



Submission to

**ADMA Code Review:
An ADMA Discussion Paper**

on behalf of

Australian Association of National Advertisers

13 September 2013

Section 1: Executive Summary

- AANA represents Australia's national advertisers. AANA established the self-regulatory system for advertising and marketing communications in 1997. Since that time, new codes have been introduced and the existing over-arching codes have been amended to keep pace with the ever evolving advertising, marketing and media industry. The Code of Ethics is the cornerstone of the advertising self-regulatory system and is supplemented by the AANA Code of Advertising and Marketing to Children, Food & Beverages Code and Environmental Claims Code.
- The self-regulatory system is underpinned by an independent, transparent and robust complaints handling system which was established by AANA over a decade ago. The complaints handling system is administered by the Advertising Standards Bureau and complaints are adjudicated by the Advertising Standards Board, made up of individuals who are representative of the community and not connected to the advertising industry.
- In evolving and developing the AANA self-regulatory system, the AANA is the respected voice for brands, and reflects brand owners' intent to meet the community's expectation for standards in advertising and marketing communications. As such, the AANA is the custodian and champion of the over-arching system of self-regulation. The system is recognized and endorsed through inclusion in other self and co-regulatory systems, whose members support the decisions of the ASB.
- The AANA welcomes ADMA's contribution to ensuring marketing activity remains ethical in the evolving media landscape and is pleased to respond to ADMA's review. AANA agrees with and believes that the current objectives in the ADMA Code remain relevant and operate as a useful framework for the Code and its application. In particular they serve well to position the ADMA Code as an enabler for the compliance activity of ADMA members.
- How brand owners and their agents handle 'data' is clearly an increasingly important element in maintaining the public's confidence in the self-regulatory system for marketing communication, but it is probably more accurate to say that 'data handling needs to be consistent with the principles of the over-arching AANA self-regulatory Codes' rather than 'to put data at the centre of self-regulation'. That is because at the centre of the self-regulatory system are the concepts of being ethical, transparent and upholding community standards in all aspects of interaction with consumers, irrespective of the medium of communication.
- In relation to social media, it is the decision of major advertisers (and adopted by the AANA and endorsed by the World Federation of Advertisers) that the AANA self-regulatory system must apply to social media activity over which the brand owner has a reasonable degree of control that includes user generated content on brand-owned and operated social media pages. The Advertising Standards Bureau has and will continue to adjudicate against UGC on advertiser-owned social media pages so it would cause confusion to advertisers and their agencies and potentially undermine community and government confidence in the self-regulatory system if ADMA were to release a guideline or 'code' which runs contrary to this position.
- If ADMA is minded to expand and adjudicate on its own Code it should do so in such a way that does not cut across the AANA Codes and call into question the public's confidence in the integrity of the self-regulatory system and impose unnecessary additional cost on brand owners.

Section 2: Introduction

Australian Association of National Advertisers (AANA) welcomes the review and appreciates the opportunity to provide this submission to the ADMA Code Review.

AANA is the peak body and has represented national advertising for over 85 years. It represents the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

AANA serves to protect the rights of consumers in ensuring advertising and marketing communications is conducted responsibly, including through its development and administration of industry codes and the self-regulatory system.

The advertising, marketing and media industry plays a fundamental economic role in society and contributes in excess of \$30 billion to the Australian economy annually.

It is the driver of consumer choice and, by promoting competition, helps consumers get better value for money. It enables innovation to be brought to market and stimulates economic growth and jobs. It provides substantial funding to support media and a variety of media content.

AANA has a strong ongoing commitment to self-regulation. AANA designed and delivered the self-regulatory component of regulation controlling advertising and marketing communications in Australia.

AANA's self-regulatory system applies to all media and all forms of advertising and marketing communications.

This submission comments on the following issues in response to the ADMA Discussion Paper:

Section 3: AANA Self regulatory system – an overview

Section 4: ADMA Code Objectives

Section 5: Social media application

Section 6: Data Analytics

Section 7: Content Marketing

Section 8: Online Advertising

Section 9: ADMA Code Enforcement

Section 3: The AANA Self-Regulatory System – an overview

Self-regulation is an essential part of the Australian business landscape and contemporary society. It flourishes through strong leadership, commitment and cooperation across business, government and the community at large. Self-regulation is not the exclusive domain of any one particular body but the collective concern of many players, large and small.

The self-regulatory system for advertising and marketing communications in Australia was established by AANA in 1997. The establishment of the self-regulatory system was in response to advertisers' recognition that they have a responsibility to deliver agreed and trusted standards. In establishing and evolving the self regulatory system the AANA represents and reflects the collective thinking of its members, the brand owners. As such the self regulatory system is developed by brand owners and represents the evolving nature of the advertising and marketing.

In evolving and developing the AANA self-regulatory system, the AANA is the respected voice for brands, and reflects brand owners' intent around community standards in advertising and marketing communications. As such, the AANA is the custodian and champion of the overarching system of self-regulation.

The AANA welcomes ADMA's contribution to ensuring marketing activity remains ethical in the evolving media landscape and is pleased to respond to ADMA's review.

a) A role for self-regulation

The AANA system of self-regulation sits alongside and complements systems of regulation, co-regulation and self-regulation.

Regulation can be seen in the form of Federal and State legislation such as the Australian Consumer Law (Cth) and the various State Fair Trading Acts, the Therapeutics Goods Act 1989 (Cth) and the Tobacco Advertising Prohibition Act (1992).

Examples of co-regulation include the Codes of Practice developed by various industry associations under the Broadcasting Services Act 1992, including the Free TV Australia Code of Practice, the Commercial Radio Codes of Practice and the ASTRA Codes of Practice.

While these Codes apply to the particular broadcasters who operate in the relevant industry, the AANA Codes apply across the board to all media and all advertisers. The AANA Codes are technology and platform neutral.

b) Recognition in other self-regulatory and co-regulatory systems

A real strength of the self regulatory system is the recognition of the AANA Codes and self regulatory system in other self regulatory and co-regulatory codes. For example, various media organisations directly incorporate by reference or refer to the AANA Codes. The Free TV Code of Practice, the ASTRA Codes, the CRA Codes and the OMA Code of Ethics all reference the AANA self regulatory codes.

AANA also notes that the broadcaster codes (the Free TV Codes, the CRA Codes and the ASTRA codes) are registered by the Australian Communication and Media Authority (ACMA) on the basis that they provide appropriate community standards. The references within those Codes

to the AANA Codes are indicative also of support by the ACMA for their protection of community standards.

These endorsements provide support for and acknowledgement that brand owners accept responsible for reflecting community standards in all their advertising and marketing communications across all media and activities.

c) Section 5. The Complaints Handling System

AANA refers to and supports the separate submission of the Advertising Standards Bureau in relation to the complaints handling system. AANA in addition notes the following for ADMA.

- **Establishment of the ASB**

The AANA Codes are underpinned by a transparent complaints adjudication system administered independently by the Advertising Standards Bureau. The system is funded by advertisers and accessible free of charge by the community.

AANA sponsored the formation of the Advertising Standards Bureau and Board in 1998, since then it has operated under separate management, funded by a levy on advertising administered by the Australian Advertising Standards Council Ltd.

With advertisers, marketers and media sharing a common interest in promoting consumer confidence in and respect for advertising and marketing communications, the self-regulatory system has industry-wide backing. Complaints about advertising are determined by the Advertising Standards Board, while competitive complaints are referred to the Advertising Claims Board.

- **Transparent and Robust Complaints Handling system**

The complaints handling system is transparent and robust. It is well recognised in Australia by consumers and advocates alike. The ASB reports a high level of consumer awareness of the advertising complaints system.

Many advertising associations and media websites direct complainants to the ASB. See the links set out in section 3(c) below.

d) The benefits and evolution of AANA self-regulation

Self-regulation of the advertising and marketing communications industry, which includes six AANA Codes, various AANA Practice Notes, and a number of industry initiatives, provides a flexible mechanism to meet the challenges of the ever-evolving advertising, marketing and media industry, along with changing consumer expectations.

The industry is experiencing a revolution in that advertisers are no longer exclusively driving consumer demand. There is a growing movement towards consumer driven marketing. This will require a quick and innovative response by companies in their advertising and marketing practices.

The response by the advertising and marketing industry is reflected in a review of the self-regulatory system (Codes and initiatives) and amendment and refinement to keep pace with the

fast moving advertising and marketing environment.

The AANA Code of Ethics and other AANA Codes are subject to a continual process of review and refinement. In 2007 AANA amended all the AANA Codes to expand their ambit from “advertising” to “advertising and marketing communications”. This broadening of the Codes was in response to changes in the media landscape and the increasing opportunities available to advertisers and marketers.

AANA’s view was that it was no longer appropriate for the Codes to be confined to advertising (as it was traditionally understood). The amendment was designed to ensure that all advertising and marketing communications, including those on the internet and social media sites were clearly within the ambit of the AANA Codes and the AANA’s self-regulatory system.

The definition is:

Advertising or marketing communications means any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and

- *over which the advertiser or marketer has a reasonable degree of control, and*
- *that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organization or line of conduct,*

but does not include Excluded Advertising or Marketing Communications.

AANA’s full suite of Codes, Practice Notes and Guidelines can be found [here](#).

As noted above, the AANA while owning the codes which sit at the heart of advertising and marketing self-regulation, acknowledges the key input and support by all organisations in the advertising and marketing industry. In particular, AANA notes that the AANA codes and ASB complaints handling system are referenced in a number of other industry codes, as listed below:

1. [Commercial Television Industry Code of Practice](#)

Clause 6.5.3, Television advertisers are also expected to ensure that their commercials comply with the Advertisers Code of Ethics and the Code for Advertising and Marketing Communications to Children (as set out as Appendices 1 and 2 of this Code as amended from time to time).

Free TV Australia directs consumers to the Advertising Standards Bureau for complaints about advertising; [click here](#), item 2 Complaints about Advertising.

Free TV Australia and its members further support the application of the AANA Codes and the decisions of the Advertising Standards Bureau by withdrawing approval for all television advertisements which are the subject of an upheld determination.

2. [Australian Subscription Television and Radio Association \(ASTRA\) Codes of Practice](#)

Astra has a number of Codes all of which reference the AANA Codes where relevant. See below for links to relevant codes.

Subscription Broadcast Television Code:

[SBT Code](#)
[Attachment A](#)
[Attachment B](#)
[Classification Guidelines](#)

Subscription Narrowcast Television Code:

[SNT Code](#)
[Attachment A](#)
[Attachment B](#)
[Attachment C](#)

Open Narrowcast Television Code:

[ONT Code](#)
[Attachment A](#)

[SNR Code](#)

For example, Clause 6.1 (a) of the Subscription Broadcast Television Code, provides that advertisements broadcast by Licensees must comply with any relevant Australian Association of National Advertisers' Codes, including the Code of Ethics, the Code for advertising to Children and the Food and Beverages Advertising & Marketing Communications Code and Licensees must refer advertising complaints to the Advertising Standards Bureau where appropriate.

3. [Commercial Radio Association \(CRA\) Codes of Practice](#)

Clause 3.1 (b) Advertisements broadcast by a licensee must comply with all other Advertising Codes of Practice so far as they are applicable.

Further CRA directs consumers to the Advertising Standards Bureau for complaints about advertising; [click here](#).

4. [Outdoor Media Association \(OMA\)](#)

OMA represents outdoor media owners and provides support or the AANA self regulatory system by referencing and incorporating the AANA Codes into their Code of ethics and by committing OMA members to fully comply with the decision of the ASB by removing material the subject of upheld complaints.

The OMA Code of Ethics provides:

We only endorse the display of advertising that adheres to the following advertising industry codes of practice:

- *Australian Association of National Advertisers (AANA) Code of Ethics*
- *AANA Environmental Claims in Advertising and Marketing Code*
- *AANA Code for Advertising and Marketing Communications for Children*
- *AANA Food and Beverages Advertising and Marketing Communications Code*
- *AANA Quick Service Initiative*

- *The Alcohol Beverages Advertising Code (ABAC)*
- *The Federal Chamber of Automotive Industries' Voluntary Code of Practice for Motor Vehicle Advertising*
- *The Therapeutics Goods Advertising Code*
- *The Weight Management Industry Code of Practice*

RECOMMENDATION:

AANA recommends that ADMA include a clause to link to and incorporate by reference the AANA Codes. Industry wide consistency and collaboration sit at the heart of the strength of the self regulatory system and is an enabler of government and consumer confidence.

Suggested drafting for the clause is:

This Code incorporates by reference the AANA (Australian Association of National Advertisers) Codes.

Members are expected to ensure that their advertising or marketing communications comply with the AANA Codes.

Section 4: ADMA Code Objectives

a) AANA supports ADMA's objectives

AANA agrees with and believes that the current objectives in the ADMA Code remain relevant and operate as a useful framework for the Code and its application.

In particular they serve well to position the ADMA Code as an enabler for the compliance activity of ADMA members.

b) AANA view of Options 1 and 3

The ADMA Code Review discussion paper provides three Options for Code Objectives. Options 1 and 3 each allow ADMA to amend and evolve the Codes' objectives with the intent of ensuring businesses and consumers have access to product and service information they need to make informed choices.

AANA notes Option 1 which would require the existing Objective clause to be amended to reflect regulatory and legislative updates. AANA notes that amending the Objectives clause is the most efficient approach to ensure the currency of the Code and would allow ADMA to recast the Code to focus on data rather than on telemarketing in particular. In AANA's view fair trading issues remain important and relevant.

AANA supports the principles in Option 3 which would enable ADMA to provide compliance tools for its members in relation to relevant regulation and legislation.

c) AANA view of Option 2

ADMA's discussion paper notes that under Option 2 ADMA would adopt a "principles" based overarching Code with sub codes and guidelines. ADMA further notes that adopting Option 2 would enable ADMA to put "data" are the centre of self regulation.

AANA respectively submits that community standards sit at the heart of self regulation. It is the view of industry and government that the AANA self regulatory system, Codes, Practices Notes and Guidance is the overarching self regulatory system which is acknowledged by brand owners, media organisations, and government as a providing appropriate community safeguards. It is important that the confidence of industry, consumers and governments is enabled and enhanced by the suite of self-regulatory codes and initiatives of industry.

At the very heart of the self regulatory system is the concept of community standards. This concept underpins the restrictions in all the Codes across the AANA self regulatory system and provides the flexibility and ability for the Advertising Standards Bureau to evolve and adapt the system and the restrictions as community standards evolve and change.

The core purpose of self-regulatory Codes, not only within Australia but globally, is to ensure that marketing communication is perceived by consumers and the wider society to be legal, decent, honest and truthful and the system also seeks to ensure a sense of fairness and responsibility to competitors. In other words, consumers have an expectation that all advertising and marketing communications will comply with community standards no matter where they are viewed, or accessed, and no matter the underlying method, media or transactional relationship between the marketer and the consumer.

AANA submits that if ADMA were to proceed with option 2 to put data at the centre of self regulation that the resulting codes would be duplicative of the AANA self regulatory system and would create confusion in the marketplace, both for brand owners and their agents, but also for the consumer.

How brand owners and their agents handle 'data' is clearly an increasingly important element in maintaining the public's confidence in the self-regulatory system for marketing communication, but it is probably more accurate to say that 'data handling needs to be consistent with the principles of the over-arching AANA self-regulatory Codes' rather than 'to put data at the centre of self-regulation'. That is because at the centre of the self-regulatory system are the concepts of being ethical, transparent and upholding community standards in all aspects of interaction with consumers, irrespective of the medium of communication.

Section 5: Social media application

It is AANA's view, supported by industry and the World Federation of Advertisers that the AANA self regulatory system provides appropriate community safeguards in all media, including social media and user generated content. The AANA's approach in covering the field around community standards in advertising and marketing communications is described below.

As this submission outlines above, the real strength of the AANA self-regulatory system is its remit which covers all marketing in all media along with the transparent and robust complaints handling system of the ASB.

It is the decision of major advertisers (and adopted by the AANA and endorsed by the World Federation of Advertisers) that the AANA self-regulatory system must apply to social media activity over which the brand owner has a reasonable degree of control that includes user generated content on brand-owned and operated social media pages. The Advertising Standards Bureau has and will continue to adjudicate against UGC on advertiser-owned social media pages so It would cause confusion to advertisers and their agencies and potentially undermine community and

government confidence in the self-regulatory system if ADMA were to release a guideline or 'code' which runs contrary to this position.

a) Evolution of the AANA Self-Regulatory System

As discussed above in Section 3, the AANA broadened the scope and remit of the self regulatory system in 2008 through amendments to the AANA Code of Advertising and Marketing Communications to Children. These amendments followed an exhaustive review, consultation and significant input from stakeholders and the community. As a result the AANA's definition of advertising was expanded to include marketing communications over which the brand owner has a reasonable degree of control.

These amendments were a deliberate move by the AANA to ensure that the self regulatory system evolved to mirror changing advertising and marketing practices. The definition was expanded and the Codes amended to now cover marketing along with advertising. The amendments reflected the intent of the AANA and its member to ensure that the community could expect the same community standards to apply no matter the media or activity.

From that time the amendments were applied by the Advertising Standards Bureau to complaints under the Code of Ethics and other Code in the AANA self regulatory system. In 2010, the Code of Ethics was amended and drafting included to catch up with the expanded definition which had been applied by the ASB since 2008. It was at this time that the AANA developed the Practice Note to reflect AANA's intent of the Code.

It was as a result of the 2008 amendments, that the AANA determined that the definition would be broadened. This clear intent was then applied by the ASB following a complaint about a user generated content on a brand's Facebook page. Following that decision, the AANA prepared and then released Guidelines to assist brand owners and their agencies in the application of the Codes in the social media space.

In both the 2008 and 2010 reviews AANA clearly intended that the it would extend the reach of the self- regulatory system into the digital space and include within its ambit the various forms of marketing in that space.

b) Application of the Codes to User Generated Content

The ASB/ Facebook determinations in August 2012 considered the nuanced situation of UGC within a brand's control and determined it was part of a brand's marketing communication and subject to the Code.

The recent drafting in the Practice Note catches up the drafting with the intent in the Code and the ASB nuanced determinations. It is not an amendment to the Code but a further reflection of AANA intent; in other words, through this work AANA is not extending the reach of the Code but confirming its reach as was originally intended.

c) Practical Application of the Codes and ASB decision

At a practical level, the extension of the self-regulatory system into the digital space back in 2008 did not impact on the use of the medium by marketers. Similarly since the two ASB Facebook determinations in August 2012, AANA members have not seen a reduction in the level of engagement by either consumers or brands in the social media space. Further, there has not

been a single complaint about user generated content (UGC) to the ASB or an investigation by the ACCC under the Australian Consumer Law.

In AANA's view, brands' ownership of the space and acceptance of their responsibility has created a compliant space and in so doing has facilitated ongoing opportunities for brands to continue their engagement in the conversational space.

The AANA developed the guidelines to assist brand owners, agencies and the community to better understand the application of the AANA's Codes in social media and in the digital space. The guidelines also take into account the recent determinations of the ASB.

AANA's members compose Australia's leading marketers. They are all confident that the application of the AANA Codes in this space and these guidelines will help, not hinder, social media dialogue. Leading brands have already adopted such practices internally; the Guide merely articulates them externally so there is no ambiguity about how brands will engage with consumers in a conversational space.

AANA brand owners who have reflected the Best Practice Guidelines in their internal procedures, have noted an absence of consumer concern in relation to the practice of moderation. In our view, it is beholden on brand owners to act responsibly in the space and in so doing to set the tone for consumer engagement and conversations.

d) Support by the World Federation of Advertisers (WFA)

Following the release in August 2013 of Guidelines by the Interactive Advertising Bureau (IAB), the WFA endorsed the work of the AANA in this space.

WFA Managing Director Stephan Loerke has said:

"The principle the AANA is applying to the use of social media is consistent with best practice worldwide. Consumers and regulators fully expect that brand owners should aspire to the same ethical standards in social media as they do in mainstream advertising. That commitment involves taking responsibility for what's posted on brand-owned social media pages irrespective of the origin of the comments. If self-regulatory systems fail to allow their independent adjudicators to consider user-generated content posted on brand-owned pages as marketing communication, it will call into question the relevance and credibility of self-regulation."

e) AANA Recommendation

Recommendation: Following the work by the AANA in the evolution of the AANA self regulatory system and the Digital Media Guidelines, AANA recommends that the ADMA Code reference and incorporate the Guideline.

Section 6: Data Analytics

AANA acknowledges the importance of data for marketing and advertising and the complex issues and regulatory systems in place. AANA also appreciates the consumer and sometimes government concern in relation to the collection, storage and use of people's data, particularly in the online environment. As end users of data, AANA's members, seek to ensure that the handling of data and their use of data complies with privacy laws and other related regulatory requirements.

In the development of additional self regulatory codes or guidelines in the space, AANA confirms that it would like to collaborate with ADMA and other relevant industry bodies to ensure that such guidelines are compliant with privacy laws and the spirit of AANA's over-arching self-regulatory Codes.

Section 7: Content Marketing

The AANA self regulatory system covers all advertising and marketing communications across all media. As set out in section 3(c) above at the very heart of the definition is marketing communication that promote a good or service. This definition does not distinguish between content and marketing, but acknowledges and reflects the reality that marketing messages can take many forms and in a variety of media and channels. Another key trigger point for the AANA self regulatory system is the concept of reasonable control, which seeks to impose sensible parameters around what is included within the system.

It is only marketing and advertising which promotes a good or service and which is within a brand owner's reasonable control is subject to the restrictions in the Code.

It is AANA's view that the AANA self- regulatory system adequately covers the field of all advertising and marketing communications, whether it is "content" or not. Additional self regulatory codes in this space will only seek to confuse industry, consumers and government.

a) Content restrictions within the AANA Codes

The AANA Codes restrict the content or messaging of advertising and marketing communications. The restrictions are underpinned by the concept of community standards which is defined by the Codes and practice notes and interpreted and applied by the ASB.

The restrictions within the Codes are very comprehensive and are described below.

b) AANA Code of Ethics¹

The objective of the Code of Ethics is to maintain community standards in advertising and marketing. It includes contains provisions dealing with the portrayal of people (including discrimination and vilification), portrayal of violence, treatment of sex, sexuality and nudity, use of language and prevailing community standards on health and safety.

The AANA Code of Ethics is in step with and in some cases ahead of the self-regulation of marketing communications elsewhere in the world. It shares much in common with Western Europe and North America and is ahead of systems in much of Asia and Eastern Europe.

The content restrictions within the Code of Ethics are:

- **Portrayal of People**

Section 2.1 Advertising or marketing communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community

¹ http://www.aana.com.au/codes/AANA_Code_of_Ethics-01012012.pdf

on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

This section describes a number of types of behaviour and restricts depictions of those types of behaviour against people within certain groups. It is a wide reaching section which reflects the community's view that advertising or marketing should not use images which treat people unfairly or less favourably or which humiliate, intimidate, incite hatred, contempt or ridicule.

- **Sexual Appeal**

Section 2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

Section 2.2 addresses concerns about the objectification of people. It was introduced in the review of the Code of Ethics and is a direct response by the AANA about community concerns in relation to objectification. The section restricts the use of images which employ sexual appeal which is exploitative and degrading of any individual or group of people. It is not limited to images of women but applies more broadly.

In advertisements where images of children are used, sexual appeal is not acceptable and will always be regarded as exploitative and degrading. Advertisements must not state or imply that children are sexual beings and that ownership or enjoyment of the advertised product will enhance their sexuality. Children must not be portrayed in a manner which treats them as objects of sexual appeal.

- **Violence**

Section 2.3 Advertising or marketing communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

The restriction on violence is a direct prohibition on the portrayal of violence. Depictions of violence are only permitted if justified in the context of the product or service advertised.

Consequences of violence may also be prohibited however graphic depictions of traffic accidents or the consequences of domestic violence may be justified by the community safety message involved. Sexual violence is not acceptable.

- **Sex, Sexuality and Nudity**

Section 2.4 Advertising or marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

This section applies equally to images of men as well as images of women and children.

Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards.

- **Language**

Section 2.5 Advertising or marketing communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

This section prohibits strong or obscene language. Use of other language must be appropriate in the circumstances including appropriate for the relevant audience and medium.

Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted (provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner).

- **Health and Safety**

Section 2.6 Advertising or marketing communications shall not depict material contrary to Prevailing Community Standards on health and safety.

This is a wide reaching section which is intended to restrict a range of images which is contrary to prevailing community standards on health and safety.

The following are examples of images which are prohibited:

- bike riding without helmets
- passengers not wearing a seatbelt
- advertisements depicting unsafe practices or images, such as riding down a hill in a wheelie bin, using a mobile phone while driving or apparently hiding in a chest freezer etc are unacceptable.
- Bullying
- Depictions of smoking

Of particular concern are depictions of behaviour that children may imitate.

c) AANA Code of Advertising to Children, Food and Beverages Code and Environmental Code

In addition to its Code of Ethics, AANA has developed three other specialised codes to address the specific circumstances of advertising to children, the advertising of food and beverages and environmental claims in advertising.

More detail on these Codes follows:

- AANA Code for Marketing & Advertising Communications to Children²

AANA acknowledges that advertising or marketing to children requires special care and this is reflected in the AANA Code of Advertising to Children.

The restrictions in the Code apply to all advertising and marketing communication which

² http://www.aana.com.au/codes/AANA_Advertising_Marketing_Comms_to_Children_Code-082009.pdf

is primarily directed to children 14 years old or younger. This recognizes that advertising must be targeted toward children in a specialized way to engage or resonate with children. In other words, only advertising which is speaking directly to a child is subject to the restrictions in the Code. This reflects the fact that children see marketing messages in many different contexts, however, unless these are particularly directed to them, they have little, if any resonance or engagement with the child.

The Code contains provisions dealing with sexualisation of children, misleading and deceptive conduct, parental authority, competitions, premiums, food and beverage advertising and privacy.

- AANA Food & Beverages: Advertising & Marketing Communications Code³

The AANA's Food & Beverages Advertising & Marketing Communications Code became fully operational on 1 March 2007

It has gained international recognition as a world first.

The Code is based on International Chamber of Commerce principles, and is designed to ensure a high sense of social responsibility in advertising and marketing of food & beverage products and services in Australia.

- Environmental Claims in Advertising and Marketing Code⁴

This Code was launched on 14 September 2009.

The object of this code is to ensure that advertisers and marketers develop and maintain rigorous standards when making Environmental Claims and to increase consumer confidence to the benefit of the environment, consumers and industry.

- Motor Vehicle Code

The Voluntary Code of Practice for Motor Vehicle Advertising applies to all advertisements published or broadcast in Australia from 1 July 2004. It was adopted after a review of the original Code which came into effect in August 2002.

The Code was developed by AANA in consultation with the Federal Chamber of Automotive Industries (FCAI). It was formally adopted by the FCAI from 1 July 2004.

The Motor Vehicle Code of Practice for Motor Vehicle Advertising has been instituted by FCAI as a means of industry self-regulation of motor vehicle advertising in Australia. The primary purpose of the Code is to provide guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety.

³ http://www.aana.com.au/codes/AANA_Food_Beverages_Code-082009.pdf

⁴ http://www.aana.com.au/codes/AANA_Enviro_Claims_in_Advertising_Marketing_Code-092009.pdf

Section 8: Online Advertising

The AANA is working with the Interactive Advertising Bureau (IAB) and the Association for Data Driven Marketing and Advertising (ADMA) and other industry associations to ensure that consumers can have confidence that their privacy expectations will not be compromised. The AANA, along with the IAB and ADMA have together developed standards and programmes to provide internet users with transparency and control over online behavioural advertising (OBA). These standards are consistent with global practices.

AANA will continue to work in Australia with industry partners, and internationally through the World Federation of Advertisers to help consumers to understand and manage their privacy preferences. This is one of a suite of initiatives that the AANA is involved with to meet community expectations about responsible marketing and business practices on the internet. The overall aim is to keep pace with technology enablers so that self-regulation in the digital space is as effective as it is in the traditional media environment.

The cross industry initiative includes the consumer website youronlinechoice.com.au, which gives Australians the ability to switch off (opt-out of) tracking cookies that are used to serve interest-based ads.

A real strength of the OBA Guidelines and youronlinechoices.com.au was the cross industry collaboration and the expertise and capability which each of the Australian industry associations brought to the group's output.

In AANA's view, while any one industry group can and should reference the work in their self regulatory groups, it must be clear that the guideline and website are the purview of a group of associations, and not the remit solely of any one of them.

Section 9: ADMA Code Enforcement

AANA has reviewed and fully supports the submission of the Advertising Standards Bureau provided to ADMA in response to the Discussion Paper.

In AANA's view, the ASB should be a 'one-stop shop' for all consumer complaints, irrespective of which body actually adjudicates on complaints. There is precedent for this in the case of the alcohol codes where ASB is the consumer access point for all complaints.

If ADMA is minded to expand and adjudicate on its own Code it should do so in such a way that does not cut across the AANA Codes and call into question the public's confidence in the integrity of the self-regulatory system and impose unnecessary additional cost on brand owners.