

AdStandards News

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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.

Work with industry partners

Australia's system of advertising self-regulation continues to benefit from initiatives brought about by work between industry partners.

During the past year the Advertising Standards Bureau has received complaints about a number of billboards and has worked closely with the Outdoor Media Association. The work has been of benefit to both agencies. Information from the OMA has helped the ASB to identify advertisers and the location of billboards resulting in faster complaint resolution. The ASB has in turn provided the OMA with information about the nature of complaints – such as advertisements being too close to schools – which has helped OMA develop policies for their members.

“The liaison between our organisations has given us a better understanding of the operating procedures and requirements placed by each organisation on our members and advertisers,” Ms Fiona Jolly, CEO of the Advertising Standards Bureau said.

She said the cooperative stance taken by the two organisations ensures outdoor media owners are informed about Advertising Standards Board decisions and also helps to ensure these decisions are put into effect.

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CEO UPDATE

Welcome to AdStandards News.

We hope you have had the opportunity to visit the ASB website and note the new membership of the Advertising Standards Board. Board members have been inducted and the new Board has met three times. The Board continues to have vigorous debate about the suitability of advertisements they consider, with such debate continually reinforcing the importance of considering the community's views on advertisements.

As usual there has been high level community and media interest about some Board determinations. This is a natural and expected consequence of advertising self-regulation. As with people's different opinions about different advertisements, their reactions to determinations by the Board can also be mixed.

Our most high profile matter over the past months was the Board's decision to reconsider an old case. Community reaction to the Board's reconsideration and determination about an Advanced Medical Institute billboard were mixed. We received phone calls and emails praising the decision, as well as critics who claimed the determination was akin to censorship, backtracking by the Board and even applying double standards. There were strong feelings on all sides in this case as there are in many cases and it's these feelings that will ensure that the

administration of the complaints process and decisions made by the Board continue to receive good and bad press.

Following the success of our public education campaign, the number of complaints received by the Bureau has, as we expected, increased. To manage the increased number of complaints, and respond to community, government and advertiser requests, the Board has met twice per month since October. We have now scheduled two meetings per month for 2009. We are confident that this timetable, alongside our ability to request the Board to meet on an ad hoc basis for urgent matters, will further improve the timeliness of the advertising complaints system.

The Independent Review process has now been accessed by both advertisers and complainants. In cases where the reviewer recommended the Board reconsider its determination, the Board has considered the advice provided by the reviewer and in one case has reversed its original decision and in another has maintained its original decision.

In the past few months we have commissioned two academic research projects to assist the Board in interpreting section 2.1 of the Code – relating to discrimination and vilification.



ASB CEO Fiona Jolly

This research will provide the Board with more structured guidance in considering and applying section 2.1 of the Code. We hope to release the results of this research early in 2009.

In our last newsletter we referred to the imminent introduction of copy advice. Industry is currently considering the introduction of a copy advice system for the advertising self-regulation system, however, this will not be administered by the ASB. We will keep you updated on this issue.

Finally, a fond farewell to our colleague Collin Segelov, outgoing Executive Director of the AANA. We have worked closely with Collin on matters affecting the integrity and reputation of the advertising self-regulation system. We look forward to assisting the new CEO of the AANA, in particular in the AANA's important task of reviewing the Code of Ethics.

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

COMPLAINANT REQUESTS REVIEW

Since September one advertiser and one complainant have accessed the independent review process of Advertising Standards Board decisions.

In the review requested by the advertiser the Board considered the recommendation of the Independent Reviewer and amended their original decision to uphold complaints and in their redetermination dismissed complaints. In the review requested by the complainant the Board considered the recommendation of the Independent Reviewer but maintained their original determination to dismiss complaints.

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

Complainant request

Mitsubishi – This television advertisement is known as “Daniel’s

birthday”. It opens on a group of adults celebrating in a suburban backyard. Other people at the party become upset when Mike says he has to leave. He drives off with the other guests in pursuit in cars and on motor bikes, driving through various locations, building sites, warehouses, water courses and mud.

The Independent Reviewer recommended that the Board determination dismissing complaints should be reviewed by the Board, taking into account new evidence provided by the complainant. She also considered that the Board should review its interpretation of Section 2(a) of the FCAI Code in the light of the new evidence provided by the complainant

The Board considered the new evidence and accepted that it should consider the application of the Code and the FCAI Code to all vehicles depicted in the

advertisement, rather than just the vehicle being advertised. In concluding the case the Board found that none of the vehicles were driven in a manner breaching the FCAI Code. The Board reaffirmed its earlier decision to dismiss complaints.

See Case Report 289/08.

Advertiser request

KFC – This television advertisement is one of a series of three advertisements featuring a ‘slap’. It depicts a teenage girl bringing her new boyfriend home to meet the family. At an outdoor meal, her mother asks the boyfriend if he would like some Hot ‘n’ Spicy chicken. The girl introduces her brother who asks the boyfriend “What’s it like?” and the boyfriend replies by slapping his hands together on the brother’s face.

The Independent Reviewer recommended that the determination

upholding complaints under Section 2.2 should be reviewed by the Board. She also referred to the Board’s determinations in relation to the first two advertisements in the series where the Board concluded that the relevant “violent” act ie slapping a person’s cheeks was, in context, justified and therefore not a breach of Section 2.2.

In concluding the case the Board considered how and if this advertisement differed from the other two advertisements in the series. The Board agreed that the depictions of the slap in each advertisement were of the same nature and that its earlier reasons for distinguishing this advertisement from the other two were not justified. The Board overturned its original decision and dismissed complaints.

See Case Report 312/08.

Work with industry partners...

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On the rare occasion when advertisers delay in their response to Board decisions, our partnership has helped us to ensure offending advertisements are removed as quickly as possible.

Green code work

The Advertising Standards Bureau recently provided comment to a paper that has been commissioned by the AANA looking into issues relating to environmental claims in advertising.

This paper is part of the work in identifying the requirements for a ‘green code’ for advertising.

JUDGING THE WINNERS

This year’s Media Federation Awards for top media strategies were sponsored by the Advertising Standards Bureau.

As a major sponsor of the awards, ASB’s acting CEO, Alison Abernethy (left), judged and presented the award to the winner of the Automotive category, Natalie Musico, Brand Experience Director, Realconnections at Bellamyhayden.

Natalie directed a campaign to reposition Jaguar to a new audience. The campaign included seven events across the country where people could experience the cars as well as print and online advertising.

The Grand Prix at the awards was won by OMD for its V-Raw campaign for V energy drink.



UNDERSTANDING DISCRIMINATION & VILIFICATION

Flexibility and sensitivity to individual advertising is essential, given the nature of issues that come under the discrimination and vilification section of the AANA Code of Ethics.

Issues such as race, ethnicity, nationality, gender, age, sexual preference, religion, disability and political beliefs are all considered under Section 2.1 of the AANA Code of Ethics.

In considering issues about advertisements under this section the Advertising Standards Board recognises that while the AANA Code of Ethics is not 'law', the content of the Code is informed by the law.

The Board recognises that the main overlap between the law and the Code is the overriding objective of both – to eliminate discrimination and vilification in the community.

Complaints about discrimination and vilification in the past few years have accounted for about one quarter of all complaints received by the Advertising Standards Bureau. In fact three of the top ten most complained about advertisements in 2007, were considered in relation to Section 2.1 of the Code.

The Bureau commissioned research into discrimination and vilification to provide the Board and advertisers with more guidance around the interpretation of section 2.1 of the Code. Once finalised, guidelines will be available on our website.

The Board's decision will always rest upon whether, in each Board member's experience, the Board considers that the advertisement discriminates against or vilifies a section of the community.

Some of the factors considered include:

- whether an advertisement depicts a

stereotype of an identifiable section of the community

- whether the stereotype is negative
- the tone of the depiction: is it lighthearted and humorous or negative and hurtful to that section of the community.

Here are some of the cases considered by the Board over the past few years.

Race, Ethnicity, Nationality

Lion Nathan Australia Pty Limited
(*Toobys New Supercold – Hope & Glory*)
(case number 509/06 – January 2007)

The complaint related to two radio advertisements sung to the traditional British anthem of *Land of Hope and Glory*. The first verse used the lyrics: "Whinge, whine, bang-on, gripe grumble, whine, nit-pick complain, slag, whinge, snivel, cry money, whinge, whine, moan, slag, complain". The advertisement concluded with: "Introducing Tooheys New Supercold. Served so cold – it's a Pom's worst nightmare".

The Board found that the advertisement negatively stereotyped and vilified English people and amounted to racial vilification.

Sex

Cockatoo Ridge Wines Limited
(case number 129/08 – May 2008)

This print advertisement features a young woman with a cockatoo on her shoulder. Superimposed to the right of the image is a bottle of Cockatoo Ridge wine. Text beneath the image reads: She loves a Cockatoo and underneath in smaller print Cockatoo Ridge Wines. Why wouldn't you?

The Board found that the advertisement erred on the side of humour and did not discriminate on the basis of gender.



The APIA panel discusses issues on set.

Central Queensland Pumps (CQQuip 2)
(case number 86/07 – April 2007)

This is a television advertisement in which a female is wearing black shorts, a white t-shirt with the CQQuip logo on the front and boots. She is using a water blaster to hose down heavy machinery.

The Board found that the advertisement discriminated and vilified and considered that the tone of the advertisement was demeaning and denigrating towards women and its attempt at humour failed.

Age

Australian Pensioners' Insurance Agency
(case number 13/07 – January 2007)

This television advertisement is set in a television studio and presented in the style of a TV chat show with an APIA spokeswoman (Pixie) seated behind a desk. She says: "We've got such an exciting series of Understanding 50 coming up. You'll see all sorts of fun. One thing you won't see is APIA offering insurance to 21 year olds having all night parties, breaking stuff around the house and driving around like crazy in their cars."

The Board found that the language used in the advertisement did not vilify all young people, but singled out those who behave irresponsibly. The Board also noted that the language used was without malice and a level of humour was present in the tone of the advertisement.

Sexual preference / transgender

Oporto Franchising Pty Limited
(case number 105/07 – April 2007)

The Board determined that a radio advertisement in which a surgeon accidentally sliced off a man's penis with the implication that women were not able to handle strongly flavoured sauces, was demeaning and denigrating towards women. The Board also found the attempt at humour to be puerile and not funny. Accordingly, the Board determined that the advertisement did discriminate against or vilify women.

Religion

BSR Group (Betta Electrical)
(case number 448/07 – January 2008)

A television advertisement depicts a typical Christmas nativity scene with wise men offering gifts to the baby Jesus in the manger. Suddenly the gifts are thrown out of the manger, and as Joseph and Mary look at each other, text on the screen reads *give a better gift* and a voice over advises: "Give a Betta Electrical gift this Christmas".

The Board found that the advertisement discriminated against a section of the community by using a traditional religious image in an irreverent manner. The Board held that that the demeaning depiction of an important Christian belief amounted to discrimination against or vilification of Christians and the Christian religion.

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REFRESHED BOARD READY FOR YEAR AHEAD



Old and new Board members attended an induction day (from rear left) Ann Drummond, Tanveer Ahmed, Natasha Stott-Despoja, Craig White, Helen Wicks, Graham Rixon, Sophie Killen, Khoa Do, Joanna Cohen, Paul McCarthy, JaneMaree Maher, Josephine Tiddy (front from left) Rachel Grant, Tom Keneally, Paula McNamara, Barbara David and Gary Rice. (Not pictured: John Brown, Sibylla Budd and John Lee)

The Advertising Standards Bureau has increased the number of Advertising Standards Board members to 20, appointing eight new members.

After induction of the new Board members in September, the ASB also instituted a system of holding more regular Board meetings. Since October two Board meetings have been held each month.

The ASB received more than 150 applications for membership of the Board from a public application process. The selection panel looked at personal and professional experiences as well as the community involvement of all applicants.

The new and continuing members reflect the make-up of the Australian community. Their details are available on the ASB website.

The four outgoing Board members – John Bokor, John Konrads, Catherine Lumby and Emma Tom – have been recognised for their valuable contribution, hard work and difficult decisions made during their time on the Board.

A gradual increase in complaints over the past two years and a significant increase following the launch of the ASB public education campaign, along with feedback from community, government and industry bodies about timeliness of determinations were considered in the move to two meetings each month.

The addition of eight new members allows for the extra availability and the option to hold more frequent meetings.

UNDERSTANDING DISCRIMINATION & VILIFICATION

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Disability

Kosciusko Thredbo Pty Ltd
(case number 308/07 – September 2007)

A television advertisement opens on two men at a bar who have very tanned faces except for noticeably white marks on their faces caused by wearing ski goggles. A third man asks: "So...you guys have been skiing?" The two men remain quiet and one apologises, using sign language, that they are both deaf. The newcomer excuses himself and the two men continue their conversation. A male voice over explains: "What goes on in Thredbo ...stays in Thredbo".

A complaint was made that the advertisement vilified the deaf community. The Board noted that the advertisement is part of a number of themed advertisements for Thredbo. They play on the concept that people who have been to Thredbo don't want to talk to others about how much fun they had at Thredbo. The Board considered that the use of the 'deaf' reference was in poor taste. However, the Board considered that the advertisement did not depict deaf people in any manner that was offensive or vilifying or that poked fun at deaf people. The Board considered that most people would find the advertisement humorous.

Political belief

Coopers Brewery
(case number 302/08 – August 2008)

Two outdoor advertisements feature either the top half of a Coopers glass containing ale, or a can of Coopers ale and the text alongside reads: *Forget the monarchy, support the publicans and Handmade by the Cooper family. Est 1862.*

A complaint was made that the advertisement was political advertising and offensive to those who supported a constitutional monarchy. The Board found the advertisement to be quirky and humorous. The Board did not consider the content to be political or insensitive to particular political beliefs. The Board dismissed the complaint.

Summary

The Board is aware that the community finds advertisements that use humour to be more acceptable overall. In the case of discrimination and vilification the Board carefully considers the difference between depicting humorous situations to those that may cause embarrassment or humiliation.

In discrimination or vilification cases, the Board maintains a flexible and sensitive approach, ensuring each case is determined with sensitivity to standards consistent with community attitudes.

Ad complaint statistics

	August 2008 to November 2008 (1 Aug to 15 November)
Number of complaints received	1913
Number of ads complained about	207
Most common issues complained about	Portrayal of sex, sexuality and nudity, followed by violence (community awareness)
Most complained about ads	AMI – Want longer lasting sex – 100+ complaints Quit Victoria – Deserted child at train station – 55+ 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.