

AdStandards News

Edition
Twelve

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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

Reports available online

Current research about sex and sexuality in advertising will add to the research reports available online. See the complete research reports on violence and on discrimination and vilification on our website.

Advertiser portal for new look website

Work on updating and improving our website is continuing. The new look website will introduce an advertiser portal, will be easier to use and will continue to provide access to vital information about our work and determinations made by the Advertising Standards Board.

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.

FROM THE CEO'S DESK

Welcome to AdStandards News.

This year has started at full pace and looks to be building up to a busy year.

The Board has already considered more than 100 cases this year, which in turn keeps staff at the Bureau constantly busy contacting advertisers, writing to complainants and preparing Board papers.

Recent cases have involved some of the newer advertising codes and industry initiatives, including the Quick Service Restaurant initiative and even the AANA's Environmental Claims in Advertising and Marketing Code.

Our ongoing research program is also going ahead full steam, with results of research looking at the issue of sex, sexuality and nudity in advertising expected by early April. I would like to thank the consultative committee for sparing the time and helping to ensure this research targets the issues that matter to the community.

Work on guidelines to assist the Board and advertisers with decisions about gender portrayal, discrimination and vilification and about violence is also

continuing. The full reports from research we conducted last year are now available on our website.

Alongside this work we have refined our process for the community and advertisers in relation to complaints about misleading and deceptive issues.

We received good feedback from an operational quality audit that was conducted last year by the SMART team at the University of the Sunshine Coast. I aim to share the results with you over the coming months.

Our plans to introduce a new content management system will include an advertiser portal. This portal will be linked to our new look website which we plan to launch in the coming months.

We have received great feedback on our switch to e-bulletins and e-newsletters. I hope you enjoy the information and articles we have included in this edition.

*Fiona Jolly, CEO
Advertising Standards Bureau*



ASB CEO Fiona Jolly

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

COMMUNITY VIEWS RIGOROUSLY APPLIED

The Advertising Standards Board will continue to rigorously apply the Codes and initiatives developed by the AANA and other industry bodies.

“These codes are based on community views about well being, health and decency in advertising in Australia,” ASB Chief Executive Officer, Fiona Jolly, said.

She said a recent decision by the Board to uphold complaints about a Hungry Jack’s advertisement which breached the Quick

Service Restaurants initiative had been widely reported as a failure of the system.

“The decision by the Board was a step in the self-regulation process that reinforced to the advertiser that it had overstepped and breached an agreement it had made with the community,” Ms Jolly said.

“The advertiser itself has admitted it breached its own code and has stated in writing that there will not be a recurrence of this in the future.”

She said the publicity surrounding this case has only heightened the community’s awareness of the agreement that advertisers have made with the community.

“I believe this publicity will help to ensure this advertiser, and other advertisers in that market segment, take into account community views about advertising to children in order to maintain the consumer trust they have developed over the years,” Ms Jolly said.

Since its inception in 1998 the advertising self-regulation system in Australia has kept pace with community trends and advertising mediums. It has continued to follow world’s best-practice standards.

“The ASB has not been deterred in its role as the administrator and determiner of complaints about advertising and maintains an excellent record of advertisers following Board determinations,” Ms Jolly said.

SEX AND SEXUALITY RESEARCH CONTINUES

Research commissioned by the Advertising Standards Bureau into the portrayal of sex, sexuality and nudity in advertising is on schedule, with results expected by early April.

The research builds on previous community awareness/community standards research conducted in 2007 and 2008-09.

A consultative panel consisting of Lyn Allison (Former Senator for Victoria and member of the Senate Inquiry into the Sexualisation of Children), Dr Alan McKee (Professor of Film and Television, Creative Industries Precinct, Queensland University of Technology), Helen Willoughby (former Outdoor

Media Association Chief Executive Officer), John McLaren (Group Account Director, Clemenger BBDO) and Fiona Jolly (Advertising Standards Bureau CEO), met in early January to assist with advertisement selection and research methodology.

The research is being conducted by Colmar Brunton who will take a sample of 1200 people from across Australia to seek their views on sexuality and nudity in advertising. It will take a detailed look at community perceptions and standards with particular reference to the portrayal of children and women.

It is also considering how closely Board decisions comply with community perceptions and standards.

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 (2007) concluded that the community was more conservative than the Board.

“Sexuality and nudity is one of our most consistently complained about areas. We want to make sure that the work we have done over the past three years to keep the Board aware of community views has worked and that determinations being made are in line with community views,” ASB Chief Executive Officer, Fiona Jolly said.

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.

The full reports relating to previous research are now available at www.adstandards.com.au. 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.

LET'S CONSIDER THE TRUTH – MISLEADING AND DECEPTIVE CLAIMS

The Advertising Standards Bureau now requires people making complaints about the truth and accuracy of claims in an advertisement to provide information about which specific statements in the advertisement they consider are untrue and also what evidence there is to suggest that this information is incorrect.

Following receipt of a valid complaint ASB will contact the advertiser to request the advertiser to provide substantiation for all claims made in the advertisement, not just those the subject of complaint.

“We expect that any claims made in an advertisement would be made according to information already available that can substantiate claims, so we will continue to request the information to be provided within the usual seven day timeframe,” Ms Jolly said.

She said advertisers are responsible for providing sufficient information to enable the Board to assess the accuracy of claims or statements made in an advertisement.

“In relation to food products, the information requested will usually be substantiation of the composition or nutritional profile of the food,” Ms Jolly said.

“Sometimes the information provided by the advertiser will be highly technical. In these cases if I, or the Board, consider that independent scientific advice will assist the Board to understand the information provided so that it can assess

whether claims are ‘truthful’ or if they are likely to be considered ‘misleading or deceptive’, the ASB will request the assistance of an independent advisor,” Ms Jolly said.

The Bureau has appointed Dr David Roberts, a member of the Australia New Zealand Food Standards Authority, as its advisor on food science matters. Other advisors will be engaged should issues raised be outside Dr Roberts area of expertise.

The independent advisor will be asked to provide advice on the advertisement, the complaint and the advertiser substantiation in particular:

- whether the substantiation for claims made is robust,
- if not robust, what areas of the claim are not scientifically supported, and
- whether there is scientific consensus on the issue or debate.

“It is not the advisor’s role to comment on the message that a consumer might take from the advertisement or to provide advice on whether the advertisement is misleading or deceptive.

“It is for the Board to assess what the community would take from an advertisement. The Board considers the advertisement in its entirety and is not restricted to the issues raised,” Ms Jolly said.

She said the role of the Advertising Standards Board is also different from the role of the court or the ACCC or the Advertising Claims Board, which adjudicates truth in advertising

competitor disputes under the AANA Code of Ethics, Section 1.

Ms Jolly said the Board does not determine as a legal matter whether an advertisement is misleading nor does it reach a legal opinion.

“The Board’s task is to deal with complaints and its task is to reflect the community’s attitude - to assess whether the advertisement meets current community expectations for truthfulness and whether the community would consider the advertisement misleading.

“By upholding or rejecting a complaint, the Board determines whether the community considers an advertisement acceptable or not. In this way, it provides guidance to advertisers and assists in maintaining confidence in advertising,” Ms Jolly said.

Usual procedures of publishing the case report will be followed after the Board’s determination. Any confidential commercial information identified by the advertiser in its substantiation will not be included in the case report. The conclusions of the independent advisor will be published in the case report but not necessarily the entire analysis.

“The ASB hopes that this revised process will provide a more robust procedure for the adjudication of complaints about this issue and also deter frivolous or vexatious complaints,” ASB Chief Executive Officer, Fiona Jolly said.

A fact sheet is available on the ASB website.



Under sections 2.1 of the AANA Food and Beverages Advertising and Marketing Code and Section 2.2 of the AANA Code for Advertising and Marketing to Children, and the AANA Environmental Claims in Advertising and Marketing Code, the Advertising Standards Board must consider whether advertisements:

- are truthful and honest
- are, or are designed to be misleading or deceptive
- mislead or deceive children.

SUPPORTING INDUSTRY INITIATIVES

In 2010 the Advertising Standards Bureau is continuing and building on its support of industry affiliates through financial means and participation in industry initiatives and activities.

“The Bureau plays an important role in the self-regulation system and we are happy to take the opportunity to support other organisations which promote the importance of responsible advertising and Australia’s world-class self regulation system,” ASB Chief Executive Officer, Fiona Jolly, said.

The Bureau has become an NGen club member, a Media Federation of Australia initiative aimed at fostering young talent in the media industry, and hopes to join in and also possibly host relevant events.

“We are also looking forward to this year’s MFA Awards. It is always interesting to see the collaborative work done in producing a campaign that really reaches its target market,” Ms Jolly said.

The Bureau will also sponsor the ‘Long term effects’ category in this year’s

Communications Council Effie awards. Last year the Bureau supported the Effies by sponsoring the small budget section.

“This year we opted for the long term effects category because at the Bureau we often deal with ongoing issues in relation to an advertiser’s campaign,” Ms Jolly said.

“Being able to talk with the future of the advertising and media industry is a great way to get these people thinking about community standards and self-regulation, not to mention being great fun,” Ms Jolly said.

“We aim to support the Communications Council in its work to continue the education of advertising and marketing professionals around Australia, as well as the promotion of the advertising self-regulation system in Australia.

“Last year I enjoyed being involved in the lively debates during Youngbloods sessions and hope to continue these interactions,” Ms Jolly said.

OPERATIONAL AUDIT – ASB SCORES WELL

The Advertising Standards Bureau has received commendations on its outstanding leadership and the composition of its Advertising Standards Board.

Overall the ASB scored well in an operational quality audit conducted by the Social Marketing and Advertising Research Team (SMART) at the University of the Sunshine Coast. The team, including University of Sunshine Coast Associate

Professors Dr Michael Harker and Dr Debra Harker and Adjunct Professor Glen Wiggs, adopted a nine stage process for the audit.

Stages included a review of world’s best practice, a questionnaire completed by stakeholders, interviews with the CEO and industry stakeholders, as well as observation of a Board meeting.

In its conclusion the audit report states: “We are of the firm view that

the Secretariat led by Fiona Jolly and the Board are real strengths.”

Also commended is the composition of the Advertising Standards Board which the report says provides a diverse range of views and opinions. The selection process for the 20 member Board was also found to be “particularly impressive”.

The audit was commissioned by the ASB to gain an independent, rigorous and

considered evaluation of its operational quality from experts in the field.

The audit report concludes that: “The ASB is an advertising self-regulatory organisation of high standard and one of which industry can be proud.”

More details about the results of the audit report will be available over the coming months.

Ad complaint statistics

	November 2009 to January 2010 (1 November to 31 January)
Number of complaints received	584
Number of ads complained about	174
Most common issues complained about	Most common issue complained about – Portrayal of sex, sexuality and nudity received about 30 per cent of all complaints, followed by complaints about health and safety issues at 15 per cent of complaints. Complaints about issues relating to discrimination and vilification were the next highest at 14 per cent.
Most complained about ads	A print advertisement from Foxtel (562/09) topped the list of most complained about in the period between November and January. The advertisement for Foxtel’s show ‘Chelsea Lately - Comedy of Balls’ depicted a man looking up a woman’s dress. The Board found it breached the code and upheld complaints. Foxtel modified the advertisement before the Board determination.

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.