

Unlike the 'private' world of magazine and television advertising, outdoor advertising pervades public space, thus making regulation of the medium a pertinent public policy concern. The inescapable nature of outdoor advertising, compounded with the increasingly sexualised display of women within it, demands that a public policy response occurs.<sup>1</sup>

## Introduction

- 1.1 Outdoor, or out-of-home, advertising is distinct from other forms of advertising. It is highly visible, often very large, and placed in heavily trafficked areas in order to attract as many viewers as possible. Moreover, unlike television, radio, print, internet, cinema, and mail advertising, outdoor advertising cannot be turned off, put away or easily avoided.
- 1.2 Outdoor advertisements take on a myriad of forms, such as billboards on land adjacent to a road, shopfront and window displays, murals on buildings, vehicle decals, and sandwich boards. Advertising space can be leased on and inside trains, trams, buses and taxis. Purpose-built third-party media display sites include billboard structures, mobile billboards, displays found in shopping centres, bus and train stations, and airports, and street furniture. The latter include:
  - public transport shelters;
  - kiosks;
  - public toilets;
  - waste bins;

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<sup>1</sup> L Rosewarne, *Sex in Public: Women, outdoor advertising and public policy*, Cambridge Scholars: Newcastle, 2007 p. 137.

- public bicycle stations;
  - phone booths; and
  - park benches.
- 1.3 The range of outdoor advertising is expanding and this has raised questions about the appropriateness of content and placement.
- 1.4 In Australia, advertising standards, including those related to outdoor advertising, are governed by a system of industry self-regulation. This system is funded by a voluntary levy paid by advertisers.
- 1.5 Questions regarding the effectiveness of the current arrangements for the regulation of billboard and outdoor advertising have given rise to this inquiry.

## Scope of inquiry

1.6 On 14 December 2010, the Attorney-General, the Hon. Robert McClelland MP, referred to the Committee an inquiry into the regulation of billboard advertising.

1.7 The terms of reference of the inquiry are as follows:

Having regard to:

- community concerns about large-scale public advertising;
- trade practices and fair trading legislation in all jurisdictions that contain consumer protection provisions that prohibit false, misleading and deceptive advertising;
- relevant industry codes including the Australian Association of National Advertisers' *Advertiser Code of Ethics*; and
- the role of the Advertising Standards Bureau:

Refer to the House of Representatives Standing Committee on Social Policy and Legal Affairs for inquiry and report matters relating to the extent to which the current arrangements for the regulation of billboard advertising continues to be an effective method for managing this form of advertising in Australia in line with Australian community expectations.

In performing its functions in relation to this reference, the Committee will consider:

- the existing self-regulatory scheme for advertising;

- whether the current arrangements, including the Industry Codes administered by the Advertising Standards Bureau, meet community concerns about billboard advertising;
  - trade practices and fair trading legislation in all jurisdictions that contain consumer protection provisions that prohibit false, misleading and deceptive advertising;
  - technical developments in billboard advertising, if any;
  - the rate and nature of complaints about billboard advertising;
  - any improvements that may be made to current arrangements; the desirability of minimising the regulatory burden on business; and
  - any other related matter.
- 1.8 The Committee considered that the primary objective of the inquiry is to examine the adequacy of the current regulatory arrangements in relation to advertising which can be viewed from public spaces, and therefore where the audience is not able to exercise an individual choice with regard to what they see. Accordingly, in line with the final term of reference, to consider 'any other related matter', the Committee resolved to include within its inquiry consideration all types of advertising which can be viewed from public spaces.
- 1.9 The Committee undertook to investigate the distinctive category of outdoor advertising and the suitability of the current self-regulatory scheme. In its examination, the Committee considered a number of issues relating to complaints and compliance. Of particular interest is the question of whether the existing system of self-regulation meets community concerns about outdoor advertising content.

## Purpose of inquiry

- 1.10 Outdoor advertising in public space, such as billboards, posters and on public transport, is difficult to avoid. Unlike television, radio, internet or print advertising, outdoor advertising cannot be switched off or closed if the consumer does not wish to view it. As the Outdoor Media Association (OMA) likes to spruik, outdoor advertising (at its best) achieves direct communication with consumers wherever they go:

... where they live, work, play, where they drive and shop,  
where they commute, and where they congregate.<sup>2</sup>

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2 Outdoor Media Association (OMA), 'What makes Good Outdoor' <<http://oma.org.au/what-makes-good-outdoor>> viewed 23 May 2011.

- 1.11 In 2005, the OMA (then known as the Outdoor Advertising Association of Australia) undertook a research project entitled Proving Outdoor Works (POW) to demonstrate the 'reach and frequency, creative effectiveness and attitudes to outdoor advertising in general'.<sup>3</sup>
- 1.12 The POW campaign appeared for four weeks across all main outdoor formats such as billboards, street furniture, posters, buses, taxis and inside airports. Results of that research showed that over 91 per cent of the respondents surveyed recalled seeing the POW campaign during that period with the majority seeing it every day or several times per week. Moreover, 70 per cent of respondents said that they see 'quite a lot of outdoor advertising in their daily lives'.<sup>4</sup>
- 1.13 At the same time as outdoor advertising is proving to be an increasingly prevalent and effective means of reaching an audience, community concern about it appears to be rising. For example, statistics produced by the Advertising Standards Bureau show that complaints about outdoor advertising rose from 14 per cent in 2007 to 20 per cent in 2008, to more than 26 per cent in 2009, and levelled to 20 per cent in 2010.<sup>5</sup> The most complained about advertisement in 2009 related to a billboard image, and four of the top ten most-complained about advertisements in 2010 were billboards.<sup>6</sup>
- 1.14 This inquiry was conducted in response to growing concerns that outdoor advertising, in its currently self-regulated form, is not matching community attitudes about the nature of advertising images that are displayed in the public arena.
- 1.15 As technological advances are made, the media available for outdoor advertising is also likely to become increasingly sophisticated. Even today, there are a wide range of options available including: backlit, neon, holograms, giant video screens, live theatre, giant product models, two- or three-dimensional displays, trivision, animated neon, computerised message displays, custom built mechanicals, reflective materials, screen printing, inflatable objects, signwriting, and computer generated images.<sup>7</sup>

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3 goa billboards, 'Proving Outdoors Works' <<http://www.goa.com.au/billboards/proof.html>> viewed 28 January 2011.

4 OMA, 'POW Campaign Findings' <<http://oma.org.au/media/Pdf/POWSummaryFindings.pdf>> viewed 28 January 2011.

5 Advertising Standards Bureau (ASB), *Submission 27*, p. [50].

6 ASB, 'Most Complained about Ads in 2009', *Media Release*, 15 December 2009; ASB, 'Most Complained about Ads for 2010', *Media Release*, 14 December 2010.

7 OMA, 'What makes Good Outdoor' <<http://oma.org.au/what-makes-good-outdoor>> viewed 23 May 2011.

Increasingly sophisticated technology such as facial recognition software enables outdoor advertisements to target passers-by.

- 1.16 The future forms of outdoor advertising are expanding and may take on forms we cannot yet imagine. However, whatever form they may take, we must ensure that an appropriate regulatory system is in place that addresses community concerns and consumer protection.

## Relevant reviews and inquiries

- 1.17 This inquiry is the first parliamentary inquiry to focus on the special category of outdoor advertising. However, a number of other inquiries have addressed advertising in general or for specific industry sectors.
- 1.18 In November 1983, the House of Representatives Standing Committee on Road Safety tabled its report, *The Impact of Advertising Standards on Road Safety*. This report noted the impact of advertising on driving behaviour and recommended that an advertising code for road safety be developed. As a result, the Federal Chamber of Automotive Industries developed a voluntary Code of Practice for Motor Vehicle Advertising.
- 1.19 In June 2008, the Senate Standing Committee on Community Affairs published a report into the *Alcohol Toll Reduction Bill 2007 [2008]*, which dealt primarily with alcohol advertising and the Alcohol Beverages Advertising Code Scheme.
- 1.20 The Senate Environment, Communications and the Arts Committee tabled a report in June 2008 entitled *Sexualisation of Children in the Contemporary Media*. While not focussed on outdoor advertising, a number of submissions to the inquiry expressed concern about the exposure of children to sexual innuendo and material contained in billboard advertising.<sup>8</sup>
- 1.21 The Senate Committee recommended that:
- ...the Advertising Standards Board rigorously apply standards for billboards and other outdoor advertising to more closely reflect community concern about the appropriateness of sexually explicit

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8 Senate Standing Committee on Environment, Communications and the Arts, *Sexualisation of Children in the Contemporary Media*, June 2008, p. 71.

material and the inability of parents to restrict exposure of children to such material.<sup>9</sup>

- 1.22 In response to that recommendation the Government noted the independence of the Advertising Standards Board and that the placement of outside advertising is within the purview of local and/or state government planning authorities.<sup>10</sup>
- 1.23 Concurrent with this Committee's inquiry into the regulation of billboard and outdoor advertising, a number of related reviews are underway.
- 1.24 On 21 December 2010, the Attorney-General announced that the Australian Law Reform Commission will conduct a review of classification in Australia in light of changes in technology, media convergence and the global availability of media content.<sup>11</sup> The Australian Law Reform Commission released its *National Classification Scheme Review Issues Paper* on 20 May 2011, and plans to provide its report by 30 January 2012.<sup>12</sup>
- 1.25 Additionally, the Senate Legal and Constitutional Affairs Committee announced on 16 September 2010 that it will inquire into the Australian film and literature classification scheme. The Senate Committee examined the scheme with particular reference to a number of issues including 'the possibility of including outdoor advertising, such as billboards, in the National Classification Scheme'.<sup>13</sup> The report was tabled on 23 June 2011.
- 1.26 The Australian Association of National Advertisers (AANA) has also commissioned an independent review of the Code of Ethics which underpins the current system of self-regulation. The AANA states that the aim of the review is to 'update and where necessary develop the Code of Ethics to ensure that it continues to meet all stakeholders' requirements and expectations'.<sup>14</sup> The AANA advised the Committee that it has delayed

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9 Senate Standing Committee on Environment, Communications and the Arts, *Sexualisation of Children in the Contemporary Media*, June 2008, pp. 73–74.

10 Australian Government, *Government Response: Inquiry into the sexualisation of children in the contemporary media environment*, July 2009, pp. 9–10.

11 The Hon. Robert McClelland MP, Attorney-General, and the Hon. Brendan O'Connor MP, Minister for Home Affairs, 'Review of the National Classification Scheme', *Joint Media Release*, 21 December 2010.

12 Australian Law Reform Commission, 'National Classification Scheme Review' <<http://www.alrc.gov.au/inquiries/national-classification-review>> viewed 25 May 2011.

13 Senate Legal and Constitutional Affairs Committee, 'Inquiry into the Australian Film and Literature Classification Scheme' <[http://www.aph.gov.au/Senate/committee/legcon\\_ctte/classification\\_board/info.htm](http://www.aph.gov.au/Senate/committee/legcon_ctte/classification_board/info.htm)> viewed 28 January 2011.

14 Australian Association of National Advertisers (AANA), 'AANA Code of Ethics Review – 2010' <<http://aana.com.au/CodeofEthicsReview2010.htm>> viewed 28 January 2011.

the release of the review in order to enable consideration of the findings of this inquiry.

## Conduct of the inquiry

- 1.27 The inquiry's terms of reference and an invitation for written submissions were advertised on 20 December 2010. The Committee also wrote to a number of organisations seeking submissions. The terms of reference and other information about the inquiry are advertised on the Social Policy and Legal Affairs Committee's homepage at <http://www.apf.gov.au/house/committee/spla/reports.htm>.
- 1.28 The inquiry received 51 submissions, six supplementary submissions and three exhibits. Lists of submissions and exhibits received can be found at Appendices A and B respectively.
- 1.29 Seven public hearings were held in 2011 in Canberra, Sydney and Melbourne (see list at Appendix C). Transcripts from these hearings are available through the Committee's website. A number of witnesses gave evidence to the Committee at these public hearings. The names of witnesses are listed at Appendix C. The Committee thanks the witnesses for giving their time to the inquiry and assisting with the Committee's investigations.

## Structure of the report

- 1.30 The report is comprised of five chapters, containing 19 recommendations. In addition to making recommendations to the Australian Government, the Committee has made recommendations to the relevant advertising industry bodies. In doing so, the Committee acknowledges that neither the Committee nor the Government has authority over these industry bodies.
- 1.31 The Committee recognises that the advertising industry has demonstrated a willingness to review and make changes to the self-regulatory system. The Committee is of the view that the industry will implement the recommendations contained in this report in order to improve their own operation. Each recommendation is titled to indicate which of the various government and non-government bodies it is directed to.
- 1.32 Chapter Two provides a background to the system of advertising self-regulation and the history of advertising self-regulation in Australia. It

also sets out why outdoor advertising must be considered a special category of advertising.

- 1.33 Chapter Three considers different regulatory models – government regulation, co-regulation, and self-regulation – and assesses their advantages and disadvantages for regulating outdoor advertising.
- 1.34 Chapter Four deals with the relevant voluntary codes of advertising that apply to outdoor advertising, and the Advertising Standard Board’s determinations against these codes.
- 1.35 Chapter Five discusses the effectiveness of the complaint process in addressing community concerns about advertising and in enforcing adherence to the voluntary codes.