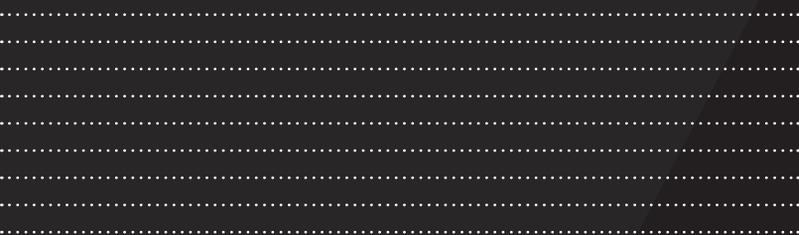


Advertising Standards Bureau
Review of Operations 2005



Who We Are

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

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

The Bureau is 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.

The ASB administers three Codes of Practice: the AANA Advertiser Code of Ethics, the AANA Code for Advertising to Children, and the 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 under the Alcohol Beverages Advertising Code.

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 cars under the FCAI Voluntary Code of Practice for Motor Vehicle Advertising.

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 chart



Objectives and highlights

Raise awareness and profile of the ASB through appropriate communication and media strategies.

- Worked with free-to-air commercial television to deliver information to the community about the availability of the complaints resolution service provided by the ASB.
- Wrote to top 100 advertisers and law firms to raise awareness of the service provided by the Advertising Claims Board.

Effective monitoring of compliance with the system by industry and measurement of the Board's decisions against community standards.

- Compliance by advertisers with Board decisions monitored.

Investigate feasibility of enhancements to the advertising self-regulation system.

- Implemented immediate improvements to transparency of Board decisions and implemented system changes to allow the Board to meet more frequently for urgent matters.

Ensure the financial viability of the ASB by encouraging participation of the entire industry in the levy system.

- Garnered industry support for move towards a more viable and equitable funding system and implemented an 'opt out' system for paying levy.
- Engaged support of Media Federation of Australia and its members to invoice advertisers for levy and remit payments to ASB.

Work with Government and industry partners to establish the ASB and self-regulation as the means for delivering effective advertising regulation in Australia.

- Worked with ABAC management committee to improve communication and information-sharing between the two agencies, resulting in faster complaints consideration.
- Worked with FCAI to understand and implement the policy of the new FCAI code.
- Sponsored the Media Federation of Australia Annual Awards.

In recognition of the role of the AANA as the sole member of the ASB, keep the AANA fully informed of ASB activities (high level) and of the need for any changes to the AANA Codes administered by the ASB.

- Provided ASB and self-regulation update to all AANA Board meetings.

Recruit and manage for an experienced, appropriately skilled and sustainable workforce.

- Inaugural CEO appointed October 2005.

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2005 By Numbers

Number of complaints received by ASB during 2005	2956
Number of complaints that were made about matters within the ASB's jurisdiction	1986
Number of advertisements considered by the Board	393
Number of advertisements found by the Board to be consistent with the AANA Code of Ethics	344
Number of advertisements voluntarily withdrawn by the advertiser prior to the advertisement being considered by the Board	35
Number of advertisements found by the Board to be in breach of the AANA Code of Ethics	14
Number of advertisements which were NOT modified or discontinued after a complaint was upheld	0



Chairman's Report

2005 was an interesting year for the Bureau Board.

Of most significance was our agreement with the Media Federation of Australia to move collection of levy income to an 'opt out' system. The aim of this is to increase the number of levy-paying advertisers, with the obvious benefit of increasing the support for the advertising industry self-regulation system. Significant thanks goes to the media agencies that collect and remit the levy on our behalf.

We were also pleased to appoint the ASB's first Chief Executive Officer in October 2005. Fiona Jolly comes to the ASB with extensive experience in the Commonwealth Public Service. We look forward to Ms Jolly strengthening the work of the ASB and positioning it to further develop as a well-respected complaints resolution body.

We also thank our outgoing Chairman Robert Koltai who left the ASB Board in June 2005. Mr Koltai's vision and dedication was the force behind the establishment of the ASB in 1998 and contributed much to its ongoing success since that time.

The continued dedication of the members of the Advertising Standards Board is an integral component of the advertising self-regulation system. With many of the members of the Board having joined some seven or eight years ago, their contribution to providing an effective complaints resolution system has been significant.

Advertisers provide the financial support for the complaints resolution system. Without their financial and philosophic support for the system, consumers would not have an accessible and transparent system to handle their complaints.

Ian Atwill
Chairman

Chief Executive Officer's Report

I am pleased to present to you my first Review of Operations as Chief Executive Officer.

The Advertising Standards Bureau, and the two Boards that it services – the Advertising Standards Board and the Advertising Claims Board – is a unique demonstration of true self-regulation in Australia compared to most other sectors of the communications industry which are part of a co-regulatory system.

The advertising self-regulation system is responsible for considering complaints under a number of industry-developed codes of practice. The system provides a cost-effective (free to consumers), responsive and transparent method of adjudicating complaints from consumers about advertising.

The work of the ASB, and its feedback to the industry organisations that develop the codes of practice, is an effective method of maintaining high community standards in advertising.

The complaints statistics for 2005 are discussed in more detail later in this review. Suffice to say, the year resulted in the highest number of complaints recorded since the self-regulation system was introduced in 1998. This can be attributed to a successful advertising campaign run by the ASB on commercial free-to-air television from October 2005 and to increasing awareness of the ASB's role through its website.

It is also worth noting that the ASB receives a high number of complaints that fall outside its charter. The ASB responds to all complaints and will indicate where a person can take a complaint that is not within its jurisdiction.

A priority for 2006 will be to improve the usability of the complaints system for all parties by providing more information on our website which will direct consumers to the relevant organisation to deal with their complaint.

Advertisers continue to demonstrate a high level of support for the advertising self-regulation system. While their financial support is essential, advertisers continue to respond quickly to our requests for information following receipt of complaints. In 2005, we again had 100 per cent compliance with determinations of the Board.

Planned enhancements to the advertising self-regulation system in 2006

Recruitment of new Advertising Standards Board members

It is important that the Board is representative of current community standards. One way of achieving this is to ensure that Board appointments are staggered and allow for new members with different community ties to be involved.

While the current Board members have done an outstanding job, it is appropriate that the ASB as soon as possible in 2006 invite new members to the Board and initiate a process of staggered terms so that there is a continuous mix of experience and regeneration. It will also be important to increase the cultural, geographic and professional diversity of the Board.

Transparency of decision-making

In order to demonstrate to industry, consumers and government that the self-regulation system is working, the work of the Board needs to be transparent and, therefore, robust.

The ASB has introduced a system in which the case reports for the decisions from each Board meeting have been loaded onto the website along with annual statistics, media releases and updated Board member profiles.

The ASB website is undergoing redevelopment with a very modern and professional design which will be reflected in other corporate communications products. The new website will include a fully searchable database of all ASB decisions.

Responsiveness of the Board

It is important that the Board is seen to be responsive. A criticism of the self-regulation system, often unwarranted, is that it is not able to address consumer concerns about short-term advertising campaigns.

The Board will continue to meet monthly as a minimum, however the ASB initiated in 2005 'urgent' or additional meetings (face-to-face or by teleconference) as needed.

This initiative enables the Board to consider, at short notice, controversial advertisements that have attracted a high number of complaints which are either running for a short period of time or appear to be very 'close to the line' of the Advertiser Code of Ethics.

Improved communications

The ASB website is a significant communication portal through which we receive more than 75 per cent of complaints. Redevelopment of the website and the ASB's corporate image will be a priority for 2006.

These immediate enhancements and other more strategic communications planned for 2006 and beyond will contribute to awareness of, and respect for, the advertising self-regulation system. I look forward to the challenges of 2006.

Thank you

Thank you to the Advertising Standards Board for the important role they play in maintaining consumer standards in advertising. They are regularly faced with tough decisions which often do not please everyone. I look forward to working with you all again next year.

I am committed to promoting consumer confidence in advertising standards and ensuring the future of advertising self-regulation.

Fiona Jolly
Chief Executive Officer

Advertising Standards Board

The centre-piece of the self-regulation system is the dedication, composition and independence of the Advertising Standards Board. The Board is made up of people from different walks of life with a diverse cross-section of views and skills.

The Board also represents a broad range of age groups and is well gender-balanced. Individual Board members do not represent any particular interest group and are individually and collectively clearly independent of the industry. On the rare occasion on which an individual member has had a connection with a party concerned in a particular determination, that Board member absents herself or himself from the meeting.

The public-mindedness, dedication and independence of the Advertising Standards Board continue to earn it the admiration and respect of both the Australian community and the industry. The Board discharges its responsibilities with fairness, impartiality and with a keen sense of prevailing community values in its broadest sense. Its task is often a difficult one and the outcomes of its determinations will not and can not please everyone. The Board is to be commended and congratulated for its service to the community.

A summary of the complaints process and Board meeting process is under the heading 'Advertising Standards Board Complaints Process' (see page 30).

Inaugural appointments to the Board were made by the Chairman of the Australian Association of National Advertisers. This process has changed and, now, Board appointments are made following a call for applications and interviews. Appointments are made by the bureau Board of Directors.

People sought for appointment to the Board have an interest in advertising and community standards, and have views on advertising. The Bureau aims to ensure that the Board membership is diverse in terms of age, gender, geographic location and cultural background.

Board Meetings

The Board meets on a monthly basis between February and December to consider complaints received from the public. The Board also meets between meetings, usually by teleconference, when complaints are considered a matter of urgency.

The position of Chair is rotated among Board members on a meeting by meeting basis. The role of 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 a casting vote.

Attendance at Board Meetings 2005

There were 11 meetings in 2005.

BOARD MEMBER	NUMBER OF MEETINGS ATTENDED
Bokor, John	9
Brown, John	9
Carland, Julia	8
Cohen, Joanna	2*
Cox, Graham	9
Keneally, Thomas	5
Konrads, John	10
Lawson, Geoff	5
Lumby, Catharine	7
Masters, Roy	5
Tom, Emma	11

* Member was on long term leave of absence during 2005.



John Bokor

Appointed August 1999

A working artist who also manages an art gallery, John Bokor graduated from the National Art School in 1993. His paintings have been regularly exhibited with four solo shows earning critical acclaim. In his mid-twenties, John Bokor has a strong understanding of and enthusiasm for popular culture, as well as an extensive knowledge of literature, film and contemporary art. John 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 has the Olympic Silver Order of Merit, Australian Institute of Marketing Gold Medal Award, and has been elected Life Member of the Australian Institute of Sport. John was voted Australian of the Year in 1986 by *The Australian*.

John is the Emeritus Chairman of Spinesafe and the Transport and Tourism Forum, and was a member of the Commonwealth Parliament for 13 years.

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



Julia Carland

Appointed May 2004

Julia Carland was born in Canberra but spent her first 14 years 'on the move' with her family, living in Melbourne (twice), London, Washington DC, Brisbane and Sydney. Now settled in Sydney, Julia has recently completed the final year of her Graduate Law degree at the University of Sydney.

Prior to Law School, she studied a Bachelor of Arts (Media & Communications) degree at Sydney University, completing a major in Human Geography and undertaking a final year internship as a Media Relations Officer at the Australian Paralympic Committee.

During her time at university, Julia worked as a paralegal at Blake Dawson Waldron Lawyers, a Sydney University Student Ambassador and volunteered at the Inner City Legal Centre in Darlinghurst.

Julia now works in the Federal Court as a Judge's Associate.



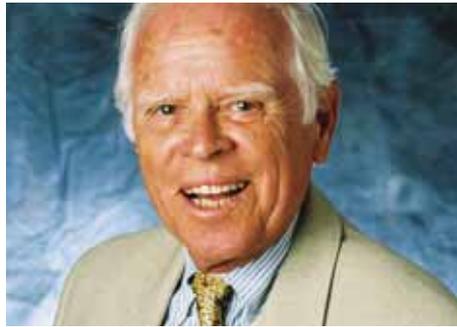
Joanna Cohen

Inaugural Member

Joanna Cohen is the Marketing Information Manager for the University of Sydney. In her spare time she has also managed a band and is a film reviewer who co-writes a weekly film column on *SMH Online* called 'Film Fondue'. She holds a BA (Communications) from the University of Technology in Sydney and has just completed a Master of Arts (English Literature) at the University of Sydney.

Joanna has had a lifelong passion for film and majored in film theory and writing in her Communications degree. She has worked for film producers, done script reading, volunteered as part of the videographer's team for the Shoah Foundation and co-created a film festival. She worked in qualitative market research in Sydney and in communications for an investment bank in London.

Joanna has lived most of her life in the inner-western suburbs of Sydney but spent a number of years at boarding school in central west New South Wales. Like many young Australians she also spent some time living and working in London.

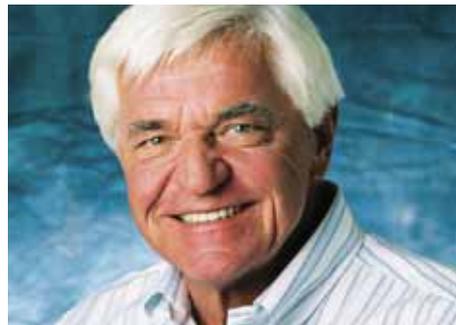


Graham Cox

Appointed August 1998

Graham Cox has spent all his Australian working life in advertising and the past 25 years with George Patterson Bates, where he was a director for 20 years. Graham has travelled extensively, including a period working in London. He has an honorary MA Communications degree.

Graham is the proud adoptive father of one daughter, and is grandfather to three young children.



John Konrads

Appointed May 1998

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

John spent many years as an advertiser in his time as CEO of L'Oreal and then as General Marketing Manager of Ansett Airlines. He is now a director of Cook & Phillip Park Aquatic and Fitness Centre in Sydney's CBD. He has contributed to the evolution of numerous consumer regulations.

Born in Riga, Latvia, John spent his youth living and swimming in Sydney. He spent many years living in Los Angeles, Paris and Melbourne before returning to Sydney. John is married and has three adult children.



Geoff Lawson OAM

Inaugural Member

Geoff 'Henry' Lawson had an outstanding career as an Australian test cricketer. In 1990, he was awarded the Order of Australia for services to cricket. He has a degree in Optometry, is a member of the University of NSW Council, the Chairman of the UNSW Optometry Appeal Committee, a trustee of the Sydney Cricket Ground and Sydney Football Stadium, and Vice-President of the University of NSW Sports Association. He was a foundation director of the NSW Sports Federation.

Geoff was born and raised in Wagga Wagga in New South Wales before moving to Sydney to study at the University of New South Wales. He has worked tirelessly to maintain the profile of sports at the University of NSW and Australian universities in general.

Geoff is heavily involved in high performance cricket coaching with Cricket NSW, specialising in fast bowling for age groups from under 14 up to the top level.



Thomas Keneally AO

Inaugural Member

Best-selling author, playwright, scriptwriter, English professor, holder of a number of honorary doctorates and multi-award winner, Thomas Keneally 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.

Tom spent his early years in country towns of northern NSW before moving to the Sydney suburb of Homebush where he studied for the priesthood. Tom is married with two children and several grandchildren, and is widely known as an obsessive rugby league fan.

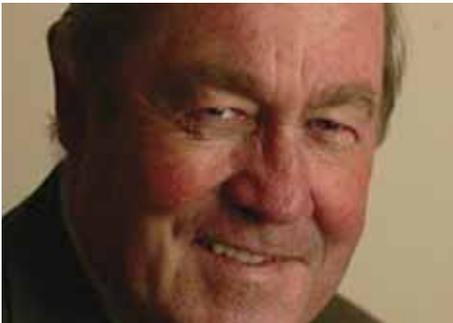


Catharine Lumby

Inaugural Member

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. She has written widely on feminism, popular culture and the media, and is the author of five books. She is also a member of the Education and Welfare Committee of the National Rugby League.

Catharine is the mother of two young boys (aged three and six). Born in Newcastle, she has lived and worked in Adelaide and New York before settling in Sydney.



Roy Masters

Appointed May 1998

Following careers as a school teacher and coach of leading rugby league teams, Roy is a journalist with *The Sydney Morning Herald* and a television and radio commentator. He is also an inaugural member of the Board of the Australian Sports Commission. Roy divides his time between Sydney and Melbourne and has four adult children.



Emma Tom

Appointed May 2003

Emma Tom is a writer with four books to her credit, most recently *Something About Mary*, an unauthorised biography of Princess Mary of Denmark. Her first novel, *Deadset*, won the 1998 Commonwealth Writers' Prize for Asia and the South Pacific for Best First Novel. Emma has worked in radio and television, including some time 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 grew up in regional New South Wales, is involved in community radio and plays in a band that has performed to raise money for a number of charities such as the Malcolm Sargent Cancer Fund for Children and Oxfam's Boxing Day Tsunami Appeal. She is currently completing a Masters of Media Practice at the University of Sydney.



Liz Wise

Appointed May 2001

Focusing her studies on communications theory and film production, Liz completed her Bachelor of Media degree at Macquarie University in 2001. While studying, she produced four short films, worked in the publishing industry as a business strategist, and in community radio as a show host, producer, voice-over artist and writer.

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.

Apart from the complaints described below, the Advertising Claims Board was not asked to consider any other matters during 2005, suggesting a lack of awareness within industry about the ACB. In late 2005, the top 100 advertisers in Australia and more than 100 law firms were sent information about the Advertising Claims Board. Other awareness-raising activities will be undertaken in 2006.

Two interesting complaints that were received by the Claims Board in 2004 and decided early in 2005 are summarised here.



...implying that the products sold by a Subway competitor ... do not contain healthy ingredients.



Regular 6" sub without cheese or non low-fat condiments such as mayonnaise. Subway™ is a registered trademark of Doctor's Associates Inc.

McDonald's Australia Limited v Subway

McDonald's Australia ("Complainant") lodged a complaint against Subway ("Advertiser") concerning a television commercial for the Advertiser's products. The advertisement aimed to promote Subway products by implying that the products sold by a Subway competitor – another quick service restaurant – do not contain healthy ingredients.

McDonald's Australia submitted that the advertisement contained misrepresentations about the products it offered for sale. Subway argued that the advertisement featured a clearly fictitious competitor named 'Fries and Burgers', which was represented to sell only fries and burgers, and that there was no representation made regarding McDonald's or its products.

The Panel found that the advertisements were not misleading or deceptive, or likely to mislead or deceive.

GlaxoSmithKline v Colgate-Palmolive

GlaxoSmithKline ("Complainant") lodged a complaint against Colgate-Palmolive ("Advertiser") concerning a print advertisement for the Advertiser's *Simply White* toothpaste. The ad showed a tube of *Simply White* in front of a toothbrush with the accompanying text: "Simply whiter than any ordinary whitening toothpaste" and "the whitest teeth you can get from a whitening toothpaste. Guaranteed."

GlaxoSmithKline alleged that the advertisement was misleading and deceptive, and in breach of section 1.2 of the AANA Advertiser Code of Ethics. It submitted that the claims were 'absolute superiority claims' which had not been substantiated. Colgate-Palmolive produced a body of evidence from laboratory testing which found the ingredients in *Simply White* were likely to demonstrate superior whitening efficacy.

After reviewing detailed submissions and supporting technical information, the Panel held that the advertisement was not misleading or deceptive, or likely to mislead or deceive. The Panel dismissed the complaint.

Snapshot of Advertising Complaints

2005

A significant increase of 29.17 per cent (2,931 up from 2,266) in complaints received at the ASB in 2005 indicates the growing awareness and interest of consumers in having a free and transparent system for handling complaints about advertising.

Similarly, the number of complaints received which fall outside the ASB's charter also increased. Of the 2,931 complaints received at ASB in 2005, 945 (or 32.24 per cent) complaints were outside of ASB's jurisdiction. This indicates the need to raise consumer awareness of, and provide information about, the role, jurisdiction and processes of the ASB.

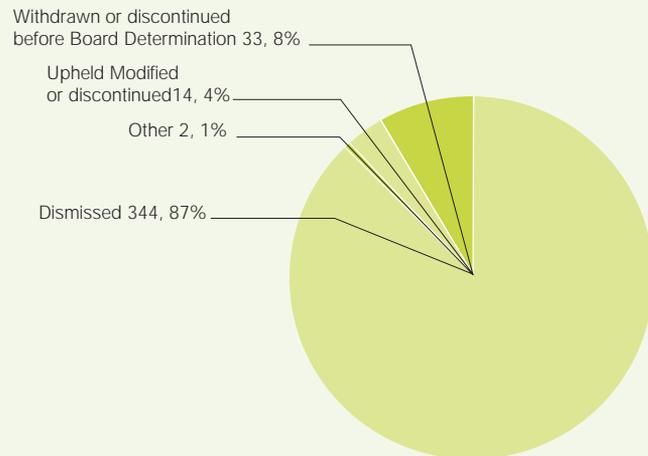
Number of advertisements considered and outcome of complaints

For the first time, the ASB has provided information on the total number of advertisements considered by the Board. In 2005, the Board considered 393 advertisements, about which 1,753 people complained. Out of this group of advertisements, complaints against 344 (or 88 per cent) were dismissed.

The remaining 233 complaints against 49 advertisements (or 12 per cent) were either upheld or withdrawn. One-hundred per cent of these ads were removed from broadcast or publication following a Board determination.

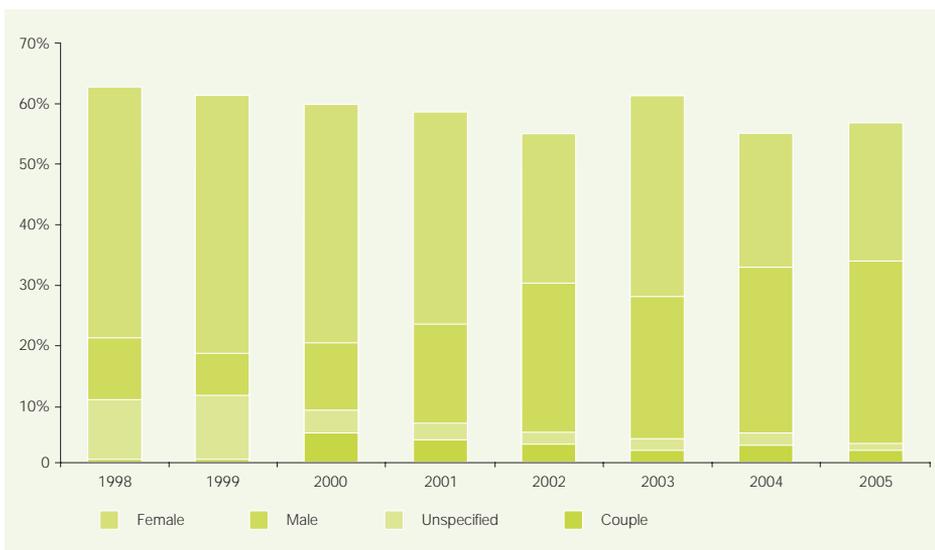
The relatively small percentage of upheld cases would tend to indicate that advertisers are aware of the ethical principles of the Code, and are guided by these principles in determining what is and is not acceptable to use in advertising. The statistics also show a high compliance rate with the Board's decisions with advertisers being prepared to amend or withdraw the offending ads once a complaint has been upheld.

All these statistics indicate a healthy respect within the advertising industry for the system of self-regulation.



Who is complaining?

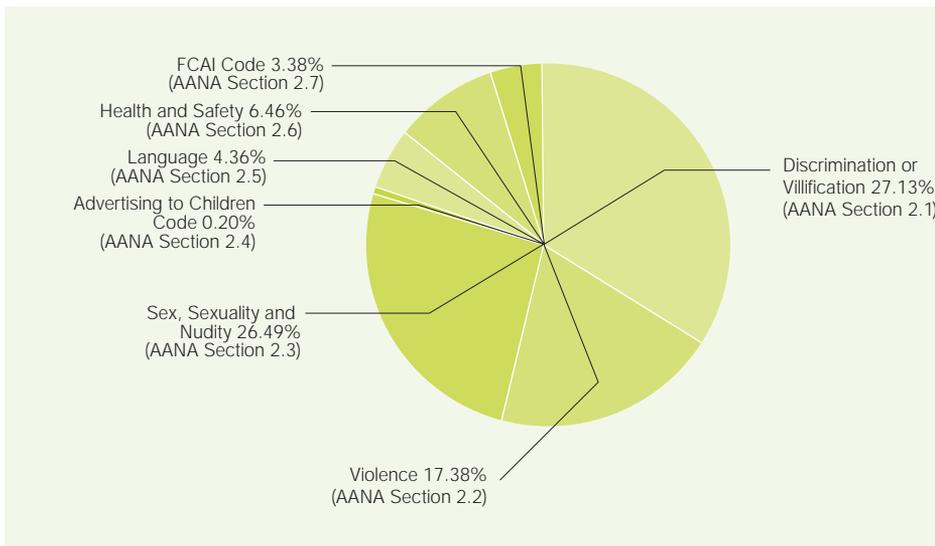
In 2005, 57.69 per cent of complaints came from females, 38.08 per cent from males, and the remaining 4.23 per cent were made by couples or organisations. Although men are inclined to make fewer complaints, their number has increased every year since 2001.



What do people complain about?

The most complained-about issues in 2005 were discrimination or vilification/portrayal of people (Section 2.1 of the Code) and sex, sexuality and nudity (Section 2.3 of the Code). They accounted for 27.13 per cent and 26.49 per cent respectively of all complaints.

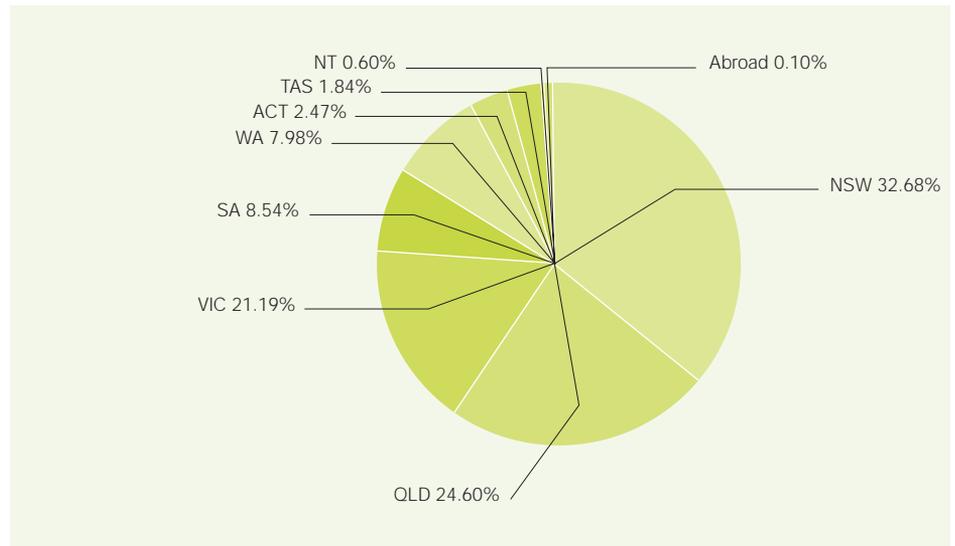
Advertising to Children (Section 2.4 of the Code) received the lowest number of complaints with just 0.2 per cent. The year of 2005 was the first time complaints about violence in advertising were not in the top two categories.



Where are complaints coming from?

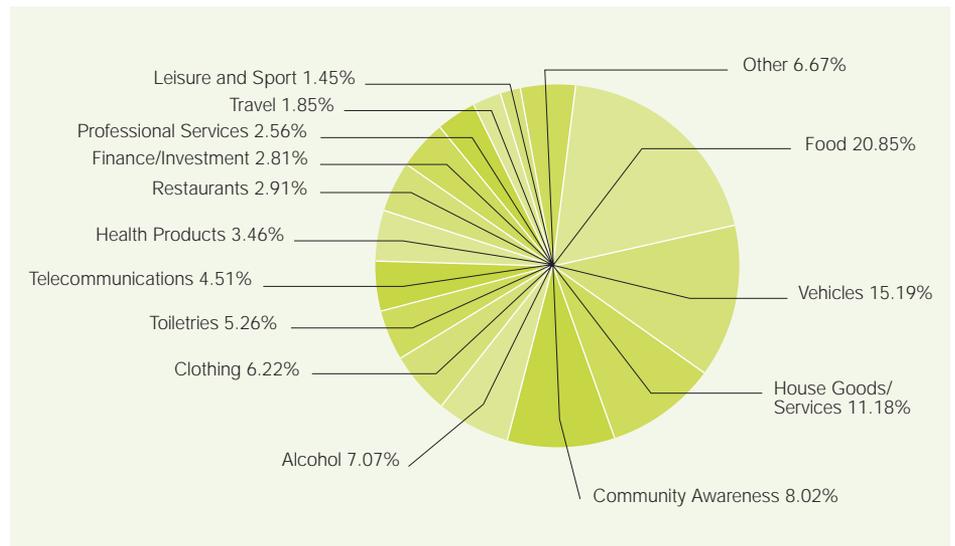
The majority of complaints came from the most populous states. New South Wales (32.68 per cent), Victoria (24.6 per cent) and Queensland (21.19 per cent) registered the highest number of complaints, a trend which has been occurring since 2001.

In 2005, there was an eight per cent increase in complaints received from Queensland from the previous year. The increase is partly due to a large number of complaints about two state-based advertisements: one for a road safety campaign and the second for Gold Coast Girls.



What products get the most complaints?

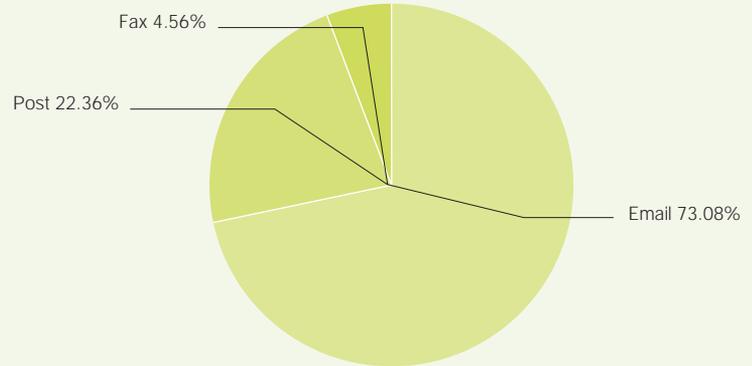
In previous years, products that fall under the categories of 'food', 'alcohol', 'vehicles' and 'clothing' featured in ads that generally attracted the most complaints. However, in 2005, apart from food (16.79 per cent) and vehicles (10.69 per cent), the complaints were more evenly distributed over a variety of categories.



Method of complaint

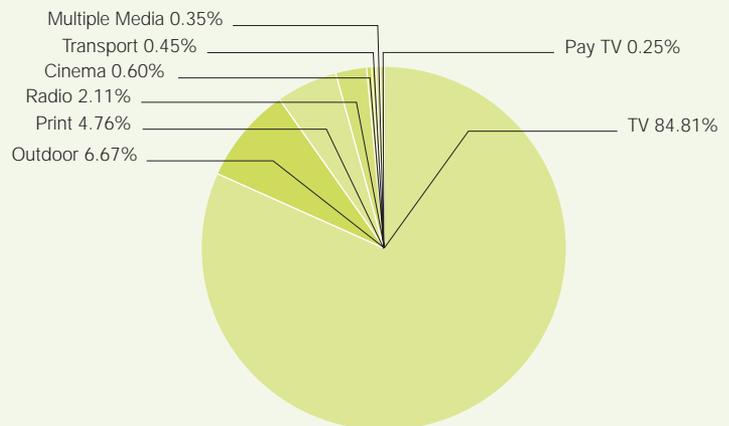
The ASB has seen a dramatic increase over the past five years in complaints being lodged by email, from only 10.42 per cent in 2001 to 73.08 per cent in 2005. This trend is due to the increased availability of the Internet at work and home, and the ease and familiarity with the medium that has occurred over this time. In 2005, postal complaints were the second most commonly used method with 22.36 per cent. This statistic changed from 2004, when faxed complaints were the second most common method of complaint.

With an increasing number of consumers using the Internet to access complaint information and handling processes, the ASB is making an upgraded and updated website a priority. The ASB is also aiming to provide clearer information on its website about the responsibilities of various organisations for dealing with enquiries about advertising, to try to minimise the number of complaints the ASB receives outside of its charter.



Media attracting complaint

The overwhelming majority of complaints (84.81 per cent) related to ads which appeared on television. This is understandable given that the television is the most viewed medium and the resulting high level of exposure consumers have to TV advertising. The remaining complaints are spread thinly across outdoor media (6.67 per cent), print (4.76 per cent) and radio (2.11 per cent).



	2005	2004	2003	2002	2001	2000	1999	1998
OUTCOME OF COMPLAINTS (NO.)								
Dismissed	1753	1319	1770	1191	1291	1971	1553	927
Upheld	94	55	23	11	47	162	111	73
Withdrawn before board determination	139	236	113	16	0	0	0	0
Outside Charter	970	656	714	354	367	425	401	382
TOTAL	2956	2266	2620	1572	1705	2558	2065	1382

GEOGRAPHIC SOURCE OF COMPLAINTS (%)

New South Wales	32.68	38.20	37.73	31.71	32.94	34.98	39.10	42.20
Victoria	21.19	22.17	24.75	25.61	23.62	23.92	13.60	13.70
Queensland	24.60	16.16	15.86	18.74	16.47	19.71	20.20	19.60
Western Australia	7.98	8.84	7.68	10.53	12.43	7.95	11.80	6.70
South Australia	8.54	7.10	7.22	7.77	9.20	7.87	10.30	11.20
Australian Capital Territory	2.47	4.75	4.40	2.95	2.23	2.38	2.80	2.90
Tasmania	1.84	1.92	1.52	2.25	2.17	2.06	1.70	2.20
Northern Territory	0.60	0.83	0.84	0.39	0.94	1.09	0.50	1.50
Abroad	0.10	0.04	0.00	0.06	0.00	0.04	0.00	0.00
TOTAL	100							

ISSUES ATTRACTING COMPLAINT (%)

Portrayal of People	27.14	36.42	25.46	18.43	22.10	23.07	38.26	30.08
Violence	17.38	18.36	8.47	10.46	10.15	7.99	10.56	9.77
Portrayal of sex/sexuality/nudity	26.49	17.22	30.32	31.48	27.60	26.59	18.39	24.42
FCAI Code	3.38	7.77	5.43	0.00	0.00	0.00	0.00	0.00
Health & Safety	6.46	5.84	10.65	13.11	20.24	13.56	9.75	15.66
Causes alarm or distress to children	0.00	5.24	1.67	5.78	1.99	1.89	3.69	4.65
Other	14.59	5.18	8.62	16.93	11.02	15.42	12.41	10.54
Advertising to Children	0.20							
Language	4.36	3.97	9.38	3.81	6.90	11.48	6.94	4.88
TOTAL	100							

	2005	2004	2003	2002	2001	2000	1999	1998
REASON COMPLAINTS FELL OUTSIDE CHARTER (NO.)								
Other	30	351	372	172	169	189	76	57
Not an advertisement	0	143	162	79	105	165	184	68
Not an advertisement - TV and Radio Promotional	144							
Not an advertisement - Program Content	73							
Not an advertisement - Loudness of Ads	71							
Not an advertisement - Community service announcement	35							
Not an advertisement - Infomercial	1							
Not an advertisement - Product or service	29							
Not an advertisement - Other	30							
Truth & Accuracy	0	91	68	40	67	47	74	62
Withdrawn/Discontinued	0	23	62	38	5	9	20	9
Business Practices	0	3	13	13	11	3	7	9
Specific Industry Code	0	13	9	10	8	10	10	13
Tobacco	0	2	1	2	1	0	0	0
Phone Sex	0	0	0	0	0	0	4	147
Political Advertising	0	0	0	0	0	0	3	0
Direct Distribution to an individual	11							
Point of Sale	27							
Local Advertising	30	29	27	0	0	0	2	1
Label Directions	2	1	0	0	1	2	21	16
TOTAL	483	656	714	354	367	425	401	382

GENDER OF COMPLAINANTS (%)

Female	57.69	57.06	62.50	57.11	59.61	60.85	63.00	63.40
Male	38.08	37.63	32.37	34.76	28.66	25.24	21.80	23.20
Unspecified	2.13	2.70	2.83	4.55	6.86	7.56	15.20	13.40
Couple	2.10	2.61	2.30	3.59	4.87	6.35	0.00	0.00
TOTAL	100							

MEDIA ATTRACTING COMPLAINT (%)

TV	84.81	85.33	80.59	58.22	66.44	71.87	71.70	84.10
Outdoor	6.67	6.28	9.23	29.77	14.01	18.66	11.70	1.90
Print	4.76	5.47	4.48	8.80	13.58	7.41	11.80	10.70
Radio	2.11	1.74	1.69	2.06	1.38	1.22	3.60	2.00
Transport	0.45	0.62	0.63	0.41	0.09	0.00	0.00	0.00
Multiple Media	0.35	0.06	2.95	0.41	4.15	0.46	0.00	0.00
Cinema	0.60	0.50	0.43	0.16	0.35	0.33	1.20	0.60
Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.70
Pay TV	0.25	0.00	0.00	0.16	0.00	0.05	0.00	0.00
TOTAL	100							

	2005	2004	2003	2002	2001	2000	1999	1998
PRODUCT CATEGORY ATTRACTING COMPLAINT (%)								
Alcohol	7.07	21.38	11.62	6.00	2.42	4.83	10.00	2.80
Food	20.85	15.41	13.45	25.39	22.32	13.83	11.40	16.70
Vehicles	15.00	14.29	15.80	10.27	11.68	9.99	9.60	6.90
Clothing	8.00	8.02	14.08	27.94	7.27	16.13	10.10	3.80
Toiletries	5.00	7.46	15.70	4.03	4.15	9.99	2.00	6.00
House goods/services	11.00	4.85	4.71	3.12	8.30	5.30	6.40	6.00
Office goods/services	0.00	4.72	0.10	0.49	0.26	0.05	3.90	0.00
Community Awareness	8.00	3.85	0.94	2.63	3.03	4.97	5.50	6.00
Media	0.00	2.49	4.03	0.74	3.03	5.49	1.90	3.50
Health Products	3.46	2.42	3.14	2.38	5.54	2.67	3.50	1.60
Finance/Investment	2.81	2.42	0.99	0.74	3.20	1.17	1.10	2.20
Telecommunications	4.30	2.05	4.81	1.40	6.66	2.72	2.60	3.50
Other	6.50	1.74	2.56	1.40	1.10	1.22	0.40	5.70
Restaurants	2.91	1.74	0.26	0.33	1.04	7.88	0.70	4.40
Leisure & Sport	1.00	1.31	1.67	1.15	1.56	0.42	1.60	3.50
Insurance	0.00	1.24	0.73	0.58	2.25	0.84	1.40	1.30
Entertainment	0.00	1.12	1.20	1.48	3.72	2.86	4.00	5.40
Retail	0.00	1.06	0.73	6.41	5.97	3.84	9.30	11.00
Travel	1.80	0.68	0.78	1.56	1.99	0.89	8.70	2.50
Toys & Games	0.00	0.62	1.15	0.25	0.69	0.23	1.30	1.60
Gaming	0.00	0.37	0.05	0.33	0.35	0.05	0.20	0.30
Hardware/Machinery	0.00	0.31	0.68	0.08	0.35	0.75	0.30	0.60
Professional services	2.30	0.25	0.26	0.66	1.47	0.80	1.90	1.90
Real Estate	0.00	0.12	0.26	0.25	0.69	0.33	0.40	1.30
Information Technology	0.00	0.06	0.26	0.33	0.61	0.42	0.90	0.60
Slimming	0.00	0.00	0.00	0.00	0.00	0.00	0.20	0.60
Education	0.00	0.00	0.00	0.08	0.35	0.14	0.60	0.00
Employment	0.00	0.00	0.00	0.00	0.00	2.19	0.10	0.30
TOTAL	100							

METHOD OF COMPLAINT (%)

E-mail	73.08	69.95	60.44	47.46	10.42	N/A	N/A	N/A
Post	22.36	25.96	32.65	43.32	86.83	N/A	N/A	N/A
Fax	4.56	4.09	6.91	9.22	2.75	N/A	N/A	N/A
TOTAL	100	100	100	100	100			

Top 10 Most Complained-About Ads

2005

Following is a list of the most complained-about ads in 2005.

Holden – Astra Coupe & Wagon

(2 x TV advertisements)

1. A naked couple (genitals pixelated or obscured) leave house, get into their Holden Astra, and go to town among shoppers who are clearly startled.
2. A naked couple drives to a charity bin to dump clothes.

Grounds for complaints: Portrayal of sex and/or nudity

Number of complaints: 160+

Determination: Complaints dismissed

PZ Cussons – Morning Fresh – Dishwashing liquid

A woman hits a man on the head with a spanner after he runs car parts and tools through the dishwasher.

Grounds for complaints: Portrayal of violence, sexual stereotyping, discrimination

Number of complaints: 125+

Determination: Complaints dismissed

Queensland Transport

A father and son are driving to buy gas for the BBQ, speeding 6 kilometres over the limit. The man changes lane, swerves to miss a car which has braked, runs off the road and hits a woman pushing a pram. The woman is killed, and her blood is shown on the baby.

Grounds for complaints: Portrayal of violence, health and safety standards

Number of complaints: 100 complaints

Determination: Complaints dismissed

Meat and Livestock – Australia Day

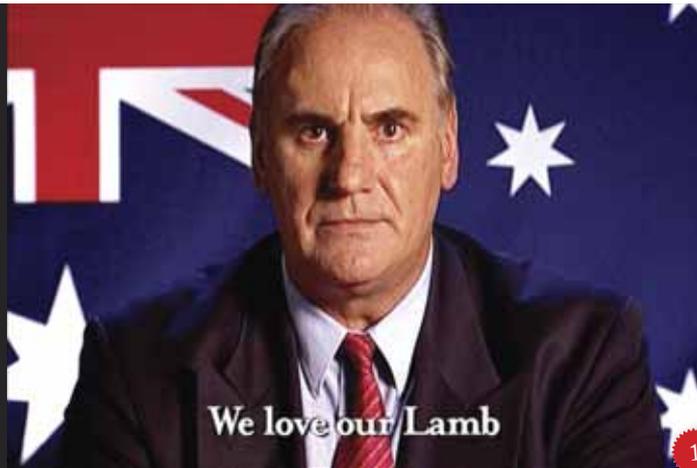
Sporting personality Sam Kekovitch monologue about what it is to be Australian, in particular having lamb on the BBQ and a beer for Australia Day. Berates vegetarians for “unAustralian” behaviour.

Grounds for complaints: Discrimination or vilification (of vegetarians)

Number of complaints: 90+

Determination: Withdrawn/discontinued before Board meeting

1. Meat & Livestock – Australia Day 2005
2. Dulux – Repel paint



1



2

Berates vegetarians for “unAustralian” behaviour.

Triumph – Sloggi Hot Hips

The backs of four women are shown. The women are clothed only in brief underwear.

Grounds for complaints: Portrayal of sex and/or nudity, negative portrayal of women

Number of complaints: 50+

Determination: Complaints dismissed

Dulux – “Repel” paint

The advertisement features a female ghost figure chasing a man through his house. While pursuing the man, the ghost bumps into a wall painted with Dulux paint and falls onto the ground. The tag line is “Nothing repels like Dulux wash and wear advanced”.

Grounds for complaints: Causes alarm or distress to children

Number of complaints: 30+

Determination: Upheld – Modified or Discontinued

CUB – Carlton Mid Strength

Pallbearers at a funeral rush the coffin so that they can finish the task and get to a beer more quickly.

Grounds for complaints: Bad taste, discrimination and vilification (men)

Number of complaints: 30+

Determination: Dismissed – but advertisement was discontinued voluntarily by the advertiser following Board meeting.

Bayer – Berocca

A man runs in front of a speeding train on a railway track.

Grounds for complaints: Health and safety

Number of complaints: 30+

Determination: Upheld – Modified or Discontinued

CUB – Carlton Mid Strength

Furniture removalists are shown using a tip-truck to dump an elderly couple’s furniture at their new home so that the removalists can get to a beer more quickly.

Grounds for complaints: Discrimination or vilification (age)

Number of complaints: 30+

Determination: Complaints dismissed

Toyota – Hilux 4WD

‘Get in or get out of the way’ utility being driven in an underground car park then suburbs and finally a rural setting. Vehicles fly out of the way and fence posts are uprooted.

Grounds for complaints (against the FCAI Code):

Driving that would breach the law

Number of complaints: 30+

Determination: Complaints dismissed

The Board's View

– Applying the Code of Ethics and Advertising to Children Code

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 (see Appendix 1). These issues fall broadly into seven categories:

- Discrimination
- Violence
- Portrayal of sex, sexuality and nudity
- Use of language
- Health and safety
- Advertising to children
- Motor vehicle advertising

More than half (53.62 per cent) of all complaints in 2005 fell into two categories: discrimination and portrayal of sex, sexuality and nudity.

Issues Attracting Complaint

Portrayal of people in a way which discriminates or vilifies

Portrayal of people or discrimination was the issue that received the most number of complaints (27.13 per cent) for 2005. This is a broad category and includes discrimination or vilification on the basis of race, ethnicity, nationality, sex, disability and age.

An example of an advertisement which attracted complaints in this category was the Australia Day advertisement from Meat and Livestock Australia. More than 90 complaints were received about the ad which featured sporting personality Sam Kekovitch encouraging Australians to eat lamb on Australia Day

and berating vegetarians for un-Australian behaviour. The complaints mainly alleged that the ad contained racial slurs. The Advertising Standards Board dismissed the complaint on the grounds that the words of the ad did not condone or incite racial behaviour; rather it encouraged Australians to join together with friends of all cultural backgrounds.

More than 30 complaints about age discrimination were received for the Carlton Mid-Strength beer ad showing furniture removalists using a tip-truck to dump an older couple's furniture at their new home so that they can finish work more quickly and go and have a beer. The complaint was dismissed after the Board determined that most people would find the ad humorous rather than offensive.

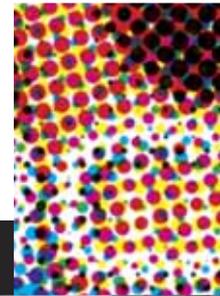
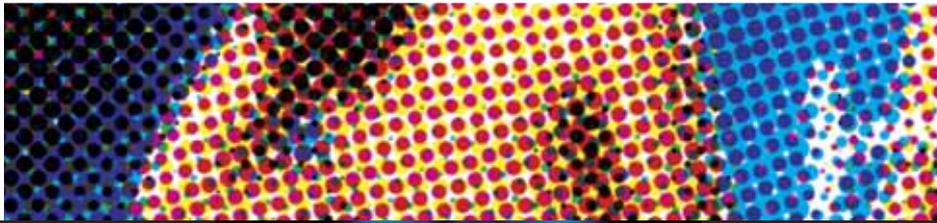
The One Centre had complaints about its advertisement upheld by the Board on the basis of age-based discrimination. This print advertisement features a full-page photograph of an older woman and the following words appear in beige text against a black background: "*Old models don't cut it anymore*". The Board was of the view that:

"the words: 'Old models don't cut it anymore' when used in conjunction with the images of the elderly model is material that clearly discriminates against or vilifies a person or a section of the community on account of their age."

Violence

During 2005, complaints about violence in advertising have remained a similar level to the previous year (17.38 per cent in 2005, 18.3 per cent in 2004).

An ad which received a large number of complaints (125) was the Cussons Morning Fresh commercial where a woman hits her husband over the head with a spanner after discovering he has cleaned his greasy tools and engine parts in the dishwasher. The complaints were mainly about the portrayal of violence against men. The Board dismissed the complaints because of the commercial's slapstick approach and the clear indication that the man did not appear to be in physical pain.



- 1 Triumph International's Hot Hips Sloggi briefs
- 2 Cussons Morning Fresh

Another advertisement in 2005 which received a large number (100) of complaints about violence was Queensland Transport's road safety advertisement. It featured a speeding car hitting a mother who was walking her baby in a pram. The advertisement then shows the baby, who was thrown from the pram, screaming and covered in blood while its mother lay motionless on the ground. While the powerful and graphic images of the advertisements struck an emotional chord with viewers, the Board's view was that:

"The Board noted that despite the display of graphic violence there was a need for these particular advertisements to get the message across. The Board concluded that the use of violence in this advertisement was justified given the cause it was trying to promote. The Board also noted that this advertisement was shown late in the evening when young children were not likely to be viewing the advertisement. Although the advertisement used very powerful images, the Board found that the depiction did not contravene the provisions of the Code relating to violence."

The issue of animal cruelty was considered after complaints about the Ford Focus ad which featured radio personality Jackie O driving around with a dog on the roof of her car. The complaints were dismissed by the Board.

A complaint about violence in advertising against the *The Age* ad which showed a man snatching a young woman's carry bag was upheld by the Board because the young woman in the advertisement clearly appeared to be distressed and the depiction of the theft was realistic.

Portrayal of sex, sexuality and nudity

The portrayal of sex, sexuality and nudity continues to be a dominant issue in complaints against advertising. In 2005, 26.49 per cent of all complaints fell into this category, up 10 per cent on 2004.

Receiving more than 160 complaints – the most complained-about ad of 2005 – were two similar advertisements for Holden's Astra Coupe and Wagon. These are discussed in more detail under FCAI Code. The Advertising Standards Board dismissed the complaints on the grounds it did not breach the Code and that the majority of people

would not find the advertisements offensive.

Due to the nature of the product, underwear advertisements frequently attract complaints. One example was an outdoor advertisement for Triumph International's *Hot Hips Sloggi briefs*, which received more than 50 complaints. This advertisement, featured on railway stations and the backs of buses, shows the backs of four women, arms outstretched, wearing only their underwear briefs. The Board dismissed the complaint as the image shown was not overly gratuitous and was specifically related to the product.

One advertisement which did raise the ire of the Board was a print ad featuring pictures of Just Porn DVD's for sale. The DVD cover contained images of naked women and the DVD titles including 'No cum dodging allowed'. The complaints against this advertisement were upheld and the advertisement was not published again. In the Board's view:

"The images in the advertisement were pornographic, highly eroticised and not artistic, and were 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 for or sensitive to the relevant audience."

Health and Safety

Complaints about health and safety issues in advertising accounted for just more than six per cent of all complaints in 2005.

In 2005, one advertisement stood out in this category for the number of complaints it received. The Berocca advertisement showed a man running along railway tracks beside a moving train. The ad received more than 30 complaints to place it among the top 10 complained-about ads of the year. The Board upheld the complaints against the advertisement.

“The Board considered that the scenes in the advertisement were very realistic to the extent that they showed a person deliberately joining the path of an oncoming freight train that was travelling at speed. Although the athlete is later shown to out-pace the freight train, the Board considered that this aspect of the advertisement did not have the effect of negating the realism of the scenes in the advertisement that show the young man running into the train’s path.”

The Board determined that the depiction contravened the provisions of the Code relating to health and safety.

After the Board upheld the complaint the advertisers immediately removed the advertising and modified the advertisement. Unfortunately the remade advertisement, which depicted a man running along the train platform beside the train, was also considered by the Board to depict material contrary to community standards on health and safety.

Another ad considered to be in breach of the health and safety provisions of the Code was a Douwe Egberts commercial for the Senseo Coffee Machine. This advertisement, which emphasised the machine’s ease of use, showed a young boy making coffee. The Board considered that preparation and carrying of steaming hot beverages by a young and unsupervised child is behaviour that is contrary to prevailing community standards on health and safety.

Use of language

Language in advertising only attracted a very small percentage (4.34) of complaints for 2005.

A Little Bit of Relief’s slogan, “When life’s a bitch, try a little bit of stress relief” was considered by the Board and dismissed.

While generally ‘beeped out’ words in an advertisement will not offend the Code, in September, the Board upheld a complaint against a radio advertisement from Geoff Walsh Engine Parts. While the script from the advertiser read, “this is fun ... you want to eat some dirt?”, the Board was of the opinion that listeners would hear, “this is fucked, you want to eat some dirt?” and was of the view that the language was inappropriate in that circumstance.

The Board considered a number of advertisements that used words such as ‘bloody’ or ‘bugger’ which, in the Board’s view, are considered to be part of the Australian vernacular or colloquial. Although the use of such words is generally acceptable, they will contravene the Code where they are used in situations that are not congruent with the word’s use as an affectionate or colloquial term.

Advertising to Children

In 2004 the AANA developed the AANA Code for Advertising to Children. This specific Code is to ensure that advertisers develop and maintain a high sense of social responsibility in their advertising targeted at children.

During 2005 the ASB received complaints about only four advertisements under the Children's Code.

The minimal number of complaints would indicate that advertisers are serious about their moral obligations when it comes to advertising to children.

It is also possible that there is not a high level of awareness among consumers of the existence of the Children's Code. It will be one of the ASB's priorities in 2006 to disseminate more information about this Code.

One advertisement by Bonland Dairies Pty Ltd for *Munchables* shows a young boy and girl, upon seeing their parents' room being perfectly tidy, demand that their parents get in there and 'trash it'. The next scene shows the parents and the children at the top of a skate-board half-pipe. The parents have a scared look on their faces as the son urges the parents to launch themselves off the edge. The final scene in the advertisements shows the family at dinner where the young girl tells the parents to eat their brussel sprouts or they "won't get their Munchables". When the parents ask if they can go to bed, the children reply: "No!"

The Board considered whether the advertisement breached clause 2.4.1(a) of the Code, which provides that:

Advertisements to Children must ... not undermine the authority, responsibility or judgment of parents or carers."

The Board agreed with the advertiser's comments that the advertisement is based on a situation that children are familiar with, and uses fantasy and exaggeration to generate interest. The Board took into consideration the fact that the advertisement was targeted to children between 10 and 14 years of age and the Board was of the opinion that children at that age would understand the use of fantasy and humour. The Board also noted that at no stage did either of the children disobey an order from the parents. The Board determined that the advertisement did not undermine the authority, responsibility or judgment of parents and did not breach clause 2.4.1(a) of the Code.



The Board also considered whether two advertisements for McDonald's Happy Meals breached clause 2.8 of the Code which states:

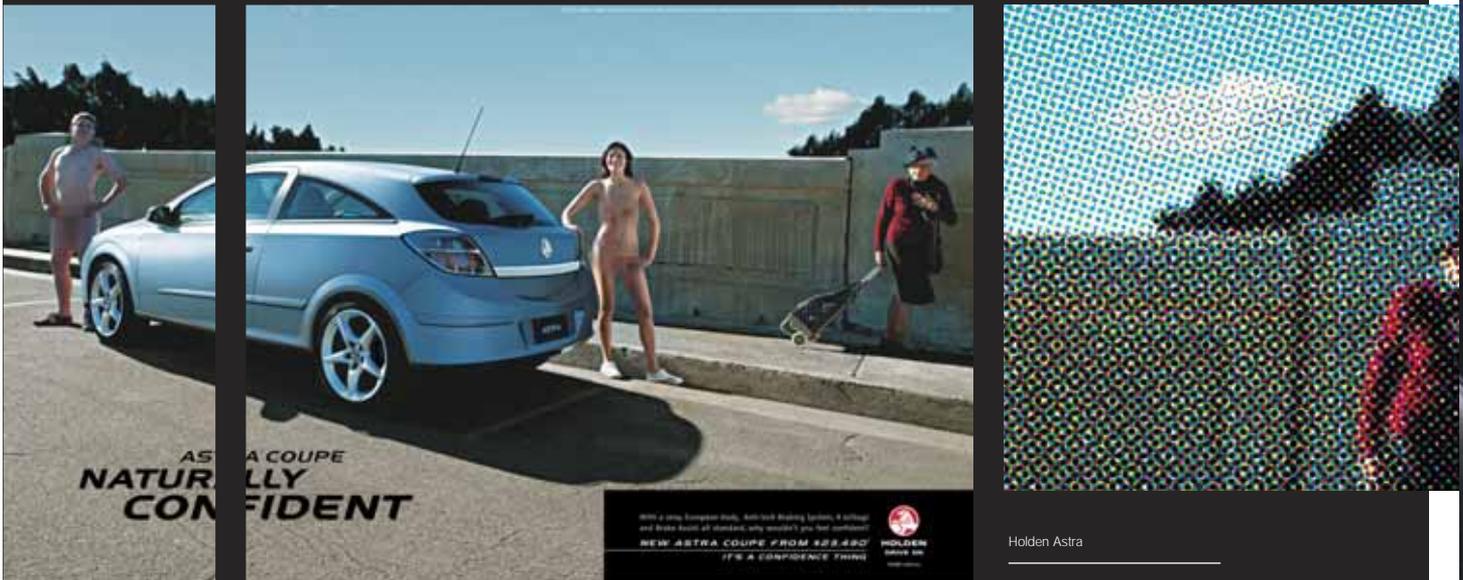
Advertisements to children which include or refer to a Premium:

- a) Should not create a false or misleading impression in the minds of children about the nature of content of the product
- b) Should not create a false or misleading impression in the minds of children that the product advertised is the premium rather than the product; and
- c) Must make the terms of the offer clear as well as any conditions or limitations.

In both cases the Board considered that the toy offered as part of the Happy Meals was not a premium as the toy is part of the Happy Meal and is not a premium as defined in the Code.

Collaboration and Cooperation with Industry Partners

Holden Astra topped the list of most complained-about advertisements in 2005 – attracting more than 175 complaints in relation to the depiction of apparent nudity



Federal Chamber of Automotive Industries (FAI)

The *Voluntary Code of Practice for Motor Vehicle Advertising* (the FCAI Car Code) was instituted by 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.

The current version of the Code applies to all advertisements published or broadcast in Australia from 1 July 2004. It has been adopted after a review of the original Code which came into effect in August 2002. Background to the development of the FCAI Car Code can be found on the FCAI's website at www.fcai.com.au.

The ASB administers complaints under the FCAI Car Code by arrangement with FCAI. All complaints about car advertising under the FCAI Car Code are accepted by the ASB and are considered by the Advertising Standards Board.

Complaints about advertisements for cars will be considered under both the FCAI Code and the Code of Ethics. Under the Car Code, the Board considers matters such as the driving practices and safety of driving portrayed in the advertisement. Under the Code of Ethics, the Board considers whether a car advertisement uses sex, violence or other material in a manner that would be contrary to community standards.

The number of complaints that come within the FCAI Car Code decreased from 7.7 per cent in 2004 to 3.4 per cent in 2005. This might be due to the introduction of an amended version of the FCAI Code in 2004 and reflect the automobile industry's increased awareness of responsibility and safety issues necessary in such advertising.

Significantly, in the last half of 2004, six complaints about advertisements that raised issues under the FCAI Car Code were upheld immediately following the introduction of the amended version of the Code.

A total of 25 car advertisements where the complaint concerned a matter within the FCAI Car Code were considered in 2005. No complaints were upheld, although one advertisement, for a Queensland car dealership, was withdrawn prior to adjudication by the Board.

The Toyota Hilux 'get in or get out of the way' advertising campaign (TV, print ad outdoor advertising) attracted the most complaints under the FCAI Car Code – with over 30 complaints. In this case the Board decided that the depictions of objects flying out of the way of the car were not in breach of the FCAI Code. In the case report:

“The Board noted the advertiser’s comments that the advertisement portrayed was a fantasy representation and that the events were clearly exaggerated. The use of fantasy and exaggeration does not enable an advertiser to avoid compliance with the provisions of the FCAI Code. However, the Board took into consideration the fact that at no time did the vehicle make contact with any other object. The Board noted and accepted the advertiser’s comments that there is nothing in the advertisement to indicate that the vehicle is speeding or otherwise being driven unsafely or in breach of any law.”

Car advertising itself received 10.5 per cent of complaints in 2005, down from 14 per cent in 2004. Most of these complaints concerned depictions of nudity and discrimination against women.

While a car advertisement for Holden Astra topped the list of most complained-about advertisements in 2005 – attracting more than 175 complaints in relation to the depiction of apparent nudity – these complaints were assessed under the provisions of the AANA Code of Ethics, rather than the FCAI Car Code. The Board dismissed the complaints on the basis that there was no inappropriate nudity likely to cause offence to the community.

Alcohol Beverages Complaints Management Scheme

Alcohol advertising is subject to two separate, complementary Codes:

- the AANA Code Advertiser Code of Ethics sets out general standards for all advertisers
- the Alcohol Beverages Advertising Code (ABAC) sets out additional standards for alcohol advertisers.

The Alcohol Beverages Advertising Code forms part of the ABAC Scheme for alcohol advertising which was introduced in 1998 and revised in 2004.

The ABAC Scheme is a co-regulatory scheme administered by a Management Committee which includes industry, advertising and government representatives.

The Advertising Standards Bureau (ASB) works closely with the ABAC Scheme Management Committee to provide a 'one-stop shop' for consumer complaints.

When the ASB receives a complaint concerning alcohol a copy will be promptly forwarded to the Chief Adjudicator of the ABAC Scheme. It will then be dealt with independently under the separate complaint management processes for each Code.

Alcohol advertisements comprised 5.8 per cent of all complaints to the ASB in 2005 (down from 21 per cent in 2004).

The Advertising Standards Board considered 31 alcohol advertisements during the year. Three were withdrawn prior to the Board meeting as a result of the complaints received.

The two most complained-about alcohol advertisements on issues covered by the AANA Code of Ethics were both for Carlton Mid-Strength, a product of Carlton & United Beverages.

In one advertisement, furniture removalists use a tip-truck to dump an elderly couple's furniture at their new home so the removalists can finish work quickly to go and have a beer. In the other, pallbearers at a funeral rush the coffin so that they can finish the task quickly so they can get to a beer.

These advertisements received 70 complaints and, while they were dismissed by the Board, the advertisement featuring the pallbearers was voluntarily withdrawn by the advertiser.

Statistics for the ABAC Scheme are available in its 2005 Annual Report.

Advertising Industry Self-Regulation Funding Information

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

Responsible advertisers pay the levy to the ASB in recognition of the value of self-regulation to the broader community as well as to 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 mainly 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 the 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 expenditures 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.

Advertising Standards Bureau Board of Directors

The ASB is a limited company headed by a Board of Directors. Under the Constitution of the Advertising Standards Board, there must be between three and six directors of the company that is the 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 (see page 4).

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 keen to improve the operation of the ASB with the aim of positioning the 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

Advertising Standards Bureau

Director – Group Marketing & Communication

Nestle Australia

Robert Koltai

Deputy Chairman

Australian Association of National Advertisers

Corporate Counsel

Colgate

Leigh Clapham

Director, ASB

Vice President Australasia

MasterCard International

Michael Duncan

Director, ASB

Agency Client Director

Nova 106.9 Radio

Hayden Hills

Director, ASB

Senior Manager, Transactions, Banking and

Redesign Services,

Insurance Australia Group

John Sintras

Director, ASB

President, Media Federation of Australia

Chief Operating Officer, Starcom Worldwide Australia

Meetings:

Meetings of the Board of Directors during 2005 were held on six occasions.

BOARD MEMBER	POSITION	NUMBER OF MEETINGS ATTENDED
Robert Koltai	Chairman (until July)	3 (of 3)
Ian Alwill	Chairman (from September)	6
Michael Duncan	Member	6
Geoff Walsh	Member (resigned)	4 (of 5)
Haydon Hills	Member	3
John Sintras	Member (from December)	1 (of 1)
Leigh Clapham	Member (from December)	0 (of 1)

Advertising Standards Board Complaints Process

Receipt of Complaints

The Advertising Standards Board ('the Board') will normally only accept written complaints, by post, facsimile or email.

All complaints received are promptly assessed as to their appropriateness for submission to the Board for determination. The secretariat replies to all complainants informing them of the status of their complaint.

If the information provided in the letter of complaint is insufficient (in particular, if it fails to adequately identify the advertiser, product and/or nature of complaint) then more information is sought from the complainant.

The Board can only consider issues that come within Section 2 of the Code of Ethics.

A complaint is not forwarded to the Board if it:

- has been previously considered (although all complaints are referred to the advertiser for its consideration)
- does not constitute an advertisement for the purposes of the Code
- raises questions of law or questions of truth and accuracy
- involves trivial issues
- involves public advocacy issues
- is local advertising
- is advertising that is the subject of litigation or an order by a court or government agency
- is about unlawful business practices
- (usually) relates to advertising that has been withdrawn or discontinued before challenge
- raises highly technical issues
- relates to label directions or basic performance of products and services not related to advertising claims

- relates to issues covered by a specific industry code (except in the case of motor vehicles), such as:
 - slimming/weight management products and services
 - therapeutic goods
 - alcohol beverages.

An anonymous complaint is not sufficient to initiate a formal complaint. However, it can be included as part of a complaint that has already been raised or is subsequently raised. To facilitate this, anonymous complaints are kept on file.

Initiating complaints

A single written complaint is sufficient to initiate a formal complaint.

Advising Advertiser of complaints

Once a complaint has been accepted by the Secretariat, the advertiser is notified about the complaint and is provided with a copy of the complaint. The advertiser is then asked to provide a written response and copies of the relevant advertising material within sufficient time to allow the complaint to be dealt with at the next meeting of the Board.

If an advertiser fails to provide a response within the specified period (or any extension thereof) the Board may consider the complaint and the advertisement in question without the advertiser response.

Complaint Resolution

The Board meets on a monthly basis between February and December to consider complaints received. From 2006, it will meet from January to December. The Board can also meet between meetings when considered a matter of urgency by the Secretariat.

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

In relation to individual complaints, Board members consider:

- the complaint(s) received
- all relevant advertisements submitted by the advertiser
- the advertiser's response
- Section 2 of the Advertiser Code of Ethics
- any other relevant supporting materials and/or other representations or submissions.

The Board considers complaints in light of Section 2 of the Advertiser Code of Ethics as a whole and accordingly may apply any part of Section 2 in reaching a determination. It is not limited, in its considerations, to issues raised by the complaint.

If the Advertising Standards Board is unable to reach a decision until it is in possession of additional information it can defer its determination until a future date.

Decisions the Board can make

Determination – complaint upheld

A complaint is upheld if the Board determines there is a breach of Section 2 of the Code.

Determination – complaint dismissed

A complaint is dismissed if the Board determines there is no breach of Section 2 of the Code.

Notifying advertisers and complainants of the outcome of the Board's decision

Following determination, the Secretariat notifies parties of the outcome within eight (8) to ten (10) business days of the Board decision.

In the case of an upheld decision, the advertiser is requested to advise the Board whether it agrees to modify or discontinue the advertisement ('Advertiser Statement') within (5) five business days of receiving the covering letter advising of the outcome and enclosing the draft case report.

The advertiser is also advised of the opportunity to include an 'Advertiser's Statement' in the case report.

If an advertisement is found to breach Section 2 of the Code and the advertiser does not respond to the opportunity to modify or discontinue the advertisement within the allowed time frame, the Board will:

- if appropriate, refer the case report to the appropriate government agency
- include the advertiser's failure to respond in the case report
- forward the case report to media proprietors
- post the case report on the Bureau's website.

Publish case report

Within ten (10) business days of the Board's decision, all finalised case reports are made publicly available through the ASB website.

No review

Having already considered and determined a particular complaint or advertisement, the Board will not reconsider the complaint or advertisement except prior to the publication of a final case report in the very limited circumstances set out below.

In other than exceptional circumstances as determined by the Chairman or Chief Executive Officer of the Bureau, a determination of the Board shall not be re-determined in relation to the same or substantially similar advertisement until the expiration of five (5) years from the date of the original determination.

AANA Advertiser Code of Ethics

This Code has been adopted by the AANA to be applied as a means of advertising self-regulation in Australia and is intended to be applied to “advertisements” as defined in this Code.

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, the term “advertisement” shall mean matter which is published or broadcast, other than via internet, direct mail, point of sale or direct distribution to individuals, 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.

Section 1

- 1.1 Advertisements shall comply with Commonwealth law and the law of the relevant State or Territory.
- 1.2 Advertisements shall not be misleading or deceptive or be likely to mislead or deceive.
- 1.3 Advertisements shall not contain a misrepresentation, which is likely to cause damage to the business or goodwill of a competitor.
- 1.4 Advertisements shall not exploit community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies

a benefit to the environment which the product or services do not have.

- 1.5 Advertisements shall not make claims about the Australian origin or content of products advertised in a manner which is misleading.

Section 2

- 2.1 Advertisements 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.
- 2.2 Advertisements shall not present or portray violence unless it is justifiable in the context of the product or service advertised.
- 2.3 Advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.
- 2.4 Advertisements which, having regard to the theme, visuals and language used, are directed primarily to children aged 14 years or younger and are for goods, services and facilities which are targeted toward and have principal appeal to children, shall comply with the AANA's Code of Advertising to Children and section 2.6 of this Code shall not apply to advertisements to which AANA's Code of Advertising to Children applies.
- 2.5 Advertisements shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.
- 2.6 Advertisements shall not depict material contrary to prevailing community standards on health and safety.
- 2.7 Advertisements 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 advertisements to which the Federal Chamber of Automotive Industries Code of Practice applies.

AANA Code for Advertising to Children

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

Definitions

In this Code, the following definitions apply:

- (a) Advertisement: means matter which is published or broadcast other than via Internet, direct mail, point of sale, packaging or direct distribution to individuals, 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.
- (b) Product: means goods, services and facilities which are targeted toward and have principal appeal to Children.
- (c) Advertisements to Children: means Advertisements which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.
- (d) Children: means children 14 years old or younger.
- (e) Premium: means anything offered free or at a reduced price and which is conditional upon the purchase of a regular Product.

Code of Practice

2.1 Factual Presentation

2.1.1 Advertisements 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 in the Advertisement; and
 - (iii) the need for any accessory parts.

2.2 Safety

2.2.1 Advertisements 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; and
- (b) must not advertise Products which have been officially declared unsafe or dangerous by an authorised Australian government authority.

2.3 Social Values

2.3.1 Advertisements 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.

2.4 Parental Authority

2.4.1 Advertisements to Children:

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

2.5 Price

2.5.1 Prices, if mentioned in Advertisements 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”.

2.6 Qualifying Statements

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

2.7 Competitions

2.7.1 Competitions which appear in Advertisements to Children 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.

2.8 Premiums

2.8.1 Advertisements to Children which include or refer to 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 advertised is the Premium rather than the Product; and
- (c) must make the terms of the offer clear as well as any conditions or limitations.

2.9 Alcohol

2.9.1 Advertisements to Children must not be for, or relate in any way to, alcoholic drinks or draw any association with companies that supply alcoholic drinks.

2.10 Food and Beverages

2.10.1 Advertisements to Children for food and/or beverages:

- (a) should not encourage or promote an inactive lifestyle combined with unhealthy eating or drinking habits; and
- (b) must not contain any misleading or incorrect information about the nutritional value of that Product.

2.11 AANA Advertiser Code of Ethics

2.11.1 Advertisements to Children must comply with the AANA Advertiser Code of Ethics.

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:

- (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
- (f) the Advertising Standards Bureau Limited.

Review of the Code

FCAI will undertake a review of the current version of the Code, (in consultation with all parties listed above) commencing in December 2005. The process of this review should be completed by end-March 2006.

Code of Practice for Motor Vehicle Advertising

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.

Alcohol Beverages Advertising Code

Preamble

Australian Associated Brewers Inc, the Distilled Spirits Industry Council of Australia Inc, the Winemakers Federation of Australia and the Liquor Merchants Association of Australia Ltd 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
- **low alcohol beverage** means an alcohol beverage which contains less than 3.8 per cent 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
 - 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
 - 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
 - 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
- 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.

Internet advertisements

The required standard for advertisements outlined in (a) to (g) 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
- 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
- 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)

- promotional staff at events do not promote consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines
- promotional staff do not misstate the nature or alcohol content of a product
- promotional staff at events are of legal drinking age
- promotional materials distributed at events do not clearly target underage persons
- promotional materials given away at or in association with events do not connect the consumption of alcohol with the achievement of sexual success
- promotional materials given away at or in association with events do not link the consumption of alcohol with sporting, financial, professional or personal success
- promotional materials given away at events do not encourage consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines
- 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
- 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.

