

INDEPENDENT REVIEWER PROCESS

The ASB has appointed the Hon Deirdre O'Connor as the first Independent Reviewer for the advertising self-regulation system in Australia. Ms O'Connor is a lawyer who, in addition to many judicial appointments since being admitted to the NSW Bar in 1980, was the first female appointed as a Justice of the Federal Court of Australia, President of the Administrative Appeals Tribunal and President of the Australian Industrial Relations Commission. For more information about Ms O'Connor, please refer to our website www.adstandards.com.au

The ASB introduced the review process for Advertising Standards Board decisions in April 2008 as part of its ongoing commitment to international best practice.

If people who originally complained about an advertisement or the advertiser are unhappy about a Board decision regarding a particular advertisement, they may ask for a review of the decision.

Requests for review will be considered by the Independent Reviewer.

If she decides to accept the request, the Independent Reviewer will undertake appropriate investigation and make a recommendation to the Board, stating whether the decision should be reviewed, amended or confirmed. The investigation will include an invitation from the Independent Reviewer for other parties in the case (i.e. either the complainant or the advertiser) to comment on the submission provided by the party requesting the review. If the Independent Reviewer decides not to accept the request because she considers that it does not meet any of the grounds set out below, the person making the request will be informed.

The cost of lodging a request for review is \$500 for complainants, \$1000 for complainants from Incorporated Associations and \$2000 for advertisers. This payment must accompany a request for review and is **not refundable** if the Independent Reviewer decides that the request does not meet the grounds for review.

During the review process, the original decision (and any subsequent remedial action or withdrawal of the advertisement) will stand. The ASB will not delay publication of the relevant decision pending the outcome of the review.

The Board's decision on reviewed cases is final. No further review is possible.

The Advertising Standards Bureau will inform all parties of the Board's final decision. Decisions that are revised or amended following a review will be published on the ASB website: www.adstandards.com.au

Process to follow when requesting a review:

- Requests for a review will be accepted only from the original complainant(s) or the relevant advertiser.
 - if the complaint was made by an organisation, an advertiser or an industry complainant, the request for review should be signed by a person who, in the opinion of the Independent Reviewer, has the right to bind that organisation.
 - Requests made only by a solicitor or creative agency on behalf of the advertiser will not be accepted.

- Grounds for review:
 - where new or additional relevant evidence which could have a significant bearing on the decision becomes available (an explanation of why it was not submitted previously will be required);
 - where there was a substantial flaw in the Board's decision (decision clearly in error having regard to the provisions of the Code, or clearly made against the weight of evidence);
 - where there was a substantial flaw in the process by which the decision was made.

- Since no review will proceed if the point at issue is the subject of legal action between anyone directly involved, requests for review should make plain that no such action is underway or contemplated.

- Requests for review should be sent within 10 business days of the date of the ASB's letter of notification of a decision.

- **Requests for a review must:**
 - contain a full statement of the grounds;
 - be in writing;
 - be accompanied by relevant payment; and
 - be addressed to
Independent Reviewer of ASB Decisions
Level 2
97 Northbourne Avenue
TURNER ACT 2612.