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Ad Standards' Response to the Exposure Draft of the Competition and Consumer (Designated Complaints) Determination 2024

For over 25 years, Ad Standards has been the self-regulatory body responsible for handling community complaints about advertising in Australia. We are dedicated to receiving and responding to community concerns about advertising. This longstanding dedication demonstrates our strong capabilities in resolving complaints from both individuals and on a larger scale, ensuring a responsive and responsible approach to consumer concerns.

Ad Standards is now pleased to provide our response to the *Exposure Draft of the Competition and Consumer (Designated Complaints) Determination 2024 (the Determination)*. This submission draws upon our extensive expertise in consumer complaints handling and our commitment to providing a voice for consumers. It reflects our analysis of the Determination's provisions and outlines our feedback aimed at refining and strengthening the proposed complaints function.

Our Expertise and Commitment

Ad Standards is uniquely positioned to offer insights into the operationalisation of the Designated Complaints Function. Our organization's commitment to ensuring responsible advertising practices aligns with the objectives of the Determination, aiming to enhance consumer protection and market fairness.

Response

Section 12: Maximum Number of Designated Complainants

The proposal to cap the number of designated complainants at 3 concurrently, combined with restricting each to one complaint per 12 months, risks severely limiting the function's utility. Such constraints may not adequately accommodate the diversity of consumer interests or the breadth of advocacy groups, potentially sidelining underrepresented or less well-funded voices.

Based on our own experience of the range of concerns held by consumers, we therefore recommend a more flexible approach, for example by granting the Minister the discretion to approve additional designated complainants on a case-by-case basis, thus ensuring a responsive framework that can adapt to emerging issues.

Section 5: Limitation on Complaints per Designated Complainant

The limitation of 1 complaint per designated complainant per year might deter timely reporting of consumer concerns. Ad Standards suggests removing or amending this restriction to prevent hesitancy among complainants.

Additionally, we would be pleased to offer our expertise in consumer complaint management to assist in the efficient triage and categorisation of complaints, thereby supporting the ACCC in managing an increased volume of complaints effectively.

Sections 6 and 7: No Further Action Notices

In determining the appropriateness of issuing a 'no further action' notice, we propose that the ACCC's assessments encompass not only existing systemic issues but also emerging trends.

This proactive approach could preempt significant market failures. Moreover, we recommend that a next step of a No Further Action Notice may be the referral to alternative resolution pathways, such as referring specific complaints, like those related to advertising content, to specialised entities like Ad Standards. This would ensure a more comprehensive and solutions-based approach to consumer concerns.

Section 10: Application Period for Designated Complainant Status

The current three-year interval between application opportunities for designated complainant status could stifle the function's effectiveness, especially in its formative years.

We suggest introducing a more flexible application and review timeline, which would better accommodate the dynamic nature of consumer advocacy and the operational realities of the designated complaints function.

Section 11: Approval Criteria for Designated Complainants

In considering the approval of designated complainants it is important that the approval criteria reflect not only the ability to submit actionable complaints but also a strong understanding and representation of consumer interests.



Ad Standards, with its established consumer complaint resolution function, is keen to contribute meaningfully to this new function, and would seek to be designated a complainant.

Conclusion

By incorporating these recommendations, we believe the designated complaints function can be significantly improved, making it more adaptable, inclusive, and effective in serving the diverse needs of Australian consumers and businesses. Ad Standards is committed to supporting the Treasury and the ACCC in this endeavor and looks forward to engaging in further dialogue on how we can collectively contribute to the function's success.

We appreciate the opportunity to submit our feedback and are keen on any further discussions or clarifications you may require.

Yours sincerely

Richard Bean
Executive Director
Ad Standards

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