



AANA Code of Ethics Review 2011

Summary of Code Review Consultation

by

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Overview

The 2010-11 Review of the AANA Code of Ethics is both unprecedented and timely. It is the first to be commissioned by the code owner, the Australian Association of National Advertisers (AANA), to an Independent Reviewer since the launching of the present day Code in 1997. Its aim is to update and where necessary, develop the Code to ensure that it continues to meet community requirements and expectations and that it also incorporates world's best practice standards. The Code Review has been called in recognition of the changing environment of advertising and marketing communications. The sector has seen dramatic change in recent years including the growth of the new media of the internet era and consequent challenges to the established main media.

The AANA has been the peak national body for advertisers for over 80 years. It is engaged in a wide range of activities on behalf of its members, including the ownership and development of formal self-regulatory codes of practice that are designed to represent the common interests and obligations of companies across all business sectors involved in marketing communications. These self-regulatory codes also serve to protect the interests and rights of consumers in ensuring advertising and marketing communication is conducted responsibly.

AANA's core self-regulatory code, the AANA Code of Ethics, came into operation in 1997 following extensive consultation by AANA with consumers and consumer groups, advertisers and business and government representatives. The AANA Code of Ethics provides the overarching set of principles with which all advertising and marketing communications, across all channels should comply.

The Code complements a complex raft of statutory regulation and self-regulation of Australian marketing communications. Statutory regulation is exemplified in the provisions of the Trade Practices Act (Commonwealth) and the fair trading Acts of most States. It is central to three other self-regulatory codes that have been devised by the AANA itself. These cover children, food and beverages and environmental claims in marketing communications. In addition a number of other industries and businesses are either government regulated (e.g. therapeutic goods) or have devised their own self-regulatory codes of practice (e.g. automotive industry; free-to-air TV; outdoor media). As part of good governance, many Australian corporations have their own codes of ethics and behaviour, especially directed towards customer service. Insurers and banks publish and promote these codes as standard practice in the consumer marketplace.

Self regulation is an essential part of Australia's business landscape and contemporary society. It can only flourish by way of strong leadership, commitment and cooperation across business, government and the community at large. It is not the exclusive domain of any one particular body but the collective concern of many players, large and small – from the broad spectrum of society to all sectors of the economy.

The AANA Code of Ethics is regarded by its stakeholders as the foundation stone of the national self-regulatory system for advertising and marketing communications. It is widely accepted by the Australian business community. Moreover, unlike most of the co-existing self-regulatory codes of practice, it provides the *ethical framework* for a public complaints hearing process

presently administered by the Advertising Standards Bureau (ASB) and through it, the Advertising Standards Board. This is open to the entire community. AANA was instrumental in setting up the Bureau as successor to the Advertising Standards Council in 1998.

The scope of the Review does not include AANA's other Codes, nor does it include the complaints hearing process, although as a key primary stakeholder the ASB's feedback from working with the Code of Ethics over a number of years has been an invaluable and unique source of input for the Review. Many of the other co-existing industry focused self-regulatory schemes also provide a wealth of operational experience in working with the Code, some on account of their complaint handling being processed under agreements with the ASB and some by way of other arrangements.

The Code is in step with and in some cases ahead of codes that underpin the self-regulation of marketing communications elsewhere in the world. It shares much in common with Western Europe and North America and it is ahead of code development in much of Asia and Eastern Europe. Nevertheless, marketing communications is volatile. Changing technologies keep affecting the design, testing and distribution of the commercial message. Although this is the first independent review of the Australian code, best practice will necessitate the AANA's commitment to further reviews at regular intervals in order to keep pace with the changing environment of marketing communications.

As part of the Code Review process, the Independent Reviewer received written submissions and conducted personal interviews with some 55 organisations and individuals during 2010. Whilst the general consensus was to "keep the Code simple" the diversity of stakeholders' perspectives has been carefully considered in developing any revision of the Code. For example, we identified some reservations about the ease of working with the Code. Some words and phrases used in the Code's sections and sub-sections are in need of revision and it is also clear there is widespread support for the development of *Practice Notes* designed to make the Code more user- friendly.

In reviewing the submissions and the interviews it was clear that a number of criticisms, comments and suggestions turned on matters of definition, the wording of some clauses of the Code and the need for generally helpful guidance. Currently, the Code is only accompanied by a brief statement of its purpose and some definitions of key terms. In the present Code document these precede the Code itself. Practice Notes however could be written up more distinctively either as a separate document or following the Code in the same document. They should contain the objectives, definitions of key terms and guidance to suggest how the subsections of the Code might be most effectively applied. This is an area of inconsistency on AANA's own doorstep: other codes owned by AANA already have practice notes, a point not lost on some critics.

In 2011 further input for the Code Review came from two Commonwealth Parliamentary inquiries. The most relevant was the inquiry into the regulation of billboard and outdoor advertising held by the House of Representatives Standing Committee on Social Policy and Legal Affairs. The second was a Senate inquiry into film classification. In a broad remit, this inquiry canvassed the issue of advertising regulation in the context of copy content and outdoor advertising. The Code Reviewer and the AANA Director of Codes attended these hearings both as witnesses and observers with a view to contributing to the dialogue, observing the

contribution of other witnesses and to study the responses made to the committee members' questions. These hearings were unanticipated at the time when the Code review was launched in 2010. The AANA Board approved an extension of the Review time frame so the deliberations of the hearings could be considered in the Review process.

Proposals for the revision of the Code are currently under consideration by the AANA. As mentioned above a common theme in the stakeholders' views about revising the Code was to "keep it simple...". With this in mind, changes have been recommended in the Objectives to simplify wording and ensure consistency with terminology in the Definitions and Interpretation section. It is also felt that the proposed Practice Notes will help to keep the code simple by allowing discussion of code implementation in clearly segregated documentation which would otherwise make the Code more lengthy and bulky.

Finally, it has been recommended that the AANA might consider re-formatting the presentation style of the Code. This will involve developing documentation that cultivates a sharper image commensurate with its authority as the code owner. The other Codes owned by the AANA demonstrate that in presentation and appearance the Code of Ethics is not readily distinguishable from the others. It is recognized that there is an investment in existing house styles and that presently the Code of Ethics and the other AANA codes intentionally resemble each other in appearance. However, a major change in style, giving due prominence to the edition number and date of publication is appropriate for a revised Code of Ethics. It would clearly differentiate it from the other Codes and underline its authority. A significant design change may also reinforce the industry perception of the core position of the Code as a building block and a point of reference for other industry- specific codes and regulatory mechanisms.