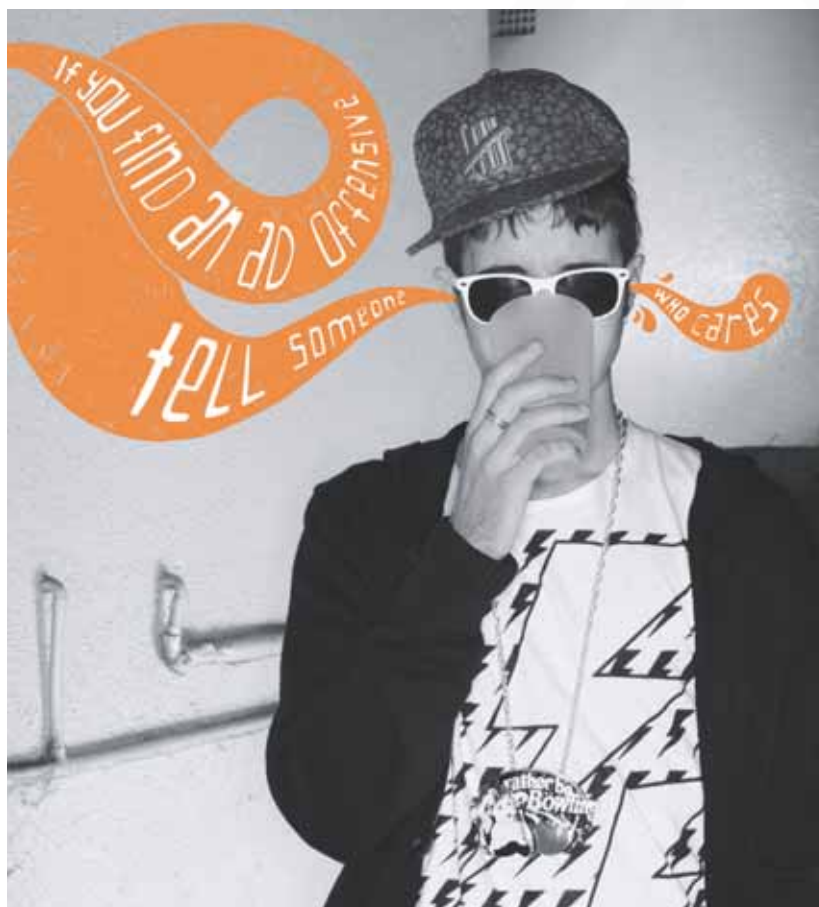
Of the advertisements considered under the FCAI Code, complaints were upheld in relation to three and dismissed in relation to 15. One advertisement was voluntarily withdrawn and modified by the advertiser prior to its consideration by the Board.

All three upheld cases were on the basis that the advertisement suggested excessive speed. One of these advertisements was an internet advertisement, another a print advertisement and the third a television advertisement. The print advertisement attracted a relatively high number of complaints and the text included references to 'hammer the straight' and 'scream through the corner' which the Board considered to be references to unsafe driving and excessive speed.

One advertisement for a Mitsubishi Pajero was considered by the Board on the basis of complaints that the advertisement depicted unsafe driving. The Board dismissed the complaints. One of the complainants to this advertisement availed themselves of the Independent Review process and asked for review of the decision. In the course of her review, Ms O'Connor stated that "reliance on the explanatory material as a breach of the Code was to misuse it" and also considered that the driving of all of the vehicles in the advertisement should be considered, not just the driving of the vehicle being advertised. The Board reconsidered the advertisement and again dismissed complaints against the advertisement.

The role of explanatory notes was commented on by the Independent Reviewer. In her view the correct interpretation of the Code is that the explanatory notes cannot be used to justify a breach of the Code. This means that the Board must look at whether the depictions in an advertisement meet the terms of the substantive provisions of the Code.

In agreement with the FCAI, complaints received by ASB about an advertisement which depicts a vehicle driving without number plates or where the vehicle is depicted driving on the right hand side of the road (because it is overseas footage) are not progressed to the Board as these are matters that are not safety related.



The Advertising Claims Board

The Advertising Claims Board is one of the ASB's two Boards. The ACB is a purpose-built alternative to expensive litigation. It is a system of alternative dispute resolution directed to addressing and resolving challenges to advertising that might otherwise lead to litigation.

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

This includes complaints about:

- the legality of an advertisement
- misleading or deceptive advertisements
- advertisements which contain misrepresentations likely to harm your business
- 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 the receipt of final submissions from the complainant and advertiser complained about)
- the process is less costly than litigation, with the only cost being fees for the members sitting on the Claims Board panel and legal and administration fees of the ASB
- the parties have the option of proceeding to usual dispute resolution procedures if desired.

Complaints received by the Claims Board are considered by a panel of qualified legal advisors. A panel consists of a minimum of three practitioners nominated by the ASB from its Register of Legal Practitioners. The practitioners on this register have certified to the ASB that they have experience and expertise in the area of advertising and/or trade practices law and that they hold a current practicing certificate. They must also certify that they have no conflict of interest in the particular matter.

10 years of headlines

STANDARDS BUREAU CHECKS ITS PULSE TO SILENCE CRITICS

Neil Shoebridge – 3 December 2007 – Australian Financial Review

Tired of criticism that it was out of step with community standards and attitudes, the Advertising Standards Bureau has taken the unusual step of conducting research to determine if its recent rulings... were off the mark.

Usage of the Claims Board by industry is quite low. Since 1998 there have been nine cases considered by the Board. The cost of the Claims Board process is relatively inexpensive compared with litigation – a ballpark cost of a claims Board matter is in the vicinity of \$25,000. Claims Board matters are also faster to resolve than litigation – with the average matter taking about 10 weeks from receipt of complaint to determination of the Board.

Despite the relatively low use of the Claims Board, the Bureau will continue to work to raise the profile of the Claims Board and ensure that advertisers are aware that this unique form of alternative dispute resolution is available.

During 2008 the Claims Board considered one matter.

PepsiCo Australia holdings Pty Limited v Frucor Beverages (Australia) Pty Limited

This complaint was about a television commercial, outdoor advertising, advertising at an indoor gym and a print advertisement for Mizone Rapid sports drink.

The complainant alleged that the claim made in the advertisement contained false representations and misleadingly implied the rehydration benefits of the drink over other similar drinks.

The advertisements state that the hypotonic formula used in the drink is scientifically proven to rehydrate people faster than other products.

The Claims Board's deliberations were in deciding whether the evidence provided by the complainant established, on the balance of probabilities, that the representations made by the advertiser were false or misleading, or were likely to mislead members of the public.

10 years of headlines

TONGUE LASHING FOR AD

12 June 2003 – MX Melbourne

Viewers offended a tongue that leaves a sleeping man's mouth late at night to hunt for beer is the latest TV advertisement to offend viewers.

In determining whether the claims made by the advertiser contravened sections 1.1, 1.2 and 1.3 of the Australian Association of National Advertisers Code of Ethics, the Claims Board considered 13 studies provided by the advertiser and two studies provided by the complainant. These studies looked at the absorption of isotonic, hypotonic and hypertonic solutions.

10 years of headlines

VIEWERS DAMN THE BEAVER AD

Saffron Howden – 12 March 2008 – Daily Telegraph

The Claims Board determined that the advertiser provided a sufficient body of credible evidence (which was not directly contradicted by other credible scientific evidence presented). According to the Claims Board the evidence substantiated the claim that hypotonic sports drinks rehydrate a person faster than isotonic sports drinks, which, while Mizone Rapid is the only hypotonic sports drink available in Australia, supports the representation that the advertiser made in its advertising.

X

10 years | 1998–2008

The most complained about advertisements in each year from 1998 to 2008

1998 65/98 – Smith’s Snackfood – Twisties – “Club Me” & “Up to your elbows”

Grounds for complaint: section 2.6 – Health and safety

Board determination: Dismissed

Number of complaints: 105+

1999 94/99 – Lion Nathan – Tooheys New – “Two men outside a country pub” – another man in confessional talking to priest

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 130+

2000 338/00 – LG Electronics – Jet Cooling Air Conditioner – young boys watching woman undress through window – she puts on airconditioner which fogs up windows

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 165+

2001 306/01 – Foster’s – Continental Spirits – Case Cougar Bourbon – Five Cougars – man forgets order after seeing barmaid.

Grounds for complaint: section 2.1 – Discrimination or vilification – Religion

Board determination: Dismissed

Number of complaints: 40+

2002 259/02 – Levi Strauss (Aust) Pty Ltd – Women kissing in toilet – various composite images of same girl (Chloe) – “different fits for you”.

Grounds for complaint: section 2.1 – Discrimination or vilification – Religion

Board determination – Dismissed

Number of complaints: 165+

2003 198/03 – Lion Nathan Aust Pty Ltd (TV) – Tooheys Extra Dry (TV) – Quest- tongue goes in search of beer.

Grounds for complaint: section 2.6 – Health and safety

Board determination: Dismissed

Number of complaints: 165+

2004 118/04 – Lion Nathan Aust Pty Ltd (TV) – Tooheys New – golfers clubbing cane toads over NSW border

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Withdrawn/discontinued before Board meeting

Number of complaints: 205+

2005 284/05 – Advanced Medical Institute (TV) – Sniff n Stiff – two men in tuxedos standing behind grand piano – they drop pants and undies and start playing the piano with their penises.

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 195+

2006 410/06 – Stuart Alexander & Co Pty Ltd (TV) – Mentos Ice Chewing Gum – man’s nipples get longer as he eats Mentos as he walks around town

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 280+

2007 156/07 – Nando’s Australia Pty Ltd (TV) – woman in business suit describes how she can’t afford to have cravings at work. She is then seen pole-dancing and wearing a g-string in a club.

Grounds for complaint: section 2.1 – Discrimination or vilification Gender

Board determination: Dismissed

Number of complaints: 355+

2008 95/08 – Kimberly-Clark Aust Pty Ltd (TV) – Kotex U – beaver accompanies young woman on daily activities “You only have one of them, so look after it”

Grounds for complaint: section 2.1 – Discrimination or vilification – Gender

Board determination: Dismissed

Number of complaints: 185+

Advertising complaints statistics

The total number of complaints received in 2008 by the Advertising Standards Bureau has dropped to 2,422 from 4,001 in 2006. This drop (also seen in 2007 when we received 2,590 complaints) is largely due to the marked decrease in complaints received about issues outside our charter.

The number of complaints outside the ASB charter fell to just 99. This decrease is attributed to the continuing success of our online complaints system. It advises potential complainants about issues we deal with and also provides information about other agencies which can assist if the complainants concern is outside our charter.

In 2006 we received 1169 complaints outside our charter which is also a significant drop from the 565 complaints outside the charter received in 2007.

Although there were slightly fewer complaints made in 2008 than in 2007, a record number of advertisements (547) were complained about. This can be attributed to a heightened level of awareness of the place to complain brought about by the new "Tell someone who cares" public awareness campaign.

Number of advertisements considered and outcome of complaints

In 2008, the Board considered 2,264 complaints against 535 advertisements. Complaints from 1,818 people against 475 ads were dismissed.

The number of complaints upheld in 2008 was the highest recorded in the ten years of operation of the complaints system, with complaints against 60 advertisements upheld. The number of advertisements found to breach the Code equates to about 11 per cent of all advertisements considered during 2008.

On receiving advice that there had been a complaint 12 advertisers withdrew their advertisement before the Board determination.

Of the 547 advertisements dealt with during the year, 26 advertisements received more than 20 complaints. Of these advertisements, complaints against eight were upheld by the Board and one was withdrawn before being considered by the Board.

If complaints about advertisements were upheld by the Board, 100 per cent were removed from broadcast or publication. The 100 per cent compliance with Board decisions demonstrates the advertising industry's continuing support and understanding of its obligations and responsibilities of adherence to the AANA Code of Ethics and to the system of advertising self-regulation.

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
OUTCOME OF COMPLAINTS (No., by Complaint)											
Dismissed	927	1553	1971	1291	1191	1770	1349	1753	2648	1730	1818
Upheld	73	111	162	47	11	23	55	94	164	280	446
Withdrawn before board determination	0	0	0	0	16	113	236	139	20	15	59
Outside Charter	382	401	425	367	354	714	656	957	1169	565	99
TOTAL	1,382	2,065	2,558	1,705	1,572	2,620	2,296	2,943	4,001	2,590	2,422
BOARD DETERMINATIONS (No., by Advertisement)											
Withdrawn before board determination	0	0	0	0	6	5	20	33	13	5	12
Upheld	5	11	8	6	3	4	8	14	28	36	60
Dismissed	262	434	384	363	291	401	337	344	488	405	475
TOTAL	267	445	392	369	300	410	365	391	529	446	547
AGE RANGE OF COMPLAINTS (%)											
< 19											2.42%
19 – 29											15.25%
30 – 39											23.70%
40 – 54											30.34%
55 – 65											10.93%
> 65											3.35%
Unspecified											14.01%
GEOGRAPHIC SOURCE OF COMPLAINTS (%)											
NSW	42.20%	39.10%	34.98%	32.94%	31.71%	37.73%	38.20%	32.68%	36.77%	35.63%	34.69%
VIC	13.70%	13.60%	23.92%	23.62%	25.61%	24.75%	22.17%	21.19%	22.59%	20.18%	23.22%
QLD	19.60%	20.20%	19.71%	16.47%	18.74%	15.86%	16.16%	24.60%	17.01%	19.79%	20.98%
SA	11.20%	10.30%	7.87%	9.20%	7.77%	7.22%	7.10%	8.54%	10.08%	9.80%	9.05%
WA	6.70%	11.80%	7.95%	12.43%	10.53%	7.68%	8.84%	7.98%	7.84%	9.80%	7.03%
ACT	2.90%	2.80%	2.38%	2.23%	2.95%	4.40%	4.75%	2.47%	2.58%	2.50%	2.80%
TAS	2.20%	1.70%	2.06%	2.17%	2.25%	1.52%	1.92%	1.84%	2.31%	1.54%	1.52%
NT	1.50%	0.50%	1.09%	0.94%	0.39%	0.84%	0.83%	0.60%	0.84%	0.77%	0.71%
Abroad	0.00%	0.00%	0.04%	0.00%	0.06%	0.00%	0.04%	0.10%	0.00%	0.00%	0.00%
GENDER OF COMPLAINANTS (%)											
Couple	0.00%	0.00%	6.35%	4.87%	3.59%	2.30%	2.61%	2.10%	1.35%	0.92%	0.50%
Unspecified	13.40%	15.20%	7.56%	6.86%	4.55%	2.83%	2.70%	2.13%	1.45%	1.08%	1.86%
Male	23.20%	21.80%	25.24%	28.66%	34.76%	32.37%	37.63%	38.08%	36.75%	32.67%	35.40%
Female	63.40%	63.00%	60.85%	59.61%	57.11%	62.50%	57.06%	57.69%	60.45%	65.33%	62.24%
METHOD OF COMPLAINT (%)											
E-mail				10.42%	47.46%	60.44%	69.95%	73.08%	82.71%	84.05%	87.07%
Post				86.83%	43.32%	32.65%	25.96%	22.36%	14.47%	13.87%	10.22%
Fax				2.75%	9.22%	6.91%	4.09%	4.56%	2.82%	2.08%	2.71%

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
REASON COMPLAINTS FELL OUTSIDE CHARTER (No.)											
Within Section 1 – Misleading or deceptive								121	186	45	20
Within Section 1 – Legality								1	11	6	1
Within Section 1 – Compliance with law								15	4	0	1
Within Section 1 – Business practices								6	6	1	0
Within Section 1 – Misrepresentation								1	6	1	0
Within Section 1 – Misleading claim about Australian country of origin/content								0	5	1	0
Within Section 1 – Harm to business								0	1	0	0
Within Section 1 – Tobacco								3	8	0	0
Not an advertisement – Product or service								29	92	58	14
Not an advertisement – TV and radio promotional material								144	186	28	6
Not an advertisement – Program content or programming								73	126	13	6
Not an advertisement – Other								21	48	44	4
Not an advertisement – Community service announcements								35	61	15	3
Not an advertisement – Point of sale								27	29	28	1
Not an advertisement – Local advertising								30	14	21	1
Not an advertisement – Loudness of ads								71	12	11	1
Not an advertisement – Product name or logo								5	5	0	1
Not an advertisement – Internet								30	39	11	0
Not an advertisement – Direct mail								19	11	3	0
Not an advertisement – Direct distribution to an individual								11	5	1	0
Not an advertisement – Label directions								2	5	1	0
Not an advertisement – Informercial								1	1	0	0
Outside Section 2 – Broadcast timing								104	118	60	12
Outside Section 2 – Other								108	70	89	11
Outside Section 2 – Dislike of advertising								30	25	19	6
Outside Section 2 – Phone sex								0	1	0	1
Outside Section 2 – Political advertising								10	11	26	0
Other – Other								37	38	31	4
Other – Insufficient information								13	0	0	4
Other – Insufficient information								0	34	23	0
Other – Trivial complaint								4	6	16	0
Specific industry code – Alcoholic Beverages code								3	2	12	2
Specific industry code – Therapeutic Goods code								1	1	1	0
Specific industry code – Weight Management code								2	2	0	0
Withdrawn/Discontinued – Other								13	43	12	1
TOTAL								957	1169	565	99

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
MEDIA ATTRACTING COMPLAINT (%)											
TV	84.10%	71.70%	71.87%	66.44%	58.22%	80.59%	85.33%	84.81%	85.81%	75.10%	70.96%
Outdoor	1.90%	11.70%	18.66%	14.01%	29.77%	9.23%	6.28%	6.67%	3.67%	12.80%	13.43%
Print	10.70%	11.80%	7.41%	13.58%	8.80%	4.48%	5.47%	4.76%	3.85%	4.08%	5.12%
Transport	0.00%	0.00%	0.00%	0.09%	0.41%	0.63%	0.62%	0.45%	1.73%	1.62%	4.09%
Radio	2.00%	3.60%	1.22%	1.38%	2.06%	1.69%	1.74%	2.11%	4.10%	2.36%	2.32%
Pay TV	0.00%	0.00%	0.05%	0.00%	0.16%	0.00%	0.00%	0.25%	0.18%	0.44%	1.64%
Internet	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.25%	1.13%	1.03%
Other	0.70%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.95%
Cinema	0.60%	1.20%	0.33%	0.35%	0.16%	0.43%	0.50%	0.60%	0.42%	2.46%	0.47%
Multiple Media	0.00%	0.00%	0.46%	4.15%	0.41%	2.95%	0.06%	0.35%	0.00%	0.00%	0.00%
ISSUES ATTRACTING COMPLAINT (%)											
AANA Section 2.3 – Sex, sexuality and nudity								26.49%	22.23%	37.91%	25.66%
AANA Section 2.1 – Discrimination or vilification								27.13%	23.25%	28.05%	22.85%
AANA Section 2.2 – Violence								17.38%	18.01%	8.42%	17.88%
Other								14.59%	14.69%	4.86%	15.88%
AANA Section 2.5 – Language								4.36%	7.55%	1.68%	7.26%
AANA Section 2.6 – Health and Safety								6.46%	9.70%	10.85%	6.06%
AANA Section 2.7 / FCAI Code								3.38%	1.84%	4.91%	3.08%
AANA Section 2.4 / Advertising to Children Code								0.20%	2.73%	2.95%	0.74%
Food and Beverage Code								0.00%	0.00%	0.37%	0.60%
PRODUCT CATEGORY ATTRACTING COMPLAINT (%)											
Food and Beverages								20.85%	28.14%	33.25%	20.83%
Community Awareness								8.02%	12.29%	3.39%	15.36%
Toiletries								5.26%	2.86%	2.94%	11.40%
Professional services								2.56%	5.61%	10.77%	11.06%
Alcohol								7.07%	3.14%	2.44%	6.20%
Mobile Phone/SMS								0.00%	2.44%	2.04%	5.38%
Vehicles								15.19%	8.37%	9.92%	3.96%
Other								6.67%	5.30%	3.94%	5.68%
Clothing								6.22%	4.31%	2.24%	3.23%
Telecommunications								4.51%	2.40%	2.24%	3.23%
House goods/services								11.18%	2.15%	6.03%	2.71%
Finance/Investment								2.81%	1.80%	1.30%	2.37%
Travel								1.85%	1.09%	0.15%	1.98%
Media								0.00%	2.22%	2.84%	1.81%
Insurance								0.00%	2.97%	2.44%	1.72%
Restaurants								2.91%	1.17%	5.78%	1.64%
Retail								0.00%	1.17%	1.65%	1.46%
Entertainment								0.00%	2.90%	3.09%	0.00%
Health Products								3.46%	7.94%	1.40%	0.00%
Leisure & Sport								1.45%	1.73%	2.14%	0.00%

What age are complainants?

The highest percentage of complainants are in the 40 to 54 year old age group accounting for just over 30 per cent of all complaints received. The age grouping from 30 to 39 account for just under 24 per cent of complaints, with the lowest number of complaints from people under 19 years of age.

10 years of headlines

ASB BITES BACK

27 April 2001 – *AdNews*

The Advertising Standards Board has upheld public complaints about the early evening screening of a jeans ad, forcing the company to agree to only air the commercial after 8.30pm.

Who is complaining?

In 2008 the percentage of males represented among complainants increased by almost three per cent to 35.4 per cent from 32.7 per cent in 2007. Interestingly, the number of complaints by females decreased by just over three per cent from the previous year.

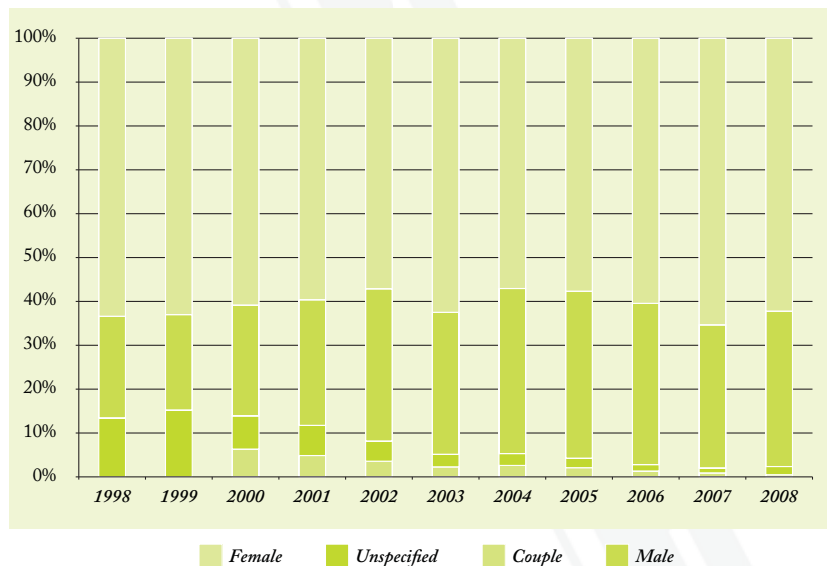
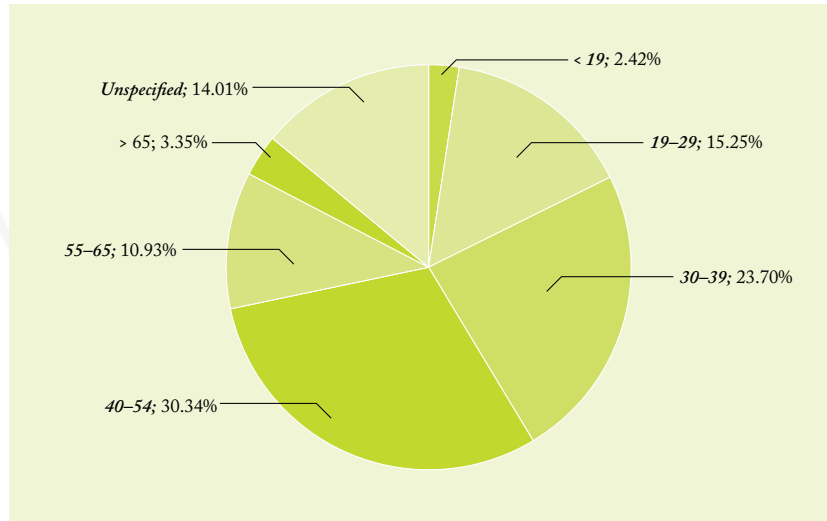
The figures continue to show a trend in the gender of complainants.

10 years of headlines

NEW CODE TO STOP ZOOM-ZOOM ADS IN THEIR TRACKS

11 April 2002 – *Toby Hagon – The Age*

Car advertisements will have to comply with a new code after repeated criticism of the automotive industry over promotions depicting speed and irresponsible driving.



What do people complain about?

The portrayal of sex, sexuality and nudity continues to be the dominant issue raised by complainants. About 25 per cent of all complaints made raised this issue, with the issue of discrimination and vilification closely following in the proportion of complaints. Together these two issues comprise about 48.5 per cent of all complaints made in 2008.

Four advertisements considered under the sex, sexuality and nudity category received about 700 complaints of the total number of complaints received in 2008.

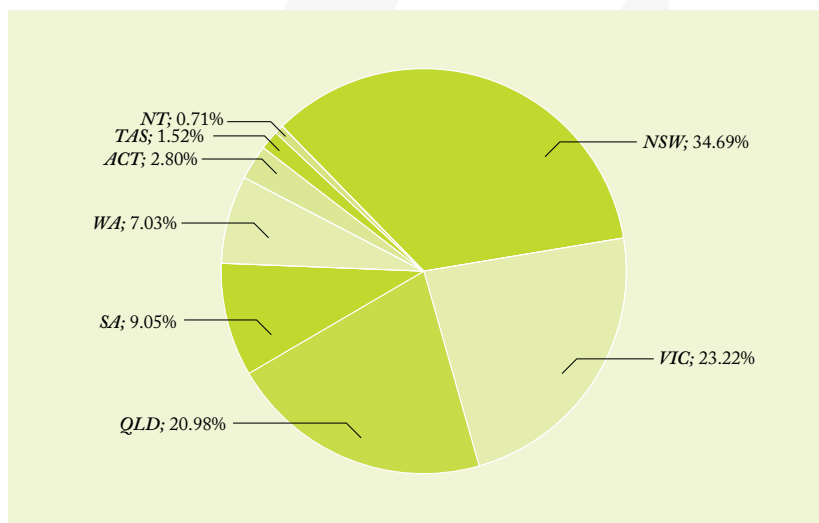
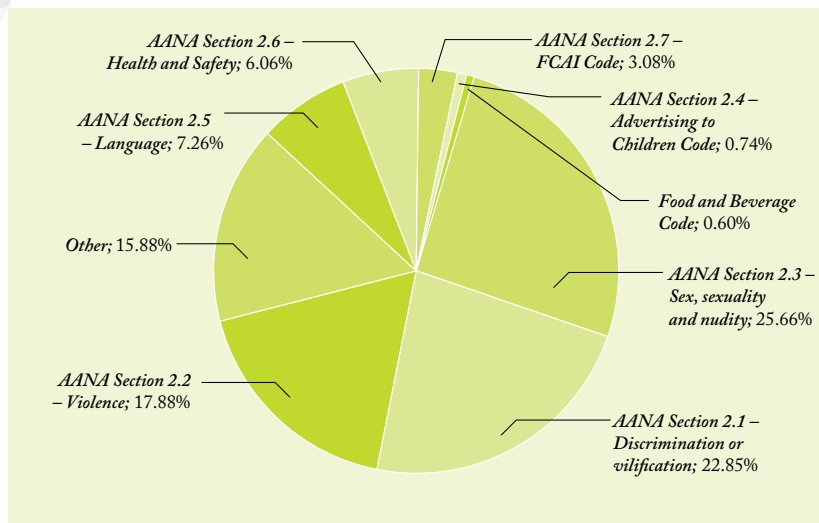
In 2008 the proportion of complaints about violence in advertising increased by almost 10 per cent from 2007, but is at similar levels to the previous two years.

Where are complaints coming from?

In terms of complainant demographics, once again complaints were generally spread out nationally in proportion to each state's population. As the most populous state, New South Wales topped the percentage of complaints received with 34.69 per cent (a drop of about one percent from 2007).

Queensland and Victoria had a similar percentage of complaints, although the overall percentage of complaints from Victoria rose by more than three per cent (from 20.18 per cent in 2007 to 23.22 per cent in 2008).

Complaints received from South Australia and Western Australia equated to 16.08 per cent of the total. The combined percentage of complaints from Tasmania (1.52 per cent) and the Northern Territory (0.71 per cent) was only slightly lower than the Australian Capital Territory (2.8 per cent).



Which products attract the most complaints?

Food and beverage advertisements continued to be the most-complained about product category in 2008, being the subject of one-fifth of all complaints.

Advertisements for both toiletries and community issues received high levels of complaint, while complaints about vehicle advertisements dropped by almost six per cent.

Community awareness advertisements received a much higher level of complaint during 2008, up from 3.39 per cent in 2007 to 15.36 per cent in 2008. An anti-smoking campaign from Quit Victoria boosted this percentage with one advertisement receiving more than 100 complaints.

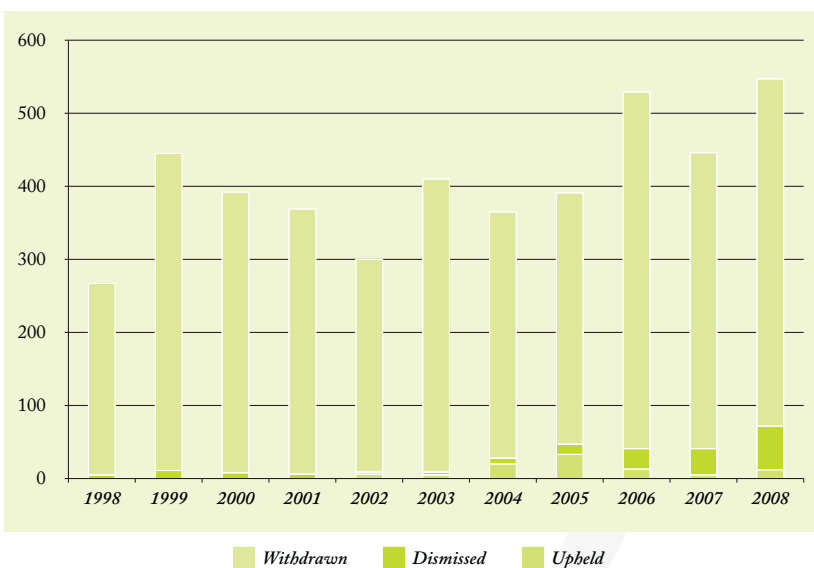
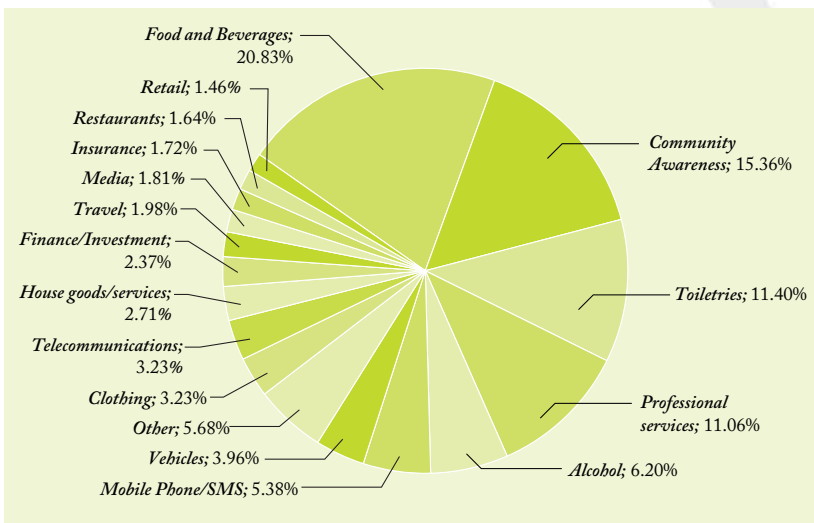
Complaints about advertisements for toiletries bounced from just 2.94 per cent in 2007 to 11.40 per cent in 2008 with one advertisement from Kotex receiving almost 200 complaints.

Method of complaint

The number of people choosing to lodge their complaints through the online complaints system continues to rise. In 2008, 87.07 per cent of complaints were lodged electronically which is an increase from 84.05 per cent received in 2007.

The ASB has invested significantly in creating a quick and easy-to-follow complaint lodgement process on its website to reflect increasing internet access throughout Australia.

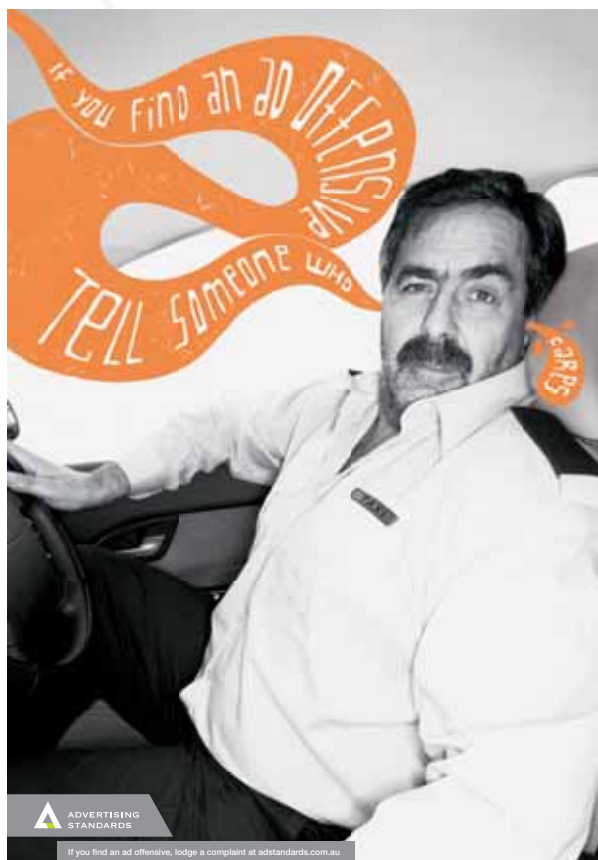
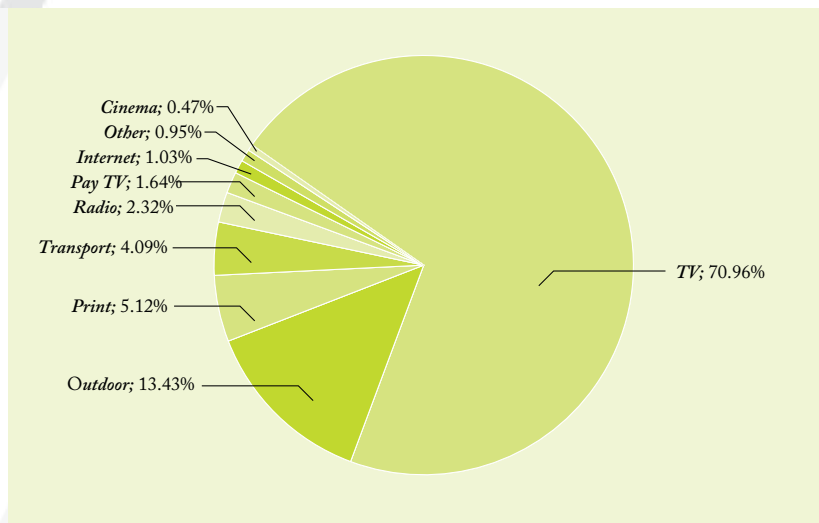
Complaints will continue to be accepted by post (10.22 per cent in 2008) and fax (2.71 per cent).



Media attracting complaint

As with previous years, the majority of complaints (70.96 per cent) relate to advertisements shown on television, although this is down five per cent on the previous year. Outdoor media complaints continued to increase with 13.43 per cent of all complaints (up from 12.80 per cent in 2007 and 3.67 per cent in 2006). A large percentage of complaints about outdoor advertising were in relation to several Advanced Medical Institute billboards.

Complaints about print advertising (5.12 per cent) and transport advertising (4.09 per cent) were slightly higher than the remainder of complaints which were evenly spread among radio, cinema, transport, internet and Pay TV.



Top 10 2008

10 Most Complained-About Advertisements In 2008

1

Kimberly-Clark – Kotex U
Case number: 95/08

A beaver accompanies a young woman on daily activities. Viewers are told: “You only have one of them, so look after it”.

Grounds for complaints: Discrimination or vilification – AANA Code of Ethics –section 2.1

Number of complaints: 185+

Board determination: Complaints dismissed

3

Advanced Medical Institute – Billboard
Case number: 278/08 re-consideration

This billboard asked ‘Want longer lasting sex’

Grounds for complaints: Portrayal of sex, sexuality and nudity – AANA Code of Ethics, section 2.3

Number of complaints: 110+

Board determination: Complaints upheld

2

Domino’s – Supercalafreakinawesome
Case number: 213/08

A man dressed as a character called Many Toppings describes the range of pizzas available.

Grounds for complaints: Language – AANA Code of Ethics, section 2.5

Number of complaints: 145+

Board determination: Complaints dismissed

4

Inghams – Chicken
Case number: 214/08

Person in advertisement suggests something is wrong with you if you don’t like chicken

Grounds for complaints: Discrimination or vilification – AANA Code of Ethics, section 2.1 and Violence – AANA Code of Ethics, section 2.2

Number of complaints: 100+

Board determination: Complaints dismissed

5

Quit Victoria – smoking
Case number: 459/o8

Young child left at station begins to cry with a voice over stating: “Imagine how he’ll feel if you die from smoking

Grounds for complaints: Violence – AANA Code of Ethics, section 2.2
Number of complaints: 65+
Board determination: Complaints dismissed

8

Virgin Mobile – Go Topless
Case number: 405/o8

A young woman is shown covering her bare breasts as she talks on phone

Grounds for complaints: Portrayal of sex, sexuality and nudity – AANA Code of Ethics, section 2.3
Number of complaints: 45+
Board determination: Complaints dismissed

6

Coca-Cola – Mother
Case number: 287/o8

A SWAT team go to Mother lab and assault scientists who made bad-tasting original Mother drink.

Grounds for complaints: Violence – AANA Code of Ethics, section 2.2 and Food and Beverage Code
Number of complaints: 50+
Board determination: Complaints upheld

9

Advanced Medical Institute billboard
Case number: 470/o8

A billboard with the statement “Bonk Longer”

Grounds for complaints: Portrayal of sex, sexuality and nudity – AANA Code of Ethics, section 2.3
Number of complaints: 45+
Board determination: Advertisement withdrawn/discontinued before Board meeting (not considered)

7

Tell The Truth Coalition
Case number: 93/o8

Pictures of aborted foetuses used in a pamphlet

Grounds for complaints: Health and safety – AANA Code of Ethics, section 2.6
Number of complaints: 45+
Board determination: Complaints upheld

10

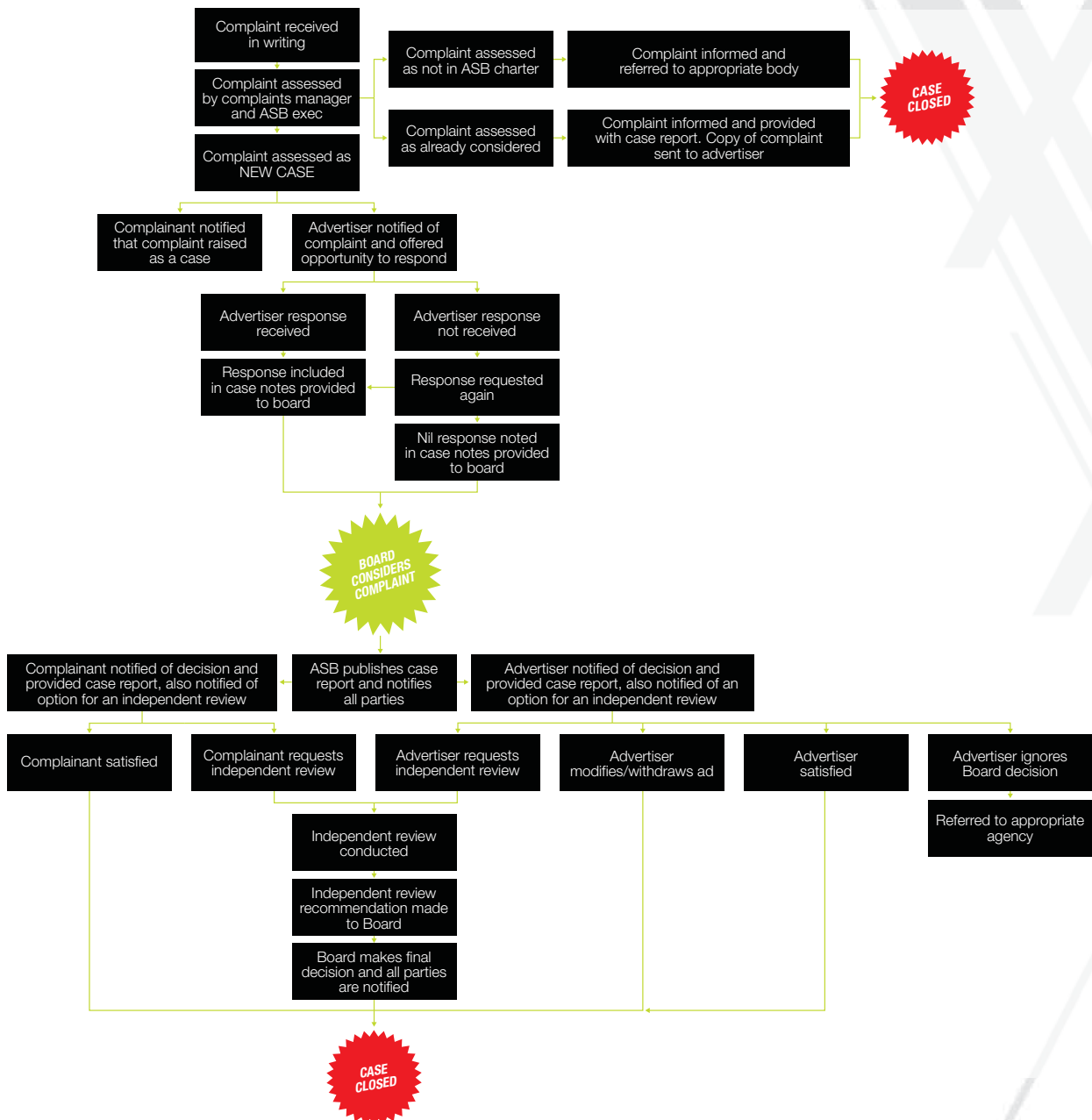
Motorola – Razr mobile phone
Case number: 205/o8

A phone used as a weapon during a fight between a man and woman at a train station.

Grounds for complaints: Violence – AANA Code of Ethics, section 2.2 and Health and safety – AANA Code of Ethics, section 2.6
Number of complaints: 40+
Board determination: Complaints dismissed

Appendices

Advertising Standards Board complaints process



Appendices

Independent Reviewer

The ASB has appointed the Hon Deirdre O'Connor as the first Independent Reviewer for the advertising self-regulation system in Australia.

Ms O'Connor is a lawyer who, in addition to many judicial appointments since being admitted the NSW Bar in 1980, was the first female appointed as a Justice of the Federal Court of Australia, President of the Administrative Appeals Tribunal and President of the Australian Industrial Relations Commission. For more information about Ms O'Connor, please refer to our website www.adstandards.com.au

The ASB introduced the review process for Advertising Standards Board decisions in April 2008 as part of its ongoing commitment to international best practice.

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

Requests for review will be considered by the Independent Reviewer.

10 years of headlines

STANDARDS BUREAU CHIEF RAISES THE BAR

Julian Lee – 22 March 2006 –

The Sydney Morning Herald

Australia's Advertising Standards Bureau (ASB) has been undergoing some changes due to the appointment of a new CEO, Fiona Jolly

If she decides to accept the request, the Independent Reviewer will undertake appropriate investigation and make a recommendation to the Board, stating whether the decision should be reviewed, amended or confirmed. The investigation will include an invitation from the Independent Reviewer for other parties in the case (i.e. either the complainant or the advertiser) to comment on the submission provided by the party requesting the review.

If the Independent Reviewer decides not to accept the request because she considers that it does not meet any of the grounds set out below, the person making the request will be informed.

10 years of headlines

ADS BANNED OVER SEX, CHILDREN LINK

Lara Sinclair – 24 November 2006 – The Australian

TWO television commercials that link sexualised images and children have been banned by the advertising watchdog.

The cost of lodging a request for review is \$500 for complainants, \$1000 for complainants from Incorporated Associations and \$2000 for advertisers. This payment must accompany a request for review and is not refundable if the Independent Reviewer decides that the request does not meet the grounds for review.

During the review process, the original decision (and any subsequent remedial action or withdrawal of the advertisement) will stand.

The ASB will not delay publication of the relevant decision pending the outcome of the review.

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

The Advertising Standards Bureau will inform all parties of the Board's final decision.

Decisions that are revised or amended following a review will be published on the ASB website:
www.adstandards.com.au

Process to follow when requesting a review:

- Requests for a review will be accepted only from the original complainant(s) or the relevant advertiser.
 - if the complaint was made by an organisation, an advertiser or an industry complainant, the request for review should be signed by a person who, in the opinion of the Independent Reviewer, has the right to bind that organisation.
 - Requests made only by a solicitor or creative agency on behalf of the advertiser will not be accepted.
- Grounds for review:
 - where new or additional relevant evidence which could have a significant bearing on the decision becomes available (an explanation of why it was not submitted previously will be required);
 - where there was a substantial flaw in the Board's decision (decision clearly in error having regard to the provisions of the Code, or clearly made against the weight of evidence);
 - where there was a substantial flaw in the process by which the decision was made.

- Since no review will proceed if the point at issue is the subject of legal action between anyone directly involved, requests for review should make plain that no such action is underway or contemplated.
 - Requests for review should be sent within 10 business days of the date of the ASB's letter of notification of a decision.
- Requests for a review must:
 - Contain a full statement of the grounds;
 - Be in writing;
 - Be accompanied by relevant payment; and
 - be addressed to
Independent Reviewer
of ASB Decisions
Level 2
97 Northbourne Avenue
TURNER ACT 2612.

10 years of headlines

CALLS FOR TOUGHER STAND ON CAR ADS

17 March 2003 – B&T

Pressure is again building on automotive advertisers. Two months after the launch of a new car advertising code, the system for handling complaints about ads that breach the automotive code is being criticised as ineffectual.

Appendices

AANA Advertiser Code of Ethics

This Code has been adopted by the AANA as part of advertising and marketing self-regulation. The object of this Code is to ensure that advertisements are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and fair sense of responsibility to competitors.

In this Code, unless the context otherwise requires:

Advertising or Marketing

Communication means:

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

but does not include Excluded Advertising or Marketing Communications.

Advertising or Marketing

Communications to Children

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

Advertising Standards Board

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

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

Excluded Advertising or Marketing

Communications means labels or packaging for Products.

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

<p>Prevailing Community Standards means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it see fit, in relation to Advertising or Marketing Communications.</p> <p>Product means goods, services and facilities which are targeted toward and have principal appeal to Children.</p> <p>1. Section 1</p> <p>1.1 Advertising or Marketing Communications shall comply with Commonwealth law and the law of the relevant State or Territory.</p> <p>1.2 Advertising or Marketing Communications shall not be misleading or deceptive or be likely to mislead or deceive.</p> <p>1.3 Advertising or Marketing Communications shall not contain a misrepresentation, which is likely to cause damage to the business or goodwill of a competitor.</p> <p>1.4 Advertising or Marketing Communications shall not exploit community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment which the product or services do not have.</p>	<p>1.5 Advertising or Marketing Communications shall not make claims about the Australian origin or content of products advertised in a manner which is misleading.</p> <p>2. Section 2</p> <p>2.1 Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.</p> <p>2.2 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.</p> <p>2.3 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.</p> <p>2.4 Advertising or Marketing Communications to Children shall comply with the AANA's Code for Advertising & Marketing Communications to Children and section 2.6 of this Code shall not apply to advertisements to which AANA's Code for Advertising & Marketing Communications to Children applies.</p>	<p>2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.</p> <p>2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.</p> <p>2.7 Advertising or Marketing Communications for motor vehicles shall comply with the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles and section 2.6 of this Code shall not apply to advertising or marketing communications to which the Federal Chamber of Automotive Industries Code of Practice applies.</p> <p>2.8 Advertising or Marketing Communications for food or beverage products shall comply with the AANA Food & Beverages Advertising & Marketing Communications Code as well as to the provisions of this Code.</p>
--	---	--

Appendices

AANA Code for Advertising & Marketing Communications to Children

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

1. Definitions

In this Code, unless the context otherwise requires:

Advertising or Marketing Communication means:

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

Advertising or Marketing

Communications to Children

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

Advertising Standards Board

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

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

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

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

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

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

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

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

2. Code of Practice

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

2.2 Factual Presentation
Advertising or Marketing Communications to Children:

- (a) must not mislead or deceive Children;
- (b) must not be ambiguous; and
- (c) must fairly represent, in a manner that is clearly understood by Children:
 - (i) the advertised Product;

- (ii) any features which are described or depicted or demonstrated in the Advertising or Marketing Communication;
- (iii) the need for any accessory parts; and
- (iv) that the Advertising or Marketing Communication is in fact a commercial communication rather than program content, editorial comment or other non-commercial communication.

2.3 Placement

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

2.4 Sexualisation

Advertising or Marketing Communications to Children:

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

2.5 Safety

Advertising or Marketing Communications to Children:

- (a) must not portray images or events which depict unsafe uses of a Product or unsafe situations which may encourage Children to engage in dangerous activities or create an unrealistic impression in the minds of Children or their parents or carers about safety; and

- (b) must not advertise Products which have been officially declared unsafe or dangerous by an unauthorised Australian government authority.

2.6 Social Values

Advertising or Marketing Communications to Children:

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

2.7 Parental Authority

Advertising or Marketing Communications to Children:

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

2.8 Price

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

2.9 Qualifying Statements

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

2.10 Competitions

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

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

2.11 Popular Personalities

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

2.12 Premiums

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

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

2.13 Alcohol

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

2.14 Privacy

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

2.15 Food and Beverages

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

2.16 AANA Code of Ethics

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

Appendices

AANA Food and Beverages Advertising and Marketing Communication Code

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

1. Definitions

1.1 In this Code, unless the context otherwise requires:

Advertising or Marketing Communication means:

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

but does not include Excluded Advertising or Marketing Communications.

Advertising or Marketing

Communications to Children

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

Advertising Standards Board

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

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

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

Children's Food or Beverage Product

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

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

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

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

Prevailing Community Standards means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to the advertising or marketing of Food or Beverage Products taking into account, at a minimum, the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health & Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.

2. Advertising or marketing communications for food or beverage products

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

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

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

2.4 Advertising or Marketing Communications for Food or Beverage Products which include nutritional or health-related comparisons shall be represented in a non-misleading and non-deceptive manner clearly understandable by an Average Consumer.

2.5 Advertising or Marketing Communications for Food or Beverage Products shall not make reference to consumer taste or preference tests in any way that might imply statistical validity if there is none, nor otherwise use scientific terms to falsely ascribe validity to advertising claims.

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

2.7 Advertising or Marketing Communications for Food or Beverage Products appearing within segments of media devoted to general and sports news and/or current affairs, shall not use associated sporting, news or current affairs personalities, live or animated, as part of such Advertising and/or Marketing Communications without clearly distinguishing between commercial promotion and editorial or other program content.

2.8 Advertising or Marketing Communications for Food and/or Beverage Products not intended or suitable as substitutes for meals shall not portray them as such.

2.9 Advertising or Marketing Communications for Food and/or Beverage Products must comply with the AANA Code of Ethics and the AANA Code for Advertising & Marketing Communications to Children.

3. Advertising and children

3.1 Advertising or Marketing Communications to Children shall be particularly designed and delivered in a manner to be understood by those Children, and shall not be misleading or deceptive or seek to mislead or deceive in relation to any nutritional or health claims, nor employ ambiguity or a misleading or deceptive sense of urgency, nor feature practices such as price minimisation inappropriate to the age of the intended audience.

3.2 Advertising or Marketing Communications to Children shall not improperly exploit Children's imaginations in ways which might reasonably be regarded as being based upon an intent to encourage those Children to consume what would be considered, acting reasonably, as excessive quantities of the Children's Food or Beverage Product/s.

3.3 Advertising or Marketing Communications to Children shall not state nor imply that possession or use of a particular Children's Food or Beverage Product will afford physical, social or psychological advantage over other Children, or that non-possession of the Children's Food or Beverage Product would have the opposite effect.

3.4 Advertising or Marketing Communications to Children shall not aim to undermine the role of parents or carers in guiding diet and lifestyle choices.

3.5 Advertising or Marketing Communications to Children shall not include any appeal to Children to urge parents and/or other adults responsible for a child's welfare to buy particular Children's Food or Beverage Products for them.

3.6 Advertising or Marketing Communications to Children shall not feature ingredients or Premiums unless they are an integral element of the Children's Food or Beverage Product/s being offered.

Appendices

Federal Chamber of Automotive Industries (FCAI) Voluntary Code of Practice for Motor Vehicle Advertising

Explanatory Notes

Context

The Voluntary Code of Practice for Motor Vehicle Advertising (the Code) has been instituted by the Federal Chamber of Automotive Industries (FCAI) as a means of industry self-regulation of motor vehicle advertising in Australia. The primary purpose of the Code is to provide guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety.

Vehicle occupant protection and road safety are primary concerns for the automotive industry in the design and operation of all motor vehicles supplied to the Australian market. FCAI endorses the National Road Safety Strategy and acknowledges the importance of increased road safety awareness in the Australian community and fully supports the efforts of all relevant Commonwealth, State and Territory authorities to secure this outcome.

Date of Commencement

This revised version of the Code is to be applied to all advertisements for motor vehicles published or broadcast in Australia from 1 July 2004.

Scope and Coverage of the Code

The Code is to be applied to all forms and mediums for advertising of motor vehicles in Australia. This includes television, radio, print media, cinema, billboards and Australian domain internet websites.

Guidance to Advertisers

The FCAI supports a responsible approach to advertising for motor vehicles. FCAI asks advertisers to be mindful of the importance of road safety and to ensure that advertising for motor vehicles does not contradict road safety messages or undermine efforts to achieve improved road safety outcomes in Australia.

Advertisers should ensure that advertisements do not depict, encourage or condone dangerous, illegal, aggressive or reckless driving. Moreover, advertisers need to be mindful that excessive speed is a major cause of death and injury in road crashes and accordingly should avoid explicitly or implicitly drawing attention to the acceleration or speed capabilities of a vehicle.

FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should

not be used in any way to contradict, circumvent or undermine the provisions of the Code.

In particular, it is noted that use of disclaimers indicating that a particular scene or advertisement was produced under controlled conditions; using expert drivers; that viewers should not attempt to emulate the driving depicted; or expressed in other similar terms, should be avoided. Such disclaimers cannot in any way be used to justify the inclusion of material which otherwise does not comply with the provisions of the Code.

Advertisers should avoid references to the speed or acceleration capabilities of a motor vehicle (for example, “0-100 km/h in 6.5 seconds”). Other factual references to the capabilities of the motor vehicle (for example, cylinder capacity, kilowatt power of the engine, or maximum torque generated) are acceptable, provided that they are presented in a manner that is consistent with the provisions of the Code.

The Code contains a specific clause (clause 3) relating to the use of motor sport, simulated motor sport and similar vehicle testing or proving activities in advertising. It is acknowledged that motor sport plays a crucial role in brand

promotion and the development and testing of crucial technologies, many of which result in safer vehicles.

Accordingly the Code seeks to ensure that advertisers can continue to legitimately make use of motor sport in advertising, provided that care is taken to ensure that depictions of speed, racing and other forms of competitive driving are clearly identified as taking place in this context. FCAI urges also advertisers to avoid any suggestion that depictions of such vehicles participating in motor sport, or undertaking other forms of competitive driving are in any way associated with normal on-road use of motor vehicles.

In addition, it is noted that the Code contains a clause (clause 4) relating to the depiction of off-road vehicles which have been designed with special features for off road operation. This clause provides some limited flexibility allowing advertisers to legitimately demonstrate the capabilities and performance of such vehicles in an off-road context. In so doing however, care should be taken to ensure that all other provisions and the underlying objectives of the Code are still adhered to. In particular, advertisers should be mindful to ensure that advertisements for such vehicles do not involve the depiction of 'excessive' or 'unsafe' speed. Equally, advertisers should avoid portrayal of images of off-road driving which could otherwise be construed as being unsafe.

In interpreting and applying the Code, FCAI asks that advertisers take into account both the explicit and implicit messages that are conveyed by an advertisement. Advertisers should make every effort to ensure that advertisements not only comply

with the formal provisions of the Code but are also consistent with the objectives and guidelines expressed in these Explanatory Notes which accompany the Code.

Compliance and Administration

Assessment of compliance with the Code is to be administered by the Advertising Standards Board (ASB). The ASB will review all public complaints made against advertisements for motor vehicles under the terms of the Code.

In administering the Code, the ASB is to give relevant advertisers the opportunity to present such evidence as they deem appropriate in defence of an advertisement under review, prior to making any determination in relation to its consistency, or otherwise, with the provisions of the Code.

The ASB will ensure that all complaints are considered in a timely fashion. As a general rule the panel should finalise its determination within one calendar month of a complaint having been received. Where necessary the ASB may be required to meet more frequently to ensure the timely consideration of complaints.

The ASB will arrange prompt publication of the reasons for all decisions on its website. An annual report on the outcomes of the complaint process will be compiled and published.

Companies may also seek an opinion, from the ASB, on whether the content of a planned advertisement meets the Code, prior to finalisation and release of the advertisement.

FCAI and ASB will work to increase public awareness of the Code and the complaints process.

Consultation

In developing the Code, FCAI has undertaken an extensive process of consultation with a wide range of stakeholders, including representatives of the following:

- (a) The Federal Government and its agencies (including the Australian Transport Safety Bureau);
- (b) Relevant State and Territory Government authorities;
- (c) The National Road Safety Strategy Panel (which comprises representatives of police services, road safety authorities, motoring organisations and industry groups);
- (d) The Australian Automobile Association;
- (e) The Australian Association of National Advertisers; and
- (f) The Advertising Standards Bureau Limited.

1. Definitions

In this Code, the following definitions apply:

- (a) **Advertisement:** means matter which is published or broadcast in all of Australia, or in a substantial section of Australia, for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.
- (b) **Off-road vehicle:** means a passenger vehicle having up to 9 seating positions including that of the driver having been designed with special

features for off-road operation, consistent with the requirements of the definition for such a vehicle as provided in the Australian Design Rules (MC category). An off-road vehicle will normally have 4 wheel drive.

- (c) Motor sport: means racing, rallying, or other competitive activities involving motor vehicles of a type for which a permit would normally be available under the National Competition Rules of the Confederation of Australian Motor Sport, or other recognised organising body.
- (d) Motor vehicle: means passenger vehicle; motorcycle; light commercial vehicle and off road vehicle.
- (e) Road: means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.
- (f) Road-related area: means an area that divides a road; a footpath or nature strip adjacent to a road; an area that is not a road and is open to the public and designated for use by cyclists or animals; an area that is not a road and that is open to or used by the public for driving, riding or parking motor vehicles.

2. General Provisions

Advertisers should ensure that advertisements for motor vehicles do not portray any of the following:

- (a) Unsafe driving, including reckless and menacing driving that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing with road safety or traffic regulation, if such driving were to occur on a road

or road-related area, regardless of where the driving is depicted in the advertisement.

[Examples: Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor vehicle; deliberately and unnecessarily setting motor vehicles on a collision course; or the apparent and deliberate loss of control of a moving motor vehicle.]

- (b) People driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.
- (c) 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.
[Examples: Illegal use of hand-held mobile phones or not wearing seatbelts in a moving motor vehicle. Motorcyclists or their passengers not wearing an approved safety helmet, while the motorcycle is in motion.]
- (d) People driving while being apparently fatigued, or under the influence of drugs or alcohol to the extent that such driving practices breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing directly with road safety or traffic regulation.

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

3. Use of Motor Sport in Advertising

Without limiting the general application of clause 2, advertisers may make use of scenes of motor sport; simulated motor sport; and vehicle-testing or proving in advertising, subject to the following:

- (a) Such scenes should be clearly identifiable as part of an organised motor sport activity, or testing or proving activity, of a type for which a permit would normally be available in Australia.
- (b) Any racing or competing vehicles depicted in motor sport scenes should be in clearly identifiable racing livery.

4. Depiction of Off-road Vehicles

An advertisement may legitimately depict the capabilities and performance of an off-road vehicle travelling over loose or unsealed surfaces, or uneven terrain, not forming part of a road or road related area. Such advertisements should not portray unsafe driving and vehicles must not travel at a speed which would contravene the laws of the State or Territory in which the advertisement is published or broadcast, were such driving to occur on a road or road related area.

Appendices

Alcohol Beverages Advertising Code

Preamble

Brewers Association of Australia and New Zealand Inc, the Distilled Spirits Industry Council of Australia Inc and the Winemakers Federation of Australia are committed to the goal of all advertisements for alcohol beverages, other than point of sale material, produced for publication or broadcast in Australia complying with the spirit and intent of this Code.

The Code is designed to ensure that alcohol advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

The conformity of an advertisement with this Code is to be assessed in terms of its probable impact upon a reasonable person within the class of persons to whom the advertisement is directed and other persons to whom the advertisement may be communicated, and taking its content as a whole.

Definitions

For the purpose of this Code –

adult means a person who is at least 18 years of age;

alcohol beverage includes any particular brand of alcohol beverage;

adolescent means a person aged 14–17 years inclusive;

Australian Alcohol Guidelines means the electronic document ‘Guidelines for everyone (1–3)’ published by the National Health & Medical Research Council (NHMRC) as at 1st January 2004.

child means a person under 14 years of age; and

low alcohol beverage means an alcohol beverage which contains less than 3.8% alcohol/volume.

Advertisements for alcohol beverages must –

- a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
 - i) must not encourage excessive consumption or abuse of alcohol;

- ii) must not encourage under-age drinking;
- iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
- iv) must only depict the responsible and moderate consumption of alcohol beverages;
- b) not have a strong or evident appeal to children or adolescents and, accordingly –
 - i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
 - ii) children and adolescents may only appear in advertisements in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
 - iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene;

- c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly –
 - i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
 - ii) if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement; and
 - iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;
- d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly –
 - i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices; and
 - ii) any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;

- e) not challenge or dare people to drink or sample a particular alcohol beverage, other than low alcohol beverages, and must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content; and
- f) comply with the Advertiser Code of Ethics adopted by the Australian Association of National Advertisers.
- g) not encourage consumption that is in excess of, or inconsistent with the Australian Alcohol Guidelines issued by the NHMRC.
- h) not refer to The ABAC Scheme, in whole or in part, in a manner which may bring the scheme into disrepute.

Internet advertisements

The required standard for advertisements outlined in (a) to (h) above applies to internet sites primarily intended for advertising developed by or for producers or importers of alcohol products available in Australia or that are reasonably expected to be made available in Australia, and to banner advertising of such products on third party sites.

Retail Advertisements

Advertisements which contain the name of a retailer or retailers offering alcohol beverages for sale, contain information about the price or prices at which those beverages are offered for sale, and which contain no other material relating to or concerning the attributes or virtues of alcohol beverages except –

- i) the brand name or names of alcohol beverages offered for sale;
- ii) the type and/or style of the alcohol beverages offered for sale;

- iii) a photographic or other reproduction of any container or containers (or part thereof, including any label) in which the alcohol beverages offered for sale are packaged;
- iv) the location and/or times at which the alcohol beverages are offered for sale; and
- v) such other matter as is reasonably necessary to enable potential purchasers to identify the retailer or retailers on whose behalf the advertisement is published, must comply with the spirit and intent of the Code but are not subject to any process of prior clearance.

Promotion of alcohol at events

Alcohol beverage companies play a valuable role in supporting many community events and activities. It is acknowledged that they have the right to promote their products at events together with the right to promote their association with events and event participation. However, combined with these rights comes a range of responsibilities. Alcohol beverage companies do not seek to promote their products at events which are designed to clearly target people under the legal drinking age.

This protocol commits participating alcohol beverage companies to endeavour to ensure that:

- All promotional advertising in support of events does not clearly target underage persons and as such is consistent with the ABAC standard; and

- Alcohol beverages served at such events are served in keeping with guidelines, and where applicable legal requirements, for responsible serving of alcohol (which preclude the serving of alcohol to underage persons); and
- Promotional staff at events do not promote consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- Promotional staff do not misstate the nature or alcohol content of a product; and
- Promotional staff at events are of legal drinking age; and
- Promotional materials distributed at events do not clearly target underage persons; and
- Promotional materials given away at or in association with events do not connect the consumption of alcohol with the achievement of sexual success; and.

- Promotional materials given away at or in association with events do not link the consumption of alcohol with sporting, financial, professional or personal success; and
- Promotional materials given away at events do not encourage consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- A condition of entry into giveaways promoted by alcohol companies at or in association with events is that participants must be over the legal drinking age; and Prizes given away in promotions associated with alcohol beverage companies will only be awarded to winners who are over the legal drinking age.

Third Parties

At many events alcohol companies limit their promotional commitments to specified activities. This protocol only applies to such conduct, activities or materials associated with events that are also associated with alcohol beverage companies.

Alcohol beverage companies will use every reasonable endeavour to ensure that where other parties control and/or undertake events, including activities surrounding those events, they comply with this protocol. However non-compliance by third parties will not place alcohol beverage companies in breach of this protocol.

Public Education

This protocol does not apply to or seek to restrict alcohol beverage companies from being associated with conduct, activity or materials that educate the public, including underage persons, about the consequences of alcohol consumption and the possible consequences of excessive or underage consumption.

www.adstandards.com.au

Level 2, 97 Northbourne Avenue, Turner ACT 2612
Ph: (02) 6262 9822 | Fax: (02) 6262 9833