

SEXUALISATION OF CHILDREN AND YOUNG PEOPLE

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01 GLOSSARY

AANA

Australian Association of National Advertisers – the peak body representing the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

ASB

Advertising Standards Bureau – the self-regulatory body that considers advertising complaints across all media.

OMA

Outdoor Media Association – the peak industry body representing 90% of Australia's Out-of-Home media display companies and production facilities, and some media display asset owners. A full list of the OMA's members is attached at Appendix 1.

On-premise advertising

Vehicles, billboards and other structures that advertise the business, services and products on the advertiser's property.

Out-of-Home media display companies

Companies that provide space for third-party advertisements in public areas such as along roadways, in shopping centres, on public transport and at airports.

Street furniture

This includes bus/tram shelters, public toilets, bicycle stations, phone booths and kiosks that are provided and maintained by Out-of-Home media display companies.

Third-party advertising

Advertising in which the advertisement is not associated with the premises on which it is displayed. That is, a land owner allows an Out-of-Home media display company to display an advertisement for a third-party product.

02 EXECUTIVE SUMMARY AND RECOMMENDATIONS

The Outdoor Media Association (OMA) is the peak industry body representing 90% of Australia's Out-of-Home media display companies and production facilities, and some media display asset owners.

Out-of-Home media display companies advertise third-party products including:

- on buses, trams, taxis, pedestrian bridges, billboards and free-standing advertisement panels;
- on street furniture (e.g. bus/tram shelters, public toilets, bicycle stations, phone booths, kiosks); and
- in bus stations, railway stations, shopping centres, universities and airport precincts.

The industry members build, clean and maintain pedestrian bridges and street furniture, and provide other community infrastructure such as park benches, bins and bicycles.

The OMA does not represent businesses that install 'on-premise' advertisements (vehicles, billboards and other structures that advertise the business, services and products on the advertiser's property). On-premise advertising is more prolific than third-party advertising. For example, in NSW, along Parramatta Road between Broadway and Leichhardt, there are about 2140 on-premise signs compared to 14 third-party advertisements.

Advertising plays a fundamental economic role in Australian society, with an overall spend of \$11.6 billion in 2014,¹ and by employing 183,270 people throughout its industries.² Last year, the OOH industry's net revenue was \$677.8 million, making up just over 5% of the advertising spend in Australia.³ In 2015 in NSW alone, the industry employed almost 500 people.⁴

The OOH industry in Australia contributes over 17,000 items of infrastructure to the community, including pedestrian, bus shelters, kiosks, phones, park benches and bicycles. The replacement value of these items to date is approximately \$275 million. The industry also plays an important role in supporting the arts, sports and charitable organisations. In 2014, the industry donated advertising space valued at more than \$22 million to community campaigns.⁵ OOH is also widely used by government bodies to advertise community messages such as road safety messages and health awareness campaigns.

The Out-of-Home industry complies with numerous voluntary codes, and OMA members are cognisant of their responsibility towards children and young people. The OMA Content Review Policy states: "The OMA is aware that OOH advertising can be seen by all members of the community, including children. As such, members will ensure where possible that care will be taken in regards to the placement of advertising."

The industry pledges complete compliance with all findings of the Advertising Standards Board as well as all State and Local Government controls relating to Out-of-Home advertising. In contrast, companies that display on-premise advertising are often not aware of these various controls and regulations.

¹ Commercial Economic Advisory Service of Australia (CEASA) excluding classifieds and directories

² Valuing Australia's Creative Industries, Creative Industries Innovation Centre December 2013

³ Based on first quarter 2016 revenue figures – Outdoor Media Association

⁴ In 2015, NSW employs 477 FTE based on survey of four member organisations: Adshel, APN Out-of-Home, JCDecaux and oOh! Media

⁵ Outdoor Media Association Annual Report 2014

The socially responsible approach of the industry, as outlined above, demonstrates that the industry can be relied upon to comply with appropriate self-regulatory systems. The OMA submits that the current self-regulatory scheme is effective, as demonstrated by the small number of complaints about Out-of-Home advertisements, and the even smaller number of adverse findings:

- The industry roughly 12,000 different advertisements in NSW in 2015.
- MOVE,⁶ the Out-of-Home advertising industry's audience-measurement system, predicts that almost every person over the age of 14 in Sydney, Melbourne, Brisbane, Adelaide and Perth will see at least one advertising campaign each week.⁷
- Even with these vast numbers, the ASB only considered 501 cases about Out-of-Home advertisements in 2015.
- 80 of these were found to be in breach of the Australian Association of National Advertisers (AANA) Code of Ethics, of **only two** were third-party advertisements. That is, 97.5% of upheld cases did not relate to third-party advertisements.⁸
- The two third-party advertisements that were the subject of an adverse finding by the ASB represent 0.006% of the 30,000 Out-of-Home industry advertisements nationally. Neither of the two Out-of-Home advertisements found to breach related to sex, sexuality and nudity. The two breaches are contained in Appendix 2.

The OMA submits that it would be unnecessarily cumbersome to annually subject some 30,000 third-party advertisements nationally and 12,000 in NSW to government regulation where 99.99% of them are acceptable to the wider community.

Government regulation of Out-of-Home advertising would cause delays and may lead to the homogenisation of Out-of-Home advertisements. These outcomes would enable other media to gain an advantage in an industry that is deadline-driven and communicates differently to different markets. A 2013 study on the contribution of the Out-of-Home media industry in Queensland, conducted by Deloitte Access Economics, estimated that government regulation of Out-of-Home advertising would cost the industry an estimated \$3.5 million per year.⁹ The OMA submits that the small number of complaints that have been upheld by the Advertising Standards Board do not justify this loss of advantage. Further, the invariable loss of industry revenue would affect:

- employment in the industry;
- the contribution of the industry to the national economy; and
- the industry's ability to continue making significant contributions to the community.

Again, such consequences do not appear reasonably justified by the small number of complaints that are upheld by the Advertising Standards Board.

⁶ In 2010 the OMA launched Measurement of Out-of-Home Visibility and Exposure (MOVE). MOVE is a national audience measurement system for Out-of-Home advertising.

⁷ Sydney – 99.6%; Melbourne – 98.9%; Brisbane – 95.8%; Adelaide 98.6%; Perth – 98.2%.

⁸ Data received by the ASB and compiled by the OMA.

⁹ Contribution of the Outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

Internationally, the preferred method of managing advertising is through self-regulatory bodies.¹⁰ The benefits of self-regulation include the following:

1. Complaint resolution times are generally quicker than in regulatory and co-regulatory schemes. Any delays in complaint handling timeframes impact upon both the complainant and the respondent.
2. Self-regulatory schemes are adaptable and able to respond quickly to changes in circumstance or community attitudes. In contrast, legislative frameworks take more time and effort to amend.
3. Both the spirit and the letter of self-regulatory codes should be complied with, as opposed to legislation which generally demands compliance with the strict letter of the law.
4. Self-regulation is funded by industry. Government regulation would require public funds to establish, apply and enforce the scheme.
5. Self-regulation has the support of industry. A system enforced by Government can undermine the goodwill of the industry that is committed to the success of the self-regulatory scheme.

The OMA submits that the benefits of the current self-regulatory system by far outweigh the small number of occasions on which a complaint about Out-of-Home advertising has been upheld.

In view of the above, the OMA makes the following **recommendations**:

1. The current system of self-regulation should be maintained.

¹⁰ One exception is Saudi Arabia, where advertising must be compatible with the Islamic religion and its laws, and complaints are managed by government authorities.

03 ABOUT THE OMA AND THE OUT-OF-HOME ADVERTISING INDUSTRY

3.1 General

The Outdoor Media Association (OMA) is the peak industry body representing 90% of Australia's Out-of-Home media display companies and production facilities, and some media display asset owners. A full list of the OMA's members is attached at Appendix 1.

Out-of-Home media display companies advertise third-party products¹¹ including:

- on buses, trams, taxis, pedestrian bridges, billboards¹² and free-standing advertisement panels;
- on street furniture (e.g. bus/tram shelters, public toilets, bicycle stations, phone booths, kiosks); and
- in bus stations, railway stations, shopping centres, universities and airport precincts.

Large format advertisements (e.g. billboards) generally remain on display for four weeks, whereas smaller displays run for one or two week periods.

The industry members build, clean¹³ and maintain the pedestrian bridges and street furniture, and provide other community infrastructure such as park benches, bins and bicycles¹⁴.

3.2 On-premise advertising

The OMA does not represent businesses that install 'on-premise' advertisements (vehicles, billboards and other structures that advertise the business, services and products on the advertiser's property). On-premise advertising is more prolific than third-party advertising. For example, in NSW along Parramatta Road between Broadway and Leichhardt, Sydney, there are about 2140 on-premise signs compared to 14 third-party advertisements.

References to 'the industry' in this submission do not include on-premise advertisers.

Some examples of on-premise and third-party advertising are pictured over.

¹¹ Advertising in which the advertisement is not associated with the premises on which it is displayed. That is, a land owner allows an Out-of-Home media display company to display an advertisement for a third-party product.

¹² Standard billboard sizes range from about 13 to 84 square metres. Billboard sizes are set or approved by State Governments or Local Councils.

¹³ Clean includes the removal of graffiti.

¹⁴ For example, 2000 public bicycles were provided for Brisbane CityCycle scheme.

Pictures 1 and 2 – On premise signs



Pictures 3 and 4 – Third party signs



3.3 Value of the industry to the NSW Economy

Advertising plays a fundamental economic role in Australian society, with an overall spend of \$11.6 billion in 2014,¹⁵ and by employing 183,270 people throughout its industries.¹⁶ Last year, the OOH industry's net revenue was \$677.8 million, making up just over 5% of the advertising spend in Australia.¹⁷ In 2015 in NSW alone, the industry employed almost 500 people.¹⁸

The industry plays an extensive role in the community in NSW by providing assistance to charities and local governments with free advertising space and developing extensive public infrastructure. In terms of public infrastructure contributions, these are primarily bus shelters, kiosks, bins, phones, pedestrian footbridges and park benches. The OOH industry contributes over 17,000 items of infrastructure to the community. The replacement value of these items to date is approximately \$275 million.¹⁹ Infrastructure of this type would

¹⁵ Commercial Economic Advisory Service of Australia (CEASA) excluding classifieds and directories

¹⁶ Valuing Australia's Creative Industries, Creative Industries Innovation Centre December 2013

¹⁷ Based on first quarter 2016 revenue figures – Outdoor Media Association

¹⁸ In 2015, NSW employs 477 FTE based on survey of four member organisations: Adshel, APN Out-of-Home, JCDecaux and oOh! Media

¹⁹ Outdoor Media Association Annual Report 2014

otherwise need to be provided, upgraded and maintained by local governments.²⁰

The industry provides significant contributions to the building, cleaning and maintenance of public infrastructure which not only contributes to the vibrancy of cities, but also enables Local Councils to spend their funds on other projects. Some examples of public infrastructure provided by the industry are pictured below.



More broadly, across Australia, the OMA and its members have provided ongoing support to charities such as the Camp Quality, RSPCA, Royal Flying Doctor Service of Australia, Heart Foundation and National Missing Persons Week (see full list of community sponsorships in 2014 at Appendix 3). This support in 2014, was valued at more than \$22 million and has provided these charities with excellent awareness and fundraising outcomes.²¹ OOH is also widely used by government bodies to advertise community messages such as road safety messages and health awareness campaigns.

3.4 Social responsibility of the industry

The significant industry contributions made to the community, discussed above, demonstrate the industry's socially responsible stance. This stance is further demonstrated by the large number of voluntary codes that the industry subscribes to, outlined at section 5.1 below.

The Out-of-Home industry complies with numerous voluntary codes, and OMA members are cognisant of their responsibility towards children and young people. The OMA Content Review Policy states: "The OMA is aware that OOH advertising can be seen by all members of the community, including children. As such, members will ensure where possible that care will be taken in regards to the placement of advertising."

In addition to the obligations imposed by the various voluntary codes, the industry is entirely compliant with findings of the Advertising Standards Board as well as all State and Local Government controls relating to Out-of-Home advertising. In contrast, companies that display on-premise signage are often not aware of these various controls and regulations.

The OMA submits that the industry's sense of social responsibility, as well as its proven track record in managing self-regulation, demonstrates that it can be relied upon to comply with appropriate self-regulatory systems.

²⁰ Contribution of the Outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

²¹ Outdoor Media Association Annual Report 2014

04 GOVERNMENT REGULATION – GENERAL

State and Local Governments regulate advertising devices. The result is a vast array of different frameworks across the country that relate to Out-of-Home advertising. These regulations:

- relate to issues such as spacing, placement, size and lighting of signs; and
- are generally more prescriptive for third-party advertising than for on-premise signage, notwithstanding that the structure of the signs may be the same.

There are some guidelines at a State level that prohibit the display of advertising along a road that, for example, imitates a traffic control device²². The OMA is not aware of any procedures the State Governments have in place to monitor compliance with such guidelines. However, the OMA's members are aware of the guidelines and therefore comply with them. Other than these types of guidelines, the content of Out-of-Home advertising is generally not regulated by Government.

Internationally, the preferred method of managing advertising is through self-regulatory bodies.²³ Regulation of the content of Out-of-Home advertisements is discussed in detail at section 5, below.

4.1 Digital signage

A digital sign works in much the same way as a television screen, except that third-party advertising on digital signs generally involves still images. The images on the sign rotate periodically (for example, every 8 seconds), and the displays can be updated remotely.

One of the benefits of digital advertising is that the display of advertisements does not involve the same occupational health and safety considerations as conventional signage and allows the advertiser more flexibility in getting its message to consumer at various times of the day. When it comes to content, OMA members treat digital advertisements in the same way as traditional advertisements, and as such will not post them if they believe these are likely to breach the AANA Code of Ethics.

²² For example, the NSW Transport Corridor Roadside Advertising Guidelines

²³ One exception is Saudi Arabia, where advertising must be compatible with the Islamic religion and its laws, and complaints are managed by government authorities.

05 REGULATION OF CONTENT OF OUT-OF-HOME ADVERTISEMENTS

The advertising industry across Australia is self-regulated, and the Out-of-Home industry has a world-class system of 15 self-regulatory Codes that the industry adheres to. Advertising content that is placed on Out-of-Home advertising structures is not owned by the media display companies.

5.1 Voluntary codes

The OMA's members are committed to comply with the following codes that regulate the content and placement of advertisements.

OMA Code of Ethics

This code outlines voluntary principles that all OMA members must adhere to, relating to working with advertisers and regulators, and responsibilities towards the community and the environment. Under the Code of Ethics, the OMA's members are only entitled to endorse the display of advertising that adheres to, among other things, the various AANA codes.

OMA Alcohol Advertising Guidelines

These guidelines require OMA members to limit the advertising of alcohol products on fixed signs located within a 150 metre sight line of a primary or secondary school. They are also required to only accept copy for alcohol advertising that has been approved for display through the Alcohol Advertising Pre-vetting System (AAPS), and to support all decisions made by the Alcohol Beverages Advertising Code (ABAC) Scheme Adjudication Panel.

OMA Content Review Policy (Appendix 4)

The Content Review Policy was introduced by the OMA in May 2011 in response to the House of Representatives Inquiry into billboards and Out-of-Home media. The Policy requires OMA members to seek copy advice from the OMA before posting certain types of advertisements. The policy also requires members to immediately take steps to remove an advertisement if a complaint against it is upheld by the Advertising Standards Board.

OMA Digital Guideline

This Guideline was introduced by the OMA in 2015 to guide the display of digital advertising.

OMA Political Advertising Guideline

Introduced in 2015, this Guideline provides clarity around political advertising displayed by members as the ASB does not consider complaints against political advertising.

AANA Code of Ethics (Appendix 5)

This is the overarching code of Australian advertising industry self-regulation, and has the objective of ensuring that all advertising is ethical, and prepared with a proper sense of obligation to consumers and fairness to competitors.

AANA Environmental Claims in Advertising and Marketing Code

The object of this code is 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.

AANA Code for Advertising and Marketing in Communications to Children

This code is designed to ensure that advertising and marketing communications directed at Australian children conform to prevailing community standards.

AANA Food and Beverages Advertising and Marketing Communications Code

This code is designed to ensure a high sense of social responsibility in advertising and marketing of food and beverage products and services in Australia.

ABAC Responsible Alcohol Marketing Code

This 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.

Australian Food and Grocery Council Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children

There are two self-regulatory initiatives managed by the Australian Food and Grocery Council (AFGC) that specifically address food and beverage advertising to children. The first initiative covers food sold in quick service restaurants.

Australian Food and Grocery Council Responsible Children's Marketing Initiative

The second self-regulatory initiatives managed by the AFGC covers products found in retail outlets.

Federal Chamber of Automotive Industries' Voluntary Code of Practice for Motor Vehicle Advertising

The primary purpose of this code is to provide guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety.

Therapeutic Goods Advertising Code

The object of this code is to ensure that marketing and advertising of therapeutic goods to consumers is conducted in a manner that promotes the quality use of therapeutic goods, is socially responsible and does not mislead or deceive the consumer.

Weight Management Industry Code of Practice

This code outlines regulations for responsible advertising of weight management products and services.

The industry's commitment to these codes demonstrates its commitment to socially responsible practices.

5.2 Australian Association of National Advertisers (AANA)

The AANA is the peak body representing the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

Australia's system of self-regulation functions under the AANA codes, and in 2010 the AANA launched a review of the AANA Code of Ethics.

The AANA established the Advertising Standards Bureau (ASB) to administer the complaints resolution component of the advertising self-regulation system.

5.3 Advertising Standards Bureau (ASB)

Complaints about the content of Out-of-Home advertisements are managed through the ASB, which considers advertising complaints across all media. Complaints can be made about the issues covered by the various codes – most particularly the AANA Code of Ethics. The ASB does not consider complaints about issues covered by the:

- Therapeutic Goods Advertising Codes Council;
- Weight Management Council;
- Alcohol Beverages Advertising Code;
- Australian Competition and Consumer Commission (ACCC); or
- Australian Security and Investments Commission (ASIC).

Complaints are adjudicated by the Advertising Standards Board, which is made up of individuals who are representative of the community and not connected to the advertising industry. The Board includes 20 people from a broad range of age groups and backgrounds and is gender balanced – representative of the diversity of Australian society.

The ASB conducts research to inform itself about community standards, and the decisions of the Advertising Standards Board have evolved to reflect any changes in community standards.

5.4 Government regulation of misleading and deceptive advertising

Allegations of misleading and deceptive advertising are generally overseen by the Australian Competition and Consumer Commission (ACCC), under the Competition and Consumer Act 2010 (previously the Trade Practices Act 1974).²⁴ So, for example, we understand that when the ASB received complaints about the veracity of claims made in Advanced Medical Institute (AMI) advertisements, these were referred to the ACCC.

However, allegations of misleading and deceptive advertisements about financial products and services are overseen by the Australian Security and Investments Commission (ASIC) under the ASIC Act 2001.

5.5 Government contracts and policies

Some Local Councils enter into contracts with media display companies, under which the company will build and maintain public infrastructure,²⁵ in return for opportunities to display third-party advertising (for example, on bus shelters, telephone booths and free-standing advertisement panels). Similarly, many State rail and road authorities enter into contracts with media display companies, under which the company will display advertisements. Among other things, these contracts enable the public authorities to raise revenue through the advertising.

The terms of the contracts, which reflect the policies of the public authorities, may be quite specific about the types of advertisements that are displayed, where and when. So, for example, there may be a condition that no political advertisements may be displayed.

5.6 Commercial contracts and policies

Media display companies also enter into contracts with commercial property owners such as shopping centres and airports. Again, the contracts, which reflect the policies of the property owner, may restrict the types of advertising that can be displayed. So, for example, a contract with a shopping centre may prohibit the display of advertisements promoting businesses in a competing shopping centre.

²⁴ The ASB does consider some issues relating to truth and accuracy and misleading and deceptive behaviour under the specific provisions of the AANA Food and Beverages Advertising and Marketing Code, AANA Code for Advertising and Marketing to Children and the AANA Environmental Claims in Advertising and Marketing Code. However, the Advertising Standards Board considers these issues in the context of community standards and expectations, rather than reaching a legal opinion.

²⁵ For example, bus shelters, bicycle stations, bicycles, public toilets, kiosks, bins, park benches etc.

06 FEDERAL GOVERNMENT INQUIRIES INTO CONTENT

In 2011 the following Federal Inquiries investigated advertising content:

1. Inquiry into the Australian film and literature classification scheme – Senate Legal and Constitutional Affairs Reference Committee.
2. Inquiry into the regulation of billboard and Out-of-Home advertising – House of Representatives Standing Committee on Social Policy and Legal Affairs.

There were a number of recommendations that were taken on by the OMA due to the clear community concern in this area demonstrated during the Inquiries, particularly in relation to sex, sexuality and nudity. As such the OMA developed the following policies and practices:

1. The OMA introduced a Content Review Policy (see Appendix 3). Under this policy, members refer contentious advertisements to the OMA prior to display. If the OMA considers that the ad is likely to breach the AANA Code of Ethics, it will not be displayed. Since the policy came into effect at the end of June 2011, we have advised against both displaying ads and requested that ads are modified before display (Examples provided below in Section 9). Our judgements about whether an ad is likely to breach the AANA Code are based on our understanding of previous ASB determinations, ASB research and also discussions with the ASB on an individual basis.
2. The OMA commenced a regular program of Content Training for its members – in conjunction with the Communications Council, the ASB and the AANA. The education provides members with clear guidance about the various industry codes and how best to comply with them. The training was held in 2011, 2013 and 2014. Over 220 people attended the 2014 course and further training will occur in 2016.
3. The OMA also established a concept advisory service, which is available for advertisers and their creative agencies and enables them to seek advice about an idea for an advertisement in the early stages of development (Examples provided in section 10).
4. The OMA's members donated a \$1.6 million campaign to advertise the ASB complaints process, which commenced mid-August 2011.
5. The OMA updated its Code of Ethics to include the following statement, 'When we receive a complaint about any advertisement we display we refer the complainant to the Advertising Standards Bureau, an independent complaint adjudicator.'

07 COMPLIANCE WITH VARIOUS REGULATORY FRAMEWORKS

The industry is entirely compliant with State and Local Government regulations, contractual requirements, and the decisions of the Advertising Standards Board. In relation to the latter, the OMA's members have been entirely co-operative on the small number of occasions when they have been asked to remove an advertisement. Advertisements found to be in breach are removed as quickly as practicable and are not re-posted.²⁶

In order to remove a billboard from display after an adverse finding, the following must be

²⁶ Where the Advertising Standards Board upholds a complaint about an advertisement in any media, the ASB requests that the advertiser remove the advertisement within 7 days. The OMA generally tries to work with members to remove signage within 48 hours of the receipt of an upheld complaint. On rare occasions this may take longer due to the logistics of removing an advertisement.

considered by the Out-of-Home media display company:

- How is the site accessed?
- Are road closures necessary?
- Is a permit required to install a new advertisement?
- Does the site require any special equipment (for example, a cherry picker)?²⁷
- Does the site require qualified abseiling workers and/or safety protection officers?
- Is the site accessed through a building that is only open on weekdays, or only available for after-hours access?
- When can all these factors be co-ordinated to remove the display?

Therefore, depending on the particular site, it can be a complex logistical operation to remove an advertisement at short notice. Nevertheless, the industry's 100% compliance with the findings of the ASB demonstrates its commitment to the self-regulatory framework. This complex issue also means that OMA members are extremely mindful of advertisements which may be deemed controversial due to the cost involved in removing them following an upheld complaint. Due to this, members regularly reject copy from advertisers if they have concerns that it will breach any of the Codes.

In contrast, on-premise advertising is generally less regulated than third-party advertising, notwithstanding that the structure of the sign may be similar in nature.²⁸ Where on-premise advertisements are regulated, there is very little compliance. For example, some on-premise signs along the roadside will include flashing lights or scrolling digital messages, contrary to regulatory requirements. These breaches generally continue unchecked, unless a specific complaint is received by the authority. On-premise advertisers are often not aware of the various controls and regulations.

o8 EFFECTIVENESS OF SELF-REGULATION OF OUT-OF-HOME ADVERTISING

The OMA submits that self-regulation is effective and that the industry has a proven track record of being able to be relied upon to comply with the appropriate self-regulatory frameworks. As discussed previously, the OMA has acted on community concerns and has instituted a range of changes within its membership to ensure that self-regulation continues to be the most robust way of regulating content.

On average the industry posts 30,000 pieces of advertising copy in Australia each year on over 73,000 advertising faces nationally.

²⁷ Standard billboard sizes range from about 13 to 84 square metres.

²⁸ For example, some Local Councils do not require on-premise signs to go through a lengthy assessment process to qualify for a permit.

The following table outlines the number of complaints the industry has generated over the past five years:

OMA members' complaints upheld	Number²⁹	Percentage of all Out-of-Home ads	Percentage of³⁰ complaints to the ASB (Out-of-Home)	In the Top³¹ Ten ads most complained about	AANA Guideline contravened³²
2011	8	.02%	26.35%	3	Sex, Sexuality and Nudity
2012	3	.01%	4.80%	0	1, Violence, 2 Work Health and Safety
2013	1	0.003%	9.59%	1	Sex, Sexuality and Nudity
2014	1	0.003%-	10.66%	1	Violence
2015	2	0.006%-	8.36%	0	Discrimination & Health and Safety

The OMA also submits that judgements about whether an advertisement complies with an agreed set of standards will always be subjective, and will depend on which individual or group is making the judgements. It follows that a perfect record of no complaints or no breaches is unrealistic; however it is clear from the data that following the introduction of the new OMA policies in late 2011, the number of both complaints and upheld complaints are continuing to fall.

The effectiveness of the current system is supported by the well-established and productive relationship that the OMA has with the ASB and the AANA. The ASB notifies the OMA when a complaint is received about an Out-of-Home advertisement, and again if the Advertising Standards Board upholds the complaint. If the advertisement was displayed by an OMA member, the OMA will ensure that the member assists the complaints process as necessary. Further, the OMA has been a member of an ASB convened industry and community consultative group whose aim was to assist in the design and implementation of community standards research, and therefore has a good understanding of changes in community standards.

As discussed above, the OMA's members are 100% compliant with the findings of the Advertising Standards Board. Even in the event that an advertiser refuses to withdraw their advertisement, the OMA's members will take the advertisement down.

²⁹ ASB

³⁰ ASB

³¹ ASB

³² ASB

09 CURRENT OMA PROCEDURES FOR CONTENT

As noted above, the OMA Content Review Policy, which was developed in late 2011, gives members a number of responsibilities in regards to how they regulate content. Currently the system works in the following way:

1. Members receive copy and reject it – the vast majority of controversial copy is not sent to the OMA for review as members independently identify that it will breach one of the Codes.
2. Members send copy to the OMA to get an opinion if they need further advice to determine whether it will breach any of the Codes.
3. If approved, the advertisements are posted and when a complaint is lodged (one complaint sets off the system), the ASB reviews the ad. If the complaint is upheld OMA members will bring it down immediately. Members are 100% complaint.

A benefit of the system is that it allows the OMA and its members to work flexibly with advertisers to modify an advertisement so that it will comply with the various codes. The following page shows advertisements that were modified to ensure they comply with the AANA Code of Ethics. The images demonstrate the original advertisements and what was posted after review process where changes were made to the advertisement:

Before



After



Before



After



Before



After



010 BENEFITS OF SELF-REGULATION

The benefits of self-regulation include the following:

1. Complaint resolution times are generally quicker than in regulatory and co-regulatory schemes. Any delays in complaint handling timeframes impact upon both the complainant and the respondent.
2. Self-regulatory schemes are adaptable and able to respond quickly to changes in circumstance or community attitudes. In contrast, legislative frameworks take more time and effort to amend.
3. Both the spirit and the letter of self-regulatory codes should be complied with, as opposed to legislation which generally demands compliance with the strict letter of the law.
4. Self-regulation is funded by industry. Government regulation would require public funds to establish, apply and enforce the scheme.
5. Self-regulation has the support of industry. A system enforced by Government can undermine the goodwill of the industry that is committed to the success of the self-regulatory scheme.

The costs of a NSW-specific government regulatory system for Out-of-Home advertising, whether it be the development of a Commissioner or Ombudsman with only few support staff, would be extensive.

The OMA submits that the benefits of the current self-regulatory system by far outweigh the small number of occasions on which a complaint has been upheld.

011 GOVERNMENT REGULATION IMPACT ON THE INDUSTRY

As discussed, the Out-of-Home media industry is already subject to a wide range of different regulations and controls.³³ The industry also manages a number of challenges that are specific only to Out-of-Home advertising, including:

1. The numerous sizes and types of Out-of-Home advertising displays. An advertiser will often need to provide different advertisement artwork to display on the various types of display panels – some may be in digital format and some may be printed on posters or billboards of varying sizes.
2. The logistical effort and financial cost to install and remove advertisements.

The nature of the Out-of-Home advertising industry is also such that it would not adapt easily to Government regulation, as follows:

1. The Out-of-Home industry is fast-paced and relies on quick processing of advertisements for installation. As a result of the fast-paced nature of the industry, any regulatory delay in Out-of-Home media is likely to cause difficulties for advertisers, with the result that Out-of-Home advertising will become less suitable.
2. Advertising aims to communicate with target markets. As such, an advertisement that is appealing to one demographic of the population may not be appealing to another demographic of the population. Any black and white regulation of this subjective medium would lead to the homogenisation of Out-of-Home advertisements. Again, Out-of-Home advertising would become less suitable to advertisers as a result.
3. An increased burden would be placed on national campaigns as advertisers would potentially have to have different creative for the NSW component of that campaign.

³³ Refer to sections 4 and 5 of this submission.

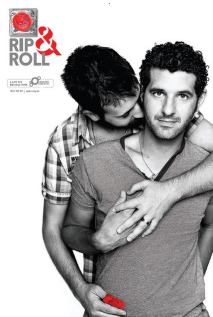
In view of the above, Government regulation of Out-of-Home advertising would enable other media to gain an advantage. It is likely also that increased regulation would also have a costly impact on the industry, in a 2013 review of the Queensland industry specifically, Deloitte Access Economics estimated that the additional costs would equate to about \$3.5 million per year, taking into account developing specific content and delays to launching campaigns.³⁴ The OMA submits that the small number of complaints that have been upheld by the Advertising Standards Board do not justify this loss of advantage. Further, the invariable loss of industry revenue would affect:

- employment in the industry;
- the contribution of the industry to the NSW and national economy; and
- the industry's ability to continue making significant contributions to the community.³⁵

Again, such consequences do not appear reasonably justified where in 2014 only 0.003% of third-party advertisements have been the subject of an adverse finding by the Advertising Standards Board and in 2015 that figure was only 0.006%.

11.1 Calls for a G Rating to be applied to Out-of-Home

Further, even with a G rating, references to sex, nudity and violence would still be permitted in some circumstances. A system of classification of advertisements will not eradicate complaints or, on some occasions, breaches. TV is the most classified medium and still receives the most complaints. For example, in 2011 the Rip and Roll campaign was the subject of a campaign by the Australian Christian Lobby. The ad itself was not in breach of the AANA Code of Ethics or any local, state or federal laws and the campaign was reinstated after initially being taken down by one member in Brisbane. It is likely that this particular campaign would have achieved a G rating if a rating system was in place.



It is also concerning that a G rating system may preclude the display of a number of different public health and community awareness campaigns. For example, campaigns similar to the NSW government award winning binge drinking campaign may not achieve a G rating:



³⁴ Contribution of the Outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

³⁵ Refer to section 3.3 of this submission.

012 CONCLUSION AND RECOMMENDATIONS

The OMA submits that the current self-regulatory system for Out-of-Home advertising is effective. The effectiveness of the current system is demonstrated by:

- the small number of cases upheld by the Advertising Standards Board, relative to the large number of advertisements displayed (0.006% in 2015);
- the industry's compliance with findings of the Advertising Standards Board; and
- the steps taken by the industry to respond to community concerns about content since 2011.

The social responsibility of the industry, as well as its proven track record in managing self-regulation, demonstrates that it can be relied upon to comply with appropriate self-regulatory systems.

The OMA submits that the benefits of the current self-regulatory system (including overall effectiveness and cost-efficiency) by far outweigh the small number of occasions on which a complaint has been upheld. It would be unnecessarily cumbersome to subject some 12,000 third-party advertisements annually to government regulation where 99.99% of them are acceptable to the wider community.

A Government regulatory framework for Out-of-Home advertising would reduce the viability of Out-of-Home advertising in comparison to television, radio, online and print advertising. The OMA considers that this outcome is not justified by the small number of complaints upheld by the Advertising Standards Board. Such an outcome would have a detrimental effect on the industry and on the industry's ability to continue making substantial contributions to the community.

Therefore, the OMA makes the following **recommendations**:

1. The current system of self-regulation should be maintained.

APPENDIX 1

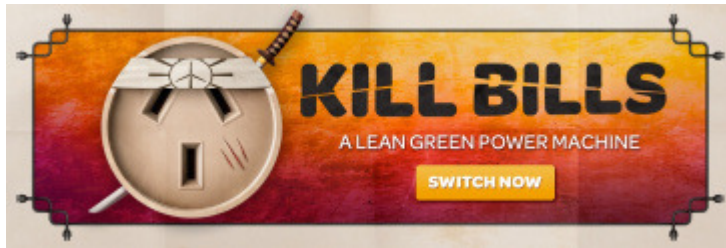
Current OMA Members 2016

Media Display	Non –media display
Adled	RMS
Adshel	Sydney Airport Cooperation
APN Outdoor	Adstream
Bailey Outdoor	Cactus
Bishopp Outdoor	Coresafe
ECN	Country Outdoor Signs
Goa	Daktronics
iOM	Key Systems
JCDecaux	MMT Global
Metrospace	Omnigraphics
oOh Media	Prime Signs
Outdoor Systems	USI
Paradise Outdoor	Rojo Pacific
QMS	
ROVA	
Savage Outdoor	
Tayco Outdoor Advertising	
Torch Media	
Tonic Health Media	

APPENDIX 2

2015 Outdoor Advertising Industry Breaches of the AANA Code of Ethics

Breach 1 – Section 2.1 *Advertising or Marketing Communications 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, gender, age, sexual preference, religion, disability, mental illness or political belief.*



In November 2015, the Kill Bills advertisement was found to breach AANA Code of Ethics on the grounds that 'it is not uncommon for the term 'Powerpoint' to be used as an offensive and derogatory term to describe a person of Asian descent' and considered that the advertisement's link between a power socket and an Asian face would be considered negative and offensive by many members of the community.

ASB Case report: [0453/15](#)

Breach 2 – Section 2.6 *Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.*



In August 2015, the Board found an advertisement that normalised tanning to be in breach of this Section of the Code. The Board considered that an encouragement to tan and promoting tanning in a positive way "sweet tan" is contrary to prevailing community standards on health and safety.

ASB Case report: [0307/15](#)

OMA Submission to New South Wales Government Inquiry into Sexualisation of children and young people, 2016

APPENDIX 3

OMA Member Community Sponsorships in 2014

Source: OMA Annual Report 2014

LIST OF COMMUNITY SPONSORSHIPS

4ASD Kids 5cent	Endeavour Rally	NSW Department of Health
Abseil for Youth	Environmental Protection Authority	NSW Fire & Rescue
ACON	Family Business Australia	NSW Government
Alcoholics Anonymous	Firbank Swimming Club	NSW Transport
Alfred Hospital	Fringe Festival Perth	NSW Waratahs Rugby
Amy Gillett Foundation	George Gregan Foundation	Oasis Ball
Animals Australia	Giant Steps	Open Air Cinema
Art Gallery of New South Wales	Gold Coast City Council	Ovarian Cancer
Auburn South Primary School	Goodwill Swing to Save the Children	OXFAM Trailwalker
Australia Day	Great Cycle Challenge	Pedestrian Safety Campaign
Australia Zoo Wildlife Hospital	Heart Foundation	Pink Hope
Australian Government	Humane Research Australia	Prostate Cancer Foundation of Australia
Australian Red Cross	Humpty Dumpty Foundation	Public Transport Victoria
Belvoir St Theatre	Indigenous Scholarship Program, St Joseph's College, Gregory Terrace	QIMR Berghofer Medical Research Institute
Beyond Blue	Ipswich Christmas Carols	Queensland Ballet
Bidgerdii Community Health	Jeans for Genes Day	Queensland Department of Community Safety
Biennale of Sydney	Keep Australia Beautiful	Queensland Department of Environment and Heritage Protection National Parks, Recreation, Sport and Racing
Blokes Day Out	Lauriston Girls' School	Queensland Department of Justice and Attorney General
Blue Ribbon Day	Life Start	Queensland Department of Premier and Cabinet
Bowel Cancer Australia	Life without Barriers	Queensland Department of Transport and Main Roads
Brainwave	Live Below the Line	Queensland Department of Treasury
Breast Cancer Network Australia	Mater Misericordiae Health Services	Queensland Department of Workplace Health and Safety
Brisbane City Council	Mayor's Christmas Tree Appeal, Townsville	Queensland Electoral Commission
Brisbane City Council Litter Prevention	Medicare	Queensland Fire Services
Brisbane Festival	Melbourne International Arts Festival	Queensland Government
Brotherhood of St Laurence	Melbourne International Film Festival	Queensland Health
Bundaberg Flavours	Men of League: John Peard Benefit	Queensland Motorways
Calloope Rodeo	Men's Health Week	Queensland Police
Camp Gallipoli	Missing Persons Week	Queensland Police Road Safety
Camp Quality	Mittagong RSL Camp Quality Fundraiser	Queensland Rail
Cancer Council Victoria	Motor Accident Commission	Queensland Transport Road Safety
Cancer Institute of NSW	November	R U OK? Day
Canteen	MS Australia	Right Water
Carlton Football Club	MS Sydney to Gong Ride	Robert Connor Dawes Fund
Cerebral Palsy Alliance	MS Walk and Fun Run	Ronald McDonald House Charities
Childers Festival	Multiple Sclerosis Foundation	Royal Brisbane Women's Hospital
Chinese New Year	Murdoch Children's Research Institute	Royal Children's Hospital Foundation
Churches of Christ	Muscle Up for MNB	Brisbane
City Councils across Australia	Museum of Contemporary Art	Royal Flying Doctor Service
Consumer Affairs Victoria	National Association for People with HIV	RSPCA
Daffodil Day (Cancer Council)	Australia	
Danny Green: Stop the Coward's Punch	National Breast Cancer Foundation	
Deaf Netball Victoria	National Broadband Network	
Department of Education	National Gallery of Victoria	
Department of Housing	National Missing Persons Week	

LIST OF COMMUNITY SPONSORSHIPS

Safe Drinking Campaign	Wesley Mission
Sanfilippo Children's Foundation	Western Australian Department of Education
Save the Children	Western Australian Department of Housing
Scope	Western Australian Office of Road Safety
Seasons Foodbank	White Night
Second Bite	Wings for Life
SEQ Water	Withcott Litter Prevention
Smart Traveller Perth	Worksafe
Smiling Mind	Wounded Warrior
South Australian Department for Manufacturing, Innovation, Trade Resources and Energy	YGAP
South Australian Motor Accident Commission	Youngcare
Southern Highlands Quilters' Guild	Yuk! Anti-Smoking campaign
Southern Ocean Exploration	
Special Olympics	
Spokes.com	
Sport and Tourism Youth Foundation	
St Lucy's	
Starlight Foundation	
Step Back Think	
Surf Life Saving Club (various)	
Swim for Saxon	
Sydney Children's Hospital	
Sydney Festival	
Sydney Film Festival	
Sydney Opera House	
Sydney Rides Festival	
Sydney Theatre Company	
TAFE East Coast	
The Cure Starts Now	
The Leukaemia Foundation	
Transplant Games	
UNICEF	
United Jewish Education Board	
United Way	
Urban Country Music Festival	
Urban Renewal Authority	
Victoria Police	
Victorian Department of Health	
Victorian Government	
Victorian Hockey Association	
Victorian Opera	
Victorian Transport Accident Commission	
Vinnies CEO Sleepout	



CONTENT REVIEW POLICY

Under the Outdoor Media Association (OMA) *Code of Ethics*, all members of the OMA comply with the Australian Association of National Advertisers (AANA) *Code of Ethics* and other AANA Codes. The OMA and its members recognise that outdoor advertising is visible to a broad audience and that this needs to be taken into account when considering compliance with the AANA *Code of Ethics*.

The OMA has developed this Content Review Policy to support its members' compliance with the AANA *Code of Ethics*.

1. OMA members will endeavour to seek copy advice from the OMA before posting the following types of advertisements or undertaking associated public relations communications:

1.1 Advertising that may discriminate against or vilify a person or section of the community on any grounds, including on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.

1.2 Advertising that may employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

1.3 Advertising that may present or portray violence that is not justified in the context of the product or service being advertised, or that may not be appropriate for viewing by a broad audience.

1.4 Advertising that may fail to treat sex, sexuality or nudity with sensitivity to the broad audience that will view the advertisement. This includes, but is not limited to:

1.4.1 Advertising in which male or female models are portrayed in a sexualised manner

1.4.2 Advertising that uses scantily clad models, where such models are not relevant in the context of what is being advertised.

1.4.3 Advertising where significant amounts of a model's torso, breasts, cleavage, groin or buttocks are exposed.

1.4.4 Advertising for adult-only products and services such as gentlemen's clubs (for alcohol advertising – refer to the OMA *Alcohol Guidelines*).

1.5 Advertising that uses language which is strong or obscene, or which is inappropriate for viewing by a broad audience.

1.6 Other advertising that may be inconsistent with prevailing community standards on health and safety.

2. The OMA will consult with the AANA, the Advertising Standards Bureau, ABAC and/or the Communications Council when providing copy advice.

Outdoor Media Association

Suite 504, 80 William Street, East Sydney NSW 2011
T 02 9357 9900 F 02 8356 9500 E info@oma.org.au
ABN 59 004 233 489 www.oma.org.au

3. The OMA and its members acknowledge that copy advice is provided to maintain compliance with the AANA Code of Ethics. An OMA member will not post an advertisement if the copy advice states that the advertisement is likely to breach the AANA Code of Ethics.
4. The OMA and its members acknowledge that even if copy advice states that an advertisement is not likely to breach the AANA Code of Ethics, this does not guarantee that a complaint will not be made about the advertisement or that such a complaint will not be upheld by the Advertising Standards Board (ASB). This is due to the subjective nature of making judgements about content.
5. In the event that a complaint is upheld by the ASB, the OMA member will take immediate steps to facilitate removal of the advertisement that is the subject of the complaint.
6. The OMA is aware that OOH advertising can be seen by all members of the community, including children. As such, members will ensure where possible that care will be taken in regards to the placement of advertising. Some copy may be appropriate for display on DOOH depending on time of day. Members will also take into account time of day for the display of advertising.

Outdoor Media Association

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OBJECTIVES

This Code has been adopted by the Australian Association of National Advertisers (AANA) as part of advertising and marketing self regulation. Its object is to ensure that advertisements and other forms of marketing communications are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and a sense of fairness and responsibility to competitors.

This Code is accompanied by a Practice Note which has been developed by the AANA. The Practice Note provides guidance to advertisers, complainants and the Advertising Standards Board in relation to this Code.

DEFINITIONS AND INTERPRETATION

In this Code, unless the context otherwise requires:

Advertising or Marketing Communications means:

a. any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,

- over which the advertiser or marketer has a reasonable degree of control, and
- that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct,

b. but does not include

- labels or packaging for products
- corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like
- in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel or station.

Advertising or Marketing Communications to Children

means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product. "Product" is defined in the Code for Advertising & Marketing Communications to Children as follows: **Product** means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

Board means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communications.

Children means persons 14 years old or younger and **Child**

means a person 14 years old or younger.

Medium means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, telecommunications, television or other direct-to-consumer media including new and emerging technologies.

Prevailing Community Standards means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time in relation to Advertising or Marketing Communications. Prevailing Community Standards apply to clauses 2.1–2.6 below. The determination by the Board shall have regard to Practice Notes published by AANA and any research conducted by the Advertising Standards Bureau.

SECTION 1 COMPETITOR COMPLAINTS¹

- 1.1 Advertising or Marketing Communications shall comply with Commonwealth law and the law of the relevant State or Territory.
- 1.2 Advertising or Marketing Communications shall not be misleading or deceptive or be likely to mislead or deceive.
- 1.3 Advertising or Marketing Communications shall not contain a misrepresentation, which is likely to cause damage to the business or goodwill of a competitor.
- 1.4 Advertising or Marketing Communications 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 Advertising or Marketing Communications shall not make claims about the Australian origin or content of products advertised in a manner which is misleading.

¹ Complaints under Section 1 are made to the Advertising Claims Board, <http://www.adstandards.com.au/process/claimsboardprocess>

SECTION 2 CONSUMER COMPLAINTS²

- 2.1 Advertising or Marketing Communications 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, gender, age, sexual preference, religion, disability, mental illness or political belief.
- 2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.
- 2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.
- 2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.
- 2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.
- 2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

of this Code shall not apply to advertisements to which AANA's Code of Advertising & Marketing Communications to Children applies.

- 3.2 Advertising or Marketing Communications for motor vehicles shall comply with the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles.
- 3.3 Advertising or Marketing Communications for food or beverage products shall comply with the AANA Food & Beverages Advertising & Marketing Communications Code as well as to the provisions of this Code.

SECTION 3 OTHER CODES

- 3.1 Advertising or Marketing Communications to Children shall comply with the AANA's Code of Advertising & Marketing Communications to Children and section 2.6

This section does not form part of the Code of Ethics and is provided here for information only.

COMPLAINTS UNDER THE AANA SELF REGULATORY SYSTEM

Complaints about the content of an advertisement or marketing communication can be made under this Code and the other AANA Codes to the Advertising Standards Bureau³.

You can make a complaint by:

- Lodging a complaint online at:
<http://www.adstandards.com.au/process/theprocesssteps/makingacomplaint>
- Writing a letter (and sending via post or fax) to:
The Advertising Standards Bureau
Level 2
97 Northbourne Avenue
TURNER ACT 2612
Fax: (02) 6262 9833

Once the Advertising Standards Bureau has received your complaint, it then assesses the complaint to determine whether it is eligible for consideration by the Advertising Standards Board. The Board is the body established to consider complaints. If accepted the advertiser/marketer is notified and a response is requested. The complaint is then considered by the Board and the advertiser and complainant are advised of the determination. A case report is then published.

The original complainant or advertiser/marketer can also ask for a review of the determination.

² Complaints under Section 2 are made to the Advertising Standards Board <http://www.adstandards.com.au/process/theprocesssteps>

³ If your complaint is about a program (not an advertisement) on television or radio, please contact the relevant industry body.