



ADVERTISING  
STANDARDS  
BUREAU

## Review of Operations

2007

## 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 the following codes of practice:

- AANA Advertiser Code of Ethics
- AANA Code for Advertising to Children
- AANA Food and Beverages Advertising and Marketing Communication Code (since November 2006)
- 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
- Food and Beverage Advertising and Marketing Communications.

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.

**MISSION 2007**  
THE ASB IDENTIFIED OBJECTIVES FOR 2007  
THAT BUILT ON THE SUCCESS OF THE ASB  
IN PROVIDING A TRANSPARENT AND ACCESSIBLE  
COMPLAINTS RESOLUTION SERVICE FOR  
THE AUSTRALIAN COMMUNITY.

# Advertising self-regulation



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2007

## Snapshot

Number of complaints received	2,602
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Number of complaints made about matters within ASB jurisdiction	2,025
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Number of advertisements complained about	446
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Number of advertisements the Board found consistent with AANA code	405
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Number of advertisements found by the Board to breach the AANA code	36
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Number of advertisements withdrawn voluntarily before the advertisement was considered by the Board	5
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Number of advertisements which were NOT modified or discontinued after a complaint was upheld	0
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## Chairman's report

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The ASB and the Bureau Board had a busy year in 2007, filled with activity and challenges which have resulted in good outcomes that promise a future of continued growth.

The continual improvements to the complaints handling procedures has strengthened community knowledge about the role and work of the ASB, and has resulted in significantly fewer complaints received about issues outside its charter.

Advertisers have continued to show solid support for the advertising self-regulation system, both financially and through quick responses to requests for information and once again, 100 per cent compliance with decisions made by the Advertising Standards Board. This support is essential to the smooth running and administration of the complaints handling system.

Advertising Standards Board members have also continued to dedicate themselves to the task of maintaining and, through their work, promoting the robust and effective complaints resolution system. Their work is never easy and the decisions made cannot always please everyone.

Support from media agencies continues to be strong and the levy system is working well.

Staff numbers at the ASB have remained steady and the work of improving complaints handling process continued as has further interaction and liaison work with the advertising industry, community groups and overseas self-regulatory organisations. This work has proven to be a key in ensuring continued success of the self-regulation of advertising in Australia.

Work on development and review of AANA codes has been successful, with ASB led research into community standards and assessment of those standards fed into the work. This type of work continues to help ensure that the codes of practice provide for the high standards of advertising demanded by the Australian community.

The ASB and Bureau Board look forward to the challenges and work of the coming year.

Ian Alwill  
Chairman

## CEO's report

Nearly a year on, the new Board shows itself to be as independent as ever and to be making sound decisions in line with community standards, based on application of the AANA Codes.

During 2007 our most significant project was the work into assessing the Board's decisions against community standards. This exciting research is the first of its kind in the world conducted in relation to advertising. This research has been well received by industry, government and the media. Importantly, it demonstrates that the decisions of the Board are broadly in line with community standards. In the area where there appears to be a divergence between the Board's views and the community, the Board has expressed its commitment to reflecting the community's view in its decision making.

Our planning for 2008 promises further research into other areas of the AANA Codes, more research on community standards and on issues that are important to the community and to advertising in Australia.

Our 2006 initiative which diverts complainants to a different website if it appears that their complaint is not going to be one that ASB can look at, has reduced complaints that are outside our jurisdiction by more than 50 per cent. We believe that this indicates that complainants are being directed to the correct place to complain first time – reducing frustration for them and administrative costs for ASB. We will continue to monitor the complaints that come to us to ensure that, if ASB is not the correct contact point, consumers are directed to the appropriate agency as quickly as possible.

During 2007 I had the privilege to attend a meeting of the European Advertising Standards Alliance – this organisation is the peak body for advertising standards organisations like ASB. At this meeting EASA agreed to the development of an International Council of Advertising Standards. This Council will foster the exchange of Best Practice on an international basis and assist advertiser led initiatives for global self-regulatory development. I look forward to ASB's participation and the continued improvements in operation of the advertising self-regulation system.

I also took the opportunity to visit self-regulatory organisations in three European economies to observe international best practice, and to see how some of the elements of best practice operate in those countries in order to better understand whether improvements can be viably implemented in Australia. Following these meetings I was pleased to be able to progress with the Bureau Board the introduction of the independent review process to the Australian self-regulation system.

The independent review process, which commences in April 2008, provides for complainants and advertisers to ask for a review of the Advertising Standards Board's decision in specified circumstances. This feature will further improve the robustness and independence of the Board's work. I thank the Bureau Board for its foresight and dedication to continuous improvement of the advertising self-regulation system.

The coming year will also see the recruitment of some new members of the Advertising Standards Board, with a number of current members reaching the end of their terms. I would like to particularly thank the members of the Advertising Standards Board for their dedication and interest in the challenging work of assessing advertisements against community standards as reflected in the AANA Codes.

Finally, a thank you to the staff of the Bureau. With a staff of five (totalling the equivalent of 3.8 full-time staff) the ASB staff achieve an incredible amount of work – particularly in managing the thousands of complaints that are received each year.

I look forward to the challenges and advertisements of 2008.

Fiona Jolly  
Chief Executive Officer



# Achievements against objectives and highlights

## Objective 1

Build the ASB's position as the pre-eminent adjudicative authority for marketing and advertising.

- Attended, as an Associate Member, a meeting of the European Advertising Standards Alliance and supported the development of a proposed International Council of Advertising Standards. This Council will foster the exchange of best practice on an international basis and assist advertiser led initiatives for global self-regulatory development.
- Visited self-regulatory organisations in three European Economies to observe international best practice, and how some of the elements of best practice operate in those countries in order to better understand whether improvements can be viably implemented in Australia.
- Continued to consider some truth and accuracy claims through the Advertising Claims Board's consideration of one complaint brought by competitors, and the implementation of the relevant clauses of the AANA Food and Beverages Code.
- Swift and proactive response to a number of significant public debates about the ASB's role in the advertising self-regulation system, in particular the continuing debate about the self-regulatory scheme and alcohol advertising.
- Worked with FCAI to develop minor amendments to the FCAI Voluntary Code of Practice for Advertising of Motor Vehicles, to remove uncertainty from the current operation of the Code, in order to ensure that Board decisions better reflect community standards on vehicle and driving safety.
- Worked with ABAC to develop joint submissions and responses on alcohol advertising issues and, prior to this, undertook significant work to ensure that statistical data on referrals and case considerations was consistent between ABAC and ASB.

Chief Executive Officer, Ms Fiona Jolly attended a meeting of the European Advertising Standards Alliance (EASA) during 2007. At this meeting EASA agreed to develop of an International Council of Advertising Standards which will foster the exchange of best practice on an international basis and assist advertiser led initiatives for global self-regulatory development.

During the trip to Europe, Ms Jolly also visited self-regulatory organisations in three European economies to see how some of the elements of best practice operate in those countries and to better understand whether improvements can be viably implemented in Australia. The introduction of the independent review process to the Australian self-regulation system, which commences in Australia in April 2008, was borne from these meetings.

The review process provides for complainants and advertisers to ask for a review of the Advertising Standards Board's decision in specified circumstances. A feature that will further improve the robustness and independence of the Board's work.

**10 MOST**  
COMPLAINED-ABOUT  
ADS IN 2007

### McDonald's Aust Ltd

#### Case Report 389/07

A television advertisement where a boy passes his driving test and takes a carload of mates to McDonalds. He parks too far from the drive-thru window and parks crookedly in a car park.

**Grounds for complaints:** Health and safety – AANA Advertiser Code of Ethics – section 2.6

**Number of complaints:** 20+

**Determination:** Complaints upheld – (advertisement modified or discontinued)



## Objective 2

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

- Prepared and implemented a specific communication strategy for the Community Standards Research.
- Expanded the ASB communication strategy through the following initiatives:
  - Extensive interaction with the media to explain the complaints-handling process, decisions arising from monthly Board meetings and general debate on the role of the ASB in the self-regulation system.
  - Regular updates to media partners and industry organisations about ASB.
  - Presented one seminar at a Melbourne university on the ASB's role in implementing the codes of practice aimed at advertising, marketing and communication students.
  - Ensured that the ASB website continues to evolve as a resource on the advertising self regulation system for the public, industry and government.
  - Continued to distribute Adstandards News, our quarterly newsletter targeted to industry and government, focusing on informing this stakeholder group about recent Board decisions, Board membership and current advertising self-regulation issues.
  - Proactively engaged with the media after each Board meeting.

### 10 MOST COMPLAINED-ABOUT ADS IN 2007

9

#### Roads & Traffic Authority

##### Case Report 214/07

Television advertisement known as the Pinkie where a young man is shown to be speeding and people they pass bend and wiggle their little fingers.

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

**Number of complaints:** 20+

**Determination:** Complaints dismissed



# Objective 3

Implement best-practice complaints-handling procedures and protocols with an emphasis on continuous review and improvements to the system.

- Fully implemented the new web-based complaints management system which has streamlined complaints-handling, resulted in faster response to complainants, and improved service to industry, while reducing the administrative burden on the ASB.
- Ensured that the Advertising Standards Board met as needed which resulted in it meeting on 13 occasions in 2007.
- Responded to 2602 complaints, ensuring that each complainant was replied to individually with appropriate information.
- Identified for the 2008 Operational Plan further matters to improve the complaints handling system including, assessment of times for processing complaints correspondence, setting benchmarks and review of timeliness, and a survey of customer satisfaction with the service provided by ASB.

The new web-based complaints management system is a proven success. The number of complaints received in 2007 about non-ASB matters has been reduced to a third of those received in 2006. There were 1212 complaints about non-ASB matters received in 2006 which were referred manually to appropriate agencies. In 2007 the number of complaints outside the ASB charter dropped dramatically to 514. The online complaints lodgement system effectively directed complainants to the most appropriate agency first time.



## 10 MOST COMPLAINED-ABOUT ADS IN 2007

### McDonald's Aust Ltd

*Case Report 181/07*

A television advertisement for McDonald's Happy Meals where skateboarding children see a crying woman who has lost her ring down drain. One child goes down drain to retrieve ring from a green monster and the woman, wife of a McDonald's manager, gives them Happy Meals for life

**Grounds for complaints:** Advertising to Children Code, safety – AANA Advertising to Children Code section 2.2

**Number of complaints:** 30+

**Determination:** Complaints upheld – (advertisement modified or discontinued)

# Objective 4

Contribute to the effectiveness of self regulation through robust decision making by a diverse, representative and well trained board.

- New process of staggered appointments ensured high attendance levels at Board meetings.
- Following changes in Board membership in 2006, Board meetings continue to reflect a high level of discussion and concern about the Code of Ethics and prevailing community standards.
- Although 2007 saw the highest level of upheld complaints since ASB's establishment, most upheld decisions related to advertisements that had higher numbers of complaints.
- Board heard presentations from FCAI (regarding interpretation of the FCAI Code), and from Colmar Brunton (regarding results of the community standards research).
- Board meetings conducted more efficiently through use of electronic delivery of last minute responses from advertisers.

**Sex, sexuality and nudity** was the issue receiving the highest percentage of complaints (37.91 per cent) in 2007 and, along with other issues, the cause of discussion and debate during Board meetings. The most prominent ad in this category was also the most complained-about ad for 2007. The Nando's 'pole dancing' ad in which a woman dressed in a business suit becomes a pole dancer wearing a g-string. In dismissing complaints the Board noted that the advertiser certainly meant to create an ad with some shock value and that this had been achieved. The Board also agreed that the diversity of opinion within the Board about the advertisement was likely to reflect community views on the advertisement.

Complaints about the portrayal of people in a way which **discriminates or vilifies** rose by almost five per cent in 2007 (from 23.25 per cent in 2006 to 28.05 per cent). A beer ad for Lion Nathan where the term 'pom' is combined with the word whinge and other synonyms of 'whinge' overstepped the line in relation to vilification according to the Board.

Community concerns about **health and safety** issues resulted in an upturn in complaints, with 10.85 per cent of complaints (up from 9.7 per cent in 2006). Safety concerns were discussed by Board members in upholding complaints about a McDonald's ad. This ad depicted a boy passing his driving test and then taking a car load

of mates to McDonalds, but not parking well or being able to judge the distance from the drive through window. The Board considered that the advertisement depicted material that is the subject of significant community concern in Australia – young people, particularly boys, driving with car loads of friends, and ending up in accidents.

The percentage of complaints about **violence** issues in advertising dropped markedly from 18.01 per cent to 8.42 per cent. Complaints about Quit Victoria's (Carotid Endarterectomy) ad, set in a hospital operating theatre where a surgeon has incised a female patient's neck to remove fatty deposits, were considered under this category. Previous decisions relating to public health and safety campaigns have also dismissed complaints on the basis that a more graphic and 'higher' level of violence is able to be shown in some community service advertising as this is justifiable

in the context of the important health message being conveyed to the public.

A Board decision to uphold complaints about a car advertisement which was based on fantasy raised a lot of interest in the media and industry. In considering the Hyundai Santa Fe ad – considered by the Board under AANA Advertiser Code of Ethics Section 2.7 and in line with the Federal Chamber of Automotive Industries (FCAI) Voluntary Code of Practice for **Motor Vehicle Advertising** – the Board determined that using fantasy to defend an illegal driving practice would not stand. Complaints that came within the FCAI Code rose from 1.84 per cent in 2006 to 4.91 in 2007.

The **other** issues category dropped by almost 10 per cent in 2007 to 4.86 per cent of all complaints. “Other” issues received the fourth highest number of complaints (14.69 per cent) in 2006. This category includes cases in which

complainants have raised concerns about causing alarm and distress, environmental issues, the portrayal of people (occupation), and social values.

Shrek came in for debate under the **Advertising to Children** Code and was the first series of advertisements to be considered under the **Food and Beverages** Advertising and Marketing Communications Code. The Board examined seven advertisements all featuring Shrek, with complainants concerned that the ads encouraged children to engage in pester power. The Board determined that use of a cartoon character in an advertisement or an offer of a toy did not breach the code and noted that none of the ads contained any direct appeal to a child to ask a parent to buy the product. The percentage of complaints considered by the Board in relation to the Advertising to Children Code remained largely static with 2.95 per cent in 2007 compared to 2.73 per cent in 2006. The Food and Beverages code was

introduced in the later part of 2007 and for that reason received a low percentage of total complaints – 0.37 per cent.

Complaints about the **language** used in advertising made up 1.68 per cent of all complaints in 2007, which was down from 7.55 per cent in the previous year.

## 10 MOST COMPLAINED-ABOUT ADS IN 2007

7

**HJ Heinz Co Australia Ltd**  
*Case Report 286/07*



A television advertisement where two men meet in a supermarket, one admits he used to be Christine. A flashback then shows a teenage boy and girl kissing passionately and the other man looking embarrassed.

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

**Number of complaints:** 40+

**Determination:** Complaints dismissed



# Objective 5

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

- In an effort to provide objective support for the Board's decision making, undertook testing of the Board's decisions against community standards utilising Colmar Brunton. This research was conducted in 2007 and reported on during late 2007 and early 2008. The outcome is a highly visible and credible piece of research that indicates that the decisions of the Advertising Standards Board generally reflect community standards on the key provisions of the AANA Advertiser Code of Ethics including portrayal of violence, use of language and health and safety.
- Results of the Community Standards Testing Research were presented to the Board. The Board accepted the results of the research and agreed to modify decisions to reflect the research findings, particularly in the areas of sex, sexuality and nudity and racial depictions.
- Compliance by advertisers with Board decisions monitored. One advertiser refused to respond to ASB contact regarding the obligation for him to remove his advertisement. Negotiation with relevant newspaper media in the relevant jurisdiction resulted in no further publication of the advertisement.

Research undertaken by Colmar Brunton Social Research showed that there are high levels of public support for the concept of the Australian Association of National Advertisers (AANA) Code of Ethics, the system which administers it and for the specific sections of the Code.

## SECTION

## AGREEMENT

2.1 Discrimination	81%
2.2 Violence:	83%
2.3 Sex, Sexuality and Nudity	88%
2.5 Language	88%
2.6 Health and Safety	84%

**10 MOST**  
COMPLAINED-ABOUT  
ADS IN 2007

6

### Sony Australia Pty Ltd

#### Case Report 137/07

Television advertisement for Sony Handycam "memory never fades" which shows two young people kissing. During the advertisement the woman gradually ages and at the end of the advertisement she has become an elderly woman kissing a young boy.

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

**Number of complaints:** 50+

**Determination:** Complaints dismissed

## Objective 6

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

- Following amendment of the AANA Codes in mid 2006, during 2007 the ASB and Board demonstrated its ability to process complaints about internet advertising and direct mail advertising.
- Developed and published a position statement on assessment of complaints about internet advertising to ensure industry awareness of changed jurisdiction of ASB.
- Developed a process for independent review of Board decisions which improves ASB compliance with international best practice. Obtained Bureau Board agreement for the introduction in 2008 of an independent reviewer of Board decisions.
- Continued to operate a transparent system through publishing all case reports on the ASB website.

### 10 MOST COMPLAINED-ABOUT ADS IN 2007

5

#### Australian Pensioners Insurance Agency Case Report 13/07

A television advertisement set in a television studio and presented in the style of a chat show. The host talks about young people who have all night parties, break things and drive really fast.

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

**Number of complaints:** 50+

**Determination:** Complaints dismissed





# Objective 7

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

- Continued to improve the mechanism for levy collection from industry, resulting in more timely payments.

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

The levy is 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 purposes of the advertising self-regulation system.

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

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

## 10 MOST COMPLAINED-ABOUT ADS IN 2007

4

### **Frucor Beverages (Australia) Pty Ltd** *Case Report 61/07*

Animated television advertisement for Frucor V energy drink where a young couple in a car become amorous and an elderly couple nearby in a caravan also become amorous when they recognise the music blaring from the car as 'their song'. A police officer reports "old couple having sex". Other scenes depict an older woman attacking a muscular young man who runs away and causes accidents which cause explosions. The original young couple in the car see the explosion as fireworks and get sexually excited. The final scene shows all the cars on the hilltop rocking violently.

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

**Number of complaints:** 70+

**Determination:** Complaints dismissed

# Objective 8

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

- Commenced work on an information and public education campaign to raise awareness of the ASB. In particular worked closely with AFA contacts and advertising agencies to negotiate and obtain the pro-bono services of an advertising creative agency.
- Presented the results of the Community Standards Research to industry and media partners in advance of public release of the results, and received comments regarding implementation of results and what information is publicly released. This demonstrates our commitment to ensuring that the advertising self-regulation system operates to the benefit of the entire industry.
- Developed a proactive strategy for engaging with the new Government.
- Continued to develop contacts with officials in relevant Commonwealth departments to increase awareness of ASB and improve communication flow.
- Continued to work closely with the Alcohol Beverages Advertising Code management committee to improve communication and information-sharing between the two agencies, resulting in faster consideration of complaints.
- ASB considered 26 alcohol advertisements during 2007. One complaint was upheld – modified or discontinued.
- Continued as an observer member of the Therapeutic Goods Advertising Consultative Committee to ensure consistency of decisions and open communication between ASB and therapeutic goods advertising stakeholders.
- Sponsor of the Annual Awards of the Media Federation of Australia and the Advertising Federation of Australia.

An information and public education campaign to raise awareness of the ASB received strong support from industry.

In November 2006 Colmar Brunton Social Research conducted telephone surveys of 600 Australians to establish the level of community knowledge about the existence and role of the ASB

Research findings that have been used to inform the public education campaign are:

- Awareness of the ASB is relatively high
  - 10% were aware without prompting and awareness increased to 65% after prompting
  - Women are more likely to have concerns about advertising, but men were more likely to be aware of the ASB
- 78% think that the role of the ASB is important but only 34% said that they would be likely to register a complaint in the future



## 10 MOST COMPLAINED-ABOUT ADS IN 2007

**Hyundai Motor Company Australia Pty Ltd**  
*Case Number 46/07*

Television advertisement for Hyundai Santa Fe, Next Generation where a toddler climbs out of cot, grabs car keys and picks up baby girl hitchhiking – drives on roads and sand dunes then surfs waves.

**Grounds for complaints:** Health and safety – AANA Advertiser Code of Ethics – section 2.6  
**Number of complaints:** 90+  
**Determination:** Complaints upheld – (advertisement modified or discontinued)

- Only 8% of those who had a concern about advertising had actually complained
  - The main barriers to complain were laziness (35%), a feeling it would do no good (18%) and not knowing who to complain to (11%)
- Over half said that they would be more likely to complain if they were extremely offended
  - Around a quarter did not have an opinion regarding the ASB's key communications messages though few actually disagreed.

## Objective 9

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 updates to most AANA Board meetings.
- Provided information to the AANA regarding the proposed review of the AANA Code for Advertising to Children.
- To ensure that the Advertising Standards Board's experience and expertise in administration of the AANA Codes is fed back appropriately to the AANA, made a submission to the AANA review of the Advertising to Children Code and provided detailed comment on revised drafts of the Advertising to Children Code.
- Provided AANA and its consultants with statistics as needed and informed debate on advertising self-regulation.

## Objective 10

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

- Recruited experienced staff to progress communications, policy and research projects.
- Continued to make ASB a flexible and family friendly workplace.

### 10 MOST COMPLAINED-ABOUT ADS IN 2007

2

#### Advanced Medical Institute *Case Report 20/07*

Billboard which has words "Want longer lasting sex?"

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

**Number of complaints:** 190+

**Determination:** Complaints dismissed

### 10 MOST COMPLAINED-ABOUT ADS IN 2007

1

#### Nando's Australia Pty Ltd *Case Report 156/07*

Television advertisement where a woman in business suit describes how she can't afford to have cravings at work. Then she is seen wearing a g-string and pole-dancing. Man attempts to put money in g-string, then she is seen topless with hand covering breasts.

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

**Number of complaints:** 200+

**Determination:** Complaints dismissed

# Advertising Standards Board

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

The Board includes 16 people from a broad range of age groups and backgrounds and is gender balanced – representative of the diversity of Australian society.

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

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

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

## Board meetings

The Board meets at a regular monthly meeting as well as convening to consider urgent matters. In 2007 the Board met 13 times.

An extra meeting was convened by teleconference in November as there was a large number of cases for consideration. The Board met via teleconference in preference to holding over consideration of complaints to the next month's meeting.

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

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

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

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

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

## Attendance at Board meetings in 2007

There were 13 Board meetings held in 2007.

BOARD MEMBER	NUMBER OF MEETINGS
	ATTENDED
Tanveer Ahmed	9
John Bokor	11
John Brown	8
Sibylla Budd	11
Joanna Cohen	10
Khoa Do	9
Ann Drummond	13
Thomas Keneally	7
Sophie Killen	13
John Konrads	13
John Lee	10
Catharine Lumby	6
Paul McCarthy	12
Josephine Tiddy	11
Emma Tom	12
Helen Wicks	9



## Members of the Advertising Standards Board – 2007

### Tanveer Ahmed

**Appointed August 2006**

Tanveer Ahmed has a broad range of experience in the health and media professions. Tanveer is a psychiatry registrar in the public hospital system, where he oversees all aspects of mental health services and clinical leadership.

Tanveer's background is as a journalist. He worked for SBS Television covering foreign affairs, business and domestic politics. He currently writes regularly for a number of major broadsheet newspapers, mainly on topics relating to multiculturalism and Australian Muslims, work, stress and other health-related topics. He is also the mental health expert for *Men's Health* magazine.

Tanveer was invited to be a member of Australia's Future Forum in 2006. As one of 100 future leaders of Australia under the age of 40, he was selected by a Prime Ministerial committee to debate the major issues likely to shape Australia's future. Tanveer also performs comedy and was a dual state finalist for Triple J Raw Comedy.

### John Bokor

**Appointed August 1999**

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

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

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



### The Hon John Brown AO

**Appointed May 1998**

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

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

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



### Sibylla Budd

**Appointed August 2006**

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

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

Another of Sibylla's acclaimed performances was on the big screen where she appeared with David Wenham and Anthony LaPaglia in the movie, *The Bank*. She has also appeared in yet-to-be-released movies, *The Bet*, and *Book of Revelations*, and has also made numerous theatre performances.



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

### Joanna Cohen

**Inaugural Member**

**Appointed June 1997**

Joanna Cohen is the Marketing Communications Manager for the University of Sydney.

Reflecting her diverse talents, she has also managed a Sydney rock band and is a freelance film writer.

Joanna has a Bachelor of Arts in Communications and a Master of Arts in English Literature. She has a passionate interest in film, having worked for producers and co-created a film festival.

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



## Khoa Do

**Appointed August 2006**

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



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

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

Khoa was named Young Australian of the Year in 2005.

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

## Ann Drummond

**Appointed August 2006**

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



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

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

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

## Thomas Keneally AO

**Inaugural Member**

**Appointed July 1997**

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



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

Tom spent his early years in country towns in northern New South Wales before moving to Sydney.

He is married with two children and several grandchildren, and is widely-known as an obsessive rugby league fan.

## Sophie Killen

**Appointed August 2006**

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



Sophie previously worked as a Research Fellow at the Centre for Media and Communications Law (CMCL) at the University of Melbourne where she researched a paper on the control of cross-border tobacco advertising, promotion and sponsorship in a joint project of the CMCL and the VicHealth Centre for Tobacco Control. She has also worked as a judicial associate in the Federal Magistrates Court of Australia.



Sophie's interest in media and communications law, regulation and cultural industries is complemented by her work as an academic tutor and her background in media studies.

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

Sophie was raised in Queensland and now lives in Melbourne.

### **John Konrads** **Appointed May 1998**

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



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

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

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

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

### **John Lee** **Appointed August 2006**

John Lee has worked in senior roles in both the public and private sectors. He is currently the Director General of the NSW Department of Commerce which oversees various commercial activities of Government including fair trading and public works.



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

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

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

### **Catharine Lumby** **Inaugural Member** **Appointed June 1997**

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

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



is also a member of the Education and Welfare Committee of the National Rugby League.

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

### **Paul McCarthy** **Appointed August 2006**

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



Paul's background is in health policy, censorship policy and media regulation, and privacy and complaints handling. His work for Commonwealth, State and local governments has included consulting with industry and the community on a range of projects. Most recently, he advised on the statutory framework for the application of community standards to films, computer games and publications.

His first professional job was as a therapist in a child psychiatry clinic and he has been a member of the Speech Pathologists Board of Queensland.

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

## Dr Josephine Tiddy

Appointed August 2006

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

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

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

Josephine has written widely on equality, fair treatment and discrimination. Her book, *It's Just Not Fair*, describes the personal stories of Australians who acted in conjunction with the law to confront and change the way society thinks, works and lives.

Josephine, who was also a registered nurse at the Adelaide Children's Hospital, lives in Adelaide where she is heavily involved in community organisations as well as being a serving member of numerous boards and committees.

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



## Emma Tom

Appointed May 2003

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

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

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



## Helen Wicks

Appointed August 2006

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

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

Helen has been a member of Playgroup NSW since 1999, occupying several committee positions. She was elected to the board of Playgroup NSW as the Country zone representative in 2003 and in 2006 was elected to the position of Vice-President.

Helen also has an active role in the church and school communities in her hometown of Armidale. In addition to her family and volunteer duties, she is also studying a Bachelor of Applied Science in Library and Information Management.



# Advertising Standards Bureau Board of Directors

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

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

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

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

## Board of Directors

### Ian Alwill

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

### 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  
Chief Executive Officer, *Starcom Media Vest Group*

## Meetings

The Board of Directors met seven times during 2007.

BOARD MEMBER	POSITION	NUMBER OF MEETINGS ATTENDED
Ian Alwill	Chairman	7
Leigh Clapham	Director	5
Michael Duncan	Director	7
Hayden Hills	Director	7
John Sintras	Director	7

## Advertising complaints statistics

The total number of complaints received in 2007 by the Advertising Standards Bureau dropped from 4,044 in 2006 to 2,602 in 2007. This drop is largely due to the marked decrease in complaints received about issues outside the Advertising Standards Bureau's charter.

In 2006 the ASB received 1212 complaints outside its charter and this year received only 577. The drop in complaints outside the charter has been attributed to the new online complaints management system available on the ASB website.

### Number of advertisements considered and outcome of complaints

In 2007, the Board considered 2,025 complaints against 446 advertisements. Complaints from 1,730 people against 405 advertisements (almost 91 per cent) were dismissed.

In terms of Board determinations, 2007 saw the highest-ever proportion of complaints upheld, with complaints against 36 advertisements upheld, equating to over eight per cent of all advertisements considered, and representing nearly 11 per cent of complaints made during the calendar year.

Five advertisers, on receiving advice that there had been a complaint, withdrew their advertisement before the Board determination.

Out of 446 advertisements dealt with 23 advertisements evoked a widespread community response. This compares with 47 such advertisements in 2006 and 32 in 2005. These 23 advertisements attracted 1,152 complaints out of the total of 2,602 (44 per cent) received by the ASB in 2007. This equates to about 5 per cent of all advertisements considered by the Board.

Of the 23 advertisements which had widespread community response, complaints against six were upheld by the Board, or 26 per cent (compared with three in 2006, and two in 2005, or about 6 per cent in each case).

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

	2005	2006	2007
<b>OUTCOME OF COMPLAINTS (No., by Complaint)</b>			
Dismissed	1753	2648	1730
Upheld	94	164	280
Withdrawn before board determination	139	20	15
Outside Charter	970	1212	577
<b>TOTAL</b>	<b>2,956</b>	<b>4,044</b>	<b>2,602</b>
<b>BOARD DETERMINATIONS (No., by Advertisement)</b>			
Withdrawn before board determination	33	13	5
Upheld	14	28	36
Dismissed	344	488	405
<b>TOTAL</b>	<b>391</b>	<b>529</b>	<b>446</b>

	2005	2006	2007
<b>GEOGRAPHIC SOURCE OF COMPLAINTS (%)</b>			
NSW	32.68%	36.77%	35.63%
VIC	21.19%	22.59%	20.18%
QLD	24.60%	17.01%	19.79%
SA	8.54%	10.08%	9.80%
WA	7.98%	7.84%	9.80%
ACT	2.47%	2.58%	2.50%
TAS	1.84%	2.31%	1.54%
NT	0.60%	0.84%	0.77%
Abroad	0.10%	0.00%	0.00%
<b>GENDER OF COMPLAINANTS (%)</b>			
Couple	2.10%	1.35%	0.92%
Unspecified	2.13%	1.45%	1.08%
Male	38.08%	36.75%	32.67%
Female	57.69%	60.45%	65.33%
<b>ISSUES ATTRACTING COMPLAINT (%)</b>			
AANA Section 2.3 – Sex, sexuality and nudity	26.49%	22.23%	37.91%
AANA Section 2.1 – Discrimination or vilification	27.13%	23.25%	28.05%
AANA Section 2.6 – Health and Safety	6.46%	9.70%	10.85%
AANA Section 2.2 – Violence	17.38%	18.01%	8.42%
AANA Section 2.7 / FCAI Code	3.38%	1.84%	4.91%
Other	14.59%	14.69%	4.86%
AANA Section 2.4 / Advertising to Children Code	0.20%	2.73%	2.95%
AANA Section 2.5 – Language	4.36%	7.55%	1.68%
Food and Beverage Code	0.00%	0.00%	0.37%

	2005	2006	2007
<b>REASON COMPLAINTS FELL OUTSIDE CHARTER (No.)</b>			
Outside Section 2 – Other	108	70	89
Outside Section 2 – Broadcast timing	104	118	60
Not an advertisement – Product or service	29	92	58
Within Section 1 – Misleading or deceptive	121	186	45
Not an advertisement – Other	21	48	44
Other – Other	37	38	31
Not an advertisement – TV and radio promotional material	144	186	28
Not an advertisement – Point of sale	27	29	28
Outside Section 2 – Political advertising	10	11	26
Other – Insufficient information	0	34	23
Not an advertisement – Local advertising	30	14	21
Outside Section 2 – Dislike of advertising	30	25	19
Other – Trivial complaint	4	6	16
Not an advertisement – Community service announcements	35	61	15
Not an advertisement – Program content or programming	73	126	13
Withdrawn/Discontinued – Other	13	43	12
Specific industry code – Alcoholic Beverages code	3	2	12
Not an advertisement – Internet	30	39	11
Not an advertisement – Loudness of ads	71	12	11
Within Section 1 – Legality	1	11	6
Not an advertisement – Direct mail	19	11	3
Within Section 1 – Business practices	6	6	1
Within Section 1 – Misrepresentation	1	6	1
Not an advertisement – Direct distribution to an individual	11	5	1
Not an advertisement – Label directions	2	5	1
Within Section 1 – Misleading claim about Australian country of origin/content	0	5	1
Specific industry code – Therapeutic Goods code	1	1	1
Within Section 1 – Tobacco	3	8	0
Not an advertisement – Product name or logo	5	5	0
Within Section 1 – Compliance with law	15	4	0
Specific industry code – Weight Management code	2	2	0
Not an advertisement – Informercial	1	1	0
Outside Section 2 – Phone sex	0	1	0
Within Section 1 – Harm to business	0	1	0
Other – Insufficient information	13	0	0
<b>TOTAL</b>	<b>970</b>	<b>1212</b>	<b>577</b>



	2005	2006	2007
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#### MEDIA ATTRACTING COMPLAINT (%)

TV	84.81%	85.81%	75.10%
Outdoor	6.67%	3.67%	12.80%
Print	4.76%	3.85%	4.08%
Cinema	0.60%	0.42%	2.46%
Radio	2.11%	4.10%	2.36%
Transport	0.45%	1.73%	1.62%
Internet	0.00%	0.25%	1.13%
Pay TV	0.25%	0.18%	0.44%
Multiple Media	0.35%	0.00%	0.00%
Other	0.00%	0.00%	0.00%

#### PRODUCT CATEGORY ATTRACTING COMPLAINT (%)

Food and Beverages	20.85%	28.14%	33.25%
Professional services	2.56%	5.61%	10.77%
Vehicles	15.19%	8.37%	9.92%
House goods/services	11.18%	2.15%	6.03%
Restaurants	2.91%	1.17%	5.78%
Other	6.67%	5.30%	3.94%
Community Awareness	8.02%	12.29%	3.39%
Entertainment	0.00%	2.90%	3.09%
Toiletries	5.26%	2.86%	2.94%
Media	0.00%	2.22%	2.84%
Alcohol	7.07%	3.14%	2.44%
Insurance	0.00%	2.97%	2.44%
Clothing	6.22%	4.31%	2.24%
Telecommunications	4.51%	2.40%	2.24%
Leisure & Sport	1.45%	1.73%	2.14%
Mobile Phone/SMS	0.00%	2.44%	2.04%
Retail	0.00%	1.17%	1.65%
Health Products	3.46%	7.94%	1.40%
Finance/Investment	2.81%	1.80%	1.30%
Travel	1.85%	1.09%	0.15%

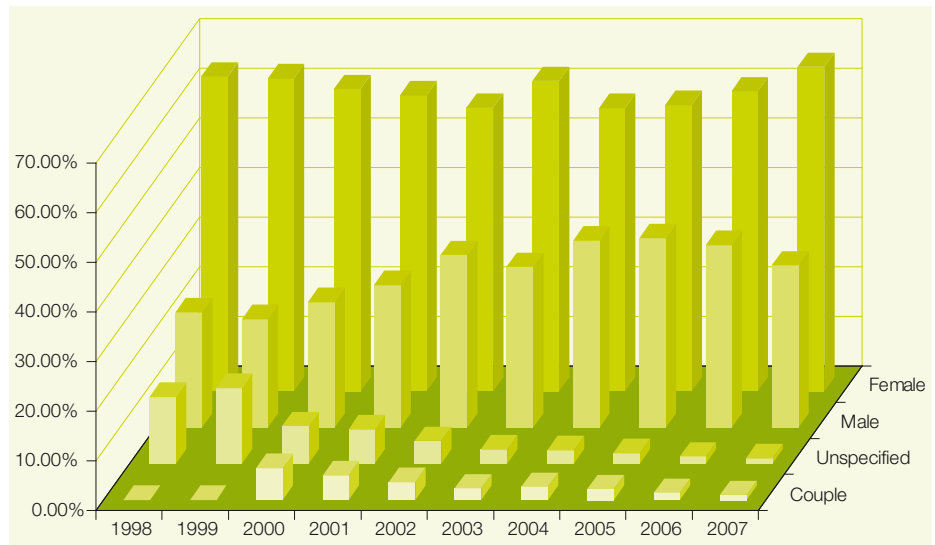
#### METHOD OF COMPLAINT (%)

E-mail	73.08%	82.71%	84.05%
Post	22.36%	14.47%	13.87%
Fax	4.56%	2.82%	2.08%

### Who is complaining?

In 2007 the percentage of males represented among complainants continued to decline. Peaking at 38 per cent of complainants in 2005, this percentage shrank in 2006 and again in 2007 to 32.7 per cent.

The figures show the steady trend in the gender of complainants.

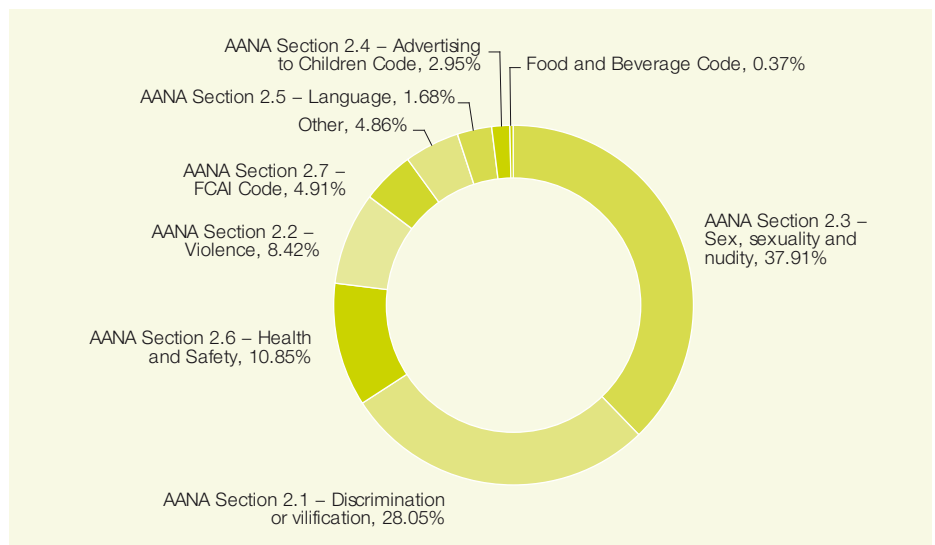


### What do people complain about?

The portrayal of sex, sexuality and nudity was the dominant issue raised by complainants. About 38 per cent of all complaints made raised this issue. This is the highest percentage recorded since 1998, and is attributable to a small number of advertisements receiving a high public response.

Together with complaints made under Section 2.1 of the AANA code (discrimination or vilification), these two issues comprise about 55 per cent of all complaints made in 2007.

Other categories attracting higher numbers of complaints were health and safety and violence.

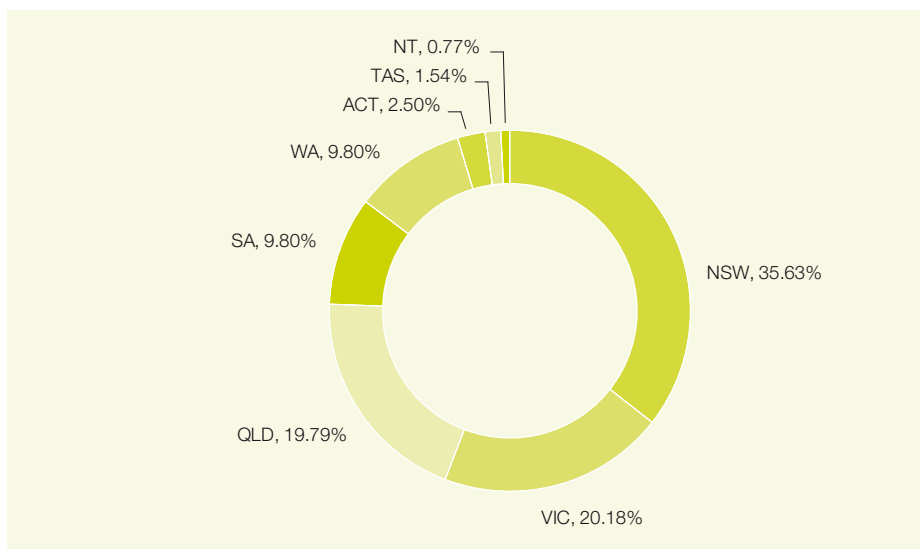


### Where are complaints coming from?

In terms of complainant demographics, once again complaints were generally spread out nationally in proportion to each state's population. As the most populous state, New South Wales topped the percentage of complaints received with 35.63 per cent (a drop of about one percent from 2006).

Queensland and Victoria had a similar percentage of complaints, although the overall percentage of complaints from Queensland rose by more than two per cent (from 17.01 per cent in 2006 to 19.79 per cent in 2007).

Complaints received from South Australia and Western Australia both equated to 9.8 per cent of the total, while the combined percentage of complaints from Tasmania (1.54 per cent) and the Northern Territory (0.77 per cent), was only slightly more than the Australian Capital Territory (2.5 per cent).

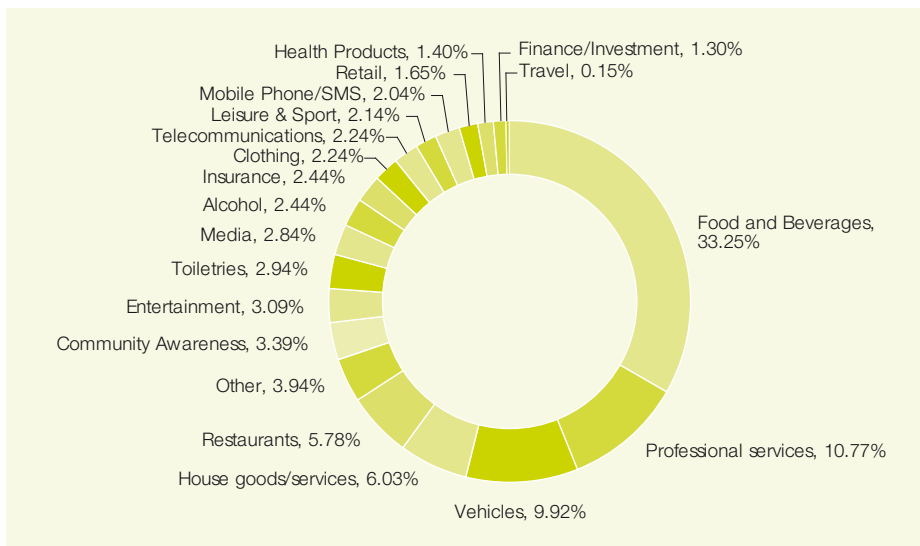


### Which products attract the most complaints?

Food and beverage advertisements were the most-complained about product category in 2007, being the subject of one-third of all complaints.

Alcohol and clothing advertisements, once the most complained-about categories, attracted little more than 2 per cent each of complaints, although they were the subject of 7.2 per cent and 5.8 per cent respectively, of advertisements considered by the Board. No single alcohol or clothing advertisement attracted many complaints.

Motor vehicle advertisements were the subject of about 10 per cent of all complaints. Fifty motor vehicle advertisements were dealt with by the Board.

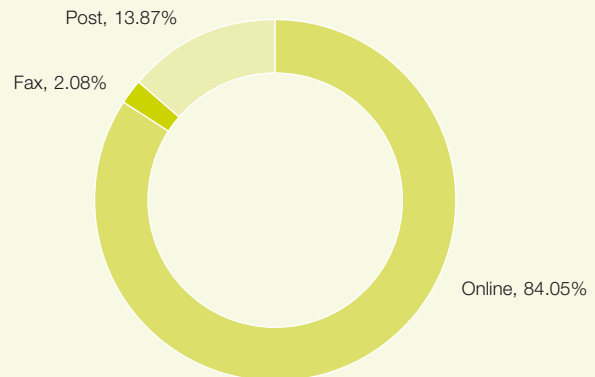


## Method of complaint

With the introduction of an online complaints form, available from the ASB website, it is not surprising that the number of people choosing to lodge their complaints electronically continues to rise. In 2007, 84.05 per cent of complaints were lodged through the ASB's website, up from 82.71 per cent in 2006.

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

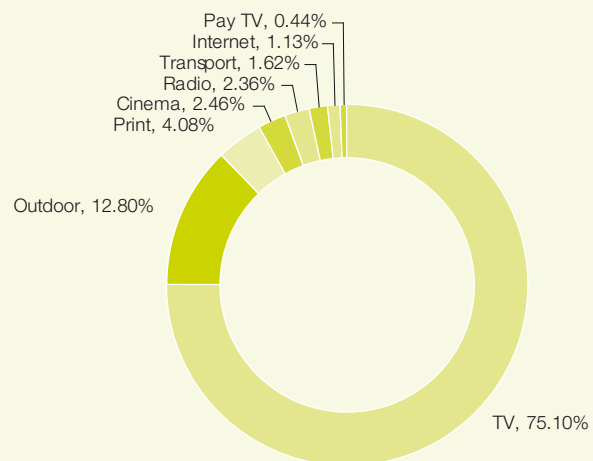
Complaints continue to be accepted by post (13.7 per cent in 2007) and fax (2.08 per cent).



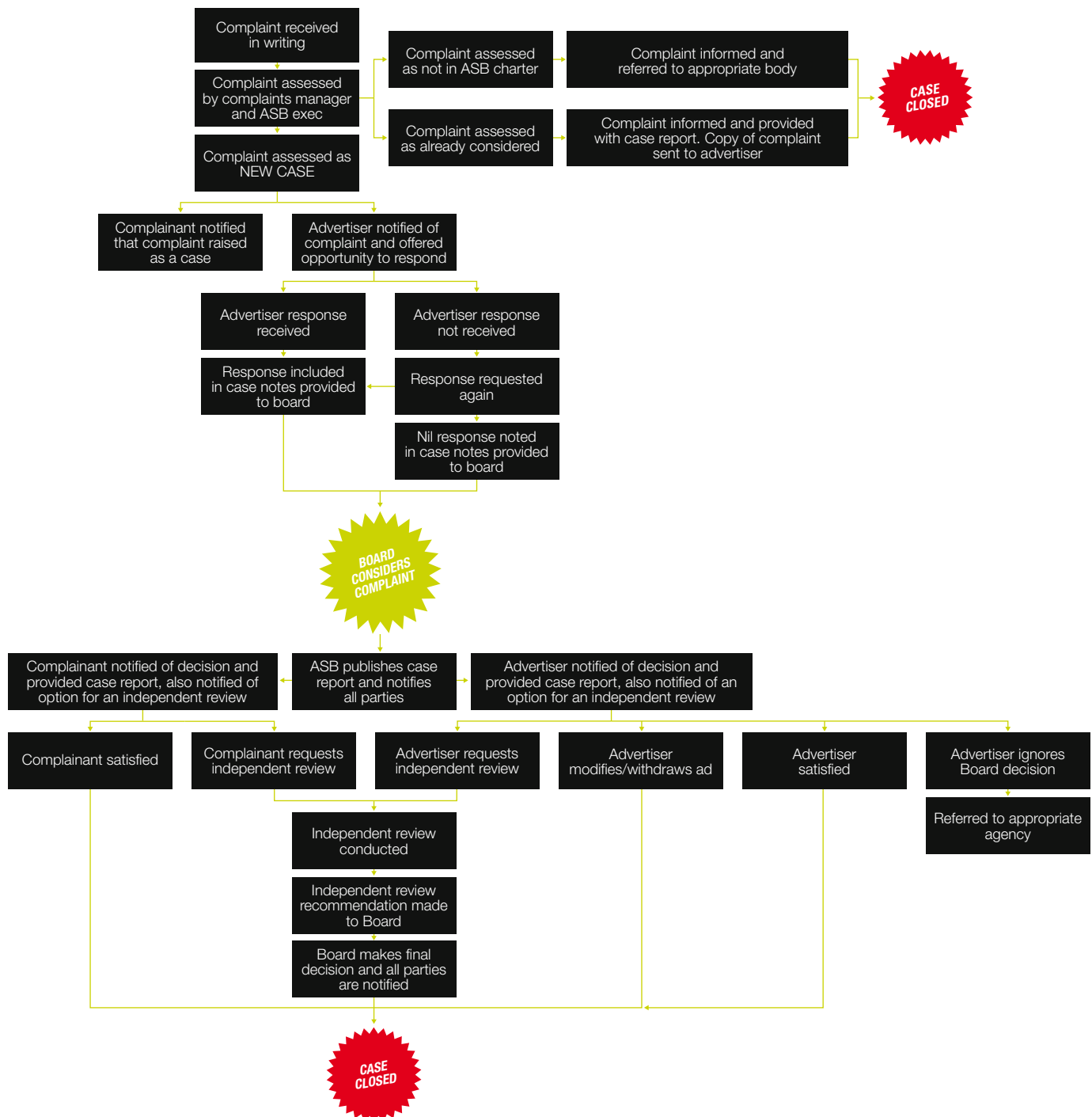
## Media attracting complaint

As with previous years, the majority of complaints (75.10 per cent) relate to advertisements shown on television, although this is down 10 per cent on the previous year. Outdoor media had a sharp increase in complaints with 12.80 per cent in 2007 (up from 3.67 per cent in 2006).

Complaints about print advertising (4.08 per cent) were slightly higher than the remainder of complaints which were evenly spread among radio, cinema, transport, internet and Pay TV.



## Advertising Standards Board complaints process



# 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, 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.

## 1. 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.

## 2. 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.

- 2.8 Advertisements for food and beverage products shall comply with the AANA Food & Beverages Marketing Communications Code (once promulgated) as well as to the provisions of this Advertiser Code of Ethics.



# 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.

## 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 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.

## 2. 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 authorized 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 minimized 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.

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# AANA Code for Advertising to Children

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Continued

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## **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.

# AANA Food and Beverages Advertising and Marketing Communication Code

The AANA Food & Beverages Advertising & Marketing Communications Code has been drafted following a review of responses obtained from a national program of stakeholder consultations and written submissions received following an invitation for public comment.

The AANA Food & Beverages Advertising & Marketing Communications Code has been drafted following a review of responses obtained from a national program of stakeholder consultations and written submissions received following an invitation for public comment.

The Code also accommodates requests flowing from a testing of the underpinning complaint adjudication mechanism by the Advertising Standards Bureau and the Advertising Standards Board.

The extensive consultation program included discussions with government representatives at Federal and State level involving meetings in Canberra, Melbourne, Adelaide, and Perth, with input also received from Tasmania and as far distant as New Zealand.

Organisations submitting formal submissions (and acknowledged within the Code) include:

- Australian Consumers Association
- Coalition on Food Advertising to Children
- Diabetes Australia – Victoria \*
- National Heart Foundation of Australia
- NSW Health
- Queensland Health
- Tasmanian Department of Health & Human Services
- The Cancer Council Australia \*
- University of Wollongong [Centre for Health Behaviour & Communication Research]

[\* Joint submission]

While several of these organisations are recognised to have policy positions opposed to industry self-regulation, most submissions generally extended some acknowledgement of industry commitment to public interest by way of the development of the AANA Food & Beverages Advertising & Marketing Communications Code.

*“...we acknowledge efforts within the industry to improve self-regulation...”* – Australian Consumers Association.

*“... the (Queensland) Population Health Branch acknowledges the efforts of the AANA to build upon the current self-regulatory codes ...”*

*“It is anticipated that this Code will significantly influence socially responsible advertising and marketing practices developed and delivered by your members for food and drink products directed to children”* – NSW Health.

Several of the submissions have provided valuable considerations and contributions in relation to continuing development of the Food & Beverages Advertising & Marketing Communications Code, together with comments extending beyond advertising and marketing communication content that will be referred to the AANA Board and the Advertising Standards Bureau.

While some of the requests contained in the written submissions are contradictory (proving the impossibility of satisfying all sectors of the community), points raised by each and every submission have been incorporated in the Code.

With input from the political and general community sectors, and underpinning by key media, the AANA Food & Beverages Advertising & Marketing Communications Code complies with the ICC responsible advertising framework released on October 5 2006, and represents world's best practice in the area of industry regulation.

## AANA Food & Beverages Advertising & Marketing Communications Code

Specific to food and beverages advertising and marketing communication content, this Code represents a significant extension of the multilayered system of advertising, marketing and media industry regulation in Australia.

With particular reference to the AANA Advertiser Code of Ethics and the AANA Code for Advertising to Children, and based on the recommendations of the International Chamber of Commerce as endorsed internationally by the World Federation of Advertisers and domestically by the Australian Food & Grocery Council, this Code is a Code of the Australian Association of National Advertisers, compliance with which will be administered by the Advertising Standards Bureau with complaints under individual provisions to be determined by the Advertising Standards Board.

Drawing on the ICC International Code of Advertising Practice and relying upon the ICC's Framework for Responsible Food and Beverage Communications (published in Paris 5/10/2006) for the guidance of Australia's self-regulatory authority, this Code has been drafted to meet ICC requirements for “a dynamic system of industry regulation benefiting consumers, governments and businesses by providing accessible, effective, and enforceable mechanisms to determine public complaints against the content of food and beverages advertising and marketing material.”

# AANA Food and Beverages Advertising and Marketing Communication Code

## Continued

Focused on the content of advertising and marketing material promoting food and beverage products, and recognising existing regulation governing food and beverage product manufacture and marketing, the dynamic development and direction of this Code will be influenced by ongoing expansion of the ICC framework to include:

- The ICC International Code of Sales Promotion
- The ICC International Code of Practice on Direct Marketing
- The ICC Code on Environmental Advertising
- The ICC Code on Sponsorship
- The ICC/ESOMAR International Code of Marketing and Social Research Practice

Subject to transparent consultation, review and extension processes, this Code is anticipated to ultimately cover the full spectrum of contemporary advertising and commercial communications as defined in 1.0 below, with Sections specific to sales promotion, sponsorship etc, to be progressively added subject to a process of industry negotiation and community consultation.

As presented, this Code incorporates input from a national consultation program undertaken by the AANA in conjunction with the AFGC, and from written submissions contributed by the Australian Consumers' Association, the National Heart Foundation, the Coalition of Food Advertising to Children, the Cancer Council Australia, Diabetes Australia – Victoria, New South Wales Health, the Population Health Branch of Queensland Health, the Population Health Directorate of the Tasmanian Department of Health & Human Services, and the University of Wollongong. Accessible for consumer comment through the websites of the AANA and ASB, further public input will be actively solicited at Code review intervals.

## 1. Definitions and Interpretation

1.1 In this Code, unless the context otherwise requires:

**“Advertising and/or Marketing Communication”** means matter which is published or broadcast using any Medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it, to a product, service, person, organisation, or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct but does not include Excluded Advertising and/or Marketing Communications.

**“Advertising Standards Board”** means the board appointed by the Advertising Standards Bureau from time to time to administer a public complaints system in relation to Advertising and/or Marketing Communications.

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

**“Children”** means persons being 14 years old or younger.

**“Excluded Advertising and/or Marketing Communications”** means labels or packaging for products.

**“Food and/or Beverage Products”** means any food and/or beverage products other than alcoholic beverages as defined in and subject to regulation by the Alcohol Beverages Advertising Code.

**“Medium”** means any medium including cinema, internet, outdoor media, print, radio, television or other direct-to-consumer media.

**“Prevailing Community Standards”** means the community standards determined by the Advertising Standards Board as those prevailing at the relevant

time in relation to the advertising and/or marketing of Food and/or Beverage Products taking into account, at a minimum, the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health & Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.

1.2 In interpreting this Code, any and all practice or explanatory notes published by AANA from time to time will be taken into account as part of this Code.

## 2. All Advertising and/or Marketing Communications

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

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

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

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# AANA Food and Beverages Advertising and Marketing Communication Code

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## Continued

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

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

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

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

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

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

## **3. Advertising and Children**

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

**3.2** Advertising and/or Marketing Communications directed towards Children for Food and/or Beverage Products shall not improperly exploit Childrens' imagination in ways which might reasonably be regarded as being based upon an intent to encourage those Children to consume what would be considered, acting reasonably, as excessive quantities of the product/s.

**3.3** Advertising and/or Marketing Communications directed towards Children for any Food and/or Beverage Product shall not state nor imply that possession or use of a particular product will afford physical, social or psychological advantage over other Children, or that non-possession of the product would have the opposite effect.

**3.4** Advertising and/or Marketing Communications directed towards Children for Food and/or Beverage Products shall not aim to undermine parents and/or other adults responsible for a child's welfare in their role of guiding diet and lifestyle choices.

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

**3.6** Advertising and/or Marketing Communications directed towards Children for Food and/or Beverage Products shall not use popular personalities or celebrities (live or animated) to advertise or market products, premiums or services in a manner that obscures the distinction between commercial promotions and program or editorial content.

**3.7** Advertising and/or Marketing Communications directed towards Children for Food and/or Beverage Products or services shall not feature ingredients or premiums that are not an integral element of the product/s or service/s being offered.

This Code has been drafted in accord with the view of the International Chamber of Commerce that it is in the best interests of communities to avoid excessive regulation in the field of advertising and commercial communications that would hinder free trade and affect economic growth and development.

The intent is to provide a level of industry regulation that ensures that advertising and marketing communications of food and beverage products remains within the bounds of prevailing community standards consistent with the ICC advocacy of responsible advertising under accepted codes of business practice in preference to advertising bans and other restrictions on commercial communications which the international agency has identified as acting to distort free trade.



# Federal Chamber of Automotive Industries (FCAI)

## Voluntary Code of Practice for Motor Vehicle Advertising

### Explanatory Notes

#### Context

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

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

#### Date of Commencement

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

#### Scope and Coverage of the Code

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

#### Guidance to Advertisers

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

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

FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the Code.

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

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

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

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

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

In interpreting and applying the Code, FCAI asks that advertisers take into account both the explicit and implicit messages that are conveyed by an advertisement. Advertisers should make every effort to ensure that advertisements not only comply with the formal provisions of the Code but are also consistent with the objectives and guidelines expressed in these Explanatory Notes which accompany the Code.

# Federal Chamber of Automotive Industries (FCAI)

## Voluntary Code of Practice for Motor Vehicle Advertising

Continued

### Compliance and Administration

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

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

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

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

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

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

### Consultation

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

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

### 1. Definitions

In this Code, the following definitions apply:

- (a) Advertisement: means matter which is published or broadcast in all of Australia, or in a substantial section of Australia, for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.
- (b) Off-road vehicle: means a passenger vehicle having up to 9 seating positions including that of the driver having been designed with special features for off-road operation, consistent with the requirements of the definition for such a vehicle as provided in the Australian Design Rules (MC category). An off-road vehicle will normally have 4 wheel drive.
- (c) Motor sport: means racing, rallying, or other competitive activities involving motor vehicles of a type for which a permit would normally be available under the National Competition Rules of the Confederation of Australian Motor Sport, or other recognised organisation 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.

# Federal Chamber of Automotive Industries (FCAI)

## Voluntary Code of Practice for Motor Vehicle Advertising

Continued

### 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; and

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

## Advertisements for alcohol beverages must:

- (a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
  - (i) must not encourage excessive consumption or abuse of alcohol;
  - (ii) must not encourage under-age drinking;
  - (iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
  - (iv) must only depict the responsible and moderate consumption of alcohol beverages;
- (b) not have a strong or evident appeal to children or adolescents and, accordingly –
  - (i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
  - (ii) children and adolescents may only appear in advertisements in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
  - (iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene;
- (c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly –
  - (i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
  - (ii) if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement; and
  - (iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;
- (d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly –
  - (i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices; and
  - (ii) any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;
- (e) not challenge or dare people to drink or sample a particular alcohol beverage, other than low alcohol beverages, and must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content;
- (f) comply with the Advertiser Code of Ethics adopted by the Australian Association of National Advertisers; and
- (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.

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# Alcohol Beverages Advertising Code

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## Continued

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### Retail Advertisements

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

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

### Promotion of alcohol at events

Alcohol beverage companies play a valuable role in supporting many community events and activities. It is acknowledged that they have the right to promote their products at events together with the right to promote their association with events and event participation.

However, combined with these rights comes a range of responsibilities. Alcohol beverage companies do not seek to promote their products at events which are designed to clearly target people under the legal drinking age.

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

- All promotional advertising in support of events does not clearly target underage persons and as such is consistent with the ABAC standard; and
- Alcohol beverages served at such events are served in keeping with guidelines, and where applicable legal requirements, for responsible serving of alcohol (which preclude the serving of alcohol to underage persons); and
- Promotional staff at events do not promote consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- Promotional staff do not misstate the nature or alcohol content of a product; and
- Promotional staff at events are of legal drinking age; and
- Promotional materials distributed at events do not clearly target underage persons; and
- Promotional materials given away at or in association with events do not connect the consumption of alcohol with the achievement of sexual success; and
- Promotional materials given away at or in association with events do not link the consumption of alcohol with sporting, financial, professional or personal success; and
- Promotional materials given away at events do not encourage consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- A condition of entry into giveaways promoted by alcohol companies at or in association with events is that participants must be over the legal drinking age; and prizes given away in promotions associated with alcohol beverage companies will only be awarded to winners who are over the legal drinking age.

### Third Parties

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

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

### Public Education

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

### The Complaint Management System

All complaints about advertising are channelled through the **Advertising Standards Board**, which provides a single point of contact for consumers.

**If the complaint is about an advertisement for an alcohol beverage, a copy of it is referred immediately to the Chief Adjudicator of the ABAC Complaints Panel.** The Chief Adjudicator must refer the complaints referred to the Complaints Adjudication Panel will be assessed to ensure unbiased interpretation of the Code and independent adjudication on complaints about alcohol beverages advertising.



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# Alcohol Beverages Advertising Code

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To ensure consistent and effective decision-making, a panel of three members will be available to consider complaints. One member of the panel will be a health expert appointed in consultation with government.

Consistent with the expectations of the broader community, all panel members represent broad, mainstream values. They are independent of the alcohol industry and do not represent any particular interest group.

## Reporting the Panel's decisions

The Chief Adjudicator of the ABAC Complaints Adjudication Panel will preside over the complaints adjudication process and will advise the Advertising Standards Board, the Advertiser and the ABAC Management committee in writing of the outcome of the Panel's decisions. The Advertising Standards Board will then advise the complainant of the outcome of their complaint.

At the end of each year, the ABAC Management Committee will publish a report on the ABAC scheme for that year. It will be circulated to relevant State and Federal Ministers and Departments and to appropriate advertising and media industry bodies, including the Advertising Standards Bureau. The report will also be available to the public through ABAC members' websites.

## Alcohol Advertising Pre-vetting System (AAPS)

Underpinning the ABAC is the Alcohol Advertising Pre-vetting System (AAPS) which is also managed by the Australian Associated Brewers (AAB), the Distilled Spirits Industry Council of Australia (DSICA), and the Winemakers Federation of Australia (WFA) for their members.

The primary function of AAPS is to re-inforce the effectiveness of the ABAC Code, by utilising independent adjudicators to evaluate advertisements for alcohol beverages against the Code at the concept or story-board stage.

AAPS has proven to be an effective self-regulatory filter applied before an advertisement goes into final production and is broadcast or published.

## How to make a complaint about an alcohol advertisement:

If you wish to complain about an advertisement for an alcohol beverage product, you should make your complaint in writing and send it to:

## The Advertising Standards Board

Level 2, 97 Northbourne Avenue  
TURNER ACT 2612

Fax: (02) 6262 9833

Online:

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[www.adstandards.com.au](http://www.adstandards.com.au)

Level 2, 97 Northbourne Avenue, Turner ACT 2612

Ph: (02) 6262 9822 | Fax: (02) 6262 9833