



Submission on

**International Standards Organisation's  
New Work Item Proposal for  
'Guidance for advertising and marketing affecting children'**

on behalf of

Australian Association of National Advertisers

June 2021

## Introduction

The AANA is the peak body for advertisers and has represented national advertising for 90 years. It represents the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

The advertising, marketing and media industry plays a fundamental economic role in society - contributing approximately \$40 billion to the Australian economy and employing over 200,000 people<sup>1</sup>. 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.

## Advertising Self-Regulation

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. It provides a flexible mechanism to meet the challenges of the ever-evolving advertising, marketing and media industry, along with changing community expectations.

The self-regulatory system, including complaints handling, operates at no cost to the consumers lodging complaints or government. The AANA is funded by membership fees. Funding of Ad Standards and its secretariat support of the Ad Standards Community Panel and Ad Standards Industry Jury is provided through a voluntary levy on advertising spend.

The AANA self-regulatory system provides Codes that reflect community standards in relation to advertising. They are developed and have evolved with public and industry consultation. The Codes are technology and platform neutral, providing a uniform set of self-regulatory standards that apply to all advertisers, regardless of AANA membership.

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 Ad Standards Community Panel.

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 resulting commercial consequences of breaching the Codes 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.

The AANA advertising and marketing Codes are based on best-practice principles of self-regulation established by the [International Chamber of Commerce \(ICC\)](#) and are regularly reviewed and updated via a formal public review process involving industry, government and public stakeholders.

The AANA set of Codes, which are technology neutral and cover all media platforms, are as follows:

1. [Code of Ethics](#);

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<sup>1</sup> *Advertising Pays: the economic, employment and business value of advertising*, June 2016  
<http://www.advertisingpays.com.au/>

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2. [Advertising to Children Code](#);
3. [Food & Beverages Advertising Code](#) ;
4. [Environmental Claims Advertising Code](#); and
5. [Wagering Advertising Code](#) .

## Submission

While the AANA fully supports all efforts to protect children, we believe there is no compelling business need to conduct this work. Global industry codes established by the [International Chamber of Commerce \(ICC\)](#), which are adapted, policed, monitored and enforced locally by advertising standards bodies, such as the AANA/Ad Standards system in Australia, have delivered comprehensive consumer protections for over 80 years, particularly with children in mind. These systems are funded to the tune of tens of millions of dollars annually and involve a variety of stakeholders, including government and NGOs.

We believe the creation of additional standards, via the ISO, which does not have any formal legal recognition, could jeopardise this existing comprehensive regulatory system. This could be confusing for industry, policymakers, and consumers by adding an unnecessary layer of duplication and complexity. A mapping of the proposed ISO guidelines shows them to be almost identical with the ICC codes, which have been embedded into national codes. There is already buy-in for the ICC based standards from all stakeholders and they are properly enforced.

The AANA calls on the ISO to remove this proposal from the workplan and to support instead the existing self-regulatory frameworks and guidelines that are in place to protect children and minors from irresponsible and harmful advertising.

## Is there a verified market need for the proposal?

The AANA submits that there is no market need for this work for the following reasons:

- A network of advertising self-regulatory organisations across the world ensures responsible advertising by enforcing national programs and standards which reflect the principles of the ICC Marketing Code and related frameworks;
- These programs and standards already include provisions addressing special responsibilities for marketing products to children; and
- With the ICC Code there are thus already internationally agreed upon standards that address marketing to children which already have the buy-in of the global advertising industry and which are being regularly updated to reflect changes in technology or societal needs.

The AANA holds serious concerns that the ISO 'Guidance for advertising and marketing affecting children' gives rise to duplication and will also increase complexity and inconsistency of guidelines across the global market without resolving any of the perceived issues that gave rise to the development of the proposal.

## What problem does this document solve?

The ISO proposal document fails to identify and acknowledge the existing effective advertising self-regulatory framework in place across the globe to protect children from irresponsible and harmful marketing. The benefits of advertising self-regulation are recognised by international governmental organisations such as the Asia-Pacific Economic Cooperation (APEC)<sup>2</sup>, the European Union (EU)<sup>3</sup>, the Organization for Economic Cooperation and Development (OECD)<sup>4</sup> and the United Nations Conference on Trade and Development (UNCTAD)<sup>5</sup>.

Any proposed standard or guideline for advertising needs to understand and improve upon the current global advertising regulatory system. The current system is defined by a fruitful collaboration of the whole advertising industry (advertisers, agencies and the media) in developing:

- robust advertising standards at a national level;
- a system for adoption, review and application of these standards;
- an adequately funded Self-Regulatory Organization (SRO) which then independently monitors and enforces these standards.

Any standards for advertising need to reflect the core principles for an effective advertising self-regulatory system, which are:

- High advertising standards: The existence of a self-regulatory code of standards or a set of guiding principles governing the content of ads is typically a pre-requisite for establishing a self-regulatory system. Most self-regulatory standards and programs reflect the basic principles that:
  - All ads should be prepared with a due sense of social responsibility, notably in terms of being legal, decent, honest and truthful;
  - All ads should conform to the principle of fair competition, as generally accepted in business, and consistent with competition laws;
  - No ad should impair public confidence in advertising.

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<sup>2</sup> [Asia Pacific Economic Cooperation \(APEC\) Joint Ministerial Statement](#), APEC, 2017

<sup>3</sup> [European Union's Better Regulation Package](#), European Commission, 2015

<sup>4</sup> Industry Self Regulation : ROLE AND USE IN SUPPORTING CONSUMER INTERESTS, OECD (2015-03-01), OECD Digital Economy Papers, No. 247, OECD Publishing, Paris. <http://dx.doi.org/10.1787/5js4k1fjqkwh-en>

<sup>5</sup> UNCTAD Guidelines for Consumer Protection, 2015. [https://unctad.org/system/files/official-document/ditccplpmisc2016d1\\_en.pdf](https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf), item 31 ; UNCTAD Manual on Consumer Protection, 2018. Page 45

<sup>6</sup> Although Self-Regulatory Organisations (SROs) are primarily funded by the advertising industry, they operate independently. There are several safeguards in place to ensure that complaints on individual ads are decided independently and impartially, and decisions are usually made publicly available to ensure maximum transparency. To find more about how SROs are financed, please read our publication: [https://icas.global/wp-content/uploads/2018\\_10\\_01\\_SRO\\_Funding\\_Overview.pdf](https://icas.global/wp-content/uploads/2018_10_01_SRO_Funding_Overview.pdf)

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In most countries, advertising standards are based on the Advertising and Marketing Communications Code of the International Chamber of Commerce (the 'ICC Marketing Code'). National adjustments are however often made to take into account legal, social, cultural and economic features of the country.

Where the codes contain specific provisions, those provisions are typically agreed upon by an independent standards-making body within the SRO, and subsequently updated on a regular basis. The main standards are also often accompanied by sectoral guidelines addressing the marketing of specific products or services (e.g., alcohol, cosmetics...) or by issue-specific guidelines (e.g., on advertising to children, on interest-based advertising, on influencer marketing, etc.), or by detailed case-specific guidance on the applicable self-regulatory standards.

- **Comprehensive coverage:** The advertising standards cover all forms of marketing communications appearing in all types of media, including digital marketing techniques and influencer marketing. The systems also cover all or a large majority of commercial actors in the advertising ecosystem. They all share a common interest in upholding high standards as loss of consumer and public trust can undermine the entire advertising industry.
- **Proactive compliance services, training and monitoring:** To ensure a high level of awareness with the advertising standards, SROs provide a number of services to serve the needs of consumers and of the advertising industry. Educational services are especially important to make sure advertisers, agencies and the media understand their responsibilities and to ensure that there are fewer problems with ads. Such services can include online and in-person courses and trainings, certification programs, conferences, as well as partnerships with universities and other educational institutions.

Many SROs also provide copy advice, i.e., an opinion as to whether the advertisement is compliant with the local advertising standards prior to the dissemination of an advertisement. Some SROs also pre-clear advertisements. Pre-clearance, where done, requires that an ad must be assessed by the SRO as a compulsory pre-condition before it can be disseminated. Such obligation, where it exists, often covers specific media such as TV or radio, or is required for particularly sensitive sectors such as medications and medical devices, ads directed at children, or ads for financial services.<sup>7</sup>

Where possible, SROs also provide monitoring services in relation to specific sectors, sometimes carried out in cooperation with public authorities in co-regulation scenarios. Finally, a few SROs offer mediation services (e.g., in the telecoms sector) and specialized services to address privacy and data protection concerns around marketing practices.

- **Effective and impartial dispute resolution:** In addition to services mentioned above, SROs can provide a quick, efficient and impartial complaint resolution system, which is cost-free

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<sup>7</sup> In 2019, ICAS SRO members processed more than 65,000 copy advice requests. More than 68,000 advertisements were additionally pre-cleared. More information can be found in the [2019 Global Factbook of Advertising Self-Regulatory Organizations](#) available on the ICAS website

for consumers. In most cases, the complaints are examined by an independent body within the SRO. Separate from the standards-making body, this independent body is in charge of determining whether an individual ad is in breach of the applicable self-regulatory standards and/or the applicable advertising laws. Other systems rely on qualified expert staff to make decisions.

- **Transparency:** To ensure accountability and transparency, SROs also generally publish their decisions, or detailed summaries, online. The list of decisions (sometimes called 'rulings') or summaries is typically available on the SRO's website.
- **Effective sanctions:** Most advertisers voluntarily comply with SRO decisions by changing or withdrawing an ad or claim which has been determined as in breach of the standards. Should they refuse to do so, in some regions, SROs ask the media to refuse to publish/run or air the campaign. Ultimately, self-regulatory bodies may refer a situation where an advertiser refuses to comply with a decision or to participate in the self-regulatory process to the appropriate statutory authorities. Options available to the self-regulatory body will depend on the procedures of the self-regulatory organizations, its remit and the existing legal framework. All have proven to be effective in promoting high levels of compliance with self-regulatory decisions.

In relation to those countries which do not yet have advertising standards, the International Council for Advertising Self-Regulation (ICAS) exists to facilitate the establishment of new SROs in emerging markets and empower them to grow. ICAS has developed and regularly updates an International Guide to Developing a Self-Regulatory Organisation for this very purpose.

## What value will the document bring to end-users?

The existing advertising self-regulatory framework in place in many markets across the globe provides a strong system to protect children from irresponsible and harmful marketing. These frameworks have not only robust codes or standards in place which have the buy-in from responsible brand owners, marketers and media but also effective enforcement systems which are recognised by national authorities and international governmental organisations.

They operate against the background of the globally applicable provisions of the [ICC Advertising and Marketing Communications Code](#). These include recognised up-to-date guidelines for advertising and marketing to children which can also serve as the standard for businesses in countries where no self-regulatory body exists.

As such, the current proposal will not bring any value to end-users when an international standard already exists for advertising regulation to protect children. Another set of guidelines would only lead to duplication and inconsistencies and not provide additional protection for children.

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### Further Consultation

The AANA would welcome an opportunity to discuss in more detail with Standards Australia the issues associated with the proposal. Please contact Megan McEwin on 0412 455 424 or [megan@aana.com.au](mailto:megan@aana.com.au) regarding opportunities for further consultation.