

TPS 23 (Australian Content in Advertising) came into effect on 1 January 1992. The standard was the result of an extensive public inquiry which was part of the former Australian Broadcasting Tribunal's Australian Content on Commercial Television Inquiry.

## Australian content in advertising 1992 – 1997

Television Program Standard (TPS) 23 for Australian Content in Advertising requires at least eighty per cent of advertising time broadcast each year by licensees, between the hours of 6.00 a.m. and midnight, to be used for Australian produced advertisements. Up to twenty per cent of total transmission time is to be available for the broadcast of foreign produced advertisements.

### Commercials classification

Most advertisements are classified as Australian or foreign by the Commercials Acceptance Division (CAD) of FACTS. Advertising agencies submit the advertisements to FACTS CAD for classification and are required to answer questions about compliance with TPS 23. They are also required to declare that the information they supply to FACTS CAD is correct.

### Previous standards

TPS 23 replaced two earlier standards, TPS 18 and 19. These required that all advertisements transmitted by licensees be produced in Australia or New Zealand. There were, however, a number of significant exceptions which meant that in reality foreign advertisements and advertising matter were screened on Australian television before the current standard came into force.

Because all foreign material was deemed to be 'Australian' under the previous standard, there is no data showing how much advertising was foreign before 1992.

### Test for 'Australian' advertisements

TPS 23 sets an objective test for what is considered to be an 'Australian produced advertisement'. Under the standard there are two alternate circumstances in which advertisements are considered to be Australian produced.

6 (1) An advertisement is 'Australian produced' if:

(a) it is wholly pre-produced, filmed and post-produced in Australia or New Zealand or partly in Australia and partly in New Zealand; or

(b) if this is not the case — Australians (and/or New Zealanders) have exercised direction over the creative and administrative aspects of pre-production and post-production.

The creative control test for (b) requires that Australians or New Zealanders have fulfilled at least six out of ten nominated roles in the production of the advertisement. In effect, for most Australian advertisements, the test requires six out of nine criteria to be met, given that one criterion is only relevant to substantially animated advertisements.



## Inclusion of New Zealand

While New Zealand programs have never qualified as 'Australian' for the purposes of the Australian Content Standard, New Zealand commercials have fully qualified as 'Australian' since 1981. New Zealand advertisements were included in TPS 23 not by reason of the Australian and New Zealand Closer Economic Relations Trade Agreement but in recognition of the trans-Tasman relationships that had developed under the previous regulation (TPS 18 and 19).

The recent High Court decision, that ABA standards must be consistent with Australia's international obligations, has clarified the ABA's standard determination powers. TPS 23 meets this criterion.

## Compliance results

The compliance results for the first six years of the standard show that the level of foreign advertisements on commercial television remains well below the maximum amount of 20 per cent of total advertising broadcast time allowed under TPS 23.

| <b>Amount of foreign advertising</b> |            |            |            |            |             |             |
|--------------------------------------|------------|------------|------------|------------|-------------|-------------|
| Station                              | 1992       | 1993       | 1994       | 1995       | 1996        | 1997        |
|                                      | %          | %          | %          | %          | %           | %           |
| <b>Seven network</b>                 |            |            |            |            |             |             |
| ATN                                  | 5.6        | 9.1        | 9.9        | 10.0       | 10.5        | 12.6        |
| HSV                                  | 6.3        | 9.2        | 10.5       | 9.7        | 10.1        | 12.4        |
| BTQ                                  | 5.8        | 9.3        | 10.0       | 10.3       | 10.1        | 11.5        |
| SAS                                  | 5.2        | 9.0        | 9.3        | 9.7        | 9.8         | 10.6        |
| TVW                                  | 4.7        | 7.4        | 8.6        | 9.3        | 8.8         | 9.8         |
| <b>Average</b>                       | <b>5.5</b> | <b>8.8</b> | <b>9.6</b> | <b>9.8</b> | <b>9.9</b>  | <b>11.4</b> |
| <b>Nine network</b>                  |            |            |            |            |             |             |
| TCN                                  | 4.4        | 6.1        | 5.5        | 6.8        | 7.7         | 7.5         |
| GTV                                  | 5.5        | 5.3        | 5.2        | 6.5        | 7.6         | 7.7         |
| QTQ                                  | 4.3        | 5.2        | 5.2        | 6.0        | 7.7         | 7.4         |
| <b>Average</b>                       | <b>4.7</b> | <b>5.5</b> | <b>5.3</b> | <b>6.4</b> | <b>7.7</b>  | <b>7.5</b>  |
| <b>Ten network</b>                   |            |            |            |            |             |             |
| TEN                                  | 7.9        | 10.0       | 10.2       | 8.7        | 10.7        | 11.2        |
| ATV                                  | 8.8        | 9.8        | 9.7        | 8.9        | 11.0        | 11.4        |
| TVQ                                  | 7.7        | 10.1       | 9.4        | 8.2        | 9.6         | 8.2         |
| ADS                                  |            |            |            |            | 11.1        | 9.8         |
| NEW                                  |            |            |            |            |             | 8.4         |
| <b>Average</b>                       | <b>8.1</b> | <b>9.9</b> | <b>9.7</b> | <b>8.6</b> | <b>10.6</b> | <b>9.8</b>  |

\* Due to computer software development, 1992 figures for Nine and Ten do not cover the full year. Nine figures begin from 8 March 1992 and Ten from 3 May 1992.

\* Due to software problems in 1996, Ten did not report results for NEW in 1996.

\* Ten reported that NEW figures for 5 January–23 February 1997 were corrupt, and these figures have not been included in calculating the average figure for NEW in 1997

## CAD commercial clearance information

The standard provides for a system of regulation based on advertisements actually broadcast rather than on the number of advertisements cleared by Commercials Advice Pty Limited (CAD).<sup>1</sup> This approach recognises the different life-span of individual advertisements and the fact that some advertisements may be cleared by CAD but never appear on television.

CAD information is, however, a general indicator in relation to the issue of Australian and foreign advertising.

In the 1992–97 figures, there is no distinction between new, revised or tagged commercials. For instance, advertisements which are identical but for the last few seconds which give different outlet information each have a unique key number and CAD number.

In the second half of 1995, FACTS CAD (CAD's predecessor) introduced a new system which classes commercials as new, resubmitted or tagged and classifies them according to 40 product categories. This enhanced information about foreign commercials allows the ABA to report on the number of new foreign advertisements cleared by CAD and provide a breakdown by product category of foreign advertisements. There were 1554 foreign commercials cleared by CAD in 1997, of these 713 were new commercials. The remainder were tags or minor revisions, resubmitted advertisements and sponsorship billboards. In 1996, 1605 foreign commercials were cleared and of these 677 were new. The remainder again were resubmitted foreign advertisements and sponsorship billboards.

Since the introduction of TPS 23 the number of foreign commercials cleared by CAD has gradually increased. At the same time, the data also indicate that the number of Australian commercials cleared has remained within the same range.

| <b>CAD commercials clearance data</b> |        |        |        |        |        |        |
|---------------------------------------|--------|--------|--------|--------|--------|--------|
|                                       | 1992   | 1993   | 1994   | 1995   | 1996   | 1997   |
| <b>Australian</b>                     | 32 684 | 32 280 | 31 443 | 31 627 | 32 330 | 32 713 |
| <b>Foreign</b>                        | 1011   | 1115   | 1342   | 1505   | 1605   | 1554   |
| <b>Exempt*</b>                        | 2690   | 4051   | 4605   | 4622   | 5462   | 5521   |
| <b>Total</b>                          | 36 385 | 37 446 | 37 390 | 37 754 | 39 397 | 39 788 |
| <b>Foreign % of total</b>             | 2.8%   | 3.0%   | 3.6%   | 4.0%   | 4.1%   | 3.9%   |

\* Advertisements for imported cinema films, videos, recordings, live appearances by overseas entertainers and paid community service announcements are exempt from the standard

<sup>1</sup> *Commercials Advice Pty Limited (CAD) is wholly owned by the members of the Federation of Australian Commercial Television Stations. CAD is a system for the provision of regulatory advice for television commercials.*