



Submission on the

AANA CODE OF ETHICS REVIEW 2010

For enquiries regarding this submission

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1. Introduction

The Australian Council on Children and the Media (ACCM) is a national not-for-profit organisation representing the interests of children, parents and education and welfare agencies, in relation to the media.

The ACCM is a peak not-for-profit national community organisation whose mission is to support families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children.

For further information see Appendix 1: About the ACCM.

2. **This submission has been prepared** by Prof Elizabeth Handsley, Vice- President of ACCM and Barbara Biggins OAM, Hon CEO of ACCM on behalf of the Board of the ACCM.

3. Summary of submission

3.1 The ACCM considers that the AANA should re-examine the basis of this Code, depending as it does on the notion of “Prevailing Community Standards”. There are 3 aspects that need review:

- a) whether the concept is not sufficient in all matters, or whether a test of “material that is likely to be harmful, or injurious to the public good” would be more appropriate.
- b) whether the concept is appropriate to apply when children’s health and wellbeing is at stake, or whether a test relating to “risk to children’s health and wellbeing” is more appropriate.
- c) whether the concept should continue to be applied only in relation to Code para 2.6, or whether it should be extended to other paras, eg 2.2, 2.3.

3.2 ACCM considers that the concept of “sensitivity to the relevant audience” in para 2.3 is too vague and ambiguous. It should be replaced with wording which reflects the concept of “the audience who is likely to see the advertising” to make it clear that the sensitivity need not be only to the audience to whom the advertising is aimed.

3.3 ACCM considers the Code should include a statement that “all advertising content should be justified, necessary or unavoidable, given the nature of the product and the sensitivities of the likely audience, including groups likely to be represented in the audience.

3.4 The relationship of this Code along with the deliberations of the Advertising Standards Board to the general law needs to be clarified. If advertising needs to comply with Commonwealth and State and territory law (para 1.1), then it is not clear why the Code should exclude matters related to the law as indicated in the description of the ASB complaints process: “Complaints are not forwarded if” dot points 3, 7.

4. Detailed comment

ACCM's comments on specific paras of the Code follow:

4.1 Definition: Excluded advertising

Excluding labels and packaging from “advertising” is not justified. Labels and packaging are an accepted part of advertising and marketing, and appear to be growing in importance, perhaps precisely because of their exclusion from the Code.

4.2 Definition: prevailing community standards

This is an insufficient parameter to guide to the deliberations of the Advertising Standards Board. “Prevailing community standards” is particularly inadequate as a concept when related to advertising likely to be seen by children. The concept of harm must be also be included.

4.3. Section 1 Para 1.1

Relationship between this Code and the law. If advertising needs to comply with Commonwealth and State and territory law (para 1.1), then the Code should not exclude matters related to the law eg ASB complaints process “not forwarded if” dot points 3 and 7.

ACCM suggests that the AANA needs to clarify the Code’s relationship to the legal process. The AANA needs to consider how its Code fits with the various provisions of relevant laws its relationship with relevant authorities such as the Human Rights and Equal Opportunity Commission, Attorney General’s Department, and in particular with the Australian Competition and Consumer Commission (ACCC) and how the ACCC could be involved in an advisory capacity to the benefit of the Code and consumers.

4.4 Para 1.2

This concept of “misleading or deceiving” should include the concept of “misleading or deceiving to vulnerable groups within the likely actual audience” and not apply only to an idealised average person.

4.5 Section 2 Para 2.1

This para should extend to the concept of “the objectification or exploitative depictions of groups such as women and girls”.

4.6 Para 2.2

ACCM questions whether it is ever necessary to portray violence in order to advertise. ACCM recommends the provision of a Practice Note to support this Para explaining the violence is only justified in advertising for products whose use is inextricably linked with violence, eg boxing gloves or capsicum spray. Even when it is depicted, the violence should never be glamorised.

Further the concepts listed earlier in this submission at 3.1 should be included, viz, likely nature of audience, risk of harm.

4.7 Para 2.3

This para should include “shall treat *sexualised behaviours* with sensitivity ...”. Such content should also be required to be relevant to the product advertised. This para should also include the concepts listed above at our 3.1.

4.8 Para 2.4

It is not clear why para 2.6 should not be deemed applicable to advertising and marketing to children. This is only likely to confuse would-be complainants.

4.9 Para 2.6

This para should not be limited to “community standards” in relation to health and safety, but rather it should extend to breaches of existing laws on health and safety, and concerns expressed by health and safety authorities.

4.10. Para 2.7

ACCM queries why section 2.6 should not apply. This exclusion makes it confusing for the consumer to understand.

4.11 Advertising Standards Board Complaints Process.

“Complaints are not forwarded if”

Dot Point 1 A length of time should be specified here, eg 12 months after which the ASB can reopen a complaint about a product.

Dot point 3 The ASB should be willing to engage in issues before the law.

Dot point 5 This phrase needs to be amended to permit consideration if an advertisement is of broad community concern.

Dot point 7 Again the ASB should be willing to engage in issues before the law.

Dot point 9 This is not justified. The consideration by the ASB of advertisements that have been withdrawn or discontinued (say within the past 6 months) can provide useful precedents for would-be complainants to consult.

4.12 Advertising Standards Board Complaints Process.

“Publish case report” The ACCM applauds the public process and publishing of complaints “. Can we recommend that the Case Reports be made searchable by the paragraph(s) of the Code being applied, rather than just by particular product category? This would be of great help to would-be complainants.

4.13 ASB Complaints process: Review

The fees nominated for Incorporated Associations are prohibitive for most not-for-profit organisations and should be reviewed.

It would also be desirable to clarify when this fee applies - when the complaint is lodged, or when it is accepted?

APPENDIX 1

ABOUT US: THE AUSTRALIAN COUNCIL ON CHILDREN AND THE MEDIA

The **ACCM** is a peak not-for-profit national community organisation whose mission is to support families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children.

Its patrons are Baroness Susan Greenfield and Steve Biddulph.

ACCM has a national Board representing the states and territories of Australia, and a comprehensive membership of organisations and individuals who support its mission

ACCM membership includes ECA (Early Childhood Australia), ACSSO (Australian Council of State Schools Organisations), AHISA (Association of Heads of Independent Schools of Australia), AEU (Australian Education Union), Junior School Heads Association of Australia, Infant Mental health Association of Australia, Parenting Research Centre, Enough is Enough: anti-violence movement, SAPPA (South Australian Primary Principals Association), Federation of NSW P&C (Parents & Citizens), and the Council of Mothers' Union in Australia.

ACCM's core activities include the collection and review of research and information about the impact of media on children's development, and advocacy for the needs and interests of children in relation to the media.

ACCM's core services include:

- the national freecall 24/7 Children and Media Helpline (1800 700 357);
- the ACCM website www.childrenandmedia.au containing evidence based information about media and children (attracting over 1000 visits per day);
- the award-winning, popular *Know before you go* child-friendly movie review service (now with more than 520 movie reviews);
- the development of parent media awareness materials,
- making submissions and participating in media interviews related to media regulation.

ACCM's current issues include the early s*xualisation of children in and by the media; the impacts of media violence; the marketing of violent entertainment and junk foods to the young; management of screen time and content by the very young.

ACCM's programs are lead by a team of expert volunteers, supported by a small paid staff. Its programs are supported by project grants and much volunteer input.

ACCM's awards include National Community Crime Prevention awards 2009, 2006; 2001; National Child Protection 2005.

The ACCM is a structured as a company limited by guarantee. Its ABN is 16 005 214 531. The organisation is registered for GST, has DGR and ITEC status.