

Ad Standards' Response to Public Consultation: Feasibility Study on Options to Limit Unhealthy Food Marketing to Children – March 2024

Overview

Ad Standards is pleased to provide a submission in response to the public consultation paper - *Feasibility Study on Options to Limit Unhealthy Food Marketing to Children*.

We wish to take this opportunity to emphasise the effectiveness of Australia's existing advertising regulation system which has delivered benefits to the community, industry and government for more than 25 years.

Operating at no cost to government or consumers, Ad Standards administers an independent, platform-neutral and flexible mechanism to resolve complaints about advertising content.

Ad Standards also monitors and responds rapidly to technological and societal changes, particularly important as Australians now access material across a broad range of media platforms.

We acknowledge the intention of the feasibility study is to better understand the options available to limit unhealthy food marketing to children, and the concerns regarding the nutritional and body weight status of Australian children. However, we respectfully disagree with any approach that advocates direct government regulatory intervention or advertising bans.

It is our submission that the current advertising self-regulatory system, backed by industry commitment, effectively addresses concerns related to children's exposure to unhealthy food marketing, without the need for government intervention.

Food and beverage advertising regulation

Australia has in place a robust and effective system for managing complaints about the content of food and non-alcoholic beverage advertising, including advertising to children, across all forms of media.

Ad Standards administers the following [industry codes](#) of practice that apply to food and beverage advertising and marketing in Australia:

- a) [AANA Code for Advertising and Marketing Communications to Children;](#)
- b) [AANA Food & Beverages Code;](#)
- c) [AANA Code of Ethics.](#)

These codes have been developed by the Australian Association of National Advertisers (AANA) to ensure appropriate advertising of food choices to children. In particular, the AANA Food & Beverages

Code requires advertisers to maintain a high sense of social responsibility in advertising food and beverage products to children.

Information about how Ad Standards administers these codes is provided at [Appendix A](#).

Through the independent complaints adjudication process administered by Ad Standards, advertisers must engage with and address community concerns about advertising.

The effectiveness of this approach is evidenced by a 25-year history of strong industry compliance with Ad Standards rulings. The independent complaints resolution process facilitated by Ad Standards is recognised for its efficiency and effectiveness in managing issues related to advertising content, particularly within the food and beverage sector.

Proposed policy options

Ad Standards supports the positions put forward by the Australian Association of National Advertisers (**AANA**) in their submission to this public consultation.

We firmly support a model that continues to allow for industry self-regulation. In our view, the existing self-regulatory frameworks, developed in consultation with various stakeholders, already provide robust mechanisms to protect children from inappropriate marketing practices. These frameworks are adaptable and can be modified as needed to meet evolving community standards and expectations.

It is relevant to note that our statistics show a consistently low level of community concern in relation to food and non-alcoholic beverage advertising primarily directed to children, and/or the portrayal of health and nutritional values of such products, as evidenced by the low number of complaints received by Ad Standards on these issues.

The data shows that the majority of complaints made to Ad Standards about food and non-alcoholic beverage advertising are about the taste and decency of the advertising content (which is covered by the AANA Code of Ethics), rather than the matters considered under the AANA Food & Beverage Code (which deals with complaints regarding truth and accuracy, excessive consumption, health and nutrition claims and promotion of dietary choices).

It is relevant to note that in 2023:

- a) Ad Standards received a total of 3,764 complaints, of which 755 raised issues about food and beverage advertising (i.e. around 20% of all complaints);
- b) However, only 25 of these food and beverage complaints raised issues under the AANA Food & Beverage Code (the remainder raised other issues such as about matters of taste and decency);
- c) Of these 25 complaints, only 4 complaints were about advertisements that were ultimately found by the Ad Standards Community Panel to breach the AANA Food & Beverage Code – this equates to 0.1% of all complaints received in 2023.

We note that prescriptive policy proposals set out in the feasibility study, such as restrictions on certain types of marketing, would have the effect of limiting consumer choice, without, we

respectively submit, sound evidence of a positive health impact or broader community support for the proposed level of advertising restrictions.

In conclusion

We appreciate the opportunity to provide our feedback and would be pleased to discuss further the ways in which the current advertising self-regulation system delivers a cost effective and efficient system of regulation for food and non-alcoholic beverage advertising and provides appropriate protections and safeguards for the community.

Yours sincerely

Richard Bean

Ad Standards Executive Director

15 March 2024

APPENDIX A

Background - advertising self-regulation

Ad Standards supports the work of the Ad Standards Community Panel ([Community Panel](#)) which is the body established to consider complaints about advertising and marketing communications against the provisions set out in the relevant advertising codes.

Industry codes

Ad Standards administers the following [industry codes](#) of practice:

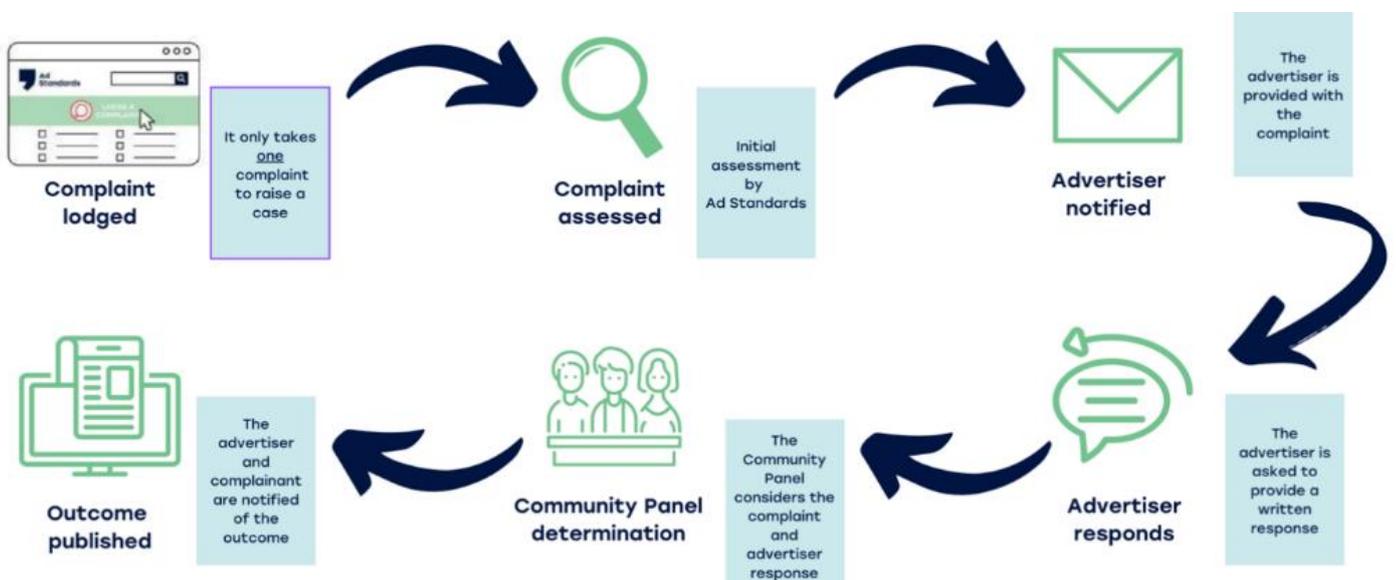
- a) [AANA Code for Advertising and Marketing Communications to Children;](#)
- b) [AANA Food & Beverages Code;](#)
- c) [AANA Code of Ethics;](#)
- d) [AANA Environmental Claims Code;](#)
- e) [AANA Wagering Advertising & Marketing Communications Code;](#)
- f) [Federal Chamber of Automotive Industries \(FCAI\) Voluntary Code of Practice for Motor Vehicle Advertising.](#)

Responding to community concerns

We give a voice to community concerns about advertising content and guide industry in maintaining decent and honest advertising aligning with community standards and values. Our organisation is recognised and respected by Australian State and Federal Governments, sector regulators and the advertising industry as a reliable platform for consumer protection in advertising content across all mediums.

Our complaints handling system is transparent and accessible to all, with easy-to-follow steps and support throughout the process provided by our staff.

Consumers may lodge a complaint quickly and easily via the [Ad Standards' website](#), free of charge. Below is an overview of the process. Further details are set out [here](#).



Role of the Community Panel

The Community Panel is the independent body established to determine public complaints about advertising and marketing communications against the principles set out in the relevant codes. The Community Panel makes determinations on complaints about most forms of advertising in relation to issues including the use of language, the discriminatory portrayal of people, concern for children, portrayals of violence, sex, sexuality and nudity, and health and safety.

The Community Panel comprises 24 members of the community and reflects a diverse knowledge and experience base. The Community Panel is gender balanced and members come from a broad range of age groups and backgrounds. It is independent, dedicated and diverse and as representative of the diversity of Australian society as any such group can be.

Individual Community Panel members do not represent any particular interest group (industry or consumer) and are individually and collectively clearly independent of the industry. On the rare occasion an individual member has a connection with a party concerned in a particular determination, that Community Panel member absents herself or himself from the meeting.

The Community Panel 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 decisions will not and cannot please everyone.

Ad Standards' effective resolution of complaints

Australia's self-regulatory system is funded by advertisers through a levy based on advertising spend and operates at no cost to the consumer or to government.

When required, Ad Standards is supported in enforcing compliance by the media and media industry associations, and we engage regularly with social media platforms as part of our complaint resolution and industry education processes.

Ad Standards also has processes in place for referral of non-compliance (or serious matters warranting immediate resolution) to relevant government bodies. Ad Standards has only had to seek the support of government bodies in very rare instances.

The Ad Standards complaints-based system provides a free, open and transparent mechanism to address concerns about the content of advertisements and other marketing communication.
