



**SUBMISSION TO THE SENATE
LEGAL AND CONSTITUTIONAL AFFAIRS
REFERENCES COMMITTEE**

**Inquiry into the Australian film and literature
classification scheme**

4 March 2011

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1. GLOSSARY

AANA

Australian Association of National Advertisers – the peak body representing the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

ASB

Advertising Standards Bureau – the self-regulatory body that considers advertising complaints across all media.

OMA

Outdoor Media Association – the peak industry body representing 97% of Australia’s outdoor media display companies and production facilities, and some media display asset owners. A full list of the OMA’s members is attached at Appendix 1.

On-premise advertising

Vehicles, billboards and other structures that advertise the business, services and products on the advertiser’s property.

Outdoor media display companies

Companies that provide space for third-party advertisements in public areas such as along roadways, in shopping centres, on public transport and at airports.

Street furniture

This includes bus/tram shelters, public toilets, bicycle stations, phone booths and kiosks that are provided and maintained by outdoor media display companies.

Third-party advertising

Advertising in which the advertisement is not associated with the premises on which it is displayed. That is, a land owner allows an outdoor media display company to display an advertisement for a third-party product.

2. EXECUTIVE SUMMARY AND RECOMMENDATIONS

The Outdoor Media Association (OMA) is the peak industry body representing 97% of Australia's outdoor media display companies and production facilities, and some media display asset owners.

Outdoor media display companies advertise third-party products¹ including:

- on buses, trams, taxis, pedestrian bridges, billboards² and free-standing advertisement panels;
- on street furniture (e.g. bus/tram shelters, public toilets, bicycle stations, phone booths, kiosks); and
- in bus stations, railway stations, shopping centres, universities and airport precincts.

The industry members build, clean³ and maintain the pedestrian bridges and street furniture, and provide other community infrastructure such as park benches, bins and bicycles.⁴

The OMA does not represent businesses that install 'on-premise' advertisements (vehicles, billboards and other structures that advertise the business, services and products on the advertiser's property). On-premise advertising is more prolific than third-party advertising. For example, along Parramatta Road between Broadway and Leichhardt, NSW, there are about 2140 on-premise signs compared to 14 third-party advertisements.

Advertising and marketing plays a fundamental economic role in society and contributes in excess of \$31.1 billion to the Australian economy annually. The Australian advertising industry alone raises annual revenue of about \$12.58 billion.⁵ In 2010 the outdoor advertising industry raised revenue of \$477 million, making up 5% of advertising spend in Australia.⁶

In 2007, Access Economics conducted a study of the outdoor media industry in Australia⁷ and found that for the 2006–2007 financial year, the industry:

- directly employed 886 people (which translated to a direct and indirect employment of 1,473 full time equivalents);
- made a direct contribution to the national GDP of \$1 billion;

¹ Advertising in which the advertisement is not associated with the premises on which it is displayed. That is, a land owner allows an outdoor media display company to display an advertisement for a third-party product.

² Standard billboard sizes range from about 13 to 84 square metres, though they can be as big as 1000 square metres. Billboard sizes are set or approved by State Governments or Local Councils.

³ Cleaning includes the removal of graffiti.

⁴ For example, 2000 public bicycles have been provided for the Brisbane CityCycle scheme.

⁵ Commercial Economic Advisory Service of Australia (CEASA), for the year ending 31 December 2009.

⁶ Nielsen Adex reporting for 2010.

⁷ National Economic Study of the Outdoor Media Industry, Access Economics, 2007 – attached at Appendix 2.

- contributed an additional \$90 million in funds to build and maintain public infrastructure such as bus/tram shelters, pedestrian bridges, public toilets, kiosks, bins and park benches;⁸ and
- donated an additional \$4.5 million in funds and free advertising space to Australian charities and not-for-profit organisations.

The OMA has commissioned Access Economics to update these findings in a 2011 study, and it is reasonable to assume that the figures across all areas have grown. For example, we are aware that in 2010 the industry donated free advertising space to the community valued at over \$12.38 million.⁹

The social responsibility of the industry is further demonstrated by its complete compliance with all findings of the Advertising Standards Board as well as all State and Local Government controls relating to outdoor advertising. In contrast, companies that display on-premise advertising are often not aware of these various controls and regulations.

The socially responsible approach of the industry, as outlined above, demonstrates that the industry can be relied upon to comply with appropriate self-regulatory systems. The OMA submits that the current self-regulatory scheme for outdoor advertising is effective, as demonstrated by the small number of complaints about outdoor advertisements, and the even smaller number of adverse findings:

- The industry ran more than 14,500 campaigns in 2010, comprising more than 30,000 different advertisements.
- These advertisements were displayed across more than 73,000 different advertising display panels.
- MOVE,¹⁰ the outdoor advertising industry's audience-measurement system, predicts that almost every person over the age of 14 in Sydney, Melbourne, Brisbane, Adelaide and Perth will see at least one advertising campaign each week.¹¹
- Even with these vast numbers, the ASB only considered 90 cases about outdoor advertisements in 2010, at least 24 of which were not third-party advertisements (for example, they were advertisements on the side of vehicles owned by the advertiser, other on-premise signs, or mobile telephone advertisements).
- 15 of these were found to be in breach of the Australian Association of National Advertisers (AANA) Code of Ethics, of which 8 were not third-party advertisements. That is, 53% of upheld cases were not about third-party advertisements.

⁸ The replacement value of public facilities provided by the outdoor media industry was \$205 million in 2007.

⁹ A list of the 128 beneficiaries is attached at Appendix 3, and testimonials are attached at Appendix 4.

¹⁰ In 2010 the OMA launched Measurement of Outdoor Visibility and Exposure (MOVE). MOVE is a national audience measurement system for outdoor advertising.

¹¹ Sydney – 99.6%; Melbourne – 98.9%; Brisbane – 95.8%; Adelaide 98.6%; Perth – 98.2%.

- The 7 third-party advertisements that were the subject of an adverse finding by the ASB represent 0.02% of the 30,000 outdoor industry advertisements in 2010.

The OMA submits that it would be unnecessarily cumbersome to subject some 30,000 third-party advertisements annually to classification where 99.98% of them are inoffensive.

Classification of outdoor advertising would cause delays and would lead to the homogenisation of outdoor advertisements. These outcomes would enable other media to gain an advantage in an industry that is deadline-driven and communicates differently to different markets. The OMA submits that the small number of complaints that have been upheld by the Advertising Standards Board do not justify this loss of advantage. Further, the invariable loss of industry revenue would affect:

- employment in the industry;
- the contribution of the industry to the national economy; and
- the industry's ability to continue making significant contributions to the community.

Again, such consequences do not appear reasonably justified by the small number of complaints that are upheld by the Advertising Standards Board.

Internationally, the preferred method of managing advertising is through self-regulatory bodies.¹² The benefits of self-regulation include the following:

1. Complaint resolution times are generally quicker than in regulatory and co-regulatory schemes.¹³ Any delays in complaint handling timeframes impact upon both the complainant and the respondent.
2. Self-regulatory schemes are adaptable and able to respond quickly to changes in circumstance or community attitudes. In contrast, legislative frameworks take more time and effort to amend.
3. Both the spirit and the letter of self-regulatory codes should be complied with, as opposed to legislation which generally demands compliance with the strict letter of the law.
4. Self-regulation is funded by industry. Government regulation would require public funds to establish, apply and enforce the scheme.
5. Self-regulation has the support of industry. A system enforced by Government can undermine the goodwill of the industry that is committed to the success of the self-regulatory scheme.

The OMA submits that the benefits of the current self-regulatory system by far outweigh the small number of occasions on which a complaint about outdoor advertising has been upheld.

¹² One exception is Saudi Arabia, where advertising must be compatible with the Islamic religion and its laws, and complaints are managed by government authorities.

¹³ Please refer to the statistics provided in the Advertising Standards Bureau's submission.

In view of the above, the OMA makes the following **recommendations**:

1. The current system of self-regulation should be maintained.
2. If outdoor advertising is included in the National Classification Scheme, this should incorporate on-premise advertising.

3. ABOUT THE OMA AND THE OUTDOOR ADVERTISING INDUSTRY

3.1. General

The Outdoor Media Association (OMA) is the peak industry body representing 97% of Australia's outdoor media display companies and production facilities, and some media display asset owners. A full list of the OMA's members is attached at Appendix 1.

Outdoor media display companies advertise third-party products¹⁴ including:

- on buses, trams, taxis, pedestrian bridges, billboards¹⁵ and free-standing advertisement panels;
- on street furniture (e.g. bus/tram shelters, public toilets, bicycle stations, phone booths, kiosks); and
- in bus stations, railway stations, shopping centres, universities and airport precincts.

Large format advertisements (e.g. billboards) remain on display for 4 weeks, whereas smaller displays run for 1 or 2 week periods.

The industry members build, clean¹⁶ and maintain the pedestrian bridges and street furniture, and provide other community infrastructure such as park benches, bins and bicycles.¹⁷

3.2. On-premise advertising

The OMA does not represent businesses that install 'on-premise' advertisements (vehicles, billboards and other structures that advertise the business, services and products on the advertiser's property). On-premise advertising is more prolific than third-party advertising. For example, along Parramatta Road between Broadway and Leichhardt, NSW, there are about 2140 on-premise signs compared to 14 third-party advertisements.

References to 'the industry' in this submission do not include on-premise advertisers.

Some examples of on-premise and third-party advertising are pictured over.

¹⁴ Advertising in which the advertisement is not associated with the premises on which it is displayed. That is, a land owner allows an outdoor media display company to display an advertisement for a third-party product.

¹⁵ Standard billboard sizes range from about 13 to 84 square metres, though they can be as big as 1000 square metres. Billboard sizes are set or approved by State Governments or Local Councils.

¹⁶ Cleaning includes the removal of graffiti.

¹⁷ For example, 2000 public bicycles have been provided for the Brisbane CityCycle scheme.

Pictures 1 and 2 – On premise signs



Pictures 3 and 4 – Third party signs



3.3. Value of the industry to the Australian economy

Advertising and marketing plays a fundamental economic role in society and contributes in excess of \$31.1 billion to the Australian economy annually. The advertising industry alone raises annual revenue of about \$12.58 billion.¹⁸ In 2010 the outdoor advertising industry raised revenue of \$477 million, making up approximately 5% of advertising spend in Australia.¹⁹

In 2007, Access Economics conducted a study of the outdoor media industry in Australia²⁰ and found that for the 2006-2007 financial year, the industry:

- raised revenue of \$460.3 million;
- directly employed 886 people (which translated to a direct and indirect employment of 1,473 full time equivalents);
- made a direct contribution to the national GDP of \$1 billion;

¹⁸ Commercial Economic Advisory Service of Australia, for the year ending 31 December 2009.

¹⁹ Nielsen Adex reporting for 2010.

²⁰ National Economic Study of the Outdoor Media Industry, Access Economics, 2007 – attached at Appendix 2.

- contributed an additional \$90 million in funds to build and maintain public infrastructure such as bus/tram shelters, pedestrian bridges, public toilets, kiosks, bins and park benches;²¹ and
- donated an additional \$4.5 million in funds and free advertising space to Australian charities and not-for-profit organisations.

The OMA has commissioned Access Economics to update these findings in a 2011 study, and it is reasonable to assume that the figures across all areas have grown. For example, we are aware that in 2010 the industry donated free advertising space to the community valued at over \$12.38 million.

The 128 beneficiaries of the \$12.38 million worth of free advertising space in 2010 included:

- *General service charities*
E.g. Mission Australia, Salvation Army, St Vincent de Paul, Catholic Mission, Sisters of Charity.
- *Healthcare organisations*
E.g. Fred Hollows Foundation, Hospitals, Beyond Blue, Ovarian Cancer Research Foundation, Leukaemia Foundation, Guide Dogs Australia.
- *Nature and environment organisations*
E.g. Australian Conservation Foundation, Landcare Australia, Moorook Animal Shelter, RSPCA Qld, Clean Up Australia, Project Kaisei, WWF.
- *Public bodies*
E.g. NSW Police, QLD Rail, NSW State Emergency Services and various Local Councils in QLD, NSW and VIC.
- *Organisations for culture and the arts*
E.g. National Gallery of Australia, Brisbane Festival, Bangarra Dance Theatre, Fresh Water Music Festival, Australian String Quartet.

For example, since 2008, the OMA and its members have provided \$3.5 million in media, printing and installation to The Big Issue magazine for homeless, marginalised and disadvantaged people. Due to the success of these campaigns, sales of The Big Issue have increased, with some print-runs selling out. An example of the advertising donated to The Big Issue magazine appears over.

²¹ The replacement value of public facilities provided by the outdoor media industry was \$205 million in 2007.

Picture 5 – The Big Issue advertising – “Smart. Savvy. Successful. Just like the magazine”



A full list of the 128 beneficiaries of free outdoor advertising space in 2010 is attached at Appendix 3. Nineteen testimonials provided by some of the beneficiaries are attached at Appendix 4. Invariably, these testimonials make the following types of comments:

- “The high profile sites sourced... ensured that a wide target audience was reached to assist in driving on-line donations... It assisted to support community volunteering and fundraising initiatives...”²²
- “As a not for profit organization this type of exposure and advertising support would simply be impossible for us to purchase.”²³
- “We see an immediate response in sales as soon as our campaigns are on field and it is because of these campaigns that many of our shows sell.”²⁴
- “Without this growth, we would not have been able to continue to fund our priority research into conditions such as diabetes, allergies, asthma, premature birth, mental health problems, cancer and genetic disorders.”²⁵

²² Starlight Children’s Foundation Australia

²³ The Fred Hollows Foundation

²⁴ Sydney Opera House

²⁵ Murdoch Childrens Research Institute

Appendix 5 provides more information about a beneficiary whose sales have increased as a result of these donations of outdoor advertising space.

Similarly, the significant industry contributions to the building, cleaning and maintenance of public infrastructure²⁶ not only contribute to the vibrancy of cities, but enable Local Councils to spend their funds on other projects. Some examples of public infrastructure provided by the industry are pictured below.

Pictures 6 to 11 – examples of infrastructure provided by the outdoor industry.



3.4. Social responsibility of the industry

The significant industry contributions made to the community, discussed above, demonstrate the industry’s socially responsible stance. This stance is further demonstrated by the large number of voluntary codes that the industry subscribes to, outlined at section 5.1 below.

In addition to the obligations imposed by the various voluntary codes, the industry is entirely compliant with findings of the Advertising Standards Board as well as all State and Local Government controls relating to outdoor advertising.²⁷ In contrast, companies that display on-premise signage are often not aware of these various controls and regulations.

The OMA submits that the industry’s sense of social responsibility demonstrates that it can be relied upon to comply with appropriate self-regulatory systems.

²⁶ Including bicycle stations, bicycles, pedestrian bridges, bus/tram shelters, public toilets, park benches, kiosks and bins.

²⁷ Refer to sections 4, 5 and 6 of this submission.

4. GOVERNMENT REGULATION - GENERALLY

State and Local Governments regulate advertising devices. The result is a vast array of different frameworks across the country that relate to outdoor advertising. These regulations:

- relate to issues such as spacing, placement, size and lighting of signs; and
- are generally more prescriptive for third-party advertising than for on-premise signage, notwithstanding that the structure of the signs may be the same.

There are some guidelines at a State level that prohibit the display of advertising along a road that, for example, imitates a traffic control device.²⁸ The OMA is not aware of any procedures the State Governments have in place to monitor compliance with such guidelines, however the OMA's members are aware of the guidelines and compliant with them. Other than these types of guidelines, the content of outdoor advertising is generally not regulated by Government.²⁹

Internationally, the preferred method of managing advertising is through self-regulatory bodies.³⁰ Regulation of the content of outdoor advertisements is discussed in detail at section 5, below.

5. REGULATION OF THE CONTENT OF OUTDOOR ADVERTISEMENTS

The advertising content that is placed on outdoor advertising structures is not owned by the media display companies.

5.1. Voluntary codes

The OMA's members are committed to comply with the following codes that regulate the content and placement of advertisements.

OMA Code of Ethics (Appendix 6)

This code outlines voluntary principles that all OMA members must adhere to, relating to working with advertisers and regulators, and responsibilities towards the community and the environment. Under the Code of Ethics, the OMA's members are only entitled to endorse the display of advertising that adheres to, among other things, the various AANA codes.

²⁸ For example, the NSW Department of Planning's Transport Corridor Outdoor Advertising and Signage Guidelines; the Victorian Planning Provisions; the Queensland Department of Transport and Main Roads' Roadside Advertising Guide.

²⁹ One exception is that some Local Councils will only allow third-party advertising if it relates to businesses, services or events in the local area.

³⁰ One exception is Saudi Arabia, where advertising must be compatible with the Islamic religion and its laws, and complaints are managed by government authorities.

OMA Alcohol Advertising Guidelines (Appendix 7)

Under these guidelines, the OMA's members are required to limit the advertising of alcohol products on fixed signs that are located within a 150 metre sight line of a primary or secondary school. They are also required to only accept copy for alcohol advertising that has been approved for display through the Alcohol Advertising Pre-vetting System, and to support all decisions made by the Alcohol Beverages Advertising Code (ABAC) Scheme Adjudication Panel.

OMA Environment and Sustainability Statement (Appendix 8)

Under this statement, the OMA assists members to minimise the impact of the industry's operations on the built and natural environment, and to contribute to the sustainability of the communities in which the industry operates.

AANA Code of Ethics (Appendix 9)

This is the overarching code of Australian advertising industry self-regulation, and has the objective of ensuring that all advertising is ethical, and prepared with a proper sense of obligation to consumers and fairness to competitors.

AANA Environmental Claims in Advertising and Marketing Code (Appendix 10)

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.

AANA Code for Advertising and Marketing in Communications for Children (Appendix 11)

This code is designed to ensure that advertising and marketing communications directed at Australian children conform to prevailing community standards.

AANA Food and Beverages Advertising and Marketing Communications Code (Appendix 12)

This code is designed to ensure a high sense of social responsibility in advertising and marketing of food and beverage products and services in Australia.

Alcohol Beverages Advertising Code (Appendix 13)

This code is designed to ensure that alcohol advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

Federal Chamber of Automotive Industries' Voluntary Code of Practice for Motor Vehicle Advertising (Appendix 14)

The primary purpose of this code is to provide guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety.

Therapeutic Goods Advertising Code

The object of this code is to ensure that marketing and advertising of therapeutic goods to consumers is conducted in a manner that promotes the quality use of therapeutic goods, is socially responsible and does not mislead or deceive the consumer. The code can be downloaded at

<http://www.tgacc.com.au/codeList.cfm>

Weight Management Industry Code of Practice

This code outlines regulations for responsible advertising of weight management products and services. The code can be downloaded at <http://www.weightcouncil.org/accredited-weight-loss-and-diet-programs.asp?page=349>

Again, the industry's commitment to these codes demonstrates its commitment to socially responsible practices.

5.2. Australian Association of National Advertisers (AANA)

The AANA is the peak body representing the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

Australia's system of self-regulation functions under the AANA codes, and in 2010 the AANA launched a review of the AANA Code of Ethics.

The AANA established the Advertising Standards Bureau (ASB) to administer the complaints resolution component of the advertising self-regulation system.

5.3. Advertising Standards Bureau (ASB)

Complaints about the content of outdoor advertisements are managed through the ASB, which considers advertising complaints across all media. Complaints can be made about the issues covered by the various codes – most particularly the AANA Code of Ethics. The ASB does not consider complaints about issues covered by the:

- Therapeutic Goods Advertising Codes Council;
- Weight Management Council;
- Alcohol Beverages Advertising Code;
- Australian Competition and Consumer Commission (ACCC); or
- Australian Security and Investments Commission (ASIC).

Complaints are adjudicated by the Advertising Standards Board, which is made up of individuals who are representative of the community and not connected to the advertising industry. The Board includes 20 people from a broad range of age groups and backgrounds and is gender balanced – representative of the diversity of Australian society. The profiles of the current Board members can be viewed at:

<http://adstandards.com.au/aboutus/theadvertisingstandardsboard/boardmemberprofiles>

The ASB conducts research to inform itself about community standards, and the decisions of the Advertising Standards Board have evolved to reflect any changes in community standards. The OMA considers that, based on this

research and based on the broadly representative composition of the Board, the decisions of the Board adequately reflect prevailing community standards.

5.4. Government regulation of misleading and deceptive advertising

Allegations of misleading and deceptive advertising are generally overseen by the Australian Competition and Consumer Commission (ACCC), under the Competition and Consumer Act 2010 (previously the Trade Practices Act 1974).³¹ So, for example, we understand that when the ASB received complaints about the veracity of claims made in Advanced Medical Institute (AMI) advertisements, these were referred to the ACCC.

However, allegations of misleading and deceptive advertisements about financial products and services are overseen by the Australian Security and Investments Commission (ASIC) under the ASIC Act 2001.

5.5. Government contracts and policies

Some Local Councils enter into contracts with media display companies, under which the company will build and maintain public infrastructure,³² in return for opportunities to display third-party advertising (for example, on bus shelters, telephone booths and free-standing advertisement panels). Similarly, some State rail and road authorities enter into contracts with media display companies, under which the company will display advertisements. Among other things, these contracts enable the public authorities to raise revenue through the advertising.

The terms of the contracts, which reflect the policies of the public authorities, may be quite specific about the types of advertisements that are displayed, where and when. So, for example, there may be a condition that no political advertisements may be displayed or that no advertisements of a particular product may be displayed.

A testimonial from one such Government partner is attached at Appendix 15.

5.6. Commercial contracts and policies

Media display companies also enter into contracts with commercial property owners such as shopping centres and airports. Again, the contracts, which reflect the policies of the property owner, may restrict the types of advertising that can be displayed. So, for example, a contract with a shopping centre may

³¹ The ASB does consider some issues relating to truth and accuracy and misleading and deceptive behaviour under the specific provisions of the AANA Food and Beverages Advertising and Marketing Code, AANA Code for Advertising and Marketing to Children and the AANA Environmental Claims in Advertising and Marketing Code. However, the Advertising Standards Board considers these issues in the context of community standards and expectations, rather than reaching a legal opinion.

³² For example, bus shelters, bicycle stations, bicycles, public toilets, kiosks, bins, park benches etc.

prohibit the display of advertisements promoting businesses in a competing shopping centre.

A testimonial from one such commercial partner is attached at Appendix 16.

5.7. Internal review procedures

The OMA's members conduct internal reviews of advertisements before they are displayed, to ensure as far as possible that the advertisements do not breach an applicable code. For example, we understand that numerous advertisements that the Advanced Medical Institute (AMI) sought to display on billboards were declined after internal review.

Examples of industry members' internal review processes are attached at Appendix 17.

6. COMPLIANCE WITH THE VARIOUS REGULATORY FRAMEWORKS

The industry is entirely compliant with State and Local Government regulations, contractual requirements, and the decisions of the Advertising Standards Board. In relation to the latter, the OMA's members have been entirely co-operative on the small number of occasions when they have been asked to remove an advertisement. Advertisements found to be in breach are removed as quickly as practicable and not re-posted.³³

In order to remove a billboard from display after an adverse finding, the following must be considered by the outdoor media display company:

- How is the site accessed?
- Are road closures necessary?
- Is a permit required to install a new advertisement?
- Does the site require any special equipment (for example, a cherry picker)?³⁴
- Does the site require qualified abseiling workers and/or safety protection officers?
- Is the site accessed through a building that is only open on weekdays, or only available for after-hours access?
- When can all these factors be co-ordinated to remove the display?

³³ Where the Advertising Standards Board upholds a complaint about an advertisement in any media, the ASB requests that the advertiser remove the advertisement within 7 days. An outdoor advertising display company can usually remove its displays within this timeframe, however on rare occasions it may take a little longer due to the logistics of removing an advertisement.

³⁴ Standard billboard sizes range from about 13 to 84 square metres, though they can be as big as 1000 square metres.

Therefore, depending on the particular site, it can be a complex logistical operation to remove an advertisement at short notice. Nevertheless, the industry's 100% compliance with the findings of the Advertising Standards Board demonstrates its commitment to the self-regulatory framework.

In contrast, on-premise advertising is generally less regulated than third-party advertising, notwithstanding that the structure of the sign may be similar in nature.³⁵ Where on-premise advertisements *are* regulated, there is very little compliance. For example, some on-premise signs along the roadside will include flashing lights or scrolling digital messages, contrary to regulatory requirements. These breaches generally continue unchecked by the relevant authority, unless a specific complaint is received by the authority. On-premise advertisers are often not aware of the various controls and regulations.

7. EFFECTIVENESS OF SELF-REGULATION OF OUTDOOR ADVERTISING

The OMA submits that self-regulation is effective, and that the industry can be relied upon to comply with appropriate self-regulatory systems.

The effectiveness of the current system is demonstrated by comparing the number of advertisements displayed, with the small number of complaints made to the ASB, and the even smaller number of adverse findings:

- The industry ran about 14,500 campaigns in 2010, comprising more than 30,000 different advertisements.
- These advertisements were displayed across about 73,000 different advertising display panels.
- MOVE,³⁶ the outdoor advertising industry's audience-measurement system, predicts that almost every person over the age of 14 in Sydney, Melbourne, Brisbane, Adelaide and Perth will see at least one advertising campaign each week.³⁷
- Even with these vast numbers, the ASB only considered 90 cases about outdoor advertisements in 2010, at least 24 of which were not third-party advertisements (for example, they were advertisements on the side of vehicles owned by the advertiser, other on-premise signs, or mobile telephone advertisements).
- 15 of these were found to be in breach of the AANA Code of Ethics, of which 8 were not third-party advertisements. That is, 53% of upheld cases were not about third-party advertisements.
- The 7 third-party advertisements that were the subject of an adverse finding by the ASB represent 0.02% of the 30,000 outdoor industry advertisements in 2010.

³⁵ For example, some Local Councils do not require on-premise signs to go through a lengthy assessment process to qualify for a permit.

³⁶ In 2010 the OMA launched Measurement of Outdoor Visibility and Exposure (MOVE). MOVE is a national audience measurement system for outdoor advertising.

³⁷ Sydney – 99.6%; Melbourne – 98.9%; Brisbane – 95.8%; Adelaide 98.6%; Perth – 98.2%.

The OMA acknowledges that a small percentage of outdoor advertisements have been the subject of adverse findings, and is considering ways in which the current systems may be streamlined. However the above statistics certainly suggest that the existing system is extremely effective.

The OMA also submits that judgements about whether an advertisement complies with an agreed set of standards will always be subjective, and will depend on which individual or group is making the judgements. It follows that a perfect record of no complaints or no breaches is unrealistic.

The effectiveness of the current system is supported by the well-established and productive relationship that the OMA has with the ASB and the AANA. The ASB notifies the OMA when a complaint is received about an outdoor advertisement, and again if the Advertising Standards Board upholds the complaint. If the advertisement was displayed by an OMA member, the OMA will ensure that the member assists the complaints process as necessary. Further, the OMA has been a member of an ASB convened industry and community consultative group whose aim was to assist in the design and implementation of community standards research, and therefore has a good understanding of changes in community standards.

As discussed above, the OMA's members are 100% compliant with the findings of the Advertising Standards Board. Even in the event that an advertiser refuses to withdraw their advertisement, the OMA's members will take the advertisement down.

8. BENEFITS OF SELF-REGULATION

The benefits of self-regulation include the following:

1. Complaint resolution times are generally quicker than in regulatory and co-regulatory schemes.³⁸ Any delays in complaint handling timeframes impact upon both the complainant and the respondent.
2. Self-regulatory schemes are adaptable and able to respond quickly to changes in circumstance or community attitudes. In contrast, legislative frameworks take more time and effort to amend.
3. Both the spirit and the letter of self-regulatory codes should be complied with, as opposed to legislation which generally demands compliance with the strict letter of the law.
4. Self-regulation is funded by industry. Government regulation would require public funds to establish, apply and enforce the scheme.
5. Self-regulation has the support of industry. A system enforced by Government can undermine the goodwill of the industry that is committed to the success of the self-regulatory scheme.

³⁸ Please refer to the statistics provided in the Advertising Standards Bureau's submission.

The OMA submits that the benefits of the current self-regulatory system by far outweigh the small number of occasions on which a complaint has been upheld.

9. CLASSIFICATION WOULD IMPACT UPON THE INDUSTRY

As discussed, the outdoor media industry is already subject to a wide range of different regulations and controls.³⁹ The industry also manages a number of challenges that are specific only to outdoor advertising, including:

1. The numerous sizes and types of outdoor advertising displays. An advertiser will often need to provide different advertisement artwork to display on the various types of display panels – some may be in digital format and some may be printed on posters or billboards of varying sizes.
2. The logistical effort and financial cost to install and remove advertisements.

The nature of the outdoor advertising industry is also such that it would not adapt easily to going through a classification process, as follows:

1. The outdoor industry is fast-paced and relies on quick processing of advertisements for installation. Some examples of typical deadline-driven scenarios are described in Appendix 18. As a result of the fast-paced nature of the industry, any classification delay in outdoor media is likely to cause difficulties for advertisers, with the result that outdoor advertising will become less suitable.
2. Advertising aims to communicate with target markets. As such, an advertisement that is appealing to one demographic of the population may not be appealing to another demographic of the population. Any black and white regulation of this subjective medium would lead to the homogenisation of outdoor advertisements. Again, outdoor advertising would become less suitable to advertisers as a result.

In view of the above, classification of outdoor advertising would enable other media to gain an advantage. The OMA submits that the small number of complaints that have been upheld by the Advertising Standards Board do not justify this loss of advantage. Further, the invariable loss of industry revenue would affect:

- employment in the industry;
- the contribution of the industry to the national economy; and
- the industry's ability to continue making significant contributions to the community.⁴⁰

³⁹ Refer to sections 4 and 5 of this submission.

⁴⁰ Refer to section 3.3 of this submission.

Again, such consequences do not appear reasonably justified where only 0.02% of third-party advertisements have been the subject of an adverse finding by the Advertising Standards Board.

10. CONCLUSION AND RECOMMENDATIONS

The OMA submits that outdoor advertising should not be included in the National Classification Scheme, and that the current self-regulatory system is effective. The effectiveness of the current system is demonstrated by:

- the small number of cases upheld by the Advertising Standards Board, relative to the large number of advertisements displayed (0.02%); and
- the industry's compliance with findings of the Advertising Standards Board.

The social responsibility of the industry demonstrates that it can be relied upon to comply with appropriate self-regulatory systems.

The OMA submits that the benefits of the current self-regulatory system (including overall effectiveness and cost-efficiency) by far outweigh the small number of occasions on which a complaint has been upheld. It would be unnecessarily cumbersome to subject some 30,000 third-party advertisements annually to government regulation where 99.98% of them are inoffensive.

Classification of outdoor advertising would reduce the viability of outdoor advertising. The OMA considers that this outcome is not justified by the small number of complaints upheld by the Advertising Standards Board. Such an outcome would have an effect on the industry and on the industry's ability to continue making substantial contributions to the community.

Therefore, the OMA makes the following recommendations:

1. The current system of self-regulation should be maintained.
2. If outdoor advertising is included in the National Classification Scheme, this should incorporate on-premise advertising.

APPENDICES 1 TO 18

Please refer to the next document for the Appendices.