

Approaches to advertising regulation

- 2.1 Advertising refers broadly to notices of products or services in a variety of media – such as magazines and newspapers; television; posters and billboards; brochures and leaflets; cinema screens; direct and indirect mail; the internet; commercial e-communication; CD, DVD, video, SMS and fax; and promotional activities. Outdoor advertising refers to the placement of these advertisements in public spaces where viewing is unrestricted.
- 2.2 The Australian Association of National Advertisers (AANA) is a peak body for companies and individuals involved in Australia's advertising, marketing and media industry.
- 2.3 The AANA provides the following definition for advertising or marketing:
- ... matter which is published or broadcast using any Medium [with the exception of labelling and packaging] 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 the product, service, person, organisation or line of conduct; or
- any activity which is undertaken by or on behalf of an advertiser or marketer 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 the product, service, person, organisation or line of conduct.¹

1 Australian Association of National Advertisers (AANA), 'AANA Code of Ethics' <http://www.aana.com.au/advertiser_ethics_code.html> viewed 1 November 2010.

- 2.4 Outdoor (or out-of-home) advertising is aimed at consumers when they are outside their home. Such advertising can be found:
- on walls;
 - on billboards, including digital billboards, and posters;
 - on street furniture such as bus shelters, kiosks, and other forms of public infrastructure;
 - in and on taxis, buses, trams, trucks and train carriages;
 - inside public transport stations and airports; and
 - in shopping malls and at sportsgrounds.
- 2.5 While these spaces may be privately owned, their access is generally unrestricted to the public. Consequently, for the purpose of this inquiry, the Committee has chosen to refer to them as 'public spaces'. Such advertising is not necessarily 'outdoor' and is more correctly referred to as 'out-of-home' advertising. However, again for the purpose of this inquiry, the Committee uses the terms 'outdoor' and 'out-of-home' synonymously to refer to advertising that is displayed in public spaces.
- 2.6 This chapter discusses the history and practice of advertising self-regulation in other countries and in Australia. It makes the case that outdoor advertising should be considered a special category in the regulatory scheme of advertising.

International comparisons of advertising self-regulation

- 2.7 Advertising industry self-regulation, including of outdoor advertising, is the standard practice in the developed world. The International Chamber of Commerce (ICC) issued the first code of advertising practice in 1937, on which many current self-regulatory systems, including Australia's, are based. This general code has been regularly updated ever since, and separate codes have been added on sales promotion, sponsorship, direct marketing, electronic media and environmental advertising, as well as on market research and direct selling. In 2006, the ICC issued its eighth revision of the *Consolidated ICC Code of Advertising and Marketing Communication Practice*.

2.8 The basic principles of the ICC Code are as follows:

All marketing communication should be legal, decent, honest and truthful.

All marketing communication should be prepared with a due sense of social and professional responsibility and should conform to the principles of fair competition, as generally accepted in business.

No communication should be such as to impair public confidence in marketing.²

2.9 Article 2 of the ICC Code pertains to decency:

Marketing communication should not contain statements or audio or visual treatments which offend standards of decency currently prevailing in the country and culture concerned.

2.10 Articles 3 and 4 discuss honesty and social responsibility and Article 26 advises respect for self-regulatory decisions. The ICC Code includes provisions for advertising to children and young people.

2.11 The aims of the ICC Code are as follows:

- to demonstrate responsibility and good practice in advertising and marketing communication across the world;
- to enhance overall public confidence in marketing communication;
- to respect privacy and consumer preferences;
- to ensure special responsibility as regards marketing communication and children/young people;
- to safeguard the freedom of expression of those engaged in marketing communication (as embodied in article 19 of the United Nations International Covenant of Civil and Political Rights);
- to provide practical and flexible solutions; and
- to minimise the need for detailed governmental and/or inter-governmental legislation or regulations.³

2.12 Most self-regulatory advertising organisations pay special attention to the suitability of advertising aimed at children. Furthermore, self-regulation

2 International Chamber of Commerce, *Advertising and Marketing Communication Practice: Consolidated ICC Code*, International Chamber of Commerce: Paris, 2006, p. 13.

3 International Chamber of Commerce, *Advertising and Marketing Communication Practice: Consolidated ICC Code*, International Chamber of Commerce: Paris, 2006, p. 9.

occurs within national legal regulatory frameworks, which are designed to protect consumers and ensure fair trading practices.

- 2.13 The European Advertising Standards Alliance (EASA) is a global peak body that represents advertising self-regulation systems in Europe and beyond. Australia is one of eight non-European member countries.
- 2.14 The EASA aims to promote and strengthen advertising self-regulation across the European Union, and provides a cross-border complaints system for advertising broadcast from or encountered in another EASA member country.⁴ Almost all European Union countries have advertising self-regulatory systems.

United Kingdom

- 2.15 In the United Kingdom, broadcast advertising is co-regulated and non-broadcast advertising is self-regulated. Outdoor advertising, which falls under the non-broadcast advertising category, is self-regulated by the industry, which writes the codes, and these codes are enforced by the Advertising Standards Authority (ASA). The ASA does not need a complaint to be lodged before it can take action to have an advertisement withdrawn or changed. The ASA conducts spot checks on approximately 10 000 advertisements a week.⁵
- 2.16 When considering whether an advertisement is in breach of the codes, the ASA takes into account the context, the medium in which an advertisement appears and the audience. The placement of an advertisement will have a direct bearing on whether the ASA judges it to be acceptable. Thus an advertisement that may be considered acceptable if placed in a magazine that was unlikely to be read by children, could equally be considered unacceptable if placed on a billboard that children could view.⁶

Canada

- 2.17 Canada's independent advertising self-regulatory body is Advertising Standards Canada (ASC), which administers the *Canadian Code of Advertising Standards*, manages a consumer complaints process, and
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4 European Advertising Standards Alliance <<http://www.easa-alliance.org/page.aspx/240>> viewed 9 May 2011.

5 Victorian Department of Premier and Cabinet Office of Women's Policy, *The Portrayal of Women in Outdoor Advertising*, 2002, p. 18.

6 Advertising Standards Authority, 'Children and Advertising' <<http://www.asa.org.uk/Resource-Centre/Hot-Topics/Children-and-advertising.aspx>> viewed 3 November 2010.

provides advertising preclearance for five regulated categories, including alcohol, children's advertising, consumer drugs, cosmetics, and food and drink.

- 2.18 The ASC established Gender Portrayal Guidelines in 1981. These guidelines address the portrayal of authority, decision-making, sexuality, violence, diversity and offensive or exclusive language.

New Zealand

- 2.19 New Zealand's Advertising Standards Authority self-regulates advertising under codes of practice. Complaints are heard by an independent Advertising Standards Complaints Board (ASCB) and there is a right of appeal to the independent Advertising Standards Complaints Appeal Board. The ASCB comprises five public representatives and four industry members.

United States

- 2.20 The United States does not have a single national self-regulating body and instead there are several bodies which represent or monitor advertising. There are also several bodies which accept complaints about advertising from members of the public.
- 2.21 The Outdoor Advertising Association of America is the lead trade association representing the outdoor advertising industry. The American Advertising Federation is the oldest national advertising trade association. The National Advertising Review Council has developed a self-regulatory system that supports advertiser compliance.
- 2.22 The states of Vermont, Hawaii, Maine, and Alaska have banned all billboards, and approximately 1 500 American cities and towns prohibit the construction of new billboards.⁷

Advertising regulation in Australia

- 2.23 Advertising content, and therefore that of outdoor advertising, is self-regulated in Australia by the industry. Australia has had two advertising self-regulatory systems in its history. Originally, the Advertising

7 Scenic America, 'Background on Billboards' <<http://www.scenic.org/billboards/background/communities>> viewed 3 November 2010.

Standards Council functioned as the independent complaints body. It was established by the national representative bodies of advertisers, advertising agencies, and media.

- 2.24 In 1996, the Australian Competition and Consumer Commission (ACCC) deemed the media arm's accreditation system for advertising agencies uncompetitive and decided to conduct a review of advertising standards. The ACCC found that the self-regulatory system relied on outdated codes and lacked compliance, administrative control, confidence and commitment.⁸
- 2.25 The national advertisers' body, the AANA, created a new self-regulatory system in 1998. This new system established a Code of Ethics and the Advertising Standards Bureau (ASB), which incorporates an independent Advertising Standards Board to hear complaints regarding standards of taste and decency, and an Advertising Complaints Board for rival advertiser complaints.
- 2.26 The self-regulatory system exists within the framework of relevant Commonwealth and State or Territory legislation. Advertising that breaches legislation is not considered by the self-regulatory system.
- 2.27 Government and commercial contracts may also impose self-determined restrictions on advertising content and placement.
- 2.28 There are a number of voluntary codes, in addition to the AANA Code of Ethics, that apply to advertising as a whole or specific to an industry or product. The Advertising Standards Bureau administers the majority of these codes.

Government legislation

- 2.29 Advertising content must comply with the *Competition and Consumer Act 2010* (Cth) (the CCA). The Competition and Consumer Act contains the Australian Consumer Law, which is a national law that protects consumers from false and misleading representations and misleading and deceptive conduct.
- 2.30 The Advertising Complaints Board acts as an internal dispute resolution system for advertisers who object to allegedly false or misleading claims made by competitors. The remit of the Advertising Standards Board does

8 D Harker, et al, 'Developing Effective Advertising Self-Regulation in Australia: Reflections on the Old and New Systems', *Australasian Marketing Journal*, vol. 9, no. 1 (2001), p. 12.

not cover consumer complaints under the CCA, which are referred instead to the ACCC or relevant State/Territory departments.

- 2.31 The ACCC is an independent statutory authority set up by the Australian Government to administer the CCA. It is responsible for regulating the truth and accuracy of claims made in advertising, but not the standard of the content.
- 2.32 The ACCC gave the Committee some examples where outdoor advertising had been found by the ACCC to be in breach of the Australian Consumer Law in making misleading or deceptive claims.⁹ As the Australian Consumer Law has been adopted by all states and territories, the standards of fair trading practices are uniform across Australia.
- 2.33 The ACCC has a number of enforcement measures, including infringement notices and court action.¹⁰ In addition to accepting up to 100 000 complaints each year, including anonymous and oral complaints, the ACCC initiates investigations where breaches are seen to have occurred.¹¹
- 2.34 Advertising of tobacco products is prohibited under the *Tobacco Advertising Prohibition Act 1992* (Cth), and the advertising of therapeutic goods is regulated under the *Therapeutic Goods Act 1989* (Cth) and *Therapeutic Goods Regulations 1990* (Cth).
- 2.35 Advertising content on television is co-regulated under the *Broadcasting Services Act 1992* (Cth). Television, and other such media, is outside the scope of this inquiry.
- 2.36 All states and territories have enacted application legislation to adopt the Australian Consumer Law, so this law applies equally in all states and territories. State and territory governments regulate the advertising of gambling.
- 2.37 Governments at the state, territory and local level regulate advertising signage and position in terms of public safety (including road safety), planning laws, and the visual impact.¹² Private and third-party outdoor advertising must comply with council regulations regarding placement.

9 Mr Scott Gregson, General Manager, Enforcement and Compliance, Australian Competition and Consumer Commission (ACCC), *Committee Hansard*, Canberra, 3 March 2011, p. 2.

10 Mr Gregson, ACCC, *Committee Hansard*, Canberra, 3 March 2011, p. 3.

11 Mr Gregson, ACCC, *Committee Hansard*, Canberra, 3 March 2011, pp. 3, 6.

12 Colleen Keegan, 'Outdoor Advertising – Establishing a Foundation for Regulation: UNESCO City of Design Network', March 2010, p. 2, Outdoor Media Association <http://oma.org.au/media/Pdf/Colleen_Keegan_Final_Report.pdf> viewed 3 November 2010.

Government and commercial contracts

- 2.38 Advertisers and media display companies may enter into contracts or licence agreements with government, council or corporate bodies. These contracts will often include internal policies regarding the placement or content of advertising.¹³
- 2.39 For example, the Roads and Traffic Authority of New South Wales (RTA) stipulates that advertising under its licence must not contain reference to alcohol, tobacco, politics, pornography, religion, or 'any other products which are unsuitable in the [RTA's] opinion'.¹⁴
- 2.40 Westfield Brandspace, which partners with an outdoor advertising company, has its own advertising content policies that advertisers must adhere to.¹⁵

Voluntary advertising codes

- 2.41 Advertising content is also subject to a number of voluntary industry codes. This inquiry will address only those codes that apply to outdoor advertising.
- 2.42 Fundamental to the self-regulatory advertising system is the Code of Ethics, which the AANA describes as 'the cornerstone of the advertising self regulatory system in Australia' and claims that it 'provides the overarching set of principles with which all advertising and marketing communications, across all media, should apply'.¹⁶
- 2.43 The Code of Ethics contains two sections. The first section addresses the basic principles of legal, honest and truthful marketing communication and is administered by the Advertising Complaints Board, which acts as a dispute resolution system for advertisers. The second section deals with decency and community standards, and is administered by the Advertising Standards Board.
- 2.44 In addition to the Code of Ethics, the AANA has created the following supplementary codes:
- Food and Beverages Advertising and Marketing Communications Code

13 Outdoor Media Association (OMA), *Submission 32*, p. 17; Communications Council, 'Media Codes and Regulations' <<http://www.communicationscouncil.org.au/public/content/ViewCategory.aspx?id=310>> viewed 12 November 2010.

14 OMA, *Submission 32*, p. [109].

15 OMA, *Submission 32*, p. [110].

16 AANA, *Submission 17*, pp. 3, 7.

- Code for Advertising and Marketing Communications to Children, and
 - Environmental Claims in Advertising and Marketing Code.
- 2.45 Specific industries have advertising codes of practice, such as the Alcohol Beverages Advertising Code (ABAC). The ABAC Scheme is unique in that it is a quasi-regulatory scheme rather than self-regulatory. The Federal Chamber of Automobile Industries has a Voluntary Code of Practice for Motor Vehicle Advertising.
- 2.46 Some members of the fast-food industry have established the Quick Service Restaurant Initiative (QSRI), managed by the Australian Food and Grocery Council (AFGC) to complement the AANA Food and Beverages Advertising and Marketing Communications Code.
- 2.47 The Therapeutic Goods Advertising Code and the Weight Management Industry Code also apply to outdoor advertising, but are not administered by the Advertising Standards Bureau.
- 2.48 The Outdoor Media Association has its own Code of Ethics for third-party outdoor advertisers, but this is not assessed by the Advertising Standards Board.
- 2.49 The various codes and their administration will be discussed more fully in Chapter Four.

Advertising Standards Bureau

- 2.50 As indicated, the AANA established the Advertising Standards Bureau (ASB), which includes an Advertising Standards Board (the Board) that manages complaints about advertising standards. The ASB is funded by the advertising industry through a levy of 0.035 per cent of gross media expenditure, which is maintained separate to AANA funds and confidential from the ASB.
- 2.51 The ASB provides a free public service of complaint resolution for:
- Section 2 of the AANA Code of Ethics, which deals with matters of taste and decency;
 - AANA Food and Beverages Advertising and Marketing Communications Code;
 - AANA Code for Marketing and Advertising Communications to Children;
 - AANA Environmental Claims in Advertising and Marketing Code;

- Federal Chamber of Automobile Industries Voluntary Code of Practice for Motor Vehicle Advertising
 - AFGC Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children; and
 - Alcohol Beverages Advertising (and Packaging) Code.
- 2.52 The Board makes determinations on complaints in relation to issues including the use of language, the discriminatory portrayal of people, concern for children, portrayals of violence, sex, sexuality and nudity, health and safety, and marketing of food and beverages to children.
- 2.53 Advertisements are not pre-vetted by the Board, and the Board only makes determinations after a complaint has been received.
- 2.54 The Board comprises 20 members who are independent of the industry, 'from a broad range of age groups and backgrounds [that] is gender balanced and as representative of the diversity of Australian society as any such group can be.'¹⁷ Board members are appointed on a fixed-term basis by the Directors of the Board following publicly advertised application and interview processes.¹⁸
- 2.55 Complainants and advertisers can appeal decisions made by the Board through an independent review process, which was established in 2008.¹⁹ The ASB recently conducted and published a review of the independent review system that sought input from industry and the community through questionnaires.²⁰ Further discussion on the independent review process is provided in Chapter Five.
- 2.56 As a self-regulatory system, the ASB cannot enforce its decisions. However, the ASB claims that nearly 100 per cent of advertisers comply with its decisions.²¹ In cases where compliance is not achieved, the ASB can:
- refer the case, where the advertisement breaches legislation or regulations, to the appropriate government agency or industry body;
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17 Advertising Standards Bureau (ASB), *Submission 27*, p. [4].

18 ASB, 'The Advertising Standards Board' <<http://www.adstandards.com.au/aboutus/theadvertisingstandardsboard>> viewed 3 November 2010.

19 ASB, 'Independent Reviewers' <<http://www.adstandards.com.au/aboutus/independentreviewers>> viewed 3 November 2010.

20 ASB, 'Help Fine Tune the Independent Reviewer System', *Media Release*, 20 September 2010; ASB, 'Review of Independent Review Process 2010' <<http://www.adstandards.com.au/publications/factsandfigures>> viewed 11 April 2011.

21 ASB, 'Supporting the System' <<http://www.adstandards.com.au/self-regulation-system/upholdingsupportingthesystem>> viewed 3 November 2010.

- make the non-compliance publicly available on its website or through a media release;
- ask industry bodies, such as the Outdoor Media Association, to negotiate directly with the advertiser; or
- refer the case to the Australian Communications and Media Authority or to state police departments.

Outdoor advertising: a special category?

- 2.57 Currently Board determinations may take into consideration the medium of an advertisement, such as use of a billboard, in addition to its placement. Certain codes place restrictions on the placement of outdoor advertisements for some products. However, there is no separate regulatory code or process for outdoor advertising.
- 2.58 Despite their public and unavoidable nature, outdoor advertising is regulated by the ASB in the same manner as other forms of advertising. Central to this inquiry is the issue of whether outdoor advertising warrants consideration as a special category.
- 2.59 Dr Kurt Iveson, in his submission to the inquiry, observes that ‘debates about outdoor advertising have a very specific inflection because by their nature, they are also debates about the nature of urban public spaces’.²²
- 2.60 The Castan Centre for Human Rights Law adds that ‘outdoor advertising occupies a privileged place in the public space’.²³ It is similar to a form of public speech or expression, which needs to be mindful of appropriateness to culture and place.
- 2.61 In addition to being unavoidable, there is no control over the prevalence of outdoor advertising. Submissions to the inquiry have raised the issue of not just inappropriate but also cumulative exposure to advertising of people outside the target audience, particularly children.
- 2.62 Moreover, outdoor is a rapidly growing medium for advertisers. The Media Federation of Australia advises that ‘outdoor advertising offers a unique and compelling environment as a powerful communication tool

22 Dr Kurt Iveson, *Submission 46*, p. 2.

23 Castan Centre for Human Rights Law, *Submission 40*, p. 2.

and has the significant advantage of appealing to a captive and mobile audience'.²⁴

2.63 Consumers cannot exercise their choice to view or ignore advertisements displayed in the public space, as may be possible with other mediums. Ms Karyn Hodgkinson asserts in her submission that 'such public advertising is undemocratic – there is no choice involved when a huge billboard is in the public arena where all are forced to see'.²⁵

2.64 The Salvation Army Australia Southern Territory describes outdoor advertising as 'a particular form of ubiquitous advertising that by their very nature invade public visual space without discrimination or individual consent'.²⁶

2.65 The Australian Christian Lobby agrees:

By its very nature outdoor advertising is a public broadcast medium, and because it is static, can be examined more closely by members of the public. It is not possible to filter those who see the advertising and there is no opportunity for members of the community to exercise choice to not see it.²⁷

2.66 These are the very features that make outdoor advertising appealing to advertisers. APN Outdoor boasts on its website that 'outdoor is the only advertising medium that is virtually immune to consumer avoidance. It can't be turned off, flipped to the next page or thrown away. And it is free to view'.²⁸

2.67 The very nature of outdoor advertising, with its unrestricted audience, means that adults and especially children can be exposed to material that is not necessarily directed at them, and may not be considered appropriate viewing for all community members.

2.68 For example, advertising directed *at* children and the portrayal (including sexualisation) of children in advertising are subject to specific stricter codes. However, children can be exposed to inappropriate material through outdoor advertising that targets an adult audience but is displayed in a public thoroughfare used by children in the course of their daily lives. The advertisement may be acceptable according to prevailing

24 Media Federation of Australia, *Submission 26*, p. 2.

25 Ms Karyn Hodgkinson, *Submission 33*, p. [2].

26 The Salvation Army Australia Southern Territory, *Submission 11*, p. 4.

27 Australian Christian Lobby, *Submission 24*, p. 3.

28 APN Outdoor <<http://www.apnoutdoor.com.au/Insights/Trends.aspx>> viewed 8 February 2011.

community standards for adults, but regarded as inappropriate for children. This then raises the issue of the appropriateness of the advertisement in an out-of-home setting with unrestricted viewing.

- 2.69 Equally, a number of submissions objected to sexual and degrading images of women which accost them in out-of-home advertisements during their daily lives. These same or similar images may appear in other media, but many considered that the large scale nature of these outdoor advertisements and their placement in public spaces robbed them of their freedom of choice.
- 2.70 The UK and New Zealand advertising self-regulatory systems recognise the special nature of outdoor advertising. The UK Advertising Standards Authority explains that 'a risqué advertisement in an untargeted medium, such as a billboard, is likely to raise more concerns than if it appeared in a targeted medium, such as a women's magazine, where children are less likely to see it'.²⁹ According to the NZ Advertising Standards Authority:
- Billboards seen by all including schoolchildren differ from magazines or targeted radio or television programmes for specialised audiences, for example. A beer advertisement using graffiti failed the high social responsibility test when it appeared on a billboard. While the product had a target audience of 25-34 year-olds, the Board observed, quoting an earlier decision, 'once a billboard goes up, the advertisement is no longer confined to that audience and any communication or message extends to people of all ages and in fact the public at large'.³⁰
- 2.71 The Australian Council on Children and the Media notes that 'it is ironic that billboards and outdoor advertising are one of the least regulated forms of advertising under our legal system, considering that they are the hardest form for consumers to avoid if they object'.³¹
- 2.72 The feminist organisation, 2020women Inc, recommends that outdoor advertising be subject to 'stronger controls than prime time television because it is unavoidable to the public and the physical size of the advertisement increases its impact'.³²

29 Advertising Standards Authority, 'Background Briefing on Children' <<http://asa.org.uk/Resource-Centre/Hot-Topics/Children-and-advertising.aspx>> viewed 3 November 2010.

30 Advertising Standards Authority, *Bugger... It's ok! The Case for Advertising Self-regulation*, Advertising Standards Authority: Wellington, p. 18.

31 Australian Council on Children and the Media, *Submission 28*, p. 3.

32 Ms Jenni Colwill, President, 2020women Inc, *Committee Hansard*, Melbourne, 4 April 2011, p. 39.

- 2.73 Although specific mention of outdoor advertising is not made in the AANA Code of Ethics, the Board has indicated in its determination summaries that it does take the public nature of outdoor advertising and its placement into consideration when determining the acceptability of its content:

Outdoor advertising is in the public domain and has a broad audience. The Board believes that messages and images presented in this medium need to be developed with a general audience in mind and has given particular attention to the placement of such advertising e.g. outdoor advertising depicting violence or sexual content that is placed close to schools and churches is of particular concern.³³

- 2.74 Certainly the proportion of all complaints related to outdoor advertising received by the ASB indicates a particular community concern with the current content and placement of outdoor advertising. In 2010, 20 per cent of all advertising complaints were regarding outdoor advertisements,³⁴ despite the fact that outdoor advertising represents a smaller share of all advertising media. In addition, 16.7 per cent of those complaints were upheld compared to an overall rate of 9.4 per cent for complaints about all media.³⁵
- 2.75 These figures suggest that outdoor advertising attracts proportionately more dissatisfaction from the community. The higher rate of upheld complaints for outdoor advertising suggest that the industry may be using content in outdoor advertising that community members consider inappropriate for a wider audience.
- 2.76 Two issues are raised from this evidence. Firstly, should outdoor advertising constitute a special category of advertising which is subject to a different code regarding content and placement? The second issue is whether the current self-regulatory system has the capacity to adequately regulate outdoor advertising. This is considered in the following chapter.

Committee comment

- 2.77 The Committee understands that advertising self-regulation, within existing legislative frameworks, is the standard system in many developed countries. The self-regulatory system in Australia has undergone a
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33 ASB, 'Determination Summary: discrimination and vilification in advertising', October 2010, p. 5, <<http://adstandards.com.au/files/view/?id=189>> viewed 18 October 2010.

34 ASB, *Submission 27*, p. [50].

35 ASB, *Submission 27*, p. [49].

number of changes to improve its operation in relation to the development of codes addressing specific products and certain types of advertising. However little consideration has been given to outdoor advertising despite the expansion of this form of advertising and an increased number of complaints related to this form of advertising.

- 2.78 Outdoor advertising occupies public space and demands attention from a captive audience. As such, the content of outdoor advertising is a public policy issue as it affects the comfort and amenity of the public.
- 2.79 The Committee is of the view that outdoor advertising constitutes a special category of advertising. It should be addressed in different ways to that of other types of advertising, such as print and television, wherein consumers have more choice about engaging with the advertising. In much the same way as advertising to children and alcohol advertising are regulated by codes that ensure a social responsibility in line with community expectations is met, outdoor advertising requires a more socially responsible approach.
- 2.80 The Committee is not seeking to define what may or may not be acceptable to the Australian community. The Committee recognises that a breadth of views exist and that, due to that diversity, when an advertisement appears in a public space then its appropriateness should be considered with regard to an unrestricted audience.
- 2.81 This is not to suggest that ‘conservative views’ or what some might term ‘prudishness’ should prevail. Rather, the Committee considers that the appropriateness of content should be considered in line with the mainstream Australian community views of tolerance and acceptability. The target audience may be a minority group, however the presentation, placement and images of the advertisement should be in line with what a community would deem acceptable in an unrestricted public place. Such an approach should not curtail the effectiveness of targeted public interest campaigns, but should inform them in making a responsible choice.
- 2.82 To achieve this, the Committee concludes that outdoor advertising requires specific regulatory attention in order to address the unique nature of these advertisements that populate public spaces.
- 2.83 Defining the most appropriate regulatory approach to outdoor advertising requires an assessment of alternative regulatory models and the effectiveness of the current self-regulatory system for advertising. This is considered in the following chapter.

