

AdStandards News

Edition
Eleven

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The Advertising Standards Bureau manages the complaints resolution component of the advertising self-regulation system in Australia. *AdStandards News* provides our stakeholders – consumers, industry and government – with up-to-date information about advertising standards in Australia and overseas.

FYI

Guidelines out soon

Guidelines are being developed from research conducted by the Bureau, to assist the Advertising Standards Board apply the Code of Ethics. These guidelines, relating to discrimination and vilification, violence, and the representation of women in advertising will be published on our website soon.

New look website coming

We are working on updating and improving our website. The new look website will be even easier to use, but importantly it will continue to provide access to vital information about our work, the determinations made by the Advertising Standards Board and also national and international news about advertising and self-regulation systems.

CEO comment

While we appreciate the significant support industry provides in the complaints process and in complying with Board decisions, it is necessary that advertisers also provide financial support. At only \$350 per million dollars of media expenditure, it's a small contribution from all advertisers to keep advertising self-regulation in Australia effective. Go to www.adstandards.com.au for more information.



ASB CEO Fiona Jolly

In what seems like a cavalcade of presentations, seminars and awards nights during the past few months I have had the chance to meet many interesting people involved in the advertising sector. Of even more benefit is the chance it has given me to speak with people about the Advertising Standards Bureau's complaints process and also other general issues about Australia's advertising self-regulation system.

I'd like to thank all the organisers, co-presenters and attendees at the Advertising Federation of Australia presentations in Sydney, Melbourne, Brisbane and Adelaide, the Youngbloods night in Sydney, the Legalwise seminars in Sydney, Brisbane and Melbourne, the National Radio Conference run by Commercial Radio Australia and also the Children and Sexualised Media seminars run by the Australian Council on Children and the Media.

FROM THE CEO'S DESK

Welcome to AdStandards News.

I hope to continue with more sessions next year, including a series of seminars for Government Ministers, officials and agency staff.

It will be interesting to gauge the level of concern in the community about green issues with the introduction of the AANA Environmental Claims in Advertising and Marketing Code. The Board will begin considering complaints under this Code as of 1 January 2010.

The work done during this year by the Australian Food and Grocery Council (AFGC) and the Quick Service Restaurant industry in developing initiatives to limit advertising of food products during children's television viewing times has resulted in a low level of complaint.

Our appointment of another Independent Reviewer, Mick Palmer, former Australian Federal Police Commissioner, ensures that any requests for review of Board determinations continue to be dealt with speedily. He will provide valuable support for Deirdre O'Connor, who was appointed in March 2008.

Next year looks to be another busy year. Already we have plans for more research. This research will look at the issue of sex, sexuality and nudity in advertising. It will focus particularly on the portrayal of children and women. Other work planned includes introduction of a new content management system to take care of the ever-increasing amount of data and information we maintain.

I hope everyone has enjoyed our switch to e-bulletins and this first e-newsletter. I am also looking forward to launching our new look website in the coming months. The website aims to provide improved interactivity, while still providing all the vital information.

With Christmas and the New Year just a few weeks away, I would like to thank everyone for their continued support of advertising self-regulation and to also send my wishes for a relaxing and happy festive season and a successful 2010.

*Fiona Jolly, CEO
Advertising Standards Bureau*

There are currently 20 members of the Advertising Standards Board, their profiles can be viewed at www.adstandards.com.au

ANOTHER INDEPENDENT REVIEWER

The Advertising Standards Bureau has appointed another Independent Reviewer - former Australian Federal Police Commissioner Mick Palmer. He joins the Hon Deirdre O'Connor, who was appointed as the first Independent Reviewer for the advertising self-regulation system in Australia in March last year.

Michael John (Mick) Palmer is a 35 year career police officer with extensive experience in police leadership and reform in community, national and international policing. He served as Commissioner of the Northern Territory Police, Fire and Emergency Services agency from 1988-1994 and was then appointed Commissioner of the Australian Federal Police (AFP), a position he held for 7 years until his retirement in March 2001.

Since retiring from policing in 2001 Mick has conducted a range of inquiries and reviews for the federal and Australian State Governments, both

within Australia and overseas. He is currently contracted to the Australian Federal Government as the Inspector of Transport Security with a legislative mandate to conduct inquiries into serious transport security matters and offshore security matters.

“The review process ensures greater accountability and transparency for the Australian public and advertisers,” Ms Jolly said.

In 1998, Mick was appointed Deputy Chair of the Australian National Council on Drugs. He was also appointed by the former Prime Minister to oversee an Inquiry into the Government's handling of Cornelia Rau in 2005.

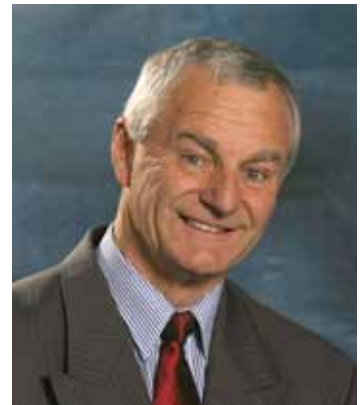
Mr Palmer is a recipient of the Australian Police Medal and in 1998 was admitted to the Order of Australia (AO) for his work in “advancing the

professionalisation of policing through the introduction of far-reaching anti-corruption processes and management practice reform”.

A lawyer, Mick is an Honours graduate of the Queensland Barristers Admission Board and in 1982 was admitted

to practise as a Barrister at Law in Queensland. He practised at the bar during 1982 and 1983 before returning to policing.

ASB CEO Fiona Jolly said the independent review process has ensured that Australia's system of advertising self-regulation has kept pace with international standards of best practice.



MICHAEL JOHN PALMER, AO APM, has been appointed as an Independent Reviewer with the Advertising Standards Bureau

Since its introduction the review process has been accessed eight times. The Independent Reviewer has recommended that the Board reconsider its original determinations in two of these cases, but after investigation of another three cases confirmed the Board determinations. The remaining three cases did not meet the grounds for review and were not considered by the Independent Reviewer.

All of these cases are published on our website. See case numbers – 133/08, 158/08, 289/08, 312/08, 108/09.

PORTRAYAL OF GENDER RESEARCH TO COME

The Advertising Standards Bureau is working on another phase of research to build on previous community awareness/community standards research conducted in 2006 and 2008-09.

This research will take a detailed look at community perceptions and standards in relation to the portrayal of sex, sexuality and nudity with particular reference to the portrayal of children and women. It will also consider how closely Board

decisions comply with community perceptions and standards.

An advisory panel is currently being formed. The panel will include a community and an industry representative to assist with advertisement selection and research methodology.

Previous research has shown the decisions made by the Board generally reflected community standards in

relation to issues covered by the Code of Ethics. However, in relation to the portrayal of sex, sexuality and nudity, previous research (2006) concluded that the community was more conservative than the Board.

Complaints about advertisements are about a range of situations including the age of the model depicted in the advertisement, use of sexual innuendo, exploitation of people, and the medium used (eg billboard) in the advertisement.

Detailed reports relating to previous research are available. One report contrasts the legal and socio-ethical definitions of discrimination and vilification in relation to 20 advertisements previously considered by the Advertising Standards Board. The other looks at community perceptions of violence in advertising.

Contact us to purchase a copy of either report.

COMPLIANCE AND ENFORCEMENT

– BALANCING COMPLIANCE AND ENFORCEMENT

By Fiona Jolly, CEO, Advertising Standards Bureau

Australia's advertising self-regulation system has, like most self-regulation systems, had its fair share of criticism in the past 10 years. A common criticism is the lack of powers held by ASB to 'enforce' decisions that an advertisement breaches the Code of Ethics.

Criticisms have included that mechanisms in place are not effective in ensuring compliance by advertisers with decisions of the Advertising Standards Board.

Understandably, as a voluntary system we rely very much on the good will, good sense, and a common commitment of advertisers to provide consumers with appropriate advertisements and through this promote consumer and government confidence in the general standards of advertising.

Advertisers, advertising agencies, media personnel and agencies, know that there is no government intervention in the self-regulation system and to maintain this position it is necessary to achieve high levels of compliance with Board decisions.

In the vast majority of cases, advertisers comply immediately with determinations made by the Board. Understandably, advertisers are unhappy with an outcome requiring an advertisement to be stopped. Our experience is that, regardless of an advertiser's reaction to a decision, most will quickly ensure that

their advertisement is removed from the medium that the decision applied to.

Some, and to be honest very few, advertisers require more encouragement to comply. If this is the case the ASB has an effective range of enforcement tools to apply to ensure compliance with Board decisions.

In the past this knowledge has been sufficient to achieve absolute compliance. Our aim is to maintain that record and ensure the system continues to work effectively without government intervention.

Firstly, if a complaint indicates that an advertisement may breach government regulations or has broken the law, the Bureau can refer the complaint to an appropriate government agency or industry body that has the authority to withdraw the advertisement. This will be done without a case going to the Board for consideration.

More relevantly:

- An advertiser's failure to respond will always be included in the final case report which is made public on the Bureau's website. This is generally unwelcome publicity for the advertiser and for most advertisers such publicity is a threat to brand reputation and is to be avoided.
- In a similar fashion, an advertiser's failure to respond can feature in

information released to the media which follows the relevant Board meeting, and as the Advertising Standards Bureau CEO, I will respond to all media requests with a full account of the particulars of the case, including the timeliness of the advertiser's compliance.

Although we have never had to use them we have the following processes in place:

- Should an advertiser fail to respond to the Bureau's request to remove or modify advertising, our relationship with industry and media bodies ensure that the industry body will either negotiate with the advertiser directly for the removal of the advertisement on our behalf, or in specific cases, take action to remove the advertisement in the face of advertiser opposition.
- Under appropriate circumstances, we will refer an advertiser to a government agency such as the Commonwealth Department of Communications, Broadband and the Digital Economy, the Australian Communications and Media

Authority the Attorney-General's Department, or to State Police Departments to request that these agencies assist in taking action against the advertiser.

The effectiveness of these mechanisms cannot be understated. The ASB has a record of 100 per cent compliance by industry with decisions of the Board. Our ability to achieve compliance across Federal, State and Territory jurisdictions, regardless of the size of the advertiser, is something that legislation and government administration is very unlikely to rival.

We find that critics will often confuse the issue of enforcement and compliance with criticisms of the jurisdiction of the ASB (ie: what types of advertising we can look at) or the outcome of complaints (ie: whether the decision of the Board is right).

ASB jurisdiction, and ensuring that Board decisions are in line with community standards are issues that are just as important as compliance, and we will have more on these two issues in our next newsletters.

In the meantime we will work with the advertising industry, associated national and international bodies and the community to maintain a healthy system of advertising self-regulation.



GREEN CODE COMPLAINTS IN NEW YEAR

Complaints under the recently announced Environmental Claims in Advertising and Marketing Code will be considered by the Advertising Standards Board from 1 January 2010.

The AANA has created the code 'to ensure that advertisers and marketers develop and maintain rigorous standards when making Environmental Claims and to increase consumer confidence to the benefit of the environment, consumers and industry'.

"We have now set up the procedure for receiving complaints under this new code, and the AANA is setting up procedures to enable us to access expert advice that we may need to provide to the Board," ASB CEO, Fiona Jolly said.

"As with all other codes administered by the Advertising Standards Bureau, if we receive a complaint that falls under this code, the Advertising Standards Board will assess the complaint, along with the advertiser's response to complaints and any other pertinent information required," Ms Jolly said.



Fiona Jolly pictured with the winners of the small budget section at the 2009 Advertising Federation of Australia Effie Awards (from left) Scott Nowell, Mark Green and Justin Drape from Three Drunk Monkeys.

SMALL BUDGET WINNERS

This year the Advertising Standards Bureau sponsored the small budget sections of both the Advertising Federation of Australia (Effie) Awards and the Media Federation Awards.

As a major sponsor of the awards, ASB's CEO, Fiona Jolly, participated in judging and presented the awards to the winners.

The Effie small budget award winners

were JWT Sydney/RMG Connect Sydney whose wholly online campaign for Kit Kat Chunky was, according to the judges, a brave move. Winner of the Grand Effie was Clemenger BBDO Sydney for its 'Speeding. No one thinks big of you' campaign for the NSW Roads and Traffic Authority.

Winner in the Media Federation Awards 'best use of a small budget' was Zenith Optimedia's David Cook and Claire Richmond for their work

on Lion Nathan's Toohey's Extra Dry TED 696 project. According to the judges, the project stood out from the other entrants, showing that there were still untapped media channels out there. Grand prix winner was Bellemyhayden for its work with GlaxoSmithKline on 'Sensodyne: the chill test'.

Ad complaint statistics

	June 2009 to October 2009 (1 June to 31 October)
Number of complaints received	2 229
Number of ads complained about	278
Most common issues complained about	Portrayal of sex, sexuality and nudity received about 25 per cent of all complaints, followed by complaints about social issues at 14 per cent of complaints. Complaints relating to discrimination and vilification were around 10 per cent.
Most complained about ads	Advanced Medical Institute (Case 289/09) – Billboard – Words: Making Love – Do it Longer. Board determination – Dismissed under section 2.3, Portrayal of sex/sexuality/nudity – about 40 complaints BConfidential (Case 464/09) – Billboard – black and pink sign with woman on left hand side and words: Tell your wife that you will be home late. Board determination – Dismissed under section 2.3, Portrayal of sex/sexuality/nudity – about 40 complaints

The Advertising Standards Bureau now makes available a list of all advertisements considered by the Board at www.adstandards.com.au. Copies of case reports for all advertisements are also available on request by emailing administration@adstandards.com.au.