

AdStandards News

Edition
Eight

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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.

Review of Operations 2007

The snapshot in our Review of Operations for 2007 shows that a total of 2,602 complaints were received during the year and that there was 100 per cent compliance with Board decisions.

The Review of Operations has been published and is available in hard copy and on our website at www.adstandards.com.au.

Australia joins International Council

Ms Alison Abernethy, Acting Advertising Standards Bureau CEO, took part in the first meeting of an International Council launched by the European Advertising Standards Alliance (EASA).

Stephan Loerke, Managing Director of the World Federation of Advertisers said the establishment of EASA's International Council was critical in spreading best practice and ensuring that advertising standards are both robust and coherent from market to market for the benefit of industry and consumers worldwide.

The inaugural meeting, held in May, was attended by 15 representatives of several European (France, Hungary, Spain and the United Kingdom) and non-European self-regulatory...

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CEO UPDATE

Welcome to AdStandards News.

The past few months have been a very busy period for the Advertising Standards Bureau. We have launched a public education campaign, prepared and provided information for various Senate enquiries, as well as continued to administer the complaints process.

We have taken on new roles, including the administration of the independent review process. We are also looking forward to the continuing growth in our responsibilities with the possible implementation of a green code which will help to ensure advertisers understand their responsibilities when it comes to environmental claims.

The work in administering and developing the complaints process has continued at a steady rate in the past few months. Some advertisers and advertisements have been highlighted in the media due to the high level of community concern raised about controversial campaign strategies.

An example of the Board's ability to respond quickly to community concerns was evidenced by the extraordinary Board meeting that was held during June. The day before the regular June Board meeting, we began to receive complaints about a television ad dealing with

abortion issues. The timing of the ad's launch meant it could run unchecked for over a month before the complaints could be brought before another scheduled Board meeting. The ASB decided the level of concern raised by community members meant the complaints should be heard at an extraordinary meeting, allowing the Board to view the ad and make a decision within a matter of days. The Board voted unanimously to uphold the complaints and the advertiser withdrew the ad immediately.

The media, community members and community officials brought a recent controversial advertising campaign to our attention. The marketing slogans on campervans have caused a great deal of interest both nationally and internationally. Recent changes to the AANA Code of Ethics allowed us to look at this type of marketing communication. The advertiser has agreed to remove slogans which were found to be offensive.

We have also continued our work with the Outdoor Media Association in highlighting community concerns to advertisers about the placement, the images used and the content of billboards and their compliance with the AANA Code of Ethics.



ASB CEO Alison Abernethy

Senate enquiries

In April I appeared at a Senate enquiry to provide information about the work of the Advertising Standards Bureau in response to concerns about sexualisation of children in the media.

The report and recommendations that came out of the enquiry offered a balanced and appropriate way forward for the continuation of advertising self-regulation in Australia. We were also pleased the Committee recognised the work we have done to date and we are continuing to work cooperatively with government, community and industry groups to agree on methods of addressing the recommendations.

We will continue to monitor the debate about alcohol advertising and junk food advertising with interest. ...

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

COPY ADVICE TO BE OFFERED BY ASB

The Advertising Standards Bureau (ASB) is gearing up to institute a voluntary copy advice service by the end of 2008.

The copy advice service will:

- be provided free;
- provide a voluntary service at the request of an advertiser, agency or media organisation;
- provide an opinion as to whether or not an advertisement complies with the self-regulatory codes administered by the ASB; and
- include advice on the amendments necessary to bring a non-complying advertisement into line with the self-regulatory codes.

Australia agreed to abide by the European Advertising Standards Alliance (EASA) Best Practice Self-Regulatory Model when it became a corresponding member in 2006. Section 5 of the model (Advice and Information) states:

One of self-regulation's key roles is to prevent problems before they happen by providing advice to advertising practitioners. The advice provided by an SRO takes several forms the first of which is copy advice.

Other EASA corresponding members

South Africa offers advice on the

principles of its Code, but not on specific advertisements. Pre-publication advice is available from independent consultants.

Canada offers copy advice at the request of an advertiser or agency. They also offer voluntary pre-clearance, on a fee basis, for specific types of advertising such as alcohol and cosmetics.

New Zealand provides copy advice on an informal basis.

International perspective

Copy advice is offered by SROs in the majority of European countries, the exceptions being Switzerland, the Netherlands, Denmark, Luxembourg and Sweden.

In the UK, the ASA copy advice team comprises six staff with varied backgrounds and training. They receive 4000-5000 written and verbal requests a year and offer two types of advice:

- subjective advice relating to what they refer to as issues of taste and decency (sex, sexuality, nudity, use of language etc); and

- technical advice as to whether a prospective advertisement fits within the code.

The ASA frequently requires advertisers who have been found to be in serious breach of its code to seek copy advice when preparing future campaigns.

The Spanish self-regulatory body, Autocontrol, offers voluntary, confidential and non-binding copy advice to advertisers, agencies and media organisations. This advice is available free of charge to Autocontrol members while non-members are charged. In considering the request staff: establish if a breach is likely and what changes may be required to comply; seek any additional information that is necessary; refer to the code; and look at precedents.

The Spanish copy advice system was set up in 1996 with 27 requests being received in that year. In 2007, they received 4000 requests for advice. Autocontrol staff believe that the steady increase in requests over the last 10 years results from a greater awareness of the service, the fact that it has the capacity to avoid costs, and it provides a degree of certainty.

Although the detail in which copy advice is delivered differs on a country by country basis, all countries:

- provide an opinion as to whether or not an advertisement complies with the advertising rules;
- provide advice on a confidential basis;
- provide advice which is not binding;

- usually accompany the advice with the amendments necessary to bring a non-complying advertisement into line with the rules; and
- only provide advice if requested by advertisers or production agencies.

Copy advice vs pre-clearance

Copy advice is the provision of an opinion as to whether or not an advertisement complies with legal, statutory or self-regulatory rules. Pre-clearance is the examination of an advertisement for compliance with legal, statutory or self-regulatory rules, as a compulsory precondition of being published.

The fundamental difference is that in the case of copy advice there is normally no element of compulsion, either in seeking the advice in the first place or in following it once it has been obtained, whereas in the case of pre-clearance, the notion of compulsion is inherent.

Advantages of copy advice

Seeking copy advice early in the preparation of a campaign provides advertisers and agencies with a degree of reassurance that it complies with the highest standards of practice. It also prevents time and money being wasted on campaigns which breach the rules and are therefore likely to be short-lived.

Copy advice can also help to avoid embarrassment and damage to the reputation of an advertiser or a brand caused by adverse publicity if a complaint is upheld. In a wider context, copy advice helps protect the reputation of advertising in general.

CHANGES TO CHILDREN'S CODE NOW APPLY

A note for all. Revisions to the AANA Code for Advertising and Marketing Communications to Children apply as of 1 July 2008.

The Australian Association of National Advertisers (AANA) announced changes to the code in April after conducting a review following submissions and

complaints about the sexualisation of children and the portrayal of body image in some advertising.

Included in the changes are regulations which rule out the sexualisation of children - anyone aged 14 or under - in advertising which is published or broadcast in any form.

Advertising to children must not include sexual imagery that breaches community standards, or implies that children are sexual beings.

Ads must also not state or imply that owning a product will enhance a child's sexuality.

Another significant change to the code is that ads must not encourage children to pester their parents to buy a particular product. In the past this was only included in the food and beverages code.

The complete code is available on our website www.adstandards.com.au.

COMMUNITY STANDARDS ON HEALTH AND SAFETY



Riva chose shopping trolleys as props.

How are community standards on health and safety measured and implemented?

Section 2.6 of the Advertiser Code of Ethics states:

Advertisements shall not depict material contrary to prevailing community standards on health and safety.

While consumers see a need for ensuring that advertising does not promote or encourage risky behaviour, most also recognise that there needs to be some flexibility in the Code of Ethics so advertising can be creative and engaging (ASB Community Standards Research 2007).

As with anything, concern about health and safety issues ebb and flow. Current complaint profiling shows the community is very concerned about depictions of unsafe activities that encourage copycat behaviour particularly by children, teenagers or young adults.

Complaints about health and safety account for less than 10 per cent of all complaints received by the Advertising Standards Bureau but the outcomes of these complaints are often the most clear cut.

Clearly, any advertisement that shows a law being broken contravenes the spirit of the code and complaints against it are usually upheld. However, if the ad is obviously a fantasy situation, complaints may be dismissed.

Here we compare a number of cases.

Corona (Fosters Australia)

A recent Corona ad showed a couple on a bicycle, neither of whom was wearing a

helmet. Complainants were unhappy with this breach of the Australian Road Rules.

The advertiser argued that the image depicted was a fantasy, not representative of modern-day Australia and should not be taken literally.

The Board noted that the Australian Road Rules (246 and 256) specifically state that:

The rider of a bicycle must not carry more persons than the bicycle is designed to carry; and The rider of bicycle must wear an approved bicycle helmet securely fitted.

The Board considered that the ad did not depict a fantasy situation but depicted a scene that would be common in Australia. The Board considered that the Australian Road Rules constituted applicable community standards regarding bicycle safety and that the ad breached the community standards. The complaint was upheld.

Riva coffee

This advertisement is set in a deserted supermarket where four dancers perform a choreographed routine using shopping trolleys as props.

Complainants felt that the use of shopping trolleys in a dance routine modelled inappropriate behaviour that would appeal to copycats.

The advertiser stated that the ad was filmed in a closed supermarket under controlled conditions and that no real shoppers featured in the commercial. They believed it was a creative execution that did not reflect an actual shopping experience.

The Board noted the safety concerns of the complainants and also noted that the ad clearly featured a staged environment and a fantasy representation of 'shoppers' carried away by the product. The Board further considered that the ad was a parody of recent films seen on 'you tube' and that most viewers would see it as such. The Board felt the ad depicted a fantasy situation that was unlikely to lead to copycat behaviour and dismissed the complaint.

Telstra

This print advertisement shows the dashboard of a car with a front passenger's feet, propped up on the dashboard. Complainants considered that this set a bad example because in an accident a passenger sitting in this position was at risk of spinal injuries and could impede proper activation of the airbag.

The advertiser argued that the ad showed a single car lost on a freeway and that it was a light-hearted look at how the driver could have been assisted by Telstra Whereis.

The Board considered the safety issues raised by the complainants but decided that the practice of placing feet on the dashboard is common, albeit becoming less so, and that it could not be said at this time that not placing feet on the dashboard is an accepted community standard. The board also considered that the ad was unlikely to encourage copycat behaviour and dismissed the complaint.

Buzzbee water canon

This advertisement was aimed specifically at children and featured a number of young boys using the new generation Water Warriors gun. The scene which raised concern with the public showed a boy sitting at a computer and the stream from the water gun knocking over a cup of water on the desk.

The advertiser stated that the ad featured a number of scenarios and that the computer scene would not encourage children to squirt water at computers nor did it show water splashing the keyboard or computer.

The Board considered the ad under the Children's Code as well as Section 2.6 of the Code of Ethics.

Clause 2.2.1 of the Children's Code states: 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.

The Board determined that this ad did show unsafe use of a toy and that it could encourage children to behave in the same way and that therefore it breached the Children's Code.

The Board was also strongly of the view that images of children using water pistols around electrical equipment depicted behaviour that was contrary to prevailing community standards on health and safety and also upheld the complaint under the Code of Ethics.

Summary

The Code of Ethics is open to a degree of interpretation as this provides the Board with the flexibility and freedom to ensure that over time its decisions remain in-step with changing community standards.

The ASB's Community Standards Research found that the more people can relate to the advertisement the more they tend to find the advertisement acceptable. The Board takes into account the extent to which community members can relate to the scenario depicted in the advertisement.

The Board also considers the use of humour. The community tends to find advertisements that use humour to be more acceptable and if there is an element of fantasy in the ad it is unlikely to promote copycat behaviour and breach what the community finds acceptable.

The Board upholds complaints about ads that clearly portray unsafe activities, show actions that break the law or promote copycat behaviour that could endanger members of the community particularly children, teenagers and young adults.

CEO Update ...cont'd

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Research

Research into community attitudes about violence is underway. We hope to begin focus group and other testing in the coming months.

We are also looking into the legal and socio-ethical definition of discrimination and vilification through academic research. This research will help us to build on our understanding of community attitudes to discrimination and vilification.

New Board members

The ASB advertised for new Board members in March. We received more than 150 applications and several new Board members have been selected. In

our previous recruitment round in 2006 we received less than 40 applications. The larger number of applications is testament to the heightened profile of the ASB in the community. The new members will attend their first official meeting in September.

Launch of public education campaign

The launch of our public education campaign 'Tell someone who cares' has been a success, with many media outlets supporting the campaign with free air time and space. We are also very grateful for the support we received from the creative team at George Patterson Y&R, led by Adrian Mills, in putting the campaign together.

Australia joins International Council ...cont'd

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...organisations (Australia, Brazil, Canada, Chile, Mexico, New Zealand and South Africa) as well as some key industry representatives.

The meeting reviewed self-regulatory developments in markets such as Australia, New Zealand, South Africa, Brazil and Mexico as well as reviewing tools and mechanisms to further drive effective self-regulation.

"With globalisation, cross-border digital communications and the scale of ad spend growth in emerging markets, the marketing industry needs to ensure effective advertising self-regulation has global coverage," Mr Loerke said.

President and CEO of the Canadian self-regulatory organisation, Ms Linda Nagel, presided over the meeting. She said it had been exciting to reach out and work together on best practice to maintain valid self-regulatory systems globally.

NEW PROCESS ACCESSED – THREE BOARD DECISIONS REVIEWED

Two advertisers have accessed the recently-introduced review process of Advertising Standards Board decisions.

The advertisers appealed against decisions by the Board that their ads breached Section 2.2 (violence) of the Advertiser Code of Ethics.

The cases reviewed by Independent Reviewer, the Hon Deirdre O'Connor, were:

- *Trading Post* – The television advertisement portrayed a young boy pushing several things as well as a girl and throwing a cat. The Independent Reviewer found that the Board decision to uphold the complaint was well founded. She said that while the complainants and advertiser had differing views about violence, the Board had considered, both literally and contextually, all the material and arguments for and against the portrayal and characterisation of the child's behaviour as

violent. The Independent Reviewer recommended that the decision to uphold the complaint be confirmed by the Board. See Case Report 133/08.

- *InsuranceLine* – Two television advertisements portrayed a telephone striking a man's head. The Independent Reviewer found in both cases, the advertiser's two grounds of appeal were not made out. She said, as it takes only one complaint to activate the complaints process, the first ground of appeal, that only one complaint was received and that two million people had seen the ads, was not relevant. The other ground of appeal, that the telephone is a *comic flying telephone* and justified in the context of selling under insurance, was not accepted by the Independent Reviewer. She said the context of selling insurance did not justify this. The Independent Reviewer recommended that the decision to uphold the complaint be confirmed by the Board. See Case Reports 157/08 and 158/08.

Ad complaint statistics

	May 2008 to July 2008
Number of complaints received	663
Number of ads complained about	123
Most common issues complained about	Language
Most complained about ads	Domino's Pizza Australia Pty Ltd – <i>Many Toppings</i> (dismissed)

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.