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AANA Suite 2,
Level 5
99 Elizabeth Street,
Sydney, NSW 2000

14 September, 1999

Ms H Silver
First Assistant Commissioner
Productivity Commission
LB2 Colins Street East
MELBOURNE VIC 3008



Dear Ms Silver,

Public Inquiry into Broadcasting

Further to our advice to Ms Rance on July 5, I am pleased to provide on behalf of the Australian Association of National Advertisers (AANA), a submission to the Productivity Commission in regard to their Public Inquiry into Broadcasting.

The AANA is the peak industry association representing marketing and advertising interests of a diverse range of manufacturing and service industries, including agencies and other service providers.

The combined advertising expenditure of AANA member organisations total more than eighty percent (80%) of national main media advertising expenditure.

Commercial free to air television delivers service to the viewing public but this service is dependent on revenue from advertising. As advertising plays a major role in its relationship with commercial free to air television, the input of advertisers in regard to the media industry, and within the scope of this inquiry in particular, is of vital importance.

If you require any further information about AANA, or the submission document, please do not hesitate to contact me on (02) 9221 8088. Your call would be welcome at any time.

Kindest regards.

SARA MORTON-STONE
General Manager
Australian Association of National Advertisers

AANA PRODUCTIVITY COMMISSION SUBMISSION

This is a submission from the Australian Association of National Advertisers ("AANA") to the Productivity Commission in response to your invitation for written submissions on the Commission's inquiry into the Broadcasting Services Act 1992. AANA welcomes the opportunity provided by the Productivity Commission to participate in the inquiry about advising the Government on practical courses of action to improve competition, efficiency and the interests of consumers in broadcasting services.

INTRODUCTION

AANA is the peak industry association representing the marketing and advertising interests of a diverse range of manufacturing and service industries, including advertising agencies, media buyers and other service providers.

AANA was formed in 1928 with twelve (12) advertisers seeking to address common problems of ethics and media research. AANA continues this focus, representing the advertising community on issues of significance. From its early beginnings, AANA has grown to a membership of Australia's major advertisers, many of whom are category leaders in food products, motor vehicles, financial services, household and personal products. A list of some of these major advertisers is attached.

AANA has had a long and active interest in affairs affecting the advertising community. For instance, at the end of 1996, the Media Council of Australia decided to disband its system of advertising codes and regulations including the Advertising Standards Council. AANA then announced it would continue its long standing initiative of developing a more effective system of self regulation for the advertising industry. The new system which was launched in May 1997 embraces the need in advertising for truth and honesty; non-discrimination in the way people are portrayed; concern for children, the environment and the portrayal of violence; and sensitivity to current standards on health and safety. A copy of the AANA Advertiser Code of Ethics is attached. Compliance with the AANA Advertiser Code of Ethics is monitored by the Advertising Standards Board. A copy of AANA's brochure on "Advertising Self Regulation: The Facts, the Figures, the Future", a brochure on the Advertising Standards Board and the Annual Report of the Advertising Standards Board are attached.

As you can see from the above, AANA has a history, credibility and a strong interest, representing many industry participants, in responsible advertising.

SUMMARY

AANA submits that the public interest and the interests of consumers would be best served by a broadcasting services market characterised by the absence of regulatory barriers to entry in the form of licences and one in which truly free and open competition was allowed to develop.

AANA also supports:

- the application of a public benefits test in matters of spectrum access and datacasting;
- the anti-siphoning provisions;
- modified ABA administration; and
- content regulation for Australian content.

AANA's submission also touches on the view of today's market according to AANA and its view in relation to change in regulation.

COMPETITION

The Broadcasting Services Act 1992 (and associated Acts) creates a regulated market for broadcasting services.

In AANA's view, the current regulated market establishes and preserves an oligopoly with no effective competition. Potential new entrants face the barriers of both the domination of the market by the existing oligopoly and of other regulatory obstacles.

Currently there are restrictions in access to digital networks required to deliver content to customers. As such, it is difficult for not only the existing participants, but also new entrants to gain access to these facilities on terms that are not anti-competitive.

AANA supports open competition. As the situation currently stands, it is clear there is little evidence of vigorous competition both at a network and local station level whether in terms of advertising rates, advertising air-time, programming and program quality. This highly comfortable environment stems throughout the limited number of participants in the broadcasting industry in Australia and AANA believes that such deregulation of the broadcasting industry would enable a

free and open market which would in turn be the most competitive environment. Without such deregulation, this industry will continue to be restrictive.

AANA believes that in order to give effect to a competitive environment, it is necessary also to deregulate foreign ownership and cross-media limitations resulting from the current situation. This deregulation would promote maximum access by service providers and enhance competition.

In order to advise on practical courses of action to improve competition, efficiency and the interests of consumers in broadcasting services, the Commission should focus on balancing the social, cultural and economic dimensions of the public interest having regard to technological convergence to the extent it may impact on broadcasting markets.

The highly regulated licensing framework of the Broadcasting Services Act is totally at odds with the objects of the Trade Practices Act 1974. The Trade Practices Act encourages competition and restrains a number of acts which would have the effect of substantially lessening competition in a particular market as well as preventing anti-competitive behaviour. Effectively the provisions set out in the Trade Practices Act prevent conduct which could damage competition within Australia. In AANA's submission, substantial amendments to the Broadcasting Services Act are required in order to ensure that the public interest objectives of open competition promoted by the Trade Practices Act are allowed to operate effectively.

The Broadcasting Services Act restricts competition and this should only be retained if the benefits to the community as a whole outweigh the costs and if the objectives can be met only through restricting competition. In AANA's view, this is not the case.

AANA believes that the public interest is best served by ensuring a competitive playing field through a diversity of suppliers. Without such diversity, the current oligopoly will continue to limit competition and provide a pricing structure for advertisers not subject to the optimum possible degree of market forces.

CONTENT REGULATION

The Acts also seek to protect certain social and cultural values, including promoting a sense of Australian identity, character and cultural diversity; encouraging plurality of opinion and fair and accurate coverage of matters of national and local significance; respecting community standards concerning programme material; and protecting children from programme material that may be harmful to them.

The principles of regulation in the Broadcasting Services Act 1992 reflect the Government's concerns that regulation should be linked to the degree of influence of each form of media in shaping community views in Australia, that the regulation address public interest considerations without imposing unnecessary financial and administrative burdens on broadcasters and that the regulation both accommodate the consequences of technological change and encourage the development and provision of new services.

AANA supports content regulation for Australian content as the only licensing condition. AANA believes there should be no restriction on the number of commercial television licences available in each market because any restriction on the number of licences must affect competition in the market. To support content regulation for Australia content, AANA believes regulation should favour the inclusion of a degree of protection of the broadcasting industry in the form of conditions on content being placed in each licence. AANA believes that by not limiting the number of available licences but regulating the content of the types of services provided, broadcasters will deliver the types of services consumers demand. AANA endorses those aspects of the broadcasting regulation which preserves the current high quality, comprehensive, free television service with its attendant benefits for Australian culture and diversity. AANA believes that Australian content standards are vital in allowing Australian children to see their own culture and develop a respect for the importance of their culture.

Given the diffused nature of the Australian community, AANA feels that there is a concern to ensure the development and expression of Australian identity and culture and this can only be protected by provisions in the Broadcasting Services Act placing such conditions in each licence due to the vulnerability in the broadcasting environment because of the broad range of content currently available from foreign countries.

EVENTS OF NATIONAL SIGNIFICANCE

AANA supports the general principle that major events of national significance be available to the widest possible audience. Additionally, the association supports the rights of broadcast parties, where practicable, to negotiate exclusivity arrangements for that programming.

ABA ADMINISTRATION

The ABA is required to produce children's television standards to address issues such as the definition of children's drama shows, the total amount of children's programming and when it must be shown, and the broadcasting of unsuitable material including certain types of advertisements.

The ABA must approve codes of practice developed by industry groups in consultation with the ABA pursuant to the Broadcasting Services Act.

The ABA, in being the principal body responsible for administering the Broadcasting Services Act, is also undertaking reviews of a number of aspects of the conversion of transmission of free-to-air television from analogue to digital mode.

AANA supports the current ABA administration in relation to programming and content requirements as well as the complaints procedures relating to breaches of broadcaster licence provisions, compliance with codes of practice and ABA's own client services.

SPECTRUM ACCESS & DATACASTING

AANA supports the application of a public benefits test in matters concerning access to spectrum and datacasting. AANA believes that it is in the public interest that the rules for the allocation and access to the spectrum should be made available for datacasting purposes because the allocation and access to the spectrum should not be allowed to be monopolised in such a way so as to promote or even allow non-competitive access to the customer base using digital broadcasting as their means to access services. AANA believes that the public interest should always be at the forefront in deciding issues relating to the access and allocation to spectrum for datacasting purposes.

Spectrum planning is a critical issue which will lead to or affect the capacity of the government to licence datacasters. There needs to be a wider range of competition than the current oligopoly participants otherwise there will be no new innovations or services produced within Australia and Australia will end up importing intellectual property created from overseas.

The use of spectrum is broad and has many supplementary uses. It seems that for broadcasters access to the spectrum for supplementary uses such as wireless, microphones and general mobile communications, is critical because without such access it would be impossible to carry out broadcasting activities. AANA believes that it is important that there is no disadvantage given to any corporations in the broadcasting industry in gaining access to spectrum because of limited resources.

The spectrum is a valuable public resource. For this reason, AANA submits that specific safeguards are required to minimise anti-competitive and restrictive practices so that the availability and access to the spectrum is easily obtainable by all.

PROBLEMS FACING THE GOVERNMENT

AANA believes that technological convergence based on digital technologies will mean that similar services will be able to be delivered through a variety of platforms and competition is likely to be enhanced through the low entry barriers to broadcasting on the Internet.

AANA's view of today's market is one of characteristic limitations in relation to delivering access to customers and promoting network power evidenced in pricing of air-time well beyond inflation levels.

AANA believes that any change in regulation should be all embracing of the broadcasting landscape and allow for new entrants. There is obviously a need to adopt regulatory settings which provide encouragement to new entrants in the broadcasting industry which will no doubt promote competition and increase the diversity of opinion.

BOARD OF DIRECTORS

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Mr David Solomon
General Manager - Retail Marketing Services
Coles Myer Ltd



Vice President & Secretary
Mr Robert Koltai
Director - Corporate Affairs & General Counsel
Colgate Palmolive Pty Ltd



Vice President
Mr Geoff Wilson
Marketing Director
Streets Ice Cream Pty Ltd



Treasurer
Mr Andrew Hipsley
Senior Vice President, Director of Brand &
Strategic Development
McDonald's Australia Ltd



Executive Committee
Mr Rod Hinchliffe
Group Manager - Business & Resource
Support
Marketing Communications
Telstra Corporation Ltd



Mr Paul Kennedy
Vice President, National Marketing
Carlton United Breweries Ltd



Mr Michael Slater
Managing Director
National Foods Limited
Dairy Foods Group



Mr Matthew Callachor
General Manager, Marketing
Toyota Motor Corporation Australia Limited



Mr David Baker
Chief Executive Officer
AIS Media



Mr Geoff Walsh
Positional External Affairs Manager
Coca-Cola South Pacific



Mr Hamish McLennan
Managing Director
George Patterson Bates, Melbourne



Mr Paul Nix
Marketing Service and Public Affairs Director
Proctor & Gamble

* If you wish to print this document, please use [this version](#).



A D V E R T I S I N G S T A N D A R D S B O A R D

WHAT IS THE ADVERTISING STANDARDS BOARD?

The Advertising Standards Board is made up of members of the public invited to reflect current community attitudes in serving as Board members. The Board considers written complaints about all forms of published or broadcast advertising, with reference to the Code of Ethics prescribed by the Australian Association of National Advertisers.

The Board is concerned with issues including discriminatory portrayal of people, concern for children, use of language, portrayal of violence, portrayal of sex, sexuality and nudity, and health and safety.

It does not consider complaints about such issues as the truth, accuracy or legality of advertisements, or any concerning label directions or situations where specific industry codes apply [such as for alcohol and slimming products].

Where complaints are received outside the responsibilities of the Advertising Standards Board, they are, where possible, referred to the advertiser and/or complainants are directed to appropriate bodies for assistance.

HOW DO I COMPLAIN ABOUT AN ADVERTISEMENT?

Anyone can lodge a complaint about any advertisement simply by writing to the Advertising Standards Board at Level 5, 99 Elizabeth Street, Sydney NSW 2000. In your letter, describe the advertisement and your cause for complaint about it. If possible, in relation to printed advertisements, inclusion of a photocopy will assist the processing of your complaint.

THE ADVERTISING STANDARDS BOARD IS ONE WAY THE ADVERTISING INDUSTRY IS SEEKING TO MAINTAIN HIGH STANDARDS OF ALL FORMS OF ADVERTISING.

WHAT HAPPENS NEXT?

The Advertising Standards Board meets regularly to consider complaints about advertisements. Under its terms of reference, the Board is bound to advise you of its actions in relation to your complaint. Determinations of all complaints considered by the Board are published by way of case reports as well as being advised to the complainant and advertiser. An initiative of the Australian Association of National Advertisers, the Advertising Standards Board is funded by the industry through a voluntary levy system.

WHAT IF SOMEONE COMPLAINS ABOUT MY ADVERTISEMENT?

If you are an advertiser and the Advertising Standards Board receives a complaint about your advertisement, you will be invited to comment and asked to provide a copy of the relevant advertising material, for consideration by the Board.

If you do not respond within a nominated period, the Board may proceed to consider the complaint without your response. If the Board upholds the complaint, you will be given a further period in which to advise whether you will modify or discontinue the advertisement. Any response received within the allocated time period will be included in the case report prepared for immediate public release and publication. If you choose not to modify or discontinue an advertisement in line with a determination, the Board may forward its case report to appropriate government agencies and media proprietors.



AANA ADVERTISER CODE OF ETHICS

This Code has been adopted by AANA to be applied as a means of advertising self-regulation in Australia and is intended to be applied to all forms of advertising.

The object of this Code is to ensure that advertisements are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and fair sense of responsibility to competitors.

In this Code, the term "advertisement" shall mean matter which is published or broadcast in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.

SECTION 1

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

SECTION 2

- 2.1 Advertisements shall not portray people in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.
- 2.2 Advertisements shall not present or portray violence unless it is justifiable in the context of the product or service advertised.
- 2.3 Advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.
- 2.4 Advertisements for any product which is meant to be used by or purchased by children shall not contain anything which is likely to cause alarm or distress to those children.
- 2.5 Advertisements shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.
- 2.6 Advertisements shall not depict material contrary to prevailing community standards on health and safety.

ADVERTISING SELF-REGULATION

THE FACTS
THE FIGURES
THE FUTURE



AUSTRALIAN ASSOCIATION OF NATIONAL ADVERTISERS
A.C.N. 003 179 673

The industry's leaders support self-determination.

Strong and effective self-regulation is in the best interests of all advertisers and agencies. It is up to responsible, concerned industry people to put forward a workable system and support it to the hilt. The benefit obviously will be felt by the entire industry and the community at large. To that end everybody should be prepared to support the levy as the most equitable method of covering costs.

*Bruce Potter, Managing Director
Sleeman Whitaker Heckendorf & Potter Advertising*

The new code has struck the right balance between freedom of speech and a reflection of prevailing community standards. And the proposed levy system to fund the operation of the Code, based on user pays, seems fair and simple. The proposed code has the support of Clemenger.

*Mark Pearce, Managing Director
Clemenger Melbourne*

It is in the best interest of the advertisers that a system of self-regulation be maintained. Securing the long-term funding of such a system is critical, and the introduction of a levy is the most equitable and appropriate way to do this.

*Mike Slater, Managing Director
National Foods, Dairy Foods Group*

The benefits of the system are benefits to all advertisers. The costs should be paid fairly and proportionally by all those advertisers who benefit. The levy system is the fairest and most affordable way to absorb this cost.

*Nicholas Davie, Managing Partner
Mojo Partners*

J. Walter Thompson wholeheartedly supports the proposed AANA self-regulatory system. We believe that self-regulation is an important responsibility that everyone involved in advertising must share. And that all involved parties must be held accountable for upholding and maintaining acceptable community standards.

*Ed Doble, Managing Director COO Australasia,
International Vice-President, J. Walter Thompson*

Globally, Leo Burnett supports the concept of well-managed, responsible self-regulation, like that which the AANA is establishing. Self-regulation will continue to benefit the whole industry and the levy is the fairest way of funding it.

*Russell Alford, Managing Director
Leo Burnett Connaghan & May*

I commend to you the fairness of a levy system that will benefit the entire advertising industry. Our experience with such a levy under the old self-regulatory system was extremely successful. Now that we have disposed of the competitive constraints of the old accreditation system I would recommend to advertisers that they accept this minuscule cost imposition so we can explore new territories of commercial freedom in the new century that is upon us.

*Robert G. Miller, Managing Director
Australia Street Consulting*

We need to establish some basic standards of acceptability for advertising and make sure that we live up to these standards. Self-regulation has demonstrated that it can achieve this more effectively, more economically and less intrusively than Government regulation, and we strongly support the AANA's new self-regulatory initiative. Commercial television will back the new system in every way it can, including financial support. Agencies can show their commitment to self regulation by supporting the voluntary levy system.

*David Leckie, Chairman
FACTS*

The AFA subscribes to self-regulation and the right of advertisers to establish their own Code of Ethics. We will seek the agencies' co-operation to abide by the codes in the production of advertising for their clients. We will also encourage agencies to collect and remit the levy from their clients on media placed to fund the system.

*Bev Dyke, Federal Director
Advertising Federation of Australia*

The advertising self-regulation system is of critical importance to everyone associated with the industry. We agree that the small percentage levy advertisers will be asked to pay is the most affordable and fairest way of spreading the cost and will benefit the entire industry.

*John Fawcett, Chief Executive Officer
George Patterson Bates*

Mitchell and Partners offers its complete support to AANA's self-regulation regime. The advertising industry needs self-regulation and the levy is a fair way to fund it. We commit our support to it.

*Harold C. Mitchell, Chairman
Mitchell and Partners Pty Ltd.*

As an advertiser, we appreciate the critical importance of what is the industry's first voluntary code of regulation. The success of the new system, including its funding, relies on the support from industry. It is only reasonable to expect that advertisers share in the funding, as it is advertisers who will benefit from fair and responsible regulation.

*M.J. Olson, Managing Director
Kellogg (Aust) Pty Ltd*

Advertising self-regulation is critical to the smooth functioning of the Australian advertising industry. The fraction of a percent levy on gross media billings is a small price for advertisers to pay to help ensure responsible advertising and to protect our basic rights to free commercial speech.

*P.R. Nix, Marketing Services and Public Affairs Director
Procter and Gamble Australia Pty. Ltd.*

Carlton and United Breweries endorses the critical importance of the self regulation system and the self regulatory model developed by the AANA. We also believe that the levy system supports this model and will benefit the entire industry. Therefore, we endorse that advertisers accept that this cost be passed on to them.

*Paul Kennedy, Vice President National Marketing
Carlton and United Breweries Limited.*

The industry's leaders support self-determination.

Self regulation is in the interests of the whole industry. In light of this, the levy system is the fairest and most equitable way of the industry absorbing the cost.

*Jhonnie Blampied, Chief Executive Officer
DDB*

A levy on all advertisers, who collectively have the final responsibility for all advertising that is aired or published, appeals as the simplest and most equitable means of providing the funding to support the necessary self-regulatory infrastructure.

*Rod Hinchliffe, Group Manager Business & Resource Support,
Marketing Communications, Telstra*

The introduction of the advertising self regulation system is of benefit to all those involved in advertising activity in Australia. This modest cost should be shared by all advertisers. The levy system is the fairest means to fund this system.

*Matthew J Callachor, General Manager, Marketing
Toyota Motor Corporation Australia Limited.*

It is very important for all advertisers that the new post-accreditation self-regulatory system now being established is able to work. Its success will depend on adequate funding and it is entirely appropriate that this funding come from the advertising industry.

*Andrew Hipsley, Senior Vice President
& Director of Brand & Strategic Development
McDonald's Australia Limited*

Streets Ice Cream fully support the reintroduction of a levy on advertisers to fund the self regulatory system. This is the most equitable way of sharing the costs across the entire advertiser sector.

*Geoff Wilson, Marketing Controller
Streets Ice Cream*

Effective self-regulation is the means by which the advertising industry will avoid further restrictions on our freedom of commercial speech. The levy on advertising expenditure is the fairest way of funding the system and is a minimal cost which all advertisers should readily accept.

*Robert Koltai, Director, Corporate Affairs and General Counsel
Colgate-Palmolive*

Coles Myer strongly supports both the code of ethics and the self regulatory model as developed by AANA. The levy system supports this structure reasonably and equitably.

*David Solomon, General Manager Retail Marketing Services
Coles Myer*

We fully support the proposed system as it should achieve an appropriate balance between creative licence and public decency and as a result be of benefit to all advertisers. The levy system is the most equitable method for its funding.

*David Crothers, General Manager
Grey Advertising*

Young & Rubicam Mattingly and the broader world of Y&R Australasia support the principles of self regulation. It is certainly in everyone's best interests - the advertisers, the agencies and the media - to embrace this scheme. Specifically the small levy to fund the Advertising Standards Board is indeed fair. AANA can count on our support.

*David Minear, Group Chief Executive
Young & Rubicam Mattingly*

Self-regulation is an essential feature of Australian advertising and is clearly in the best interests of all advertisers. The system merits on-going support, and a levy system is the most equitable way of sharing the costs of financing it.

*Des Speakman, Joint Chairman and Chief Executive Officer
The Campaign Palace*

An effective self-regulation system is essential if the vitality of advertising and the best practices of advertisers and their agencies is to be maintained. I believe it is in the best interests of all those in the advertising and associated industries to support self-regulation and its funding procedures unreservedly.

*Reg Moses, Chief Executive Officer
BAM SSB*

We have lived with the levy system under the old system and it caused no pain. The new system is too important to all advertisers and advertising agencies to not continue with the levy. The alternatives are very scary indeed. We wholeheartedly support the new scheme.

*Wayne Wood, Managing Director
Box Emery & Partners*

An effective self regulatory system is vital to the future of the advertising industry, and in order for such a system to be truly effective, it must receive the full endorsement and support of all advertisers. At the most minimal level, such support would be given by a contribution to the funding of the self regulation system via the levy system - a system which has proven to be fair and equitable to all parties.

*Daryl Paterson, Chief Executive Officer
Zenith Media*

Everyone associated with advertising communications should appreciate that only by effective self regulation can we maintain our integrity to create groundbreaking new advertising messages. The levy system is the fairest and most affordable way to absorb this cost.

*Brian J. Sheehan, Chief Executive Officer
Saatchi & Saatchi Australia*

Self-regulation is the essence of self determination and the forward direction for the Advertising Industry. If we are to provide security of integrity for advertisers and advertising communicators, the most acceptable and fairest levy mechanism is by means of a minute surcharge on all advertising.

*David Baker, Chief Executive Officer
AIS Media*

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A FAIR FUNDING PLAN FOR SELF-REGULATION

A surcharge of 0.035% of gross media billings (\$3.50 in \$10,000, \$350 in \$1 million) will be applied to media invoices processed by advertising agencies and media buying agencies. AANA accepts that the 0.035% levy should be passed on to advertisers and major advertisers have foreshadowed their support.

The charge will be a simple, fair and equitable way of sharing the cost of maintaining the system. While the charge will be collected by agencies and media buying agencies, it will ultimately be paid for by advertisers. Without this funding plan, AANA does not have the financial resources to support the system.

HOW THE PLAN WILL WORK

Advertising agencies and media buying agencies are requested to apply a surcharge of 0.035% to media invoices to advertisers processed by advertising agencies and media buying agencies.

It is expected that agencies and media buyers will apply the surcharge to all client media invoices, including invoices by media buyers to agencies and to advertisers.

IMPLEMENTATION

The surcharge should commence to be applied by agencies and media buyers as from 1 September 1997.

REMITTANCES

Remittances are to be monthly or quarterly in arrears, whichever is more convenient. The first monthly remittance by agencies and media buyers will relate to their total client invoices for September and will be due on 15 October 1997. The first quarterly remittance will relate to their total client invoices for September, October and November 1997 and will be due on 15 December 1997.

PAYMENTS

Payments are to be made by cheque payable to the AUSTRALIAN ADVERTISING STANDARDS COUNCIL LIMITED. This company has been established by AANA as the sole funding body that will manage the funds necessary for the self-regulation system.

Unlike the former tripartite funding body, the new funding company will be controlled by AANA.

Great care has been taken in setting up this new funding company to make sure that the funds raised will be applied exclusively to the maintenance of the self-regulation system, as well as to preserve the confidentiality of advertising billings, for instance:

- The new funding company will have rules which prevent it paying dividends to AANA and from distributing any assets on a winding up except to another similar non-profit organisation.
- The funds of the new funding company will be kept separate from AANA funds.
- The entire financial administration of the new funding company will be wholly outsourced with the funds being managed by a firm of accountants independent of AANA.
- The accounts of the new funding company will be audited by a firm independent of both AANA and the new funding company's accountants.
- The accountants will be placed under a legal obligation of confidentiality to protect, in particular, the secrecy of agency and media buyers' gross billings.

WHAT AGENCIES AND MEDIA BUYERS NEED TO DO

1. Apply the 0.035% industry levy to client invoices commencing 1 September 1997.
2. Put in place the accounting and administrative systems to include the levy on client invoices and to calculate your quarterly levy remittances.
3. Notify your advertiser clients with your next invoice by sending them a photocopy of these papers. Advertisers will have already received this package direct in any event.
4. Collect the levy and remit it quarterly to the Australian Advertising Standards Council Limited, using the attached form of remittance advice.
5. Because we all want the levy to be spread fairly across all clients, you may wish to let AANA know of advertiser clients who refuse to contribute. We'll do our best to follow up, but only with your approval.

WHAT ADVERTISERS NEED TO DO

Advise your agencies and media buyers that you support the funding system for advertising self-regulation and instruct them to add the levy to your invoices.

Remember, if the government ends up regulating advertising we will only have ourselves to blame.

Please fill out the following form and mail as directed with your cheque.



A U S T R A L I A N A D V E R T I S I N G S T A N D A R D S C O U N C I L L T D
A.C.N. 078 110 871

REMITTANCE ADVICE FORM

PRIVATE & CONFIDENTIAL

TO: Pannell Kerr Forster
 Chartered Accountants
 20th Level, 1 York Street
 Sydney, NSW 2000
 DX: 10173
 Sydney Stock Exchange

Attention: Mr Vince Fayad

Date:

FROM: (Name & address of agency/media buyer)

Australian Advertising Standards Council Limited Self-Regulation Funding Scheme

We enclose our cheque, payable to the Australian Advertising Standards Council Limited, for the sum of \$..... towards the funding of the system of self-regulation of advertising standards established and operated by the Australian Association of National Advertisers.

We hereby certify that this sum represents 0.035% of our gross media billings to the clients contributing to the levy for the period.....

Yours faithfully

AANA ADVERTISER SELF-REGULATION
AND PUBLIC COMPLAINTS SYSTEM

AANA ADVERTISER SELF-REGULATION AND PUBLIC COMPLAINTS SYSTEM

BACKGROUND

At the end of 1996, the Media Council of Australia decided to disband its system of advertising codes and regulation including the Advertising Standards Council.

AANA then announced it would continue its longstanding initiative of developing a more effective system of self-regulation for the advertising industry.

This followed several months of productive meetings with industry, government and consumer representatives.

This new system embraces the need in advertising for truth and honesty; non-discrimination in the way people are portrayed; concern for children, the environment and the portrayal of violence; and sensitivity to current community standards on health and safety.

OVERVIEW

AANA's new system for advertising self-regulation has three important parts:

1. the AANA Advertiser Code of Ethics;
2. the Advertising Standards Board - a new body made up of members of the public to maintain standards of taste and decency in advertising;
3. the Advertising Claims Board - a new AANA dispute resolution process for competitor complaints.

Specialist industries with their own codes of advertising such as the therapeutic goods and alcoholic beverages will continue to be managed by those industry groups.

HOW DOES IT WORK?

All advertisers have a common interest in promoting consumer confidence in, and respect for, the truthfulness of advertising claims and for the general standard of advertising. Maintaining consumer confidence is one way of ensuring the value of advertising expenditure.

The Advertising Standards Board deals with issues of taste and decency. There will be no fee payable to lodge a complaint. The Advertising Claims Board will deal with questions of truth, accuracy and questions of law on a user-pays basis. Both bodies will apply different parts of the AANA Advertiser Code of Ethics.

The authority of these bodies rests on the willingness of advertisers to adhere voluntarily to ethical standards.

In particular, the authority of the Advertising Standards Board and the Advertising Claims Board rests on:

- the standing and reputation in the community of the members, the quality and timeliness of their decisions;
- the willingness of advertisers to adhere to ethical standards;
- the persuasive powers over media proprietors to comply with Board decisions;
- the persuasive powers of government agencies to initiate regulatory actions; and
- the efficiency and effectiveness with which public complaints are handled.

THE AANA ADVERTISER CODE OF ETHICS

This Code has been adopted by AANA to be applied as a means of advertising self-regulation in Australia and is intended to be applied to all forms of advertising.

The object of this Code is to ensure that advertisements are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and a fair sense of responsibility to competitors.

In this Code, the term 'advertisement' shall mean matter which is published in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.

1.1 Advertisements shall comply with Commonwealth law and the law of the relevant State or Territory.

1.2 Advertisements shall not be misleading or deceptive or be likely to mislead or deceive.

1.3 Advertisements shall not contain a misrepresentation which is likely to cause damage to the business or goodwill of a competitor.

2.1 Advertisements shall not portray people in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.

2.2 Advertisements shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

2.3 Advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant program time zone.

- 2.4 Advertisements for any product which is meant to be used by or purchased by children shall not contain anything which is likely to cause alarm or distress to those children.
- 2.5 Advertisements shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.
- 2.6 Advertisements shall not depict material contrary to prevailing community standards on health and safety.
- 2.7 Advertisements 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.
- 2.8 Advertisements shall not make claims about the Australian origin or content of products advertised in a manner which is misleading.

THE ADVERTISING STANDARDS BOARD

INTRODUCTION

The principal objective of the Advertising Standards Board is to maintain standards of taste and decency in advertising having regard to prevailing community values.

Complaints may be received from any source. If complaints relate to matters outside taste and decency, for example, in relation to advertising covered by specific product codes, in the first instance they will be referred to the advertiser and then, if appropriate, to the relevant regulatory body.

SCOPE OF RESPONSIBILITY

The Advertising Standards Board is responsible for receiving and evaluating complaints from any source involving the question of whether an advertisement breaches Section 2 of AANA's Advertiser Code of Ethics. The Advertising Standards Board will not pursue complaints that involve:

- questions of law or questions of truth or accuracy;
- trivial issues;
- local advertising;
- advertising that is the subject of litigation or an order by a court or government agency;

- unlawful business practices (these are referred to government agencies);
- advertising which has been withdrawn or discontinued before challenge;
- highly technical issues especially where experts are not provided by the parties to assist;
- label directions, or basic performance of products and services not related to advertising claims.

PROCEDURES OF ADVERTISING STANDARDS BOARD

No person having an interest or a conflict of interest in a matter to be considered is entitled to participate in that particular determination. A determination of the Board is by a simple majority and no person has a casting vote.

COMPLAINT RESOLUTION PROCEDURE

The procedure is initiated by a party filing a complaint in the form of a letter requesting the Advertising Standards Board to consider the complaint against the advertisement.

If the complaint is one which involves an issue of taste and decency covered by Section 2 of AANA's Advertiser Code of Ethics the complaint will be promptly sent to the advertiser and the advertiser will be asked to provide copies of the advertising and respond within fifteen business days.

RESOLUTION OF COMPLAINTS

The Advertising Standards Board will meet from time to time at such place and time as it determines to consider complaints it has received. Usually these meetings will be held at approximate intervals of one month.

If the Advertising Standards Board determines that a particular advertisement is not in accordance with Section 2 of AANA's Advertiser Code of Ethics it will prepare a Case Report setting out its reasons and provide a copy of that report to the advertiser.

The advertiser must advise the Advertising Standards Board within five business days whether the advertiser agrees to modify or discontinue the advertisement ('Advertiser's Statement').

Immediately after receiving the 'Advertiser's Statement' the Advertising Standards Board issues a final case report and makes it publicly available.

The decision is also published in a monthly report (the Advertising Standards Board Case Report) which identifies the advertiser, the product and the subject matter involved in the complaint and describes the final decision and its rationale.

Decisions in the Advertising Standards Board Case Report and any media releases are published under the headings:

Complaint Dismissed

Advertising Modified or Discontinued

Advertising Referred to Government Agency

CONSEQUENCES OF FAILURE TO RESPOND

The Advertising Standards Board will not provide extensions of time and untimely responses by advertisers will not be considered by the Advertising Standards Board.

If an advertisement is found to breach Section 2 of AANA's Advertiser Code of Ethics and the advertiser does not respond to the opportunity to modify or discontinue the advertisement within the allowed time-frame, the Advertising Standards Board will:

- if appropriate, refer the case report to the appropriate government agency;
- include the decision in the Advertising Standards Board Case Report;
- forward the case report to media proprietors.

THE ADVERTISING CLAIMS BOARD

INTRODUCTION

The principal objective of the Advertising Claims Board will be to provide a system of alternative dispute resolution to address and resolve challenges to advertising that might otherwise lead to litigation. The system will thus provide the opportunity of timely resolution of disputes in a manner that obviates the need for expensive, time consuming litigation.

While the system will be principally suited to disputes between competitors it may also be utilised by any other person, group or government agency. The Advertising Claims Board will be primarily an alternative dispute resolution scheme for competitor-competitor complaints. However, on a case-by-case basis, consideration will be given to hearing public complaints without cost, where there are significant public interest grounds for doing so. In these cases, AANA must be satisfied that the complaint is not between competitors.

SCOPE OF RESPONSIBILITY

The Advertising Claims Board will be responsible for receiving, evaluating, investigating, analysing and holding initial negotiations with an advertiser on complaints

or questions from any source involving the truth or accuracy of advertising or whether an advertisement breaches the law (ie. whether the advertisement breaches Section 1 of AANA's Advertiser Code of Ethics).

The Advertising Claims Board will not pursue complaints that involve:

- trivial issues;
- questions of taste, morality or decency;
- advertising that is the subject of litigation or an order by a court or government agency;
- unlawful business practices (these are referred to government agencies);
- advertising which has been withdrawn or discontinued before challenge;
- highly technical issues especially where experts are not provided by the parties to assist;
- label directions or basic performance of products and services not related to advertising claims.

COMPOSITION OF ADVERTISING CLAIMS BOARD

The work of the Advertising Claims Board will be undertaken by variable panels consisting of persons nominated by AANA from persons whose names appear on AANA's Register of Legal Practitioners (being a register of practising solicitors, barristers or persons with legal qualifications having experience and expertise in advertising and media law and who have been accepted for registration on the Register).

No person having an interest or a conflict of interest in a matter to be considered will be entitled to participate in that particular panel determination.

Nominations to particular panels of the Advertising Claims Board will be made from time to time having regard to the availability of individuals on the Register to perform the work required in the requisite time-frame and having regard to the existence of conflicts of interest.

Determinations of the panel will be by a simple majority and no person will have a casting vote.

Each complainant will be required to indemnify the members of the panel, the Advertising Claims Board and AANA against any claims which may be brought against the panel members or the Advertising Claims Board or AANA arising out of the determination of the complaint.

COMPLAINT RESOLUTION PROCEDURES

The procedure will be initiated by a party filing a complaint in the form of a letter requesting the Advertising Claims Board to investigate the challenged advertisement.

Before a panel is convened to consider a complaint, the complainant will be required to lodge a fee in an amount advised by AANA being an amount required to cover the fees payable to the panel members having regard to the complexity of the case and the amount of material to be considered. Indemnities must be lodged in a form supplied by AANA. The complaint should set out in as much detail as possible the nature of the alleged misrepresentations and the complainant must submit with the complaint its complete data supporting the complaint.

If the complaint appears in order for determination by a panel the complaint will be promptly sent to the advertiser and the advertiser will be asked to provide a substantial written response and copies of the advertising within fifteen business days after it receives the challenge. A substantial written response should include responses to the specific issues raised in the complaint, the advertiser's substantiation of the claims at issue with supporting data and a summary of arguments.

The complainant's supporting data will be made available to the advertiser and any data which the complainant wishes to be withheld from the advertiser will not be considered or included in the case materials. However, if the advertiser so requests, explaining the basis for its request and affirming that certain information of the advertiser is not publicly available, that information provided by the advertiser in substantiation will be withheld from the complainant. Despite claiming confidentiality, the advertiser must submit a comprehensive summary of its principal arguments and that summary must be made available to the complainant.

After the advertiser responds (and so much of the response as is not confidential is provided to the complainant) the complainant will have ten business days to submit a reply. The advertiser will then have ten business days to respond. If the Advertising Claims Board requests further information from either party, that party will have ten business days to respond.

The Advertising Claims Board may, in its discretion, agree with a proposal from an advertiser or complainant for a meeting with either or both parties in addition to or in lieu of a written submission. A proposal for a meeting must specify the reasons why a meeting is required, a list of particulars, an agenda, a proposed date and a list of participants.

The time available for all meetings and the last two responses cannot exceed twenty business days from the time of the initial advertiser response unless the Advertising Claims Board has requested further information.

RESOLUTION OF COMPLAINTS

The Advertising Claims Board must decide on a complaint within fifteen business days of its receipt of the last submission. Within that fifteen day period, it must prepare a final case decision, provide it to the advertiser and invite the advertiser to add an 'Advertiser's Statement' within five business days.

If the Advertising Claims Board decides that any of the advertising claims are not substantiated, the 'Advertiser's Statement' must state whether the advertiser agrees to modify or discontinue the claims.

Immediately after receiving the 'Advertiser's Statement' or, if not received within five business days of a request for it then once that time has expired, the Advertising Claims Board will issue a final case report to the parties and make it publicly available.

The decision will also be published in a monthly report (the Advertising Claims Board Case Report) which will identify the advertiser, the product and the subject matter involved in the complaint and describe the final decision and its rationale.

Decisions in the Advertising Claims Board Case Report and any press release will be published under the headings:

Advertising Substantiated

Advertising Modified or Discontinued

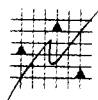
Advertising Referred to Government Agency

No Substantiation Received

CONSEQUENCES OF FAILURE TO RESPOND

There are no extensions of time in the procedure. If the advertiser fails to provide a substantial written response within the initial fifteen business days, the Advertising Claims Board will issue a 'final case decision' summarising the claims challenged in the complaint and noting the advertiser's default.

If the advertiser fails to file a substantial written response within an additional fifteen business days from the final case decision being issued, the Advertising Claims Board will refer the file to the appropriate government agency and will report that action in the next monthly case report. Copies of case reports will also be sent to media proprietors.



AANA acknowledges the following organisations supporting the industry levy and the new self-regulation system.



BOXEMERY PARTNERS

The Campaign Palace.

Carlton & United
AUSTRALIA'S LEADING BREWER

CLEMENGER



DDB

FACTS



GEORGE PATTERSON BATES

GREY

J. Walter Thompson

Kellogg's



LEO BURNETT CONNAGHAN & MAY



mojopartners



P&G

SAATCHI & SAATCHI
AUSTRALIA



Telstra



TOYOTA

Young & Rubicam Mattingly

Zenithmedia



AUSTRALIAN ADVERTISING
STANDARDS COUNCIL LTD

Suite 2, Level 5, 99 Elizabeth Street, Sydney, NSW 2000.
Telephone: (02) 9233 8874. Facsimile: (02) 9233 8868
A.C.N. 078 110 871



1ST ANNUAL REPORT

BUREAU

CHAIRMAN - ADVERTISING STANDARDS BUREAU LTD



1998 heralded a new era in advertising self-regulation. The Advertising Standards Board opened its doors to complaints in January. The Advertising Claims Board followed, and by the year's end the new self-regulation system had gained broad acceptance. Managing public complaints was clearly the first priority of the new system. With a Sydney-based secretariat and Board members meeting monthly to review complaints relating to taste, decency, health and safety in advertising, it affords a cost free service open to all.

In its first year, its determinations have shown advertisers generally to be meeting the standards set by the AANA Advertiser Code of Ethics. Equally importantly, it has shown advertisers to be highly responsive to public complaints and decisions of the Advertising Standards Board.

Advertisers and agencies have also endorsed self-regulation by funding it through a voluntary levy system that has recorded a steady rise in contributions over the year as participation has increased. By year's end, the levy system had the demonstrated support of the majority of the industry, securing the future of the self-regulatory process.

Further voluntary support for the self-regulatory system has come from media proprietors through a highly effective national public awareness campaign in print, radio and television.

Government agencies have also underscored this self-regulation initiative by referring public complainants to the Advertising Standards Board.

With the public complaints resolution service fully functional, attention turned to establishing the Advertising Claims Board as the competitive complaint resolution system. Operating on a user pays basis, the Board became available to determine complaints involving issues of truth, accuracy and legality of advertising late in 1998.

In recording our thanks to members of the Advertising Standards Board for their personal commitment, and to their secretariat support staff for their diligence, it is not overstating the case to note that they are performing a valuable role in maintaining responsible standards in advertising.

As well, our thanks go to the seventy legal practitioners who have come forward to play a future role in the Advertising Claims Board, through their listing in the Bureau's Directory of Advertising and Trade Practices Lawyers. We thank also the advertisers, agencies and media proprietors whose support has ensured the success of the Bureau's first year. Together, we have built a credible and creditable strong foundation for the future of advertising self-regulation in Australia.



Robert Koltai

ADVERTISING STANDARDS BUREAU LTD - PROFILE

The self-regulatory system, now managed by Advertising Standards Bureau Ltd ACN 084 452 666 and funded voluntarily by the industry through Australian Advertising Standards Council Ltd, recognises that advertisers share a common interest in promoting consumer confidence in and respect for general standards of advertising.

Advertising Standards Bureau Ltd administers this national voluntary system of advertising self-regulation through the Advertising Standards Board and Advertising Claims Board.

The Advertising Standards Board provides a free public service in complaint resolution. It provides determinations on complaints about any form of advertising in relation to issues including the use of language and the discriminatory portrayal of people, concern for children, portrayals of violence, sex, sexuality and nudity, and health and safety.

The Advertising Claims Board provides a competitive complaint resolution service. It is designed to determine complaints involving issues of truth, accuracy and legality of advertising on a user pays cost recovery basis.

Both boards make their determinations under appropriate sections of the Advertiser Code of Ethics, as prescribed by the Australian Association of National Advertisers following principles laid down by the Australian parliament as reflective of community values.

This system of advertising self-regulation came into operation following the 1996 decision of the Media Council of Australia to disband its system of advertising codes and regulation, including the Advertising Standards Council. Resulting from extensive consultation with industry, government and consumer representatives, it fulfils a longstanding AANA commitment to develop a more effective system of self-regulation for the advertising industry

1998 - A SNAP SHOT

Within its first year Advertising Standards Bureau Ltd has:

- Established the Advertising Standards Board as a free and readily accessible public complaint resolution service delivering effective determinations across all classifications of advertising in relation to issues of taste, decency, health and safety.
- Established the Advertising Claims Board as a competitive complaint resolution service which will deliver determinations on complaints involving issues of truth, accuracy and legality.
- Earned the voluntary support and cooperation of large and small advertisers, agencies and media proprietors throughout Australia.
- Demonstrated the dedication of advertisers to the ethical standards embodied in the AANA Advertiser Code of Ethics.
- Secured the financial viability of self-regulation through a voluntary levy system.
- Delivered a new standard of industry self-regulation _____

ADVERTISING STANDARDS BOARD MEMBERS

CARMEL TRAVERS
Inaugural member

Carmel Travers has worked in the media for twenty five years, successfully founded two Australian production companies and has held a number of senior Public and Government Board positions. She is currently Chairman and Executive Producer at Energee Entertainment, and a member of the Women on Wik Working Committee and a member of the Australians for Native Title.

"In my experience the motivation of all individual members of the Advertising Standards Board has been extraordinary in their determination to uphold standards expressed within the Advertiser Code of Ethics. Whilst the code might be voluntary the Board is certainly not taking any of its decisions lightly, and I've been heartened by the articulate, forceful and intelligent debate, reflecting a broad spectrum of the community standards."



MARY KOSTAKIDIS

Inaugural member

Mary Kostakidis has been chief newsreader at SBS Television for ten years. She was a member of the team which set up the network, and as Director Program Preparation was responsible for overseeing the development and implementation of the station's classification and censorship policy. She has been a member of the Drug and Alcohol Council, a councillor on the Constitutional Centenary Foundation and a member of the Order of Australia Honours Committee.

"The year has not been without its difficulties, but overall the system seems to be working. The number of complaints has increased since the recent public awareness campaign and it will be interesting to see twelve months down the track what conclusions might be drawn regarding the sorts of concerns expressed and their prevalence in the community."



JOANNA COHEN

Inaugural member

Joanna Cohen recently graduated with a BA in Communications. She has a background in market research and has undertaken extensive research into the youth market including a year long study of youth culture. She is currently the co-ordinator of an all-video shorts festival and works as a feature script assessor.

"The Advertising Standards Board is made up of a wide range of voices, representing many different aspects of the community. I have been delighted to add my youth voice to the Board."



SARA HENDERSON

Inaugural member

Best selling author, 1991 Bulletin / Qantas Businesswoman of the Year, Northern Territory station owner and the face for the National Program for the Early Detection of Breast Cancer's advertising campaign. Sara Henderson is the mother of three daughters, her cattle station Bullo River continues to prosper and her latest book 'The Strength of Our Dreams' was published Oct 1998.

"A unique insight into the thought patterns of Australia."



CATHARINE LUMBY

Inaugural member

Catharine Lumby is a columnist and senior writer for The Bulletin as well as a university lecturer in media studies. She has written widely on feminism, culture and the media and is the author of the book Bad Girls: The Media, Sex and Feminism in the 90s.

"The Board's first year has been challenging but also enormously productive. I have been encouraged by the energy and dedication with which my fellow Board members have approached decision making and by the growing community awareness of the Board's role."



MARGARET POMERANZ

Inaugural member

Margaret Pomeranz is a writer/producer with SBS Television. She currently hosts The Movie Show and is Executive Producer of The Movie Show, Front Up and Inside Out. Her career in the media began as a freelance writer of drama for radio, film and television.

"It has been an interesting year experiencing the interface between the community and the Board, a Board which is broadbased in interest and values. I am heartened by the fact that the community sees a growing interest in referring their concerns to us and I also value the depth to which the Board seeks to explore those concerns. All in all a most challenging and satisfying year."



THOMAS KENEALLY AO

Inaugural member

Best selling author, playwright, scriptwriter, English Professor and holder of a number of honorary Doctorates and multi-award winner, Thomas Keneally has written more than 20 novels including The Chant of Jimmy Blacksmith and, of course, Schindler's List. He was the inaugural chairman of the Australian Republican Movement and is now a Director.

"Advertising can, to the average citizen, seem omnipresent and intrusive, and I am delighted to be part of a body which helps mediate between an important modern industry and the individual."



WENDY MCCARTHY AO

Inaugural member

Wendy McCarthy has served on the National and NSW Women's Advisory Council and the National Trust. She was Deputy Chair of the Australian Broadcasting Corporation and is immediate past Chair of the Australian Heritage Commission. She is also Chair of the Clean-Up Australia Foundation and, consistent with her interest in children, Chair of PLAN International Australia.

"A learning year for the new approach to regulation and we need another year to make significant judgements."



GEOFF LAWSON OAM

Inaugural member

Geoff "Henry" Lawson has had an outstanding career in Australian cricket both nationally and internationally. In 1990 he was awarded the



Order of Australia for services to cricket. He has a degree in Optometry, is a director of the NRMA, the Chairman of the UNSW Optometry Appeal Committee, and a trustee of the Sydney Cricket Ground and Sydney Football Stadium. He was a foundation director of the NSW Sports Federation.

"Diverse issues and standards have required the personalities and beliefs to deal with them. The first year of this Standards Board has been challenging and educational and I look forward to the second year working with my fellow Board members."

TRISHA GODDARD

Inaugural member,
retired September 1998

Journalist, television presenter and producer, Trisha was born in London, educated in



England and East Africa and has worked in West Germany, England and Bahrain. Among many other voluntary commitments while on the Board, Trisha was Chairperson of the Federal Government's Mental Health Community Awareness Program and Media Advisor to the World Psychiatric Association, as well as a National Children's Week Ambassador. Trisha retired from the Board to take up a full time position in London.

GRAHAM COX

Appointed August 1998

Graham Cox has spent all his Australian working life in advertising, the last twenty five years with George Patterson Bates, of which he was a director for twenty years. Since his retirement he uses his experience on a marketing committee for Mission Australia and an advisory committee for the advertising course at The Sydney Institute of Technology. He has an honorary MA Communications degree.



"The complaints we receive reflect the strength of feeling of their authors. They deserve, and get, our careful consideration."

ROY MASTERS

Appointed May 1998

Sydney Morning Herald sports writer and commentator. Roy Masters is the author of "Inside League" which is on the NSW HSC reading



list, and continues to write stories on a range of political figures. He is also an inaugural member of the board of the Australian Sports Commission. He divides his time between Sydney and Melbourne.

"The ASB maintains a vigilant and thoughtful view of advertising in Australia and I have enjoyed the comprehensive cross section of opinion."

KATE WILLIAMS

Inaugural member

Kate Williams is currently studying medicine at Newcastle University after completing her HSC in 1997. Her key interests are music, sport and literature.



"It has been a great pleasure working on the Board in its inaugural year, and I look forward to voicing the opinions of young people in the future."

JOHN KONRADS

Appointed May 1998

Olympic gold medallist and triple Commonwealth Gold medallist, John Konrads brings to the Board extensive experience in industry and sports. He has



contributed to the evolution of numerous consumer regulations and was responsible for such notable successes as the Formula One Grand Prix and the Motorcycle Grand Prix in Melbourne. He has been decorated by the French Government with the National Order of Merit.

"The Board has made a good start on addressing sensitive issues."

THE HON. JOHN BROWN AO

Appointed May 1998

Former Federal Tourism Minister, John Brown has the Olympic Silver Order of Merit, Australian Institute of Marketing Gold Medal Award, and



has been elected Life Member of the Australian Institute of Sport. He is a member of the President's Council of the Surf Lifesaving Association and President of Spinesafe. He is currently Chairman of the Tourism Task Force.

"The experience of one year on the Advertising Standards Board has given me a new insight into the psyche of the 'average' citizen and an understanding of their prejudices and bias! Revealing and disappointing."

BRIAN SWEENEY

Inaugural member

Brian Sweeney is the Chairman of his own company, one of Australia's leading market research companies, and has been involved in



market research for thirty five years. He has been at the forefront of evaluating the success of advertising campaigns and providing guidance on what the public think of specific commercials.

"The diverse composition of the ASB has ensured that monthly deliberations are balanced yet conducted in a spirit of lively debate. After twelve months I am convinced that the ASB is a quality reflection of community attitudes and that complaints are heard in such a way that, ultimately, viewpoints from both the consumer and advertiser perspective are evaluated in a rational, objective and bipartisan manner. My perception is that the ASB is a valid and valuable vehicle for complaints handling."

ASB

REPORT OF THE MEMBERS OF THE ADVERTISING STANDARDS BOARD

Board members are conscious of the need for their determinations to be consistent and to reflect current community attitudes. Every determination involves careful consideration of the advertisement attracting complaint, the complaints received and the response requested from the advertiser.

In its first year, the Board upheld complaints on the basis of discriminatory portrayal of people with disabilities, discriminatory portrayal of people on the basis of race, vilification of women, the portrayal of violence and the depiction of material contrary to prevailing community standards on health and safety. Upheld complaints, however, constituted only a small proportion of overall determinations.

Although by far the greater number of complaints was dismissed because they were found not to breach the Advertiser Code, the Board recorded critical comments in a number of case reports reported back to complainants and advertisers. As well, three advertisements were referred for review beyond the scope of the Board, two being submitted to the Federation of Australian Commercial Television Stations [FACTS] for review under its classification authority, and one to the Australian Competition and Consumer Commission [ACCC] for legal consideration.

The Board's determinations included a significant number where the Board found complaints could not be upheld when the advertisements were considered in the light-hearted and humorous contexts in which they were clearly intended to be regarded. Typical of these were advertisements accused of portraying or encouraging bad manners and those accused of depicting or encouraging dangerous behaviour.

Some complaints reflected issues of particular significance to individual complainants such as illness or bereavement. In this area the Board, while appreciating the complainants' individual circumstances, generally found these types of complaint not to reflect the views of the wider community.

Sometimes graphic advertisements considered to carry community service messages, including those focused on workplace and road safety or the adverse health effects associated with tobacco, have generally been given wide latitude and considered in the context of the overall message. These complaints have not been upheld.

The portrayal of sex, sexuality and nudity in advertising in 1998 was generally found to have been treated with sensitivity to the relevant audiences or program time zones. Although complaints about late night television advertisements for telephone sex services were dismissed, the Board has made a commitment to continue determination of such complaints _____

1998 - SOME OF THE DECISIONS WHICH SHAPED THE YEAR

... the portrayal in a TV advertisement for White Wings Bakery Treats, of two young girls in the playground comparing the contents of their lunchboxes and saying: "My mother says nothing beats that real home-baked taste" "So does mine...but she's got a life," did not constitute discrimination or vilification.

DISMISSED

UPHELD
...a cinema advertisement for a community based radio station portrayed an unjustifiable level of violence in the context of the product advertised and displayed prolonged images of violence and overt physical threat. The advertisement depicted a young woman being held captive while a man entered the room and proceeded to produce music by playing a saw. (ADVERTISING DISCONTINUED)

...advertisements for motor vehicles should be sufficiently fanciful to avoid any risk of being interpreted as celebrating or encouraging dangerous driving practices.... a TV advertisement which depicted a realistic and natural opening sequence of a frustrated parent and distressed child held up in traffic, came close to depicting material contrary to prevailing community standards on health and safety.

DISMISSED

...a billboard advertisement depicting Duke Nukem dressed in combat gear with dark sunglasses holding what appeared to be a silver weapon in each hand pointed straight out of the billboard, and stating "Duke Nukem Time to Kill" had been somewhat inappropriately placed next to a primary school and opposite a kindergarten.

DISMISSED

UPHELD
...a TV advertisement for barbeques depicting the head of a woman transposed onto the body of a chicken shown roasting on a barbeque, constituted vilification of women and carried a strong subtext of violence against women. (ADVERTISING MODIFIED)

...a TV advertisement for a gas oven with a feature of the outer oven remaining cool while the inner oven heated, and which depicted a little child touching the oven door, portrayed a poorly chosen image to depict this important safety selling point, in light of a general effort to educate children not to touch similar surfaces when hot and dangerous.

DISMISSED

...a TV advertisement for crisps depicting an animated stick figure driving a bus, full of Asian tourists, around an Australian town, discriminated against people on the basis of race. (ADVERTISING DISCONTINUED)

UPHELD

REPORT OF THE EXECUTIVE ADMINISTRATOR - HELEN FRASER



The first year has naturally been a challenging one for the Bureau. It has also been very rewarding.

The Bureau received a total of 1458 complaints leading to 267 advertisements being reviewed by the Advertising Standards Board at its 11 monthly meetings, with its determinations recorded as case reports. Current at the end of the year were seventy six complaints about fifty advertisements and

these were determined at the first meeting of the Advertising Standards Board in 1999.

Other activities over this inaugural year included the development of complaint handling procedures for the Advertising Standards Board and the Advertising Claims Board, together with the establishment of referral procedures to other complaint resolution systems.

As complaints on truth, accuracy and legality of advertising were only invited by the Advertising Claims Board from November, no determinations have yet been made under the competitive complaint resolution system. However, a Register of Legal Practitioners has been established for nomination to panels as required.

The register comprises seventy appropriately qualified practitioners listing in the first Directory of Advertising and Trade Practices Lawyers published by Advertising Standards Bureau Ltd in conjunction with establishing the Advertising Claims Board.

It is to the credit of the whole industry as much as to the Bureau that, in almost every instance, advertisers have endorsed the Board's important role by voluntarily providing copies of advertising material and responses to complaints. In every case where the complaint has been upheld, the advertiser voluntarily discontinued or modified the advertisement.

Membership of the Advertising Standards Board has seen some changes over the year, with four new appointments widening the already broad representation of the Australian community. (Details of the Board's composition through the year are shown on pages 5-6).

PROMOTION

Any new system needs promotion, and this has been achieved very successfully by Advertising Standards Bureau Ltd, with the support of media proprietors nationally, by a highly effective print, radio and television campaign. In response to the advertising, the volume of complaints to the Advertising Standards Board more than doubled.

Further promotion of the Advertising Standards Board has been achieved through brochures distributed to the public by government agencies including offices of fair trading and consumer affairs

Regular direct mail was replaced in December by the Bureau's first newsletter as a means of keeping the industry informed of its actions and related activities, while more noteworthy determinations of the Advertising Standards Board attracted widespread industry and national media attention.

A complete compendium of 1998 case reports has been published.

OVERVIEW OF THE REGULATORY ENVIRONMENT FOR ADVERTISING STANDARDS

The voluntary system of advertising self-regulation administered by Advertising Standards Bureau Ltd supplements the existing regulatory environment.

Classification of print and cinema material falls within the responsibility of the Office of Film and Literature Classification. Placement and, to some extent, content of advertisements on television and radio are regulated by way of enforceable codes of practice through FACTS, SBS and FARB under the auspices of the Australian Broadcasting Authority. Issues of truth and accuracy of advertising are regulated by law through State and Commonwealth Government agencies of fair trading and consumer affairs. In response to the demise of the Media Council of Australia codes system, each of the therapeutic goods, weight management products and alcohol products industries have established complaint resolution systems to administer their specific industry codes of advertising.

Many of the advertisements brought before the Advertising Standards Board have been cleared for compliance with applicable enforceable codes prior to publication or broadcast.

ANALYSIS OF COMPLAINTS

The majority of the complaints received in 1998 came from members of the public in New South Wales, with women complainants far outnumbering men.

The main area of complaint focused on television advertisements, with food the leading product category.

Complaints were upheld about television, print and cinema advertisements, and in the categories of food, retail and media.

A high proportion of complaints raised more than one issue, while a few advertisements attracted a disproportionately high incidence of complaint. Five of the advertisements (including advertisement series) considered by the Advertising Standards Board were responsible for a total of 269 complaints _____

REPORT OF THE EXECUTIVE ADMINISTRATOR - HELEN FRASER (CONTINUED)

The issue attracting most concern was the portrayal of people and the majority of the complaints upheld raised this issue.

We assist complainants whose complaints fall outside the Advertising Standards Board's charter by referring their complaints to the advertisers and/or directing them to the appropriate bodies for assistance.

Statistics of complaints are included at pages 12-13. Complaint statistics showing the geographic source of complaints, and the medium of advertisements complained about, may have been influenced by the scope of the public awareness campaign.

As noted elsewhere, it is pleasing to report that in 1998 advertisers have generally met the standards set by the AANA Advertiser Code of Ethics and that in the relatively few instances of complaints being upheld have agreed promptly to withdraw or modify the offending advertisements.

It is also of interest to note that in some cases, advertisers have imposed more stringent standards on themselves than set by Advertising Standards Board determinations. Advertisers have withdrawn or modified advertisements following the notification of complaints prior to Board consideration and maintained their action irrespective of subsequent determinations.

This most certainly must be seen as a demonstration of the willingness of advertisers to comply voluntarily with ethical standards and to avoid offence



Helen Fraser

STATISTICS OF COMPLAINTS - 1998

GEOGRAPHIC SOURCE OF COMPLAINTS	(No. of complaints received)
NSW	615
QLD	286
VIC	200
SA	164
WA	97
ACT	42
TAS	32
NT	22

GENDER OF COMPLAINANTS	
FEMALE	924
MALE	339
UNSPECIFIED	195

SOURCE OF COMPLAINTS	
PUBLIC	1363
ORGANISATION/GROUP	66
GOVERNMENT	17
COMPETITOR	12

MEDIA ATTRACTING COMPLAINT	
TELEVISION	1226
PRINT	156
RADIO	29
OUTDOOR	28
CINEMA	9
OTHER	10

ISSUES ATTRACTING COMPLAINT	(% of advertisements for ASB resolution*)
PORTRAYAL OF PEOPLE	38.80%
PORTRAYAL OF SEX/SEXUALITY/NUDITY	31.54%
HEALTH & SAFETY	20.19%
PORTRAYAL OF VIOLENCE	12.61%
USE OF LANGUAGE	6.30%
CONCERN FOR CHILDREN	5.99%
OTHER	13.56%

*Some advertisements raised more than one issue hence the addition of the percentages listed exceeds 100

STATISTICS OF COMPLAINTS - 1998 (CONTINUED)

PRODUCT CATEGORY ATTRACTING COMPLAINT	(No. of advertisements for ASB resolution)
FOOD	53
RETAIL	35
VEHICLES	22
COMMUNITY AWARENESS	19
HOUSE GOODS/SERVICES	19
TOILETRIES	19
ENTERTAINMENT	17
RESTAURANTS	14
CLOTHING	12
LEISURE & SPORT	11
MEDIA	11
TELECOMMUNICATION	11
ALCOHOL	9
TRAVEL	8
FINANCE/INVESTMENT	7
PROFESSIONAL SERVICES	6
HEALTH PRODUCTS	5
TOYS & GAMES	5
INSURANCE	4
REAL ESTATE	4
HARDWARE/MACHINERY	2
INFORMATION TECHNOLOGY	2
SLIMMING	2
EMPLOYMENT	1
GAMING	1
OTHER	18

OUTCOME OF COMPLAINTS	(No. of complaints received)
DETERMINED: COMPLAINT DISMISSED	927
OUTSIDE CHARTER	382
CURRENT FOR ASB RESOLUTION AT END OF YEAR	76
DETERMINED: COMPLAINT UPHELD	73

REASON COMPLAINTS FELL OUTSIDE CHARTER

OBJECTION TO THE PROMOTION OF PHONE SEX SERVICES PER SE	147
MATTER COMPLAINED OF NOT AN ADVERTISEMENT	68
TRUTH & ACCURACY - PUBLIC COMPLAINT	51
LABEL DIRECTIONS OR BASIC PERFORMANCE OF PRODUCTS	16
SPECIFIC INDUSTRY CODE APPLIES	13
TRUTH & ACCURACY - COMPETITOR COMPLAINT	11
BUSINESS PRACTICES	9
ADVERTISING WITHDRAWN OR DISCONTINUED BEFORE CHALLENGE	9
LOCAL ADVERTISING	1
OTHER*	57

*Includes complaints about advertising generally, sound volume, foreign source, grammar, use of children and animals.

IF YOU FIND AN AD



*@!#ING OFFENSIVE

WRITE TO US.

The Advertising Standards Board has been set up to help maintain standards in advertising. So if you find an ad overtly sexist, violent or in some way offensive you can bring it to the attention of the Advertising Standards Board by writing to Level 5, 99 Elizabeth Street, Sydney NSW 2000.

ASB