



Standards in jeopardy

*Australia's new advertising standards watchdog exhibits worrying traits, explains the Australian Consumers' Association's **Matt O'Neill**.*

After almost twelve months of negotiations involving the Federal Bureau of Consumers' Affairs (FBCA), the Australian Competition and Consumer Commission (ACCC) and the ACA, the Australian Association of National Advertisers (AANA) has decided to go it alone, effectively locking out key stakeholders from its new system. However, the new scheme looks more like industry self-protection than responsible self-regulation, with no sanctions, a weaker code of ethics, lack of transparency and advertisers advising themselves on advertising standards.

Meet the AASC

The new standards body, the Australian Advertising Standards Council (AASC), consists of a 14 member Advertising Standards Board (ASB) which will rule on issues of taste and decency and an Advertising Claims Board to deal with competitor-to-competitor disputes. In an effort to build collective influence the AANA has recruited some big names for the ASB, including author Thomas Keneally, former cricketer Geoff Lawson and newsreader Anne Fulwood. Unfortunately, this board is more style than substance. It adds glamour but takes away more grounded community representation. The scheme's weak structure also makes the board's actions less relevant.

The ASB will benchmark decisions with a code of ethics which is generally substantially weaker than any we've previously had. For example, with regards to advertising to children, the former reference to 'physical, mental or moral harm' contained in the previous code has been

replaced with 'alarm and distress' as criteria used judge a breach of the code.

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The test for whether an ad may cause offence with regard to the portrayal of women has also been substantially escalated. Gone are the words, 'demean the dignity of', replaced by 'mustn't vilify or discriminate against'. In response, the National Women's Media Centre has re-established its own complaints hotline and will continue to lobby the government on the issue.

What's wrong with the scheme?

Whilst the Advertising Standards Board (ASB) presents a veneer of great repute there are structural flaws in the system which may render it useless. Advertisers will merely be asked to remove or modify offending advertisements and there are no penalties for non-compliance. We do not share the AANA's confidence in the Board's influence to have offending ads withdrawn, given the large commercial investments committed to creative development and pre-booked media time.

With the previous system consumers could take comfort that media outlets would act unilaterally to remove offending advertisements. Under the new scheme, even if advertisers heed decisions it may be a

token gesture made after ad campaigns have run their course. The proposed time-line for complaint resolution may stretch beyond two months. If this or any other aspect of the new scheme becomes problematic we'll just have to trust the AANA to take criticism on board. No formal review process for the scheme has been established.

What price free speech?

The AANA will fund the scheme with a levy placed on advertising dollars which will be collected by advertising agencies. To this end, it is hard at work selling the scheme to advertisers with the idea that it will protect their freedoms of speech. In fact, the AANA appears to be assuring its members that their commercial rights will not be interfered with unless courts decide otherwise. Here the AANA has missed the point: alternate dispute resolution schemes are all about keeping disputes out of the courts – this is accepted practice in the '90's. If this scheme's weaknesses aren't fully apparent to the AANA, you can bet they will be to the ACCC.

The federal government is not likely to endorse the new scheme. It too sees the fundamental shortfalls of a lack of consumer input and an industry that is dictating how it delivers protection to the community. The new scheme amounts to a risky experiment with numerous loopholes to encourage advertisers to push beyond the boundaries of prevailing community standards. We will be closely monitoring the AASC's performance. If it fails to deliver, the federal government will need to react quickly with a more effective co-regulatory approach.