



Submission to

**Inquiry into sexualisation of children and young people,
Parliament of New South Wales, Committee on Children
and Young People**

on behalf of

Australian Association of National Advertisers

February 2016

Introduction

The AANA welcomes the opportunity to provide this submission to the Inquiry into the sexualisation of young people, Parliament of NSW.

The AANA is the peak body for advertisers 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.

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

The AANA's self-regulatory system applies to all media and virtually all forms of advertising and marketing communication. The AANA protects the rights of consumers by helping to ensure advertising and marketing communication is conducted responsibly, including through its development and administration of industry codes and the overall self-regulatory system.

The advertising, marketing and media industry plays a fundamental economic role in society and contributes approximately \$7.2 billion to the Australian economy annually¹.

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.

The AANA self-regulatory system

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. While the AANA is responsible for developing and maintaining the overarching Codes, self-regulation is not the exclusive domain of any one particular body but the collective concern of many players, large and small.

The current self-regulatory system for advertising and marketing communication in Australia was established by the AANA in 1997. Its establishment was due to advertisers' recognition that they have a responsibility to deliver marketing that is aligned to community standards and expectations. The AANA system of self-regulation sits alongside and complements systems of regulation, co-regulation and self-regulation. Self-regulation of the advertising and marketing communication industry provides a flexible mechanism to meet the challenges of the ever-evolving advertising, marketing and media industry, along with changing community expectations.

The AANA self-regulatory system provides Codes that reflect community standards in relation to the regulation of advertising and marketing and have evolved following public consultation. The Codes are technology and platform neutral and provide a uniform set of self-regulatory standards for

¹ *Valuing Australia's Creative Industries*, December 2013 <http://livemusicoffice.com.au/wp-content/uploads/2015/07/CIIC-Valuing-Australias-Creative-Industries-2013.pdf>

advertising and marketing communication.

Complaints about advertising are directed to the Advertising Standards Bureau which administers the operation of the independent adjudicators, who comprise the Advertising Standards Board².

Brand owners who are found in breach of the standards are required to remove or amend the relevant marketing material, irrespective of the platform.

The Code of Ethics is the cornerstone of the advertising self-regulatory system and is supplemented by a Code of Advertising & Marketing Communications to Children (Children's Code), a Food & Beverages Code and an Environmental Claims Code.

In evolving and developing the AANA self-regulatory system, the AANA reflects brand owners' intent to continue to meet the community's expectations for ethical standards in advertising and marketing communications. The system is recognised and endorsed through inclusion in other self and co-regulatory systems, and all major media owners have agreed to support the decisions of the Advertising Standards Board.

Platform neutral, national approach

The definition of "Advertising or Marketing Communication" in the AANA Codes ensures virtually all commercial communication is captured (including third party comments – e.g. user-generated comment - on brand-owned social media sites). This means that the standards specified in the AANA Codes in relation to marketing to children or marketing that portrays children apply equally across all media.

In the AANA Codes, ***Advertising or Marketing Communication*** 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, organisation or line of conduct.*

Medium is defined as *any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, television, telecommunications, or other direct to consumer media including new and emerging technologies.*

In this way the AANA Codes do not make a distinction between traditional media advertising, including outdoor advertising, and digital advertising or social media.

The AANA recently announced a revised definition of "advertising or marketing communication" which came into effect on 1 January 2016. The revised definition clarifies that direct-to-consumer public relations material is not excluded from the definition of advertising and marketing communication and complaints about such communication may be assessed by the Advertising Standards Board.

² <https://adstandards.com.au/about>

The Codes will continue to evolve as new technology and means of communication evolve so that they remain relevant and universal.

The platform neutral self-regulatory model provides for the Advertising Standards Bureau to receive all complaints without the consumer having to consider the medium, or location, in which the relevant advertisement appeared.

Sexual appeal and sexualised imagery

Both the AANA Code of Ethics and the Children's Code comprehensively deal with the use of sexual appeal and sexualised imagery. There is a prohibition on the use of this type of imagery in advertising and marketing communication across all media.

The Children's Code states that:

Advertising or Marketing Communications to Children:

- (a) must not employ sexual appeal;*
- (b) must not include sexual imagery in contravention of Prevailing Community Standards; and*
- (c) must not state or imply the Children are sexual beings and that ownership or enjoyment of a Product will enhance their sexuality.*

While the Children's Code relates specifically to advertising directed primarily to children, the Code of Ethics provides an overarching requirement in relation to advertising and marketing communication generally. Under the Code of Ethics:

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

This requirement is further articulated in the Code of Ethics Practice Note which specifies that 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. This provision was introduced in 2012 following a public consultation in relation to the Code of Ethics.

In addition, the Code of Ethics requires that advertising or marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience. This section applies equally to images of children and adults. The Practice Note requires that models who appear to be young should not be used in sexualised poses. A child is defined as a person 14 years old or younger.

These provisions are subject to Prevailing Community Standards which are determined primarily by the Advertising Standards Board, whose members are representative of the community, on a case by case basis. The Advertising Standards Board has regard to the community standards at the time the relevant material is published, as well as any research conducted by the Advertising Standards Bureau and AANA Practice Notes and Guidelines.

The AANA Practice Guideline – Managing Images of Children & Young People provides further guidance to advertisers on steps to protect children and young people from unintended and inappropriate use of their images created for advertising or marketing communications. The Practice Guideline was developed in consultation with industry and a number of child advocacy groups

following a suggestion from the Commonwealth, State and Territory Censorship Ministers that industry may wish to consider developing protocols regarding the content and format of online advertisements involving images of children. This was done in 2009, taking into account both national and international guidance on the portrayal and use of child images, focussing on the principles of consent, appropriate circumstances, appropriate portrayal, limited identification and personal information and reduced ability for inappropriate use or adaptation.

Complaints in relation to advertising

An analysis of advertising complaints received by the Advertising Standards Bureau (ASB) against the AANA Codes in regards to the sexualisation of children shows a very low level of cases assessed and 11 breaches of the Codes in the past 6 years (5 related to the depiction of a child in a sexualised manner, 6 related to the a sexualised image unsuitable for a child audience). The level of cases assessed by the Advertising Standards Board in relation to the sexualisation of children under the AANA Codes is 2.6% of total cases.

Research conducted for the ASB in 2012 showed there is a high level of understanding within the community about the ability to make a complaint to the ASB.

The resulting commercial consequences of breaching the Code include:

- the direct and indirect costs of withdrawing an advertisement; and
- the reputational cost when a non-compliance decision is made public, including possible adverse media coverage.

There is a 99.5% overall average compliance rate with ASB's determinations during its 16 year history and 100% compliance rate where a complaint has been upheld in relation to the sexualisation of children in advertising.

The self-regulatory system, including complaints handling, operates at no cost to the consumer or to government.