**CHAPTER 1**

**ADVERTISING STANDARDS**

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertising standards and ethics</td>
<td>1</td>
</tr>
<tr>
<td>Ethics in advertising and promotion</td>
<td>2</td>
</tr>
<tr>
<td>Australian Association of National Advertisers Code of Ethics</td>
<td>3</td>
</tr>
<tr>
<td>Self-regulation</td>
<td>4</td>
</tr>
<tr>
<td>Advertising codes and regulations</td>
<td>6</td>
</tr>
<tr>
<td>Advertising Standards Bureau: frequently asked questions</td>
<td>7</td>
</tr>
<tr>
<td>Complaints the Advertising Standards Bureau considers</td>
<td>8</td>
</tr>
<tr>
<td>Most complained about ads</td>
<td>9</td>
</tr>
<tr>
<td>Is there any point to the Advertising Standards Bureau?</td>
<td>10</td>
</tr>
<tr>
<td>About content and advertising regulation</td>
<td>12</td>
</tr>
<tr>
<td>Code replaces radio advertising standard</td>
<td>13</td>
</tr>
<tr>
<td>False or misleading claims</td>
<td>14</td>
</tr>
<tr>
<td>Where should we draw the line on misleading advertising?</td>
<td>15</td>
</tr>
<tr>
<td>Facebook crackdown just the beginning as regulators look to protect social media consumers</td>
<td>17</td>
</tr>
<tr>
<td>Beyond free speech: the thin layer of regulation on native advertising</td>
<td>19</td>
</tr>
</tbody>
</table>

**CHAPTER 2**

**MARKETING TO CHILDREN AND YOUNG PEOPLE**

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children’s exposure to food marketing</td>
<td>21</td>
</tr>
<tr>
<td>Advertising industry self-regulation and children</td>
<td>24</td>
</tr>
<tr>
<td>AANA Code for Advertising and Marketing Communications to Children</td>
<td>25</td>
</tr>
<tr>
<td>Advertising to children</td>
<td>28</td>
</tr>
<tr>
<td>The facts about food marketing to kids</td>
<td>29</td>
</tr>
<tr>
<td>Junk food advertising to kids</td>
<td>31</td>
</tr>
<tr>
<td>Alcohol marketing and young people: time for a new policy agenda</td>
<td>34</td>
</tr>
<tr>
<td>‘As a matter of fact, I’ve got it now’: alcohol advertising and sport</td>
<td>36</td>
</tr>
<tr>
<td>Sport told it’s time for last drinks</td>
<td>37</td>
</tr>
<tr>
<td>Young people and alcohol advertising</td>
<td>38</td>
</tr>
<tr>
<td>Sports betting and advertising</td>
<td>39</td>
</tr>
<tr>
<td>Not just ‘a bit of fun’: why sports, gambling and kids are a bad mix</td>
<td>45</td>
</tr>
<tr>
<td>Reining in advertisers to curb Australia’s body image distortion</td>
<td>47</td>
</tr>
<tr>
<td>Sexualisation of children in advertising</td>
<td>47</td>
</tr>
<tr>
<td>Exploring issues – worksheets and activities</td>
<td>49</td>
</tr>
<tr>
<td>Fast facts</td>
<td>57</td>
</tr>
<tr>
<td>Glossary</td>
<td>58</td>
</tr>
<tr>
<td>Web links</td>
<td>59</td>
</tr>
<tr>
<td>Index</td>
<td>60</td>
</tr>
</tbody>
</table>
INTRODUCTION

Advertising Standards and Ethics is Volume 394 in the ‘Issues in Society’ series of educational resource books. The aim of this series is to offer current, diverse information about important issues in our world, from an Australian perspective.

KEY ISSUES IN THIS TOPIC
Advertising in its various forms has a powerful impact on Australian society. It not only influences the public’s consumer preferences; it also helps shape society’s values.

Advertising is self-regulated in Australia, however the industry is subject to a range of media codes and standards. What are these standards, and who do consumers complain to if they encounter inappropriate or unethical marketing practices on television, radio or in the growing digital media space?

This book explores a range of ethical issues in advertising, such as false and misleading claims. The book also focuses on children’s exposure to sports sponsorship, sexualised images, and the marketing of junk food, alcohol and gambling. What happens when advertisers’ claims and products don’t always align with community values?

SOURCES OF INFORMATION
Titles in the ‘Issues in Society’ series are individual resource books which provide an overview on a specific subject comprised of facts and opinions.

The information in this resource book is not from any single author, publication or organisation. The unique value of the ‘Issues in Society’ series lies in its diversity of content and perspectives.

The content comes from a wide variety of sources and includes:
- Newspaper reports and opinion pieces
- Website fact sheets
- Magazine and journal articles
- Statistics and surveys
- Government reports
- Literature from special interest groups

CRITICAL EVALUATION
As the information reproduced in this book is from a number of different sources, readers should always be aware of the origin of the text and whether or not the source is likely to be expressing a particular bias or agenda.

It is hoped that, as you read about the many aspects of the issues explored in this book, you will critically evaluate the information presented. In some cases, it is important that you decide whether you are being presented with facts or opinions. Does the writer give a biased or an unbiased report? If an opinion is being expressed, do you agree with the writer?

EXPLORING ISSUES
The ‘Exploring issues’ section at the back of this book features a range of ready-to-use worksheets relating to the articles and issues raised in this book. The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

FURTHER RESEARCH
This title offers a useful starting point for those who need convenient access to information about the issues involved. However, it is only a starting point. The ‘Web links’ section at the back of this book contains a list of useful websites which you can access for more reading on the topic.
Advertising standards and ethics

Justin Healey offers a brief overview of some the key issues raised in this book

What are marketing ethics?

In simple terms, ethics is a system of moral principles. They affect how people make decisions and lead their lives. Ethics is concerned with what is good for individuals and society and is also described as moral philosophy. The term is derived from the Greek word *ethos* which can mean custom, habit, character or disposition. Our concepts of ethics derive from religions, philosophies and cultures.

Marketing ethics are marketers’ standards of conduct and moral values, and are based on an imperative that marketing not breach the community’s expectations of truth, accuracy and taste. However, in response to a saturated marketplace selling multiple messages to consumers, some marketers may respond to competition by crossing the line and behaving unethically. Unethical advertising can include adopting misleading and deceptive pricing, placement, promotion and product management strategies in order to persuade customers to purchase their products.

Truth, accuracy and good taste

Marketing is the art of persuasion. In order to persuade consumers that their product is the most desirable among many other similar products, the boundaries of truth are often stretched by advertisers, thereby impacting on accuracy and acceptable taste. The growing use of social media as a marketing delivery platform has enabled many marketers to push the boundaries of good taste in their advertising, as there is generally more limited governmental control in social media than traditional media forms such as television and print.

One example of how truth and accuracy can fall victim to the hard sell is ‘sugging’ – a technique used by a marketer falsely pretending to be a market researcher conducting a survey, when in reality they are trying to build databases, generate sales leads or directly sell product or services. Although not necessarily unlawful, ‘sugging’ is generally considered unethical, and this tactic is prohibited or disapproved of by trade groups.

Social responsibility and products which damage health

The issue of social responsibility is inextricably related to ethics in marketing. Increasingly, it is expected that an organisation should be socially aware and responsible to the society in which it operates.

Issues of social and ethical concern include:

- Product safety
- High levels of debt
- Marketing to children
- Gambling/sports betting
- Alcohol and tobacco marketing
- Ecological sustainability of production.

Advertising regulation and standards

Advertising regulation refers to the laws and rules defining the ways in which products can be advertised in a particular region. Rules can define a wide number of different aspects, such as placement, timing and content.

Advertising in its various forms has a powerful impact on Australian society. It not only influences the public’s consumer preferences; it also helps shape society’s values. Advertising is self-regulated in Australia, however the industry is subject to a range of media codes and standards. Due to public health concerns, two of the most highly regulated forms of advertising are tobacco and alcohol advertising.

Advertising standards in Australia are administered by the Advertising Standards Bureau (ASB) which investigates breaches of advertising standards in the Australian media. The ASB is also able to enforce advertisers to remove offensive material.
ETHICS IN ADVERTISING AND PROMOTION

Ethical pitfalls in advertising and promotional content include a number of issues:

Truth and honesty
In the 1940s and 1950s, tobacco used to be advertised as promoting health. Today an advertiser who engages in such deceptive advertising and fails to tell the truth is more accountable to consumers and the law.

Violence, sex and profanity
Sexual innuendo is a mainstay of advertising content, and yet is also regarded as a form of sexual harassment. Violence is an issue especially for children’s advertising and advertising likely to be seen by children.

Taste and controversy
The advertising of certain products may strongly offend some people while being in the interests of others. Examples include: feminine hygiene products, haemorrhoid and constipation medication. The advertising of condoms has become acceptable in the interests of AIDS prevention, but are nevertheless seen by some as promoting promiscuity. Some companies have actually marketed themselves on the basis of controversial advertising, such as Benetton. Sony has also frequently attracted criticism for unethical content (portrayals of Jesus which infuriated religious groups; racial innuendo in marketing black and white versions of its PSP product; graffiti adverts in major US cities).

Negative advertising techniques
In negative advertising, the advertiser highlights the disadvantages of competitor products rather than the advantages of their own. These methods are most familiar from the political sphere, with the use of attack ads.

Delivery channels
Direct marketing
This is the most controversial and prolific of advertising channels, particularly when approaches are unsolicited. TV commercials and direct mail are common examples. Electronic spam and telemarketing push the borders of ethics and legality more strongly.

Shills and astroturfers
These are examples of ways for delivering a marketing message under the guise of independent product reviews and endorsements, or creating supposedly independent watchdog or review organisations. For example, fake reviews can be published on Amazon. Shills are primarily for message delivery, but they can also be used to drive up prices in auctions, such as Ebay auctions.

Native advertising
Native advertising is the blurring of lines between advertising and content, and is commonly used in social media.

Deceptive advertising and ethics
Another breach of marketing ethics has to do with the use of deceptive advertising. This form of advertising is not specific to one target market, and can sometimes go unnoticed by the public. There are a number of different ways in which deceptive marketing can be presented to consumers; one of these methods is accomplished through the use of humour as a masking device in order to mislead potential customers. It is important to understand that humour is not the only method that is used to deter consumers’ minds from what a product actually offers. Before making important purchases, one should always conduct their own research in order to gain a better understanding of what it is they are investing in.


Community standards and complaints
For over 40 years, the Advertising Standards Bureau has received thousands of complaints each year for bad language, discrimination, violence, health, safety and sex. From smoking to flatulence, swearing to nose-picking, it is clear that attitudes to things that offend Australians have evolved over those four decades. Attitudes towards sex, for example, have become more liberal. The code of ethics in relation to sex doesn’t ban sex in ads, but it says that sex must be treated with sensitivity to the relevant audience. On the other hand, there are constant concerns raised with the ASB about how women are depicted in advertising.

In 2014 the Advertising Standards Bureau had the largest number of complaints in its 40 years of operation – over 5,000 complaints about 500 ads (see the box on page 9 for the most complained about advertisements).

As social media continues to change how consumers interact with advertisers, advertising regulation is evolving to the point where consumers can now often raise concerns directly with advertisers and in turn bypass the regulatory system in order to get a response to their concerns from the advertiser, without having to put in a complaint.

SOURCES

By Justin Healey, Editor
Australian Association of National Advertisers Code of Ethics

Objectives: This Code has been adopted by the Australian Association of National Advertisers (AANA) as part of advertising and marketing self-regulation. Its object is to ensure that advertisements and other forms of marketing communications are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and a sense of fairness and responsibility to competitors.

This Code came into effect on 1 January 2012. It replaces the previous AANA Code of Ethics and applies to all advertising and marketing communications on and from 1 January 2012.

This Code is accompanied by a Practice Note which has been developed by AANA. The Practice Note provides guidance to advertisers, complainants and the Advertising Standards Board (Board) in relation to this Code.

DEFINITIONS AND INTERPRETATION

In this Code, unless the context otherwise requires:

Advertising or Marketing Communications means any material which is published or broadcast using any Medium or any activity which is undertaken by, on behalf of an advertiser or marketer, and
• Over which the advertiser or marketer has a reasonable degree of control, and
• That draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct, but does not include Excluded Advertising or Marketing Communications.

Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product. ‘Product’ is defined in the Code for Advertising & Marketing Communications to Children as follows: Product means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

The Board means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communications.

Children means persons 14 years old or younger and Child means a person 14 years old or younger.

Excluded Advertising or Marketing Communications means labels or packaging for products, public relations communications (corporate or consumer) and related activities and, in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel or station.

Medium means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, telecommunications, television or other direct-to-consumer media including new and emerging technologies.

Prevailing Community Standards means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time in relation to Advertising or Marketing Communications. Prevailing Community Standards apply to Clauses 2.1-2.6 below. The determination by the Board shall have regard to Practice Notes published by AANA and any research conducted by the Advertising Standards Bureau.

SECTION 1: COMPETITOR COMPLAINTS

1.1 Advertising or Marketing Communications shall comply with Commonwealth law and the law of the relevant State or Territory.

1.2 Advertising or Marketing Communications shall not be misleading or deceptive or be likely to mislead or deceive.

1.3 Advertising or Marketing Communications shall not contain a misrepresentation, which is likely
to cause damage to the business or goodwill of a competitor.

1.4 Advertising or Marketing Communications shall not exploit community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment which the product or services do not have.

1.5 Advertising or Marketing Communications shall not make claims about the Australian origin or content of products advertised in a manner which is misleading.

SECTION 2: CONSUMER COMPLAINTS

2.1 Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

2.6 Advertising or Marketing Communications

Self-regulation

The Australian Association of National Advertisers explains its role in advertising regulation

The AANA implements a comprehensive government relations and regulatory affairs program with two key objectives.

1. To ensure that the self-regulation of marketing communications continues to be regarded by government and stakeholders as the preferred model for managing marketing communications in Australia.

2. To ensure that the AANA members can expand their communications activities into new emerging channels without unnecessary regulatory obstacles.

AANA AND ASB’S COMMITMENT TO SELF-REGULATION

The AANA has designed and delivered the self-regulatory component of regulation controlling advertising and marketing communications in Australia.

Today, Australia’s internationally recognised system of advertising self-regulation reflects the important role of the AANA in developing and reviewing AANA Codes, and provides a robust and independent complaints handling system through the Advertising Standards Bureau, Advertising Standards Board and the Advertising Claims Board.

The AANA sponsored the formation of the Advertising Standards Bureau and Board in 1998. The Advertising Standards Board and Advertising Claims Board are independent of the AANA, are operated under separate management, and their operations are funded by a levy on advertising administered by the Australian Advertising Standards Council Ltd.

With advertisers, marketers and media sharing a common interest in promoting consumer confidence in and respect for, advertising and marketing communications, the self-regulatory system has industry-wide backing.

Source: Australian Association of National Advertisers (AANA), Self-Regulation.
shall not depict material contrary to Prevailing Community Standards on health and safety.

SECTION 3: OTHER CODES

3.1 Advertising or Marketing Communications to Children shall comply with the AANA Code of Advertising & Marketing Communications to Children and section 2.6 of this Code shall not apply to advertisements to which the AANA Code of Advertising & Marketing Communications to Children applies.

3.2 Advertising or Marketing Communications for motor vehicles shall comply with the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles.

3.3 Advertising or Marketing Communications for food or beverage products shall comply with the AANA Food & Beverages Advertising & Marketing Communications Code as well as to the provisions of this Code.

This section does not form part of the Code of Ethics and is provided here for information only.

COMPLAINTS UNDER THE AANA SELF-REGULATORY SYSTEM

Complaints about the content of an advertisement or marketing communication can be made under this Code and the other AANA Codes to the Advertising Standards Bureau.

You can make a complaint by:

• Lodging a complaint online at: www.adstandards.com.au/process/theprocesssteps/makingacomplaint

• Writing a letter (and sending via post or fax) to:
The Advertising Standards Bureau
Level 2, 97 Northbourne Avenue
Turner ACT 2612
Fax: (02) 6262 9833

Once the Advertising Standards Bureau has received your complaint, it then assesses the complaint to determine whether it is eligible for consideration by the Advertising Standards Board. The Board is the body established to consider complaints. If accepted the advertiser/marketer is notified and a response is requested. The complaint is then considered by the Board and the advertiser and complainant are advised of the determination. A case report is then published.

The original complainant or advertiser/marketer can also ask for a review of the determination.

NOTES

1. Complaints under Section 1 are made to the Advertising Claims Board, www.adstandards.com.au/process/claimsboardprocess


3. If your complaint is about a program (not an advertisement) on television or radio, please contact the relevant industry body.

## Advertising codes and regulations

| Advertising & selling: | ACNC Guidelines  
|-----------------------|-------------------------------------------------|
| Alcohol:              | ACNC Guidelines  
| Alcohol (distilled spirits): | DSICA Guide for Responsible Practices for Alcohol Advertising & Marketing  
| Body image:           | Voluntary Code of Conduct on Body Image  
www.youth.gov.au/sites/Youth/bodyImage |
| Children:             | ANNA Code of Advertising  
Employing Children in the Entertainment Industry  
AFGC Responsible Marketing Initiative  
| Cinema:               | More  
| e-marketing/SMS:      | Codes  
www.communicationscouncil.org.au/public/content/ViewCategory.aspx?id=313 |
| Environment:          | AANA Environmental Claims Code  
| Ethics:               | AANA Code of Ethics  
| Fast food:            | Australian Quick Service Restaurants Initiative  
| Federal government:   | Guidelines for Departments & Agencies  
| Financial services:   | Advertising & Consumer Credit Code  
| Food & beverages:     | AANA Advertising & Marketing Communications Code  
| Gambling:             | State Regulations  
| Gender portrayal:     | Codes/Guidelines  
www.communicationscouncil.org.au/public/content/ViewCategory.aspx?id=301 |
| Internet:             | ACNC Guidelines  
Video Advertising Standard Guidelines  
| Media codes:          | For TV, Radio, Print, Outdoor & Cinema  
| Motor vehicle:        | Advertising Code  
| Online behavioural advertising: | Australian Best Practice Guideline for Online Behavioural Advertising  
| Outdoor media:        | OMA Code of Ethics  
| Price comparisons:    | ACNC Price Comparisons Advertising  
| Pricing (component):  | ACNC Display Prices  
| Pricing (unit):       | ACNC Unit Pricing Code  
| Print:                | More  
| Radio:                | More  
| Social media:         | More CC_Social Media Code of Conduct_FINAL.pdf |
| Telecommunications:   | Code of Practice  
| Telemarketing:        | ACNC Consumer Guidelines  
| TV:                   | Commercial Television Industry Codes  
| Therapeutic goods:    | Government/Industry Regulations  
| Tobacco:              | Advertising  
| Spam:                 | See eMarketing Codes  
www.communicationscouncil.org.au/public/content/ViewCategory.aspx?id=313 |
| Weight management:    | Code of Practice  

Source: The Communications Council, Advertising codes and regulations.
Advertising Standards Bureau: frequently asked questions

Answers to a range of commonly asked questions regarding the role of the Advertising Standards Bureau

Who is on the Advertising Standards Board?
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.

Is the Advertising Standards Bureau a government body?
The Advertising Standards Bureau is not a government body. It is the secretariat for the Advertising Standards Board and the Advertising Claims Board. The Bureau is governed by a Board of Directors and is funded by a levy.

How many complaints must be received before the ASB will investigate an advertisement?
A single written complaint is sufficient to initiate a formal investigation.

Are all complaints forwarded to the Advertising Standards Board?
Not all complaints are forwarded to the Board. Some complaints are not in ASB jurisdiction, the ad complained about has been considered previously, it is about an issue which the Board consistently dismisses, or belongs to another organisation’s charter.

Why can’t I lodge an anonymous complaint?
An anonymous complaint is not sufficient to initiate a formal complaint, but it can be included as part of a complaint that has already been raised or is subsequently raised.

How are decisions of the Advertising Standards Board made?
The Board considers complaints in light of all of the Codes and Initiatives. It meets twice a month to consider complaints and reaches its decision by way of simple majority. In the event of a tied vote, the Chair has a casting vote. The position of Chair is rotated among Board members on a meeting by meeting basis.

What if I don’t agree with the Advertising Standards Board decision?
If people who originally complained about an advertisement or the advertiser are unhappy about a Board determination regarding a particular advertisement, they may ask for a review of the determination.

What is the Advertising Claims Board?
The Advertising Claims Board provides a competitive complaint resolution service. It is designed to determine complaints involving issues of truth, accuracy and legality of advertising under Section 1 of the AANA Code of Ethics on a user pays cost recovery basis. It comprises variable panels of lawyers appointed on a case-by-case basis from a register of lawyers experienced in advertising and/or competition and consumer law, maintained by the Bureau.

What type of ads are complained about the most?
The ASB receives complaints about all types of ads in all mediums. We keep statistics about complaints, a running tally of complaints is available on our home page, and information about issues most complained about are available in documents we publish such as the Review of Operations.

You can complain to the Advertising Standards Bureau if your complaint is about advertising material pertaining to the following codes:

**Section 2 of the AANA Code of Ethics**
- Portrayal of sex/sexuality/nudity
- Portrayal of people
- Objectification
- Language
- Violence
- Health and safety.

**AANA Environmental Claims in Advertising and Marketing Communications Code**
- Truthful and factual presentation of environmental claims
- Relevance and clarity of environmental claims
- Substantiation of environmental claims.

**AANA Food and Beverages Advertising and Marketing Communications Code**
- Truth and honesty
- Contravene prevailing community standards
- Communicate information in an appropriate manner
- Undermining of healthy active lifestyles or healthy balanced diets
- Appropriate substantiation of health claims
- Misleading or deceptive nutritional or health comparisons
- Use of statistics or scientific terms to imply or ascribe validity to claims
- Accuracy of claims related to the product
- Use of personalities without clearly distinguishing between commercial promotion and editorial content
- Promotion as meal replacements
- Specific rules about advertising food and beverages to children.

**AANA Code for Advertising and Marketing Communications to Children**
- Prevailing community standards
- Misleading or deceptive to children
- Clear representation of the product
- Confusing advertising with editorial content
- Sexualised imagery or suggestions
- Promotion of unsafe or dangerous behaviour/activity
- The portrayal of unsafe or dangerous products
- Social values, such as alarm and distress to children
- Issues of undermining the authority of parents or carers
- Unclear pricing
- Unclear qualifying statements
- Unclear competition rules and information
- Use of popular personalities
- Any association to alcohol
- Privacy of information collection
- Promotion of inactive lifestyle combined with unhealthy eating habits.

**FCAI Voluntary Code of Practice for Motor Vehicle Advertising**
- Unsafe driving
- Depiction of speeding
- Illegal driving practices
- Depiction of people driving while fatigued or under the influence of alcohol
- Deliberate and significant environmental damage
- Issues of clarity concerning motor sport in advertising.

**AFGC Responsible Children’s Marketing Initiative of the Australian Food and Beverage Industry**
Advertisements for food and beverage products to children under 12 in media that do not:
- Present healthy dietary choices, consistent with established scientific or Australian Government standards AND
- Reference a healthy lifestyle, designed to appeal to the audience through messaging that encourages good dietary habits, consistent with established scientific or government criteria
- Physical activity.

**Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children**
The Initiative establishes a common framework for advertising and marketing communications to children under 14 years of age:
- To ensure that only food and beverages that represent healthier choices are advertised to children, and
- To help parents and guardians make informed product choices for their children.

The Advertising Standards Board received a record number of around 5,600 complaints about advertisements in 2014, many of which were in response to uncomfortable scenes. The ASB determined that none of the 10 most complained about advertisements breached the code. The list of the most complained about advertisements follows:

MOST COMPLAINED ABOUT ADS IN 2014

1. 0307/14 Ashley Madison – Avid Life
TV ad featuring married men singing “I’m looking for someone other than my wife”.
Dismissed. Number of complaints: 481

2. 0277/14 My Plates
TV ad featuring a man repeatedly passing wind in a car.
Dismissed. Number of complaints: 250

3. 0178/14 Menulog
TV ad featuring a Da Vinci character painting the last supper.
Dismissed. Number of complaints: 228

4. 0276/14 My Plates
TV ad featuring a man picking his nose and wiping it on a car door.
Dismissed. Number of complaints: 206

5. 0069/14 Johnson & Johnson Pacific Pty Ltd
TV ad highlighting embarrassing menstrual experiences.
Dismissed. Number of complaints: 185

6. 0201/14 Ultra Tune Australia
TV ad featuring two women wearing rubber visiting a tyre store.
Dismissed. Number of complaints: 181

7. 0281/14 My Plates
TV ad featuring a man picking his nose and wiping it on a car door, his finger is pixelated.
Dismissed. Number of complaints: 180

8. 0438/14 Coalition for the Protection of Racehorses
Billboard pictures a horse lying on its side and the words “Is the party really worth it?”
Dismissed. Number of complaints: 152

9. 0087/14 Johnson & Johnson Pacific Pty Ltd
TV ad highlighting different embarrassing menstrual experiences.
Dismissed. Number of complaints: 146

10. 0014/14 Meat and Livestock Australia
TV ad featuring Sam Kekovich promoting the consumption of lamb on Australia Day.
Dismissed. Number of complaints: 80

MOST COMPLAINED ABOUT ADS SINCE 1998

1. 0307/14 Ashley Madison – Avid Life
TV ad featuring married men singing “I’m looking for someone other than my wife”.
Dismissed. Number of complaints: 481

2. 156/07 Nando’s Australia Pty Ltd
TV ad featuring a woman in a business suit describes how she can’t afford to have cravings at work, she is then shown in a g-string and pole dancing.
Dismissed. Number of complaints: 359

3. 450/09 GASP Denim
Five images of a young topless woman wearing different pairs of tight-fitting jeans.
Dismissed. Number of complaints: 297

4. 410/06 Stuart Alexander and Co
TV ad featuring a man’s nipples get longer as he eats Mentos and he walks around town using them to do various things.
Dismissed. Number of complaints: 283.

5. 20/07 Advanced Medical Institute
This outdoor advertisement features red words on a yellow background reading “want longer lasting sex?”.
Dismissed. Number of complaints: 265

6. 0277/14 My Plates
TV ad featuring a man repeatedly passing wind in a car.
Dismissed. Number of complaints: 250

7. 0178/14 Menulog
TV ad featuring a Da Vinci character painting the last supper.
Dismissed. Number of complaints: 228

8. 0284/10 Advanced Medical Institute
A woman is trying to reach for a jar in a cupboard. She calls to her husband to help. He opens his robe and she looks over him with awe. She then appears to stand on his erect penis to reach the jar.
Dismissed. Number of complaints: 227

9. 0176/11 Queensland Association for Healthy Communities
Billboard with the words “Rip & Roll” written in large letters across the centre, with an image of a red condom in its wrapper and two men: one man is embracing the other man from behind while holding a red condom wrapper.
Dismissed. Number of complaints: 222

10. 284/05 Advanced Medical Institute
TV ad showing two men in tuxedos standing behind grand piano – they drop pants and undies and start playing the piano with their penises.
Dismissed. Number of complaints: 217

IS THERE ANY POINT TO THE ADVERTISING STANDARDS BUREAU?

While the industry body receives hundreds of complaints about ads, many are outrageous and few are actioned. In a feature that first appeared in Encore, Miranda Ward finds out whether there is any point to the ASB.

In the last year (2012) a grand total of 3,640 complaints were made to the Advertising Standards Bureau (ASB) relating to more than 500 ads. The ASB’s board looked at 473 of these ads and only 68 were found to have breached its Code of Ethics.

With less than 100 ads breaching the Code in a year, the question of the ASB’s relevancy begs to be asked. Has the ASB become more of a burden to the industry than a requirement?

Part of the industry’s self-regulation system, the ASB deals with complaints on a daily basis. Some of them address violence, nudity and explicit language in advertising but many of the complaints border on the ridiculous. In the last month alone, an ad for preservative-free Devondale Long Life Milk featuring a girl glowing in the dark drew complaints and was subsequently banned by the watchdog because, according to the ASB, the phrase ‘preservatives have consequences’ was more representative of female anatomy. “The donuts are clearly positioned to look like breasts. The jam is oozing out so it appears like nipples, which jam donuts do not usually do in my experience. This ad is offensive to me and I’m sure countless others.”

Perhaps unsurprisingly, the majority of these complaints were dismissed.

INSIDE THE ASB

The ASB is made up of eight staff with 20 people on its board. Membership of the board is on a fixed-term basis with new appointments staggered with the most recent appointments in 2011.

The organisation is industry-funded; advertisers pay a voluntary levy based on gross media expenditure. The levy has been set at 0.035 per cent – that’s just $3.50 per $10,000 of gross media expenditure. In layman’s terms, an ad campaign that costs $1m would pay a levy of $350 to the body. The ASB receives no government funding.

Complaints made to the ASB are examined by the board under sections of the Code of Ethics and other codes relating to food and beverages, advertising and marketing to children, and environmental claims as prescribed by the Australian Association of National Advertisers (AANA). Sunita Gloster, AANA CEO, describes the AANA and the ASB as “two halves of the same coin”.

She says: “The AANA is responsible for code development and the Advertising Standards Board adjudicates complaints. While we are two halves of the same coin, we do operate independently because that’s what gives confidence around the adjudication process.”

Once a complaint is received by the ASB, it is assessed to determine if it will go to the board. If it does, the advertiser/marketer is notified and a response is requested. The complaint is then considered by the Board and the advertiser and complainant are notified of the determination. Anonymous complaints are not accepted. Fiona Jolly, ASB CEO, says: “Self-regulation of advertising is critical for the industry and it’s critical that there is an effective system for managing complaints and concern about advertising. Self-regulation is important because it prevents government bringing restrictive legislation in.”

“This would add considerable cost to industry and would certainly delay the ability of people getting campaigns on air or out quickly. The self-regulation system saves industry money, makes it easier for them to do business and gives them a more competitive and flexible environment in which to operate,” says Jolly. “It demonstrates to government that the industry actually cares about the community.”

While AANA’s Gloster says self-regulating is “fundamental to commercial freedom of speech”.

“Because what’s the alternative? The alternative is if we don’t self-regulate it’s likely the government would step in to ensure there’s some kind of safe-guard for community standards,” she says. “It’s like a footy game – you’re not always happy with the decisions the umpires make but...
no one would dispute the need for an independent umpire.”

Lorenzo Bresciani, managing director of DDB Melbourne, the agency behind the banned Devondale spot, is supportive of the system. He says: “So long as there are really clear guidelines and consistency in how those guidelines are interpreted, I definitely believe that self-regulation leads to better outcomes.”

THE RULING

While agencies have little choice other than to accept the board’s ruling, not all of them do it quietly.

In 2008, creative agency SMART responded to a ban against an ad they had produced for energy drink Mother with some tongue-in-cheek humour in their next spot. The original ad depicted a SWAT team smashing into a laboratory to assault the scientists responsible for the original taste of the energy drink. The ad was consequently banned by the ASB for “unacceptable violence” that was “not stylised or humorous but was gritty and realistic”. In response, SMART turned the concept into an animation which began with a stick figure marvelling at the ad’s previous incarnation getting banned.

The script for the ad read: “The last ad we created for Mother received a lot of complaints and it got banned. Not because of the new taste, which everybody now loves, but because of the amount of biff. So we said wow, we didn’t realise people were so sensitive and we remade the ad using highly expendable stick-figures.”

While SMART poked fun at the role of the ASB, seemingly surprised by the complaints and the ruling, other creatives know complaints are coming long before they hear about them. In 2012 Johnson & Johnson’s Carefree ad drew a whopping 149 complaints making it the most complained about ad of the year.

Shane Sinnott, creative director at agency 303Lowe, the makers of the ad, knew using the word vagina, discussing ‘vaginal discharge’ and casting a naked female presenter would ruffle some feathers.

Sinnott says: “We were prepared, both the client and us, for a reaction.”

ASB’s Jolly says: “As soon as we saw the ad we expected it would receive complaints because the community is not used to hearing the word vagina in advertising.”

Despite the deluge of complaints, the board gave the daring advertisement a pass, ruling that while some people may be uncomfortable with the word vagina, “it is not a word which would be considered inappropriate in the context of the ad”.

For 303Lowe, the controversy surrounding the ad no doubt helped to spread its message. Sinnott says: “When you get a complaint it’s a sign that something is quite successful. You are not going to get 100 per cent of people to applaud you if you are standing for something.”

While complaints against the Carefree campaign aren’t that surprising, many complaints submitted to the ASB provide unintentional humour. Take the example of this complaint about an ad for RACQ Roadside Assistance. The ad depicts a woman whose car breaks down on the way to a date. Because she doesn’t have roadside assistance, she never gets to the date and instead ends up alone with only her cats as company.

The complaint reads: “I find this extremely distressing and offensive. It suggests that women who do not find a man or get married will live a spinster’s existence with cats, or somehow women who do not marry are just old ‘cat ladies’. It’s gender discrimination, outdated and plain false. Cat owners are not all single women and women can have fulfilling lives regardless of whether they marry. Having more than one cat does not make you crazy. I find this extremely offensive. Its not the 1950s and there is nothing wrong with CATS.”

ASB’s Jolly says that all submissions are taken seriously however some standard complaints are routinely dismissed by the board. She gives the example of the image of a woman cooking dinner. While this is a stereotypical role, unless the ad is deemed derogatory or demeaning the complaint will be immediately dismissed without further action.

“We have a system in place for the last two years where we won’t take that issue back to the board,” she says.

303Lowe’s Sinnott says: “The board is normally fair and reasonable. You have to have a standards board so that you keep people who...
have lesser morals in check. We have to have some boundaries. The board is good, the way they deal with the complaints [for the Carefree campaign] was professional as always.”

DDB Melbourne’s Bresciani agrees. He says: “For the industry it’s important to have quite clear guidelines about what requirements are so there’s certainty about what’s expected.”

THE ALTERNATIVE

But what if the ASB didn’t exist. Is there a better alternative?

One suggestion is to shift the responsibility of regulation to the government, an idea unpopular with many in the industry.

AANA’s Gloster says: “There would be a negative impact as we’d lose the sense of being agile around the codes because we constantly review the codes. The ASB always evolves and it looks at every complaint in context not just in the literal letter of the law. A government regulator would be less flexible, there would be less agility around understanding the changing community standards and industry would lose.”

DDB Melbourne’s Bresciani says ‘if it ain’t broke, don’t fix’.

He says: “What we don’t want is excessive regulation of advertising from a government standpoint, as long as the self-regulatory system is working well, there’s no reason to change it.”

In an industry that’s continually trying to push boundaries, some form of regulation seems necessary. However there is a danger that the Board can become a mouthpiece for an overly concerned and disproportionately sensitive public.

But without the ASB, government intervention would be inevitable and the industry must weigh up which is the lesser evil.

Perhaps the fact that most complaints submitted to the ASB are dismissed could be taken as a sign the industry is already playing by the rules, even if the public doesn’t necessarily agree.

About content and advertising regulation

AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY EXPLAINS HOW IT REGULATES RADIO AND TELEVISION CONTENT

The Australian Communications and Media Authority (ACMA) regulates radio and television content through:

- Broadcast licence conditions set out in the Broadcasting Services Act 1992
- Mandatory program standards that outline the requirements for Australian content and children’s programs on commercial television
- Industry codes of practice that cover most matters relating to the content and presentation of radio and television programs – including classification, amount and distinguishability of advertising allowed
- The Television Program Standard for Australian Content in Advertising, which aims to ensure that the majority of advertisements on television are Australian-made
- The Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2012 which regulates the disclosure of sponsorship arrangements in current affairs programs.

Other advertising on commercial television, commercial radio and pay TV is covered by the Advertising Standards Bureau code of practice. The ACMA also administers the national regulatory scheme for internet content. The scheme was established under the Broadcasting Services Act 1992, and is designed to address community concerns about offensive and illegal material on the internet.

The ACMA’s main responsibilities for content and advertising regulation are grouped below.

SPAM
- General information about spam, including FAQs.
- Codes of conduct and advice on making complaints about spam.

BROADCASTING
- Information on broadcasting content regulation for television and radio, including advertising, codes and standards, children’s television and local content.
- Procedures for lodging complaints with the broadcaster or with the ACMA.

INTERNET
- Information on online content controls, including internet gambling, complaint statistics and sample investigation reports.
- Advice for parents and carers to ensure that children and teenagers enjoy a safe and productive experience on the internet.

TELECOMMUNICATIONS
- Information on phone advertising and content controls, including premium services and complaint mechanisms.
- Details of the Do Not Call Register.

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Australian Communications and Media Authority.

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Advertising Standards and Ethics
Issues in Society
Code replaces radio advertising standard

The Australian Communications and Media Authority has revoked the Broadcasting Services (Commercial Radio Advertising) Standard 2012 and registered a new commercial radio advertising code that requires advertisements on commercial radio to be distinguishable to listeners as advertising.

The decision follows a commitment made by the ACMA at the end of 2011 that the standard would be revoked if the commercial radio industry presented a code of practice that provided appropriate community safeguards. The registration of the code is the last key output resulting from the Review of Commercial Radio Standards.

“By working closely with the commercial radio industry, the ACMA has achieved an optimal co-regulatory outcome,” said ACMA Chairman, Chris Chapman.

“Registration of the code and the handing back of responsibility to the commercial radio industry demonstrates the ACMA is not interested in regulation for its own sake but rather in the good policy outcomes that a co-operative approach can deliver.”

The ACMA is satisfied that the new advertising code maintains the community safeguards previously assured by the Broadcasting Services (Commercial Radio Advertising) Standard 2012. The ACMA is also encouraged by the industry’s high level of compliance with the obligation to ensure advertisements are distinguishable. Since 1 May 2012, the ACMA has identified only one instance of non-compliance, and this was due to a technical failure of software at the relevant station.

Listener complaints about advertising on commercial radio are now to be made directly to the relevant licensee in the first instance. Like all code complaints, citizens can bring complaints to the ACMA if they are not satisfied with the licensee’s response or if the licensee fails to respond to the complaint.

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FALSE OR MISLEADING CLAIMS

There are laws in place to protect you from being misled about the products and services you buy, cautions the Australian Competition and Consumer Commission.

CREATING A FALSE OR MISLEADING IMPRESSION

Businesses are not allowed to make statements that are incorrect or likely to create a false impression. This rule applies to their advertising, their product packaging, and any information provided to you by their staff or online shopping services. It also applies to any statements made by businesses in the media or online, such as testimonials on their websites or social media pages.

For example, businesses cannot make false claims about:
- The quality, style, model or history of a product or service
- Whether the goods are new
- The sponsorship, performance characteristics, accessories, benefits or use of products and services
- The availability of repair facilities or spare parts
- The need for the goods or services
- Any exclusions on the goods and services.

It makes no difference whether the business intended to mislead you or not. If the overall impression left by a business’s advertisement, promotion, quotation, statement or other representation creates a misleading impression in your mind – such as to the price, value or the quality of any goods and services – then the behaviour is likely to breach the law.

There is one exception to this rule. Sometimes businesses may use wildly exaggerated or vague claims about a product or service that no one could possibly treat seriously or find misleading. For example, a restaurant claims they have the ‘best steaks on earth’. These types of claims are known as ‘puffery’ and are not considered misleading.

EXAMPLES OF FALSE OR MISLEADING CLAIMS

Some examples of business behaviour that might be misleading are:
- A mobile phone provider signs you up to a contract without telling you that there is no coverage in your region
- A real estate agent misinforms you about the characteristics of a property by advertising ‘beachfront lots’ that are not on the beach
- A jewellery store advertises that a watch ‘was’ $200 and is ‘now’ $100 when the store never sold the watch for $200
- A business predicts the health benefits of a therapeutic device or health product but has no evidence that such benefits can be attained
- A transport company uses a picture of aeroplanes to give you the impression that it takes freight by air, when it actually sends it by road
- A company misrepresents the possible profits of a work-at-home scheme, or other business opportunity.

FALSE OR MISLEADING ADVERTISING

These are some of the most common types of false or misleading advertising reported to the ACCC.

Fine print and qualifications

It is common practice for advertisements to include some information in fine print. This information must not contradict the overall message of the advertisement. For example, if an advertisement states that a product is ‘free’ but the fine print indicates some payment must be made, the advertisement is likely to be misleading.

Comparative advertising

Some advertisements or sales material may compare products or services to others on the market. These comparisons may relate to factors such as price, quality, range or volume.

Comparative advertising can be misleading if the comparison is inaccurate or does not appropriately compare products.

Bait advertising

Bait advertising takes place when an advertisement promotes certain (usually ‘sale’ prices) on products that are not available or available only in very limited quantities. It is not misleading if the business is upfront in a highly visible, clear and specific manner about the particular product ‘on sale’ being in short supply or on sale for a limited time.

Environmental (‘green’) claims

Environmental claims may appear on small household products such as nappies, toilet paper, cleaners and detergents through to major white goods and appliances. They may include statements about environmental sustainability, recycling, energy and water efficiency or impact on animals and the natural environment, for example ‘green’, ‘environmentally safe’ or ‘fully recycled’.

Businesses making these claims must be able to substantiate them.

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Where should we draw the line on misleading advertising?

When does marketing spin cross the line to become misleading advertising, writes Stephen King in *The Conversation*

Two recent cases highlight the problem of misleading advertising. In the United States, the Federal Trade Commission (FTC) has dismissed an appeal by POM Wonderful about health claims for their juice.

The FTC’s decision sets a clear standard for business.

If manufacturers make medical or health claims about their products, then they need evidence that meets normal medical standards: “well-designed, well-conducted, double-blind, randomised controlled clinical trials”.

In Australia, the Australian Competition and Consumer Commission (ACCC) is appealing a decision by the Full Federal Court on a variety of advertisements by internet provider TPG.

The Full Court overturned a lower Court, deciding that a variety of “small print” disclaimers used by TPG were not misleading or deceptive.

The key criterion for the Court was whether, when the advertisements were taken as a whole, the “qualifying” fine-print material was “sufficiently prominent or conspicuous to prevent the primary statement from being misleading”.

Readers can make up their own mind. The TPG advertisements are appended to the Court decision.

The Full Court decision highlights the subjective nature of our current laws on misleading advertising. If an advertisement is false or misleading, then it is illegal. But where does marketing spin cross the legal line to become misleading?

The law in Australia considers a “hypothetical ordinary or reasonable member of the class to whom the advertisements were directed”. This “reasonable person” test makes good sense in many situations, for example, when trying to judge if a person is negligent. But it makes little sense for the “fine print” in advertising.

A business controls its advertising. If a business designs a print advertisement with a large statement designed to attract the reader, followed by smaller qualifying statements, then the intent of the advertisement is to mislead consumers – at least temporarily. The aim is to get consumers to pay attention to your advertisement. Once “drawn in”, many (perhaps most) readers will notice the fine print and “move on”. But some will not – and that is where the harm is done.
Misleading advertising represents a classic case of dysfunctional market conduct. Each business is tempted to push the boundaries of misleading marketing because they know that their rivals will do the same thing. They know that this upsets consumers in the longer term, but if they do not do it, then they will lose business in the short term.

the customer will be harmed. This harm is easily avoidable. A business does not have to use fine print; using a dubious headline to catch readers’ attention is a deliberate choice.

Rather than using the “reasonable person” test to inform a legal definition of a misleading advertisement, perhaps a better measurement would be a test that determined whether a person – who is likely to be glancing quickly at an advertisement, without any specific background knowledge of a product – will be misled.

New pricing laws, introduced in 2010, are a move towards this tighter standard. For example, Section 48 of the Australian Consumer Law requires that the single “final” price of a good be as prominent as the component prices.

Consumers are not expected to add up the components or search small print for a final price. So why don’t we have this same tighter standard for all advertising?

One counter argument is that tighter standards are not needed because the market will work it out. This argument fails on two grounds.

First, while the market may work it out, this can take time. Zinman and Zitzewitz, of Dartmouth College, illustrate this process in a study of misleading “snow reports” by private ski fields in the US.

Their study highlights the systematic distortion of reported snowfalls as each resort tries to make itself look a bit better than the competition. Further, they show how this deceptive conduct was undermined by a smart phone application that allowed skiers to report the true conditions – if the resort had mobile phone coverage!

The bottom line from Zinman and Zitzewitz is simple: “In all, the results suggest that deceptive advertising varies sharply with incentives, both within resorts (over time, at high-frequencies), and across resorts”.

At best, the market sorted it out – eventually.

Second, misleading advertising represents a classic case of dysfunctional market conduct. Each business is tempted to push the boundaries of misleading marketing because they know that their rivals will do the same thing. They know that this upsets consumers in the longer term, but if they do not do it, then they will lose business in the short term. All legitimate businesses – as well as their customers – can gain by tighter advertising standards. It is only the charlatans who lose out.

The High Court will have an opportunity to revisit our standards for misleading advertising when it hears the ACCC’s appeal. If it can draw sharp, clear rules, like the FTC in the POM Wonderful case, then we will all be better off.

Stephen King is a Professor, Department of Economics at Monash University.

THE CONVERSATION

Facebook crackdown just the beginning

AS REGULATORS LOOK TO PROTECT SOCIAL MEDIA CONSUMERS

Facebook is the latest target of Australian regulators writes Deputy Business Editor at The Conversation, Charis Palmer

The ACCC’s focus on Facebook comment moderation is part of a broader but potentially futile campaign to protect consumers using social media, experts say.

Yesterday the Australian Competition and Consumer Commission said large companies should act to remove offensive material from their Facebook pages within 24 hours, or risk being fined.

The ACCC crackdown comes after both the Advertising Standards Bureau, and advertising industry body the Communications Council deemed third-party comments on Facebook pages to be advertisements, making them subject to the advertising industry’s codes of ethics.

The ACCC has taken a very strategic approach towards targeting large technology companies, said Matthew Rimmer, ARC Future Fellow and Associate Professor in Intellectual Property at Australian National University.

“The important context in this is the ACCC have made it a priority in the last year to think about defending and protecting Australian consumer law in cyberspace.”

Prior to throwing its weight behind the Advertising Standards Board over Facebook comment moderation, the regulator has been involved in major court actions with both Apple and Google.

“It’s quite an interesting approach in terms of taking on the biggest players and really sending a more general message about how they want to deal with misleading and deceptive conduct in the new digital economy,” Dr Rimmer said.

It also comes at a time, Dr Rimmer said, when companies are relying upon social interactions and testimonials to boost their reputation and get consumers to do their advertising for them.

It all goes towards holding companies more responsible for their marketing claims, said Sean Rintel, lecturer in strategic communication at the University of Queensland.

“In some ways you’d hope that consumers might be a little more wary of advertising, but it gets harder and harder to tell what advertising is, especially as organisations like Facebook, Google and Bing are trying to build in the recommendations of your friends into search results,” Mr Rintel said.

“They’re obviously trying to get as much information about you and your friends so they can sell advertising and sell you to advertisers, and in a sense they’re also trying to get you what you want by showing that your friends like a service,” Mr Rintel said. “But if no one’s being held to account for this then what is a real search result, which includes recommendations from friends, or people who are supposed to know, become much more dubious.”

Mr Rintel said ‘astroturfing’, where an organisation, corporation or political group with a particular agenda plants comments on a site or Facebook page appearing to be from a grassroots organisation or citizen group, is becoming a bigger problem as the use of social media sites grows.
“The ease of astroturfing campaigns, especially digital astroturfing campaigns is huge, the bar for that is so low that I do think we should be protecting consumers against it,” Mr Rintel said.

But David Glance, director of the Centre for Software Practice at the University of Western Australia, said the problem with social media regulation is it is impossible to enforce.

“Facebook pulled the Aboriginal memes page, and within half a day it had been put back up again,” Associate Professor Glance said.

Professor Glance added that when asked to adjudicate, regulators tend to err on the side of companies. “Even though they’ve (the ACCC) made this blanket statement, which hasn’t been challenged in court, it’s hard to see how they will enforce it and what it means in practical terms.”

Mr Rintel said many businesses haven’t had to spend much money on social media in the past. “This is a redistribution of the cost of doing business,” Mr Rintel said.

“They will be able to claim this in the same way they claim other sorts of business expenses. The cost of either hiring moderators or developing technologies to help moderation is a cost of doing business. Arguably there’s also a new kind of business which might pop up which is a business aimed at helping other businesses moderate this sort of stuff.”

Professor Glance agreed, and argued that software and algorithms designed to call out spam and objectionable comments would emerge over time.

“The problem is companies don’t budget for the appropriate level of staff in social media anyway. This takes it out of the admin person’s spare time to do something which people have to do and take seriously.”

Charis Palmer is Deputy Business Editor at The Conversation.

THE CONVERSATION

BEYOND FREE SPEECH: THE THIN LAYER OF REGULATION ON NATIVE ADVERTISING

Media outlets have free speech rights, but not when they are trying to sell you something, reports Jake Goldenfein

In the endless drive to get people’s attention, advertising is going ‘native’, creeping in to places formerly reserved for editorial content. In this article from its Native Advertising series, The Conversation finds out what it looks like, if readers can tell the difference, and more importantly, whether they care.

Native advertising delivers marketing content in a form that mimics editorial content. But despite the blurring of the lines between advertising and editorial, there are currently no public guidelines on how native advertising should function or look.

Advertising in Australia is self-regulated, with guidelines administered by the Advertising Standards Bureau and Advertising Standards Board – both focus on community standards in advertising.

Consumers can make complaints to these bodies when advertising fails to reach the necessary standards, and ultimately it’s up to the agencies to provide a clear stance on standards for advertising labelling.

In the US for instance, the voluntary advertising self-regulation body has castigated some media outlets for “blurring the line between advertising and editorial content in any way which would confuse consumers”.

But another regulatory regime comes into play in this context – misleading or deceptive conduct in the Australian Consumer Law (formerly Trade Practices Act). This law is used to punish commercial dishonesty, including in advertising.

If consumers believe they have been deceived by false advertising they can complain to the ACCC which may go after the advertiser.

And while failing to label paid content is unlikely to be considered misleading or deceptive, especially if the content does not directly mention the advertisers’ goods or services, there are unique repercussions for native advertisement if it turns out the content of the ad itself is misleading or deceptive.

Native advertising delivers marketing content in a form that mimics editorial content. But despite the blurring of the lines between advertising and editorial, there are currently no public guidelines on how native advertising should function or look.

There is no express right of free speech in Australia, but parliament...
recognises unimpeded speech is generally desirable and restrictions on speech require justification. Laws prohibiting misleading or deceptive advertising conduct are such a restraint on free speech, and a desirable one. But forcing news providers to avoid publishing misleading advertisements is extremely onerous.

The advertiser produces the ad, and sends it to the publisher who publishes it for a fee. The truth of advertisements is generally beyond the concern of a publisher. Many media organisations pursue this business model, so parliament recognises we should not punish the model – the liability should apply only to the party that actually makes the deceptive claim.

The Australian High Court recently endorsed this approach even in the case of internet search advertisements that were produced through a combination of advertiser content and Google algorithms.

WHEN THE NEWS MISLEADS

In 1984, a court found an Australian media organisation liable for misleading conduct in relation to its news coverage. Unlike defamation, there are no defences for misleading conduct – any party engaging in it is liable, there are no excuses.

Parliament became concerned that liability for misleading conduct in news could have disastrous consequences for free speech. Mistakes are sometimes made and certain columns or opinion might be problematic. Parliament therefore exempted “information providers” from this type of liability when they were publishing genuine content with a media “safe harbour”.

As a result the law protects media outlets in the provision of genuine content, as well as if they are simply publishing advertisements without specifically endorsing them. This law attempts to balance the freedom to discuss news and public affairs, publishers’ business needs, and people’s rights to be protected from misleading information.

But what happens when the lines between genuine content and advertising are blurred?

We think about native advertising as something new and unique to the digital environment, but in fact media outlets (in particular through programs like A Current Affair and Today/Tonight) have been embedding advertising in content for a long time. To avoid engaging in this practice without consequences, the law exempts media agencies when they are simply passing on advertising information without adopting or endorsing it (imagine a classic newspaper advertisement or during a television commercial break), but not when publishing a “news” item about a product in exchange for payment. That is, if they have been paid to produce or endorse the advertising content.

Parliament is saying free speech is a sufficient public good, that we will protect media outlets when they communicate the news in a way that may be deceptive or misleading. However, media companies lose that exemption as soon as they are trying to sell you something.

THE LIMITS OF FREE SPEECH

The rationale behind the balance is explicit. Parliament is saying free speech is a sufficient public good, that we will protect media outlets when they communicate the news in a way that may be deceptive or misleading. However, media companies lose that exemption as soon as they are trying to sell you something.

News purveyors are not permitted to use their privileged position to gain a commercial advantage that involves a deception. In such a case they should be in the same position as a regular company engaging in deceptive advertising. While a very complex area of law, the consequences of misleading or deceptive conduct in native advertising could be shared liability between the advertiser and a publisher.

Mavens of native advertising defend the practice by claiming it could produce content that is as entertaining, informative or educational as the best journalism in the world. Many journalists are relishing the opportunity to write professionally in a media environment overwhelmed with amateurs and other writers willing to work without payment.

Using one’s talent in the service of marketing and PR instead of true journalism is an attractive option when struggling to find paid work. But it is worth thinking about the long-term consequences of native advertising’s expansion, not just for publishing and journalism but also for our lives as information consumers.

Beyond regulating misleading or deceptive advertisements, it might also be time to seriously consider the consequences of this insidious privileging of commercial speech within the general communications hierarchy.

Jake Goldenfein is a PhD Candidate at the Centre for Media and Communications Law at the University of Melbourne.

THE CONVERSATION

CHILDREN’S EXPOSURE TO FOOD MARKETING

Children are exposed to large amounts of advertising in many aspects of daily life, including television, internet, magazines, billboards and supermarkets. Newer forms of advertising to children are emerging, particularly through mobile devices, according to this position statement extract from Cancer Council Australia.

**TELEVISION**

Much of the research and focus on food marketing has been on television advertising. Exposure to television food commercials increases children’s preferences for branded and non-branded foods.42,43

Unhealthy food advertisements feature prominently during peak television viewing times of Australian children.44 Over the course of a year, the average child will see 40 hours of food advertising on television alone.4 Twenty-two of these hours or three and a half school days will be filled with advertisements for unhealthy foods.4 The most common foods advertised in children’s peak viewing hours are unhealthy foods such as fast food, non-core beverages and confectionery.45,46 Techniques specifically designed to appeal to children in television advertising include nutrition claims, promotional characters and premium offers and these techniques are more commonly used on advertisements for unhealthy foods than healthy foods.47

**DIGITAL MEDIA**

The internet and application software (apps) on mobile devices are used increasingly by food companies as another avenue to promote food brands and products to children. The techniques used to advertise to children in new media remain similar to those used elsewhere, promoting fun, fantasy, nutrition and taste. However the vehicles used for advertising vary widely and are not always as obvious as traditional mediums.

Analysis of food company websites popular with Australian children shows that 79% of websites used ‘advercation’, where information about the company or its foods is presented as educational material, and 28% used ‘advergames’, where branded products and characters are embedded in interactive computer games.48,49 Some food manufacturer and fast food chain websites also feature a kids’ club, where children can sign up to receive special offers and alerts, reinforcing an ongoing relationship between the child and the company.49

In Australia, young children use the internet most commonly for educational activities, but the next most common activity is to play games.50 Children are less aware of branded content in games and video clips, and that this constitutes advertising.51 A child is more capable of recognising overt marketing messages, including banners and pop-up advertisements.52 Subtle forms of advertising such as product placements may have a larger effect on children because they are preoccupied with the game,53 and are trusting and uncritical of its messages.54

Advergames are effective because positive feelings are associated with game play, including a sense of
achievement, fun or adventure, and these feelings become associated with the brand. When children play advergames featuring unhealthy foods, they are more likely to choose unhealthy foods for a snack. The effect increases with increased exposure, which is encouraged by games having multiple levels, high score boards and play again options.

Australian advertising regulators determined that the content of a company Facebook page is considered advertising and companies are responsible for all content, even fan content, as this should be moderated by the company. This means endorsements from children or others to consume unhealthy food products, or otherwise engage in an unhealthy lifestyle, will need to be closely monitored to ensure compliance with advertising codes. Since its advent in 2004, Facebook has been taken up by large numbers of Australian children, including many aged under 13, despite Facebook’s requirement that users be aged over 13 years. In 2013, a survey conducted by tech company McAfee found that a quarter of Australian children aged 8-12 use Facebook. It also found that children were spending up to 1.5 hours on internet-enabled devices each day.

MAGAZINES

Popular Australian children’s magazines contain frequent references to food with the majority of references for unhealthy foods. Few of these references are direct advertisements, with many more subtle mentions of food in recipes, competitions and editorial content. Children are not aware that these references constitute marketing. They perceive that products are recommended by editors based on what is popular or good quality, and do not understand that these are paid endorsements. Children who read magazines filled with unhealthy food marketing are more likely to choose unhealthy options.

OUTDOOR ADVERTISING

Recognising community concern over outdoor advertising and the potential for exposure of children to inappropriate content, the Commonwealth House of Representatives Standing Committee conducted an inquiry into the regulation of outdoor advertising in 2011. One of the recommendations was that outdoor advertising be included in the definition of ‘advertising’ used to regulate marketing to children. The areas around schools are of particular concern, given the likelihood of exposure of large numbers of children. One Australian study found that primary schools had an average of 57 food billboards nearby, with 80% of food advertisements for unhealthy foods, like soft drink, alcohol and ice cream.

CELEBRITY ENDORSEMENTS

Research shows that parents misjudge the nutrition content and quality of products that have sports celebrity endorsements. Children are able to match sports with food sponsors and recall sponsors of their favourite elite sports. Parents have indicated support for restrictions on unhealthy food and drink sponsorship of elite sport. Many elite athletes believe they should not promote unhealthy foods, but are less supportive of restriction on food manufacturers sponsoring sports organisations, based on concerns that reduced funding would be available to support these organisations. Food company support of junior sports programs provides an opportunity to create brand loyalty towards products from a young age. An Australian study found that food and beverage companies contribute a relatively small proportion of junior sports club funding. Most parents are not supportive of their child’s club being sponsored by unhealthy foods like soft drinks, fast food, snack foods, chocolate or confectionery.
FOOD PACKAGING

Food packaging is covered under regulations (Food Standards Code), but not by advertising codes. However, food packaging influences purchase decisions for children and adults alike. A range of techniques are used by food companies to draw children’s attention to products and lead them to believe that these products will taste better than competitor products. The most common techniques used to target children on food packages are bright colours, cartoon-like script, cartoon characters and educational or fun captions, novelty packaging, celebrity endorsement, puzzles and movie tie-ins. Company-owned characters are common on packages, in fact 90% of the characters found on supermarket products in 2011 were company-owned. Nutrition claims are used on many packages to suggest benefits of the food, even if they are not healthy products. See the Cancer Council position statement on Front-of-pack food labelling (http://wiki.cancer.org.au/policy/Position_statement__-_Front_of_Pack_Food_Labelling) for more information.

ENDNOTES


ADVERTISING INDUSTRY
SELF-REGULATION AND CHILDREN

The Parents’ Jury outlines the bodies and codes responsible for self-regulation

WHO ARE THE INDUSTRY PLAYERS IN SELF-REGULATION?

Free TV Australia
Free TV Australia is the industry body representing all free-to-air commercial television broadcasters.

Advertising Standards Bureau
The Advertising Standards Bureau is funded by the advertising industry to oversee and administer complaints made in relation to several regulatory codes that have been developed by the following industry bodies:

- The Australian Association of National Advertisers (AANA), who represent the rights and responsibilities of companies and individuals involved in Australia’s advertising, marketing and media industry.
- The Australian Food and Grocery Council (AFGC), who represent Australia’s packaged food, drink and grocery products manufacturers.
- The Quick Service Restaurant Industry (QSRI), who represent a collective of ‘fast food’ companies, including big chains such as McDonald’s, KFC, Pizza Hut, Hungry Jack’s, and Red Rooster.

WHAT CODES DO THEY OVERSEE?

Commercial TV Code of Practice
The Commercial TV Code of Practice was jointly developed by Free TV Australia and the ACMA. The Code of Practice requires advertisements to comply with the Children’s Television Standards. Unlike the Standards however, it is not directly enforceable by the ACMA.

Complaints under the Code of Practice must first be made to the broadcaster of the advertisement. Complaints may then be referred to ACMA if not dealt with satisfactorily by the broadcaster.

Code for Advertising and Marketing Communications to Children
Administered by the AANA, the Code for Advertising & Marketing Communications to Children provides a set of rules for the content of advertisements that are primarily directed to children under 14 years old.

Food & Beverages Advertising and Marketing Communications Code
The Food and Beverages Advertising & Marketing Communications Code is also administered by the AANA. This Code contains specific rules on food and beverage advertising to children. These rules are very narrow and do very little in practice to restrict food advertising to children.

Responsible Children’s Marketing Initiative
In 2009, a number of AFGC member companies including (but not limited to) Cadbury, Campbell Arnott’s, Coca-Cola, Ferrero, Kellogg’s, Kraft, Mars, Nestle, Patties, Pepsico, and Sanitarium signed up to a voluntary code, the Responsible Children’s Marketing Initiative.

Under this Initiative, signatories have pledged to cease marketing ‘unhealthy’ foods and drinks specifically to children under 12 years old. However, the Initiative does not specify one standard criteria for ‘unhealthy’ foods and drinks. Instead it is up to each of the 16 signatories to identify and abide by their chosen criteria.

It is interesting to note that the AFGC defines marketing to children as being “where the audience is predominantly children under 12 and/or the program or media, having regard to the theme, visuals, and language used, are directed primarily to children.”

To determine if the audience is ‘predominantly children’ the AFGC look at what percentage of the total viewing audience is children as compared to adults.

Australian QSRI Initiative for Responsible Advertising and Marketing to Children
Signatories to the QSRI Initiative have pledged to cease marketing unhealthy foods and drinks in media directed primarily to children under 14 years old (including TV), unless products meet the QSRI’s own nutritional criteria.

AANA Code for Advertising and Marketing Communications to Children

This Code has been adopted by the Australian Association of National Advertisers (AANA) as part of advertising and marketing self regulation. The object of this Code is to ensure that advertisers and marketers develop and maintain a high sense of social responsibility in advertising and marketing to children in Australia.

This Code comes into effect on 1 April 2014. It replaces the previous AANA Code for Advertising & Marketing Communications to Children and applies to all advertising and marketing communications directed to children on and from 1 April 2014.

This Code is accompanied by a Practice Note which has been developed by AANA. The Practice Notes provide guidance to advertisers, complainants and the Advertising Standards Board (Board) in relation to this Code.

1. DEFINITIONS

In this Code, unless the context otherwise requires:

Advertising or Marketing Communication means any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and

• Over which the advertiser or marketer has a reasonable degree of control, and
• That draws the attention of the public in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct, but does not include Excluded Advertising or Marketing Communications.

Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product. The Board shall have regard to the Practice Note to this Code in determining whether Advertising or Marketing Communications are to children under this definition.

The Board means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communications.

Alcohol Products means products which have some association with alcohol including alcoholic beverages, food products that contain alcohol or other products that are associated in some way with alcohol including in the sense of being branded in that way.

Children means persons 14 years old or younger and Child means a person 14 years old or younger.
Product means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

2. CODE OF PRACTICE

2.1 Prevailing community standards
Advertising or Marketing Communications to Children must not contravene Prevailing Community Standards.

2.2 Factual presentation
Advertising or Marketing Communications to Children:
   a. Must not mislead or deceive Children
   b. Must not be ambiguous, and
   c. Must accurately represent, in a manner that is clearly understood by Children:
      i. the advertised Product
      ii. any features (including the size and performance of the product) which are described or depicted or demonstrated in the Advertising or Marketing Communication
      iii. the need for and the price of any accessory parts, and
      iv. that the Advertising or Marketing Communication is in fact a commercial communication rather than program content, editorial comment or other non commercial communication.
   d. Price
      i. Prices, if mentioned in Advertising or Marketing Communications to Children, must be accurately presented in a way which can be clearly understood by Children and must not be minimised by words such as “only” or “just”
   ii. Advertising or Marketing Communications to Children must not imply that the Product being promoted is immediately within the reach of every family budget.

2.3 Placement
Advertising or Marketing Communications to Children must not be placed in Media where editorial comment or program content, in close proximity to that communication, or directly accessible by Children as a result of the communication, is unsuitable for Children according to Prevailing Community Standards.

2.4 Sexualisation
Advertising or Marketing Communications to Children:
   a. Must not employ sexual appeal
   b. Must not include sexual imagery in contravention of Prevailing Community Standards, and
   c. Must not state or imply that Children are sexual beings and that ownership or enjoyment of a Product will enhance their sexuality.

2.5 Safety
Advertising or Marketing Communications to Children:
   a. Must not portray images or events which depict unsafe uses of a Product or unsafe situations which may encourage Children to engage in dangerous activities or create an unrealistic impression in the minds of Children or their parents or carers about safety, and
   b. Must not advertise Products which have been officially declared unsafe or dangerous by an authorised Australian government authority.

2.6 Social values
Advertising or Marketing Communications to Children:
   a. Must not portray images or events in a way that is unduly frightening or distressing to Children, and
   b. Must not demean any person or group on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability.

2.7 Parental authority
Advertising or Marketing Communications to Children:
   a. Must not undermine the authority, responsibility or judgement of parents or carers
   b. Must not contain an appeal to Children to urge their parents, carers or another person to buy a Product for them
   c. Must not state or imply that a Product makes Children who own or enjoy it superior to their peers, and
d. Must not state or imply that persons who buy the Product are more generous than those who do not.

2.8 Qualifying statements
Any disclaimers, qualifiers or asterisked or footnoted information used in Advertising or Marketing Communications to Children must be conspicuously displayed and clearly explained to Children.

2.9 Competitions
An Advertising or Marketing Communication to Children which includes a competition must:

a. Contain a summary of the basic rules for the competition
b. Clearly include the closing date for entries, and
c. Make any statements about the chance of winning clear, fair and accurate.

2.10 Popular personalities
Advertising or marketing Communications to Children must not use popular personalities or celebrities (live or animated) to endorse, recommend, promote or advertise or market Products or Premiums in a manner that obscures the distinction between commercial promotions and program or editorial content.

2.11 Premiums
Advertising or Marketing Communications to Children, which include or refer to or involve an offer of a Premium:

a. Must not create a false or misleading impression in the minds of Children about the content of the Product
b. Must be presented conspicuously
c. Must not create a false or misleading impression in the minds of Children that the product being advertised or marketed is the Premium rather than the Product
d. Must not refer to the Premium in more than an incidental manner to the advertised product
e. Must make the terms of the offer clear as well as any conditions or limitations, and
f. Must not use Premiums in a way that promotes irresponsible use or excessive consumption of the Product.

2.12 Alcohol
Advertising or Marketing Communications to Children must not be for, or relate in any way to, Alcohol Products or draw any association with companies that supply Alcohol Products.

2.13 Privacy
If an Advertising or Marketing Communications indicates that personal information in relation to a Child will be collected, or, if as a result of an Advertising and Marketing Communication, personal information of a Child will or is likely to be collected, then the Advertising or Marketing Communication must include

This section does not form part of the Code for Advertising & Marketing Communications to Children and is provided here for information only.

COMPLAINTS UNDER THE AANA SELF-REGULATORY SYSTEM

Complaints about the content of an advertisement or marketing communication can be made under this Code and the other AANA Codes to the Advertising Standards Bureau.

You can make a complaint by:

- Lodging a complaint online at: www.adstandards.com.au/process/theprocesssteps/makingacomplaint
- Writing a letter (and sending via post or fax) to:
The Advertising Standards Bureau
Level 2, 97 Northbourne Avenue
Turner ACT 2612
Fax: (02) 6262 9833

Once the Advertising Standards Bureau has received your complaint, it then assesses the complaint to determine whether it is eligible for consideration by the Advertising Standards Board. The Board is the body established to consider complaints. If accepted the advertiser/marketer is notified and a response is requested. The complaint is then considered by the Board and the advertiser and complainant are advised of the determination. A case report is then published.

The original complainant or advertiser/marketer can also ask for a review of the determination.

a statement that the Child must obtain a parent or guardian’s express consent prior to engaging in any activity that will result in the collection or disclosure of such personal information.

Personal information is information that identifies the child or could identify the child.

2.14 Food and beverages
a. Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits
b. Advertising or Marketing Communications to Children must comply with the AANA Food & Beverages Advertising & Marketing Communications Code.

2.14 AANA Code of Ethics
Advertising or Marketing Communications to Children must comply with the AANA Code of Ethics.

NOTES
1. Reasonable Control is defined in the AANA 2012 Code of Ethics Practice Note, as amended from time to time.
2. If your complaint is about a program (not an advertisement) on television or radio, please contact the relevant industry body.
ADVERTISING TO CHILDREN

AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY EXPLAINS TELEVISION PROGRAMMING STANDARDS RELATING TO CHILDREN

Advertising broadcast during, or directly before or after, ‘C’ or ‘P’ programs must meet requirements set out in the Children’s Television Standards (CTS). The CTS do not allow advertising during preschool (P) programs and limitations are placed on the broadcast of commercials during C programs. Five minutes of commercials are permitted in every 30 minutes of C program material, except in the case of Australian C drama.

The CTS requires that any advertising material during these times must be presented clearly and in a way which children understand. In particular, CTS 30 states: “No advertisement may mislead or deceive children” and “nothing in these standards is to be taken to limit the obligation imposed by CTS 30”.

The CTS include other requirements for the presentation of advertising and other material to children, such as the presentation of prizes, competitions, premium offers, restrictions on promotions and endorsements by popular characters, and a prohibition on advertising alcoholic drinks.

The CTS also requires that unsuitable material, both in programs and commercials, must not be broadcast in programs pre-classified by the ACMA as C or P programs. Programs and commercials must not demean individuals or groups of people on the basis of race, nationality, ethnicity, gender, sexual preference, religion or mental or physical disability; present images or events in a way which is unduly frightening or distressing to children; depict unsafe uses of a product or unsafe situations which may encourage children to engage in activities dangerous to them; or advertise products officially declared unsafe by a Commonwealth authority or by an authority having jurisdiction within a licensee’s licence area.

A copy of the CTS and other information can be found at:

1. *Children's Television Standards 2009 – Substantive obligations effective from 1 January 2010*

2. *Children's Television Standards 2009 – Explanatory Statement*

3. *Guide to the Children’s Television Standards 2009*

Complaints on matters broadcasting during designated children’s viewing times (C and P programs) can be made directly to the ACMA.

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Children require special consideration in areas such as advertising, and the presentation of material that “may be harmful to them”, due to their developmental stages. Children under eight years old do not have the critical literacy skills to recognise the persuasive intention of advertising.

Unhealthy food and drink companies spend billions of dollars per year on advertising and marketing promotions because they work. Food marketing affects children’s food choices and purchasing requests.

The marketing of unhealthy food and drink to children takes many different forms. There are the obvious mass media strategies like television, radio, cinema and print advertising. But there are also less obvious strategies such as in-store and point of sale promotions, television product placements and sponsorship activities.

**Did you know that ...?**

- Australian children watch 2-3 hours of television a day, with the majority on commercial TV stations.
- Fast food restaurants and confectionery are the two most common categories of food ads shown during children’s viewing times.
- Food advertising uses attention grabbing and persuasive promotional techniques such as endorsements by characters and celebrities, ‘premium offers’, visuals, jingles and claims which can misrepresent the true nutritional value of the food.
- Children are a key target audience for food manufacturers, as there are proportionally more ads for unhealthy foods during TV shows that are most popular with children.
- Current regulations generally apply to advertisements screened during TV shows rated C (for children) and P (for preschoolers). The peak viewing period for children under 14 years old is 5-9pm when up to 500,000 children watch TV, and when unhealthy food and drink ads are also most frequent.
- Advertising influences children’s food preferences which undermines parents’ efforts to provide their children with a healthy diet.
- The balance of ads for healthy and unhealthy food groups is well out of proportion to healthy eating guidelines.
- Nearly one in four Australian children is overweight or obese.
- Overweight and obese children have a high risk (80 per cent) of becoming an overweight or obese adult. Social isolation, poor self-esteem and depression are linked to weight problems. Their chances of developing diabetes, some types of cancer and heart disease are significantly increased.

You can read more about junk advertising to children in Coalition on Food Advertising to Children’s (CFAC) briefing paper, *Children’s Health or Corporate Wealth: The case for banning television advertising to children*.

**Online marketing to children**

The online world is an extremely desirable medium for marketers wanting to target children:

- It’s part of youth culture. This generation of young people is growing up with the internet as a daily and routine part of their lives.
- Parents generally do not understand the extent to which kids are being marketed to online.
- Kids are often online alone, without parental supervision.
Unlike broadcasting media, which have codes regarding advertising to kids, the internet is unregulated.

Sophisticated technologies make it easy to collect information from young people for marketing research, and to target individual children with personalised advertising.

By creating engaging, interactive environments based on products and brand names, companies can build brand loyalties from an early age.

The main ways that companies market to young people online include:

- Relationship building through ads that attempt to connect with consumers by building personal relationships between them and the brand.
- Free iPhone/iPad/Android apps that have brand details embedded within them.
- Viral ads that are designed to be passed along to friends.
- Behavioural targeting, where ads are sent to individuals based on personal information that has been posted or collected.

Monitoring your child’s online use

The Raising Children Network suggests you can monitor and supervise your child’s use of the internet in several ways:

- Talk with all family members about internet access. Monitoring works best if you are able to have calm and frank discussions with your child about his internet activities.
- Keep the computer in a shared family area. If possible, avoid putting it in a study or bedroom. This allows you to keep tabs on how long your child is online as well as what websites she is visiting.
- Together with your child, set up some simple and fair rules about internet use. For example, set a reasonable limit on the amount of screen time that your child is allowed. Discuss how these rules apply outside your home – for example, at a friend’s house or the local library. When your child follows the rules, remember to give him lots of positive feedback.
- If you have older children, it’s a good idea to have a written internet use agreement with them. A written agreement signed by both of you helps make rules clear.
- Your browser program contains a History button, which will allow you to see websites that your child visits.
- Find out if your child’s school has an internet policy and how internet safety is maintained there.
JUNK FOOD ADVERTISING TO KIDS

One in four Australian children is overweight or obese. Is the all-pervasive junk food advertising to children part of the problem? CHOICE investigator Miranda Herron reports

1. THE COST OF CHILDHOOD OBESITY

Big food and drink companies are under fire from health advocates and parents for bombarding children with junk food advertising and sophisticated marketing techniques.

It’s not just TV advertising influencing children anymore – they can be reached in a multitude of ways, through new and constantly evolving media platforms.

Experts are calling for governments to step in and impose restrictions on junk food to help curb childhood obesity, but so far authorities have adopted a wait-and-see strategy, allowing the food and beverage industries to experiment with self-regulation. At this point, however, there is little evidence that self-regulation has had an impact on the amount of advertising for unhealthy foods to which children are exposed.

In the absence of government restrictions, CHOICE investigates strategies to help parents and communities wind back junk food intake and promote more nutritious choices.

What’s the problem?

Around the globe, governments and communities are grappling with the social, financial and health costs of overweight and obese populations. There are many reasons for this weight gain – sedentary lifestyles, too much screen time and not enough exercise are a few. One of the biggest factors, of course, is food. Portion sizes have increased dramatically; people cook less and eat more takeaway.

For children, junk foods and drinks are cheaper and more readily available in public spaces and schools than healthy snack foods.

The food and beverage industry’s argument around junk foods is that parents should educate their kids about eating unhealthy food in moderation as part of a balanced diet and active lifestyle.

So why can’t we help kids just say no?

The reason moderation is so hard, say health advocates, is that those same companies pushing moderation are undermining parents at every step by spending vast amounts on advertising, and marketing unhealthy foods and drinks to influence children’s preferences.

Research has also shown advertising plays an important role in promoting unhealthy eating habits, influencing the brands children choose and encouraging them to like energy-dense salty, sugary or fatty foods.

Children are becoming overweight earlier in life, and obesity has been associated with an the increased number of children and adolescents diagnosed with type 2 diabetes. Obese children are also more likely to become obese adults.

“The battleground between the food industry and parents is certainly not a level playing field. Advertising to kids is all-pervasive – [it’s] a multi-billion dollar industry with sophisticated, constantly evolving psychological techniques ...”

“...”

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“... We expect individual parents to be smarter than clever market researchers and branding experts, but not all parents possess the nutritional knowledge to counteract misleading marketing messages.”

2. HOW MARKETERS INFLUENCE CHILDREN

Food and drink companies now have many ways to reach children as the line between entertainment and advertising is increasingly blurred.

- Children are exposed via ads on TV, the internet, social media, viral marketing and celebrity endorsements – particularly sports stars.
- As well as product tie-ins, placement within TV shows and films, and outdoor advertising in public spaces, advertising and marketing also reaches kids via competitions, supermarket promotions and discounts, and smartphone ‘advergames’ with embedded brand messages and licensed characters.
- Phone apps are another way of reaching kids. Hungry Jack’s ‘Shake & Win’ app, for example, generates vouchers for free or discounted food when users shake their phone at any Hungry Jack’s store.

Food and drink companies are interested in selling products but also creating brand loyalty in children that they will carry into adulthood. According to information from a children’s marketing conference: “A lifetime customer may be worth $100,000 to a retailer, making effective ‘cradle to grave’ strategies extremely valuable. For this reason, building brand loyalty is critical and marketing to kids is the best way to do so.”

Brand awareness through sport

McDonald’s say they don’t advertise or market to children aged under 14 – yet they create brand awareness by sponsoring children’s sports such as Little Athletics, Hoop Time basketball, and Swimming Queensland. KFC and Milo are sponsors of Cricket Australia; Coca-Cola sponsors Bicycle Network Victoria, which has a program for teens.

“Fast food companies sponsoring sports undermines the healthy eating messages that governments and parents are trying to promote,” says Jane Martin from the Obesity Policy Coalition (OPC). “It normalises the relationship between junk food and sport, sending the message that if I play sport, I can eat what I want.”

She argues that junk food promotion should be minimised, while the promotion of nutritious foods needs to be increased to help normalise and reinforce healthy eating in kids.

3. EXPERTS CALL FOR REGULATION

What the government’s up against is a powerful, well-funded food and beverage industry,” says Kerin O’Dea, professor of population health and nutrition at the University of South Australia. She argues junk foods are highly profitable, and it’s not in the industry’s financial interest to cooperate with public health initiatives – but when governments mandate regulations, the industry does toe the line.

“In the past, governments have legislated to force changes that are good for public health, like seat belts in cars and smoking laws,” she says. “But while Australia has been a world leader in the fight against big tobacco, we’re quite timid when it comes to the processed food industry, and the media companies that make money out of junk food advertising.”

Opponents of government intervention are disdainful of ‘nanny state’ policies. However, O’Dea argues critics of intervention need to realise the massive financial costs – like the estimated $56 billion spent on obesity annually in Australia – are borne by the whole community.

“The National Broadband Network is called expensive at $30 billion in total,” says O’Dea, “but the financial costs of obesity are more than that every year.”

The World Health Organization weighs in

There are no simple solutions to the obesity problem, and no single approach is likely to be effective.

However, a World Health Organization report concluded that marketing of junk food to children has damaging consequences and that tightening restrictions on marketing is central to the fight against childhood obesity.

“In a perfect world this would mean banning all advertising and marketing of discretionary foods to children under 12,” says Dr Mark Lawrence, Associate Professor in Public Health Nutrition at Deakin University’s School of Exercise and Nutrition Sciences. “Research consistently finds that government regulation of advertising is the among the most cost-effective interventions for obesity prevention.”

Regulation saves money in healthcare costs that are avoided, and it doesn’t cost much to change the law to protect the rights of children in this way, says Lawrence.

Jane Martin, executive manager of the Obesity Policy Coalition (OPC), agrees. “Getting junk food out of junior sport would be a good start, followed by restrictions on advertising of unhealthy food in the highest-rating children’s programs between 6pm and 9pm.”
4. HAS INDUSTRY SELF-REGULATION WORKED?

In the face of strong evidence that junk food ads are part of the obesity problem, the food industry has created voluntary codes to restrict the advertising of unhealthy foods “directed primarily at children”.

In 2008, the National Preventative Health Taskforce recommended legislation be introduced if voluntary self-regulation failed to phase out junk food marketing within four years.

In 2012, the Australian Food and Grocery Council (AFGC) claimed self-regulation had been a success, pointing to an independent review that found “the majority of signatory companies are going beyond the requirements of self-regulatory initiatives”.

However, an Australian Communications and Media Authority (ACMA) report in 2012 noted that research done by the AFGC found there was no reduction in the rate of “non-core” food advertising by all AFGC companies, and said there was insufficient evidence to determine whether the codes had affected the rate of food and beverage advertising on commercial free-to-air TV.

The Obesity Policy Coalition believes the voluntary codes have had little impact because they define television “primarily directed at children” as P-, C- and G-rated shows that air in the morning or early evening, and rarely cover shows watched by kids during the family timeslots between 6pm and 9pm.

Independent surveys in Europe, Asia, Australia and North America have also found that self-regulation codes by the food and beverage industry have made little change in the past five years to the amount of advertising seen by children.

5. WHAT CAN PARENTS DO?

According to Kerin O’Dea, Professor of Population Health and Nutrition at the University of South Australia, the community can make incremental healthy changes, and these can cause a positive shifts in community perceptions and behaviour.

In addition to regulation of advertising and marketing, health experts CHOICE spoke to want to see ...

• State governments mandate, and enforce, healthy foods in school canteens and vending machines.
• Physical education teachers employed (rather than class teachers taking sport) and the current requirement for schools to offer 120 minutes of moderate to vigorous exercise a week to be enforced.
• Mandatory kilojoule labelling in fast food stores extended nationally.
• Better food labelling that is easier to understand.

What can parents do?

• Explain to kids how too much high-kilojoule, low-nutrition food can contribute to weight gain, which can then lead to health issues such as diabetes and heart disease.
• Reinforce healthy eating messages with simple guidelines like ‘Go For 2 & 5’ (two serves of fruit and five of veggies per day).
• Distinguish between ‘everyday foods’ (healthy foods) and ‘sometimes foods’ (junk foods).
• Reduce sugary drinks (fruit juice and soft drinks) and treats in lunchboxes.
• Offer smaller serving sizes.
• Sit down to dinner together with the TV off.
• Restrict screen time to two hours a day.
• Keep an eye on what your kids watch and the apps they are downloading.
• Teach kids about how advertising and marketing works so they are not simply passive consumers of media messages.

What can communities do?

• Teaching kids to cook and participating in school kitchen garden projects will help kids learn about nutrition and where food comes from.
• Many schools are resistant to converting to healthy canteens and vending machines, saying they need the money to fund school programs – but when parents and schools find out there are cases where canteens with healthy food experienced higher sales, they are more inclined to make healthy changes.
• A Melbourne mum launched a change.org petition calling on Little Athletics to drop McDonald’s as a sponsor after her daughter was given a McDonald’s voucher as an award. At the time of writing, the petition has more than 12,000 signatures.
• For more information on food advertising and resources for parents, see Junkbusters, The Parents’ Jury, Obesity Policy Coalition, or the Healthy Kids Association.
Young people are starting to drink at an earlier age, and most drink in ways that put their health at risk. Addressing the marketing and promotion of alcohol to young people is critical in an overall strategy to address this issue.

In the contemporary media and communications landscape, young people are exposed to alcohol marketing at an unprecedented level and from multiple sources. Alongside more traditional modes of advertising through television and radio, the introduction of digital technologies has opened up new platforms for marketing and promotion, with alcohol companies aggressively harnessing the marketing potential of online video channels, mobile phones, interactive games, and social networks such as Facebook and Twitter.

Marketing efforts are increasingly sophisticated and multidimensional, integrating online and offline promotions with the sponsorship of music and sporting events, the distribution of branded merchandise, and the proliferation of new alcoholic brands and flavours.

The alcohol industry denies their marketing campaigns specifically target children or teens. However, research consistently demonstrates that young people in Australia are regularly exposed to alcohol marketing across a variety of settings and media platforms.

In addition to the ubiquity of alcohol references in the social networking sites and online media frequented by young people, studies have shown that young people continue to be exposed to alcohol marketing through television advertising, print media with a high youth readership, and product placement in film, music videos, comics and video games.

Alongside these various forms of marketing, there is accumulating evidence that young people in Australia are encountering alcohol messages, associations and products in a multitude of everyday settings and interactions, including alcohol-sponsored music and sporting events, free gift promotions, alcohol-branded merchandise and interactive competitions.

The explosive rise in alcohol marketing has powerful effects on young people. An extensive body of research indicates that alcohol marketing shapes young people’s attitudes and behaviours, encouraging them to take up drinking, and to drink more once they do.

The findings of research undertaken in both Australia and abroad show that attitudes and assumptions about drinking are not only shaped by the content of advertising, but also by the sheer volume and variety of marketing. Based on the weight of this evidence, several recent international, systematic reviews conclude that alcohol marketing increases the likelihood that adolescents will start to use alcohol, and will drink more if they are already using alcohol.

With convincing evidence supporting the link between alcohol marketing and alcohol consumption by young people, there is an urgent need to tackle the problem of alcohol marketing in Australia with robust policy and stronger regulatory oversight. While children and adolescents are particularly vulnerable to alcohol marketing, young people aged up to their mid-20s are highly susceptible and, as a prime target group for alcohol marketers, are at particular risk of alcohol-related harms. Stronger policy and regulation of alcohol marketing should encompass all these groups of young people.

Existing policy and regulatory responses in Australia have proven inadequate and have failed to keep up with the pace and scope of change in the media and marketing environment. The self-regulatory scheme for alcohol advertising in Australia is funded and administered by the alcohol industry. It is voluntary, limited in scope, unable to enforce penalties, and ultimately fails to protect young people from continuous exposure to alcohol marketing.
As the media marketplace continues its rapid transformation, the growing volume and complexity of alcohol marketing to young people deserves close scrutiny and demands prompt, remedial action by policymakers.

The AMA believes that the exposure of children and young people to alcohol marketing must be curtailed, and recommends the following measures:

1. The regulation of alcohol marketing and promotion, including as it relates to children and young people, should be statutory and independent of the alcohol and advertising industries. Experience in Australia and overseas demonstrates that self-regulation is not the answer.

2. Meaningful sanctions for serious or persistent non-compliance with marketing regulations should be introduced, particularly where those regulations relate to children and young people.

3. The sponsorship of sport by alcohol companies and brands should be phased out, with organisations encouraged and assisted to source socially responsible alternative funding.

4. Sponsorship by alcohol companies and brands should be prohibited at youth, cultural and musical events.

5. Given the cumulative effects of marketing, regulations need to limit the volume or amount of alcohol marketing, as well as its content.

6. The regulation of alcohol marketing should be expanded to incorporate point-of-sale promotions, branded merchandise, and new media and digital marketing, including marketing through social media, viral campaigns, mobile phones, and the use of data collection and behavioural profiling. Regulations should be sufficiently flexible to incorporate new and evolving digital marketing activities.

7. The amount spent annually on marketing by leading alcohol companies should be publicly disclosed, including expenditure on social media, online video, mobile campaigns, events sponsorship and product placement.

8. Continuing research into the extent and impact of online and digital marketing, and the effectiveness of different regulatory approaches to this form of marketing.

9. Options to develop a cross-border, international response to alcohol marketing should be pursued. The Framework Convention of Tobacco Control provides a possible model for global governance to control alcohol marketing. Examples of possible standard-setting mechanisms include World Health Organisation regulations, ISO standards and Codex Alimentarius Standards.

10. Health education addressing alcohol consumption should build the critical media literacy of young people.

Preventing alcohol marketing to young people needs to be incorporated as part of a comprehensive and multi-faceted strategy addressing alcohol-related harms in Australia.

‘AS A MATTER OF FACT, I’VE GOT IT NOW’: ALCOHOL ADVERTISING AND SPORT

Alcohol, tobacco, and fast-food industry sponsorship of sport sends the wrong message to the population, writes Kerry O’Brien

Sport is generally a healthy activity that transmits important societal values, such as fairness, perseverance, and teamwork. Unfortunately, it’s also the primary vehicle for marketing alcohol to the general population.

At its best, sport can provide participants and fans with a sense of identity, pride and self-esteem. But a visitor to Australian shores would be forgiven for thinking that sport is a subsidiary of the alcohol, fast food and gambling industries.

Indeed, the majority of alcohol advertising and sponsorship both in terms of frequency and time of advertising, and in alcohol marketing expenditure, occurs in and around sport. In 2009, two of the world’s largest alcohol producers, Anheuser-Busch InBev and SABMiller, spent approximately $350 million and $212 million, respectively, on television advertising during US sporting events alone. We are unable to obtain figures for Australia.

There are several reasons for the alcohol industry using sport for the promotion of alcohol consumption.

First, placement of alcohol sponsorship and advertising in large televised sporting events allows the alcohol industry to bypass regulations prohibiting alcohol advertising during times when large proportions of children may be watching television.

Victoria Bitter’s sponsorship of Australian cricket, for instance, means that children are exposed to alcohol advertising from ten in the morning to the end of play. And it’s difficult to miss the alcohol brands on signage and boarding around Australian sport stadiums. Or, the VB signs either side of the electronic score board each time a third umpire decision is needed.

Another feature that attracts the alcohol industry is sport’s ability to evoke strong emotion and social identification. Products presented within these sporting contexts are more likely to be remembered, liked and chosen.

Pairing a healthy activity, such as sport, with an otherwise unhealthy product, such as alcohol or fast food, makes that product seem less unhealthy and more acceptable and normal. Many of us will remember tobacco advertising in sport but I suspect that even smokers wouldn’t welcome that back.

Simply put, alcohol advertising and sponsorship in sport works in terms of increasing sales, and of course, alcohol consumption.

Reviews of research on the association between exposure to alcohol advertising and subsequent drinking intentions and behaviours shows that exposure to, and/or recall of, alcohol advertising and sponsorship by children and adolescents predicts their future drinking expectancies, norms, drinking intentions, and hazardous drinking behaviours.

A study from the United States also found that ownership of alcohol-branded merchandise by children and adolescents (such as football shirts and sport caps) was associated with their early initiation of drinking. Similarly, alcohol industry sponsorship of sportspeople has been found to be associated with more hazardous drinking levels among Australian, New Zealand and UK sportspeople.

Beyond these outcomes, alcohol industry advertising and sponsorship in sport and other settings, creates a culture where children perceive alcohol consumption as a normal everyday part of life. And they see it as something associated with sporting success or indeed, being Australian.

Given the known relationship between alcohol advertising and youth drinking, researchers who assess drinking norms, peer influence and parental influence as predictors of young people’s drinking, are in effect measuring people’s exposure to alcohol advertising and sponsorship.

Most of us didn’t grow up in a culture void of alcohol advertising and sponsorship, which makes it difficult for us to imagine sport without them. But given the high rates of hazardous drinking and associated problems in young people (violence, suicide, motor accidents),

The alcohol industry’s self-regulation of advertising has been shown to not work, and stronger regulation is clearly needed. Effective action is possible.
The *Australian Medical Association* is at the forefront of efforts to get the sports industry to kick its alcohol habit, calling for an inquiry into alcohol advertising and promotion and backing far-reaching changes to the taxation of wine. Adrian Rollins reports

MA President Dr Steve Hambleton said there was an urgent need to reconsider the way alcohol was marketed and promoted in Australia, particularly through sport. “Young Australians are exposed to an unprecedented level of advertising that glorifies alcohol,” Dr Hambleton said.

He was commenting on the release of research commissioned by The Salvation Army that showed significant community concern about the strong links between alcohol and sport.

Seventy-two per cent of adults surveyed by Roy Morgan Research said they thought alcohol and sport had become too closely related, 70 per cent thought it was encouraging young people to drink, and 67 per cent thought it was time to start phasing alcohol sponsorship of sport out.

“Australia is a sporting nation, and the alcohol industry concentrates a lot of its promotional and sponsorship activity on live broadcasts of the most prominent and popular sporting events, including grand finals that are watched by millions of people,” Dr Hambleton said, with products promoted during ad breaks, on sporting grounds, on billboards and on players’ jerseys.

The AMA President said there was “strong evidence” that the more young people were exposed to alcohol advertising, the earlier and more heavily they drank.

“Associating alcohol with sport sends a clear message to young people that drinking and sport go together.”

But sports organisations so far appear unperturbed about their strong links with the alcohol industry and its sponsorship money.

Last month Cricket Australia refused to run an advertisement declaring “Alcohol and sports don’t mix” during the Ryobi Cup in Sydney, while Cricket NSW has just signed a three-year sponsorship deal with Carlton & United Breweries, which has also secured naming rights for the upcoming one-day international series between Australia and England.

A Cricket Australia spokesman told *The Sydney Morning Herald* that it was justified in rejecting an ad with a message that it saw as at odds with its own position on alcohol consumption and sport.

“It is better to engage with the reality that many fans enjoy a responsible drink than it is to turn them off with a prohibition message they don’t believe,” the spokesman said.

Meanwhile, the Federal Government said it had no current plans to alter the taxation regime for alcohol.

It was responding to a call from the National Alliance for Action on Alcohol, of which the AMA is a member, to replace the current wine equalisation tax with a tax on alcohol by volume, which it has been estimated would collect an extra $1.32 billion in tax revenue from the wine industry.

While the alcohol industry is so far successfully resisting efforts to change its taxation or curb its sports sponsorship, it faces the likelihood that in future it will have to include the energy content of its product on its labels.

Food Standards Australia and New Zealand has commissioned a cost-benefit analysis of a proposal that the kilojoule content of packaged wine, beer and spirits be inscribed on the packaging.


we probably don’t need to be giving them more encouragement to drink.

The same was true for tobacco advertising and sponsorship in sport and few would now question the wisdom of banning such promotion.

The alcohol industry’s self-regulation of advertising has been shown to not work, and stronger regulation is clearly needed. Effective action is possible.

France has had a complete ban on alcohol advertising and sponsorship since 1991. Sport has not suffered and alcohol consumption has decreased in the past 20-odd years. Indeed, France even hosted the 1998 FIFA World Cup with this ban in place and enforced.

Similarly, Norway and Turkey have strong restrictions on alcohol...
advertising in sport, and South Africa is currently drafting a bill to ban all alcohol advertising and sponsorship in sport. It would be simple to do the same in Australia.

Naturally, ‘big sport’ (AFL, NRL and cricket) and the alcohol industry will object to the removal of alcohol advertising and sponsorship, citing that grassroots sport will suffer. But the experience of nations where bans have been imposed suggests otherwise, such as Norway and France.

The Australian National Preventative Health Agency has successfully negotiated the removal of alcohol sponsorship from most of Australia’s major sporting codes (Football Federation of Australia, Netball Australia, Basketball Australia, Cycling Australia, Hockey Australia). But AFL, rugby league and union and cricket are resisting change.

Sport in Australia could still be funded by the alcohol, tobacco, and fast-food industries, but through the ring-fencing of a small portion of the tax gathered from their sales. This would allow sport to thrive without the downside of also promoting unhealthy products to our children.

Kerry O’Brien is Head of Behavioural Studies at Monash University.

According to the McCusker Centre for Action on Alcohol and Youth, alcohol is one of the most heavily marketed products in the world. Young people are frequently exposed to alcohol promotion, including through product packaging that would be expected to appeal to them and advertising that targets younger age groups.

Alcohol is promoted through an ever-increasing range of media to which young people are exposed:

- Television
- Radio
- Cinema
- Print media, including magazines and newspapers
- Outdoor, including billboards, bus shelters and on public transport
- Online, including social media, mobile phones and websites
- Sponsorship of sport and music events
- Branded merchandise
- Point-of-sale promotions, free gift promotions and competitions
- Product placement in movies and music videos.

Source: McCusker Centre for Action on Alcohol and Youth, Alcohol Advertising and Young People.
This paper reviews the growth of sports betting and the accompanying proliferation of sports betting advertising, with particular focus on its integration into sporting events and broadcasts. It draws on lessons from the advertising of other potentially harmful products, and synthesises research into gambling advertising and the promotion of sports betting.

**Key messages**

- Sports betting has grown substantially and is emerging as a significant contributor to problem gambling, especially among younger adult males.
- There is considerable community opposition to the prolific promotion of gambling through sport, especially related to potential negative impacts for children, adolescents, young men and problem gamblers.
- Research into the advertising of other harmful products suggests advertising increases uptake and consumption, especially in the adolescent starter market.
- Research into sports betting advertising suggests it can shape gambling attitudes, intentions and behaviours, and impacts most negatively on existing problem gamblers and sports bettors.

Sports betting is the only gambling form for which participation rates have increased during the last decade (Gainsbury et al., 2014). Approximately one in seven (13%) adult Australians now gambles on sport (Hing, Gainsbury et al., 2014). Expenditure doubled between 2005-06 and 2011-12, with continued growth predicted (Deloitte, 2012; Joint Select Committee on Gambling Reform [JSCGR], 2011).

This growth has been accompanied by extensive promotion of sports betting during live and televised sport, as well as through newer media such as the internet, mobile platforms and social media. Concerns about the potential negative impacts of this advertising have been widely voiced, especially for children, adolescents, young men and problem gamblers.

**The growth of sports betting in Australia**

- The growth of sports betting can be partly attributed to the growth of online gambling.
- Half of all sports betting is now conducted online.
- Many commercial arrangements now exist between sporting entities (events, clubs, stadiums, etc.) and bookmakers.
- These arrangements have increased sports betting marketing and contributed to its growth.

Expansion of internet gambling has driven the recent growth of sports betting, which comprises 53% of the international online gambling market (H2 Gambling Capital, 2013). Australians now have convenient, 24/7 and mobile access to betting websites, meaning they can gamble from nearly any time and place. Sporting events are packaged with internet gambling, and bettors can readily compare wagering products for an increasing array of Australian and international sporting events (JSCGR, 2011). Australians can bet online on dozens of different sports with the numerous sports betting operators licensed in Australia or with offshore wagering sites illegally providing these services to Australians.

These factors are shifting betting away from land-based outlets, with at least half of sports betting now conducted online (Hing, Vitartas, & Lamont, 2014; JSCGR, 2013). Key advantages of the online mode are convenience, price, comfort, and the greater number of betting options available (Hing, Gainsbury et al., 2014).

A 2008 Australian High Court decision provided further impetus to the expansion of sports betting. It removed restrictions preventing bookmakers licensed in one jurisdiction from advertising in another. This change prompted the entry of corporate bookmakers into the Australian sports betting market to capitalise on Australians’ penchant for both gambling and sport.

Many sporting events, teams and stadiums have now entered into commercial marketing arrangements with these corporate bookmakers (Lamont, Hing, & Gainsbury, 2011). This practice is most prominent in the two largest Australian sports, the National Rugby League (NRL) and Australian Football League (AFL). These sports attract about half of all sports betting in Australia, with a doubling of turnover expected within five years from $750 million to $1.5 billion on the NRL and from $900 million to $1.8 billion for AFL (Deloitte, 2012). Because these codes receive marketing and product fees based on betting revenues, sporting bodies are also motivated to maintain and promote a competitive, innovative wagering product (Deloitte, 2012).
The growth of sports betting advertising and promotion

- Sports betting advertising has proliferated, using a wide range of media and promotional techniques.
- Sport is now a marketing platform for sports betting operators, with concerns that this encourages gambling uptake, especially among youth and young adult males.

Marketing is critical for sports betting operators to compensate for intense competition, limited price elasticity and little product differentiation (Nettleton, 2013). Promotional techniques used include broadcast advertising on TV and radio, online pop-ups on internet sites, celebrity brand ambassadors, inducements, direct and third party email and SMS, and loyalty programs (Gambling Compliance, 2013). Sponsorship and promotions have also been embedded into sporting fixtures, as discussed later. Operators provide mobile sports betting apps, stream live coverage of sporting events, and promote sports betting through smartphones and email, including improved odds, money back guarantees, betting tips, offers of credit and bonuses including ‘free’ bets and deposits (Hing, Cherney, Blaszczynski, Gainsbury, & Lubman, 2014). The aim is to recruit, register and retain active customers (Weibe, 2008).

The saturation of sports betting advertising has prompted controversy and concern. Sport is now used as a marketing platform to deploy huge investments of money by sports betting operators to recruit and retain customers through advertising, merchandising and celebrity endorsements that incorporate sport products, images, usages and icons (Dyall, Tse, & Kingi, 2007; McMullan, 2011; Monaghan, Derevensky, & Sklar, 2008). Particular concerns are that this marketing can encourage consumers to consider gambling as sport, and that young people are learning about gambling through sport programming and merchandising. This can normalise and legitimise gambling uptake at a young age (Dyall et al., 2007; McMullan, 2011; Monaghan et al., 2008).

The clear target market for most sports betting advertising is young adult males. Strategies include using celebrity role models, attractive female presenters and models, and the repositioning of sports betting as an activity for successful, professional young men (Milner, Hing, Vitartas, & Lamont, 2013). Advertising attempts to appeal to this market through engaging notions of masculinity, team loyalty and sporting knowledge (Thomas, Lewis, McLeod, & Haycock, 2012).

However, it is the embedding of sports betting promotions into live and televised sport that has attracted most controversy in Australia. This practice has been fuelled by the escalation of sport sponsorships and advertising rights purchased by sports betting operators.

Sports betting promotions embedded into live and televised sport

- Sports betting advertising and promotions have proliferated during televised sport.
- Embedded sports betting promotions during sports broadcasts mean they cannot be avoided while watching a game.

Since 2009, sports betting promotions have been increasingly embedded into live and televised sporting events. Promotional techniques have included fixed advertising signage, dynamic advertising such as rotating and electronic banners, commercial break advertising, team sponsorship and integrated advertising incorporating live betting odds (Thomas, Lewis, Duong, & McLeod, 2012).

How much is gambling promoted during sport?

- An audit of eight AFL match broadcasts in 2011 identified 50.5 marketing communications promoting seven wagering brands, totalling 4.8 minutes per match.
- Four live AFL matches held at two major stadiums in 2011 promoted nine wagering brands during an average of 59 marketing communications.
- An audit of two weeks of televised NRL and AFL programs in 2012 identified 72 gambling communications, mainly for corporate bookmakers, constituting 2.5% of broadcast time.

Source: Milner et al. (2013); Thomas, Lewis, Duong et al. (2012).

The embedded advertising can be particularly powerful because very little can be avoided by skipping...
through or muting advertisements and it is likely to evoke an emotional rather than rational response (Milner et al., 2013). Promotions occur at critical points when audiences are most attentive (e.g. when points are scored). Gambling logos on player uniforms and stadium signage are continuously displayed, sports betting operators have regular sponsored segments, and betting is promoted by celebrity presenters and match commentators. The message is that the excitement of watching the game is heightened by wagering on its contingencies and outcome (Milner et al., 2013).

**Community concerns and government inquiries**

- A community backlash about sports betting promotions during sport prompted two government inquiries.
- This led to curtailment of in-match commentary and on-screen displays of live betting odds.

The avalanche of sports betting advertising prompted a community backlash. Substantial concerns related to its potential impact on the estimated 39,000 children and adolescents who watch each live sports broadcast in Australia (JSCGR, 2013). Promoting gambling in a ‘family-friendly’ environment may normalise gambling among young viewers, with gambling becoming an integral part of sport, potentially grooming a new generation of problem gamblers (Hing, Vitartas, & Lamont, 2013, 2014; Hunt, 2013; Lamont et al., 2011; McMullan, 2011). Young people may be unable to distinguish the persuasive intent of embedded promotions, which may be particularly influential during impressionable adolescent years when peer and media influence is especially strong (Hing, Vitartas, Lamont, & Fink, 2014).

This ‘gamblification’ of sport may transfer images associated with sport to promote gambling as healthy, harmless fun that, like sport, relies primarily on skill (Hing, Vitartas, & Lamont, 2014; Lamont et al., 2011; McMullan, 2011). Sports betting is becoming culturally embedded among young males, who report that peer discussions now include betting odds and that they feel pressured to gamble to fit in with peers (Thomas, Lewis, McLeod et al., 2012). These promotions also undermine responsible gambling messages targeting young men, who are also the most at-risk group for gambling problems (Delfabbro, 2012).

These promotions can also negatively affect problem gamblers. Services report increases in the number of clients seeking help for sports betting-related problems (Hunt, 2013; Victorian Responsible Gambling Foundation, 2013). For example, at the University of Sydney Gambling Treatment Clinic the proportion of clients with sports betting-related problems increased fourfold between 2006-07 and 2010-11, with sports-embedded promotions reported as contributing substantially to these clients’ problems and relapses (University of Sydney Gambling Treatment Clinic, 2011). One study has shown that one-sixth of problem/m moderated risk internet gamblers nominated sports betting as their most problematic gambling form (Hing, Gainsbury et al., 2014). Being younger, male, married and gambling on sports, races or poker predicted problem/moderate risk gambling among these internet gamblers.

**Community concerns about sports-embedded gambling promotions include that it ...**

- May normalise gambling among children and young people
- May be grooming a new generation of problem gamblers
- Promotes gambling as healthy harmless fun that, like sport, relies on skill
- Has become part of young male culture
- Undermines responsible gambling messages, and
- May be contributing to the increase in problem gambling related to sports betting.

Source: Hing, Vitartas & Lamont (2014); Lamont et al. (2011); McMullan (2011); Thomas, Lewis, McLeod et al. (2012).

**Concerns about sports-embedded gambling promotions led to a ban on in-match promotion of live betting odds**

Community concerns about sports betting promotions during sports broadcasts were debated during three government inquiries:

- The Inquiry into Interactive and Online Gambling and Gambling Advertising (JSCGR, 2011) subsequently recommended a ban on promoting live odds during sport, and a mandatory national code for wagering advertising covering inducements to bet, responsible gambling messages, and restricting certain forms of advertising.
- The Review of the Interactive Gambling Act (Department of Broadband Communications and the Digital Economy [DBCDE], 2012) similarly recommended an industry code to ensure related advertising is not contrary to community standards.
- The Inquiry into the Advertising and Promotion of Gambling Services in Sport (JSCGR, 2013) recommended: legislation if industry does not make appropriate changes; the current exemption of gambling advertising for sporting programs be reviewed; nationally consistent requirements for responsible gambling messages to counterbalance promotion of gambling; the amount of betting advertising at sporting venues and sports betting merchandise for children be reviewed; and further research on the longer-term effects of gambling advertising on children.

Following community concerns raised in these inquiries, Australian government pressure led to amendments to broadcast advertising codes from August 2013 to stop in-match commentary and on-screen displays of live betting odds. Other promotional practices continue, including live odds promotions before match commencement. Ironically, airing of the statutory message to “gamble responsibly” has decreased with curtailment of live odds messages (Hing, Vitartas, & Lamont, 2014).
Advertising typically depicts gambling as an exciting, glamorous and attainable lifestyle promising easy financial and social rewards. Gambling is often portrayed as a routine, everyday activity and it is increasingly likened to sport (Derevensky et al., 2007; Derevensky, Sklar, Gupta, & Messerlin, 2010; Friend & Ladd, 2009; Korn, Hurson, & Reynolds, 2005; Korn, Reynolds, & Hurson, 2005). Adolescents and children are aware of and can recall specific slogans and jingles and may feel they are being groomed to gamble (Amey, 2001; Korn, Hurson et al., 2005; Korn, Reynolds et al., 2005). Further, research has revealed that advertisements can increase adolescents’ desire to experiment with gambling and prompt a gambling session (Derevensky et al., 2007; Korn, Hurson et al., 2005; Korn, Reynolds et al., 2005). Greater media exposure to gambling advertisements and promotions has also been associated with more positive youth gambling attitudes and intentions towards gambling (Hing, Vitartas & Lamont, 2014; Lee, Lemanski, & Jun, 2008).

Gambling advertising themes

Within television advertising, gambling is portrayed as ...

- Like a sport
- A natural activity
- A way to enhance your status
- A reprieve from mundane activities
- Part of a routine
- A way to prosper
- A reoccurring activity
- A positive, life-changing force.


Online gamblers are also influenced by gambling advertising. One-tenth of internet gamblers reported that marketing and promotions were critical to their initial uptake and 29% reported increased online gambling expenditure as a result of viewing promotions (Hing, Gainsbury et al., 2014). However, this marketing has had less success in converting non-gamblers to gambling (Binde, 2009; Hing, Cherney et al., 2014).

Gambling advertising can have particularly negative impacts on problem gamblers. Compared to other gamblers, problem gamblers report gambling advertisements as being a greater stimulation to gamble, a larger influence on spending more than intended, and an encouragement to them to think they can win (Binde, 2014; Clarke et al., 2006; 2007; Schottler Consulting, 2012). Problem gamblers also report that gambling advertisements can remind them about gambling, trigger gambling urges, provide inducements to gamble, further increase gambling involvement and undermine attempts to moderate their gambling (Hing, Cherney et al., 2014).
Bonuses offers for sports betting, such as money-back guarantees and ‘free’ bets that require matching deposits appear to particularly increase internet gambling among problem gamblers (Hing, Cherney et al., 2014). Youth problem gamblers also report stimulation to gamble from gambling advertisements (Derevensky et al., 2010; Felsher, Derevensky, & Gupta 2004a; 2004b; Korn, Reynolds et al., 2005).

Gambling advertising to date has not been found to motivate many people to commence gambling; however, it can increase gambling among existing gamblers (Binde, 2007; 2009; 2014; Derevensky et al., 2010; Hing, Cherney et al., 2014). Advertisements have particular potential for harm if they reinforce inaccurate beliefs about gambling and increase gambling among people who are already heavy gamblers (Productivity Commission, 1999; Schottler Consulting, 2012).

**Impacts of sports betting advertising**

- The vast majority of adults and adolescents watch televised sport and are therefore exposed to embedded gambling promotions.
- Sports-embedded gambling promotions can normalise gambling, especially among children, adolescents and young adult men.
- These promotions are likely to increase sports betting problems, especially among existing sports bettors and problem gamblers.

Many young men consider sports-embedded betting promotions as unavoidable, unnecessary and aggressive, sending a dangerous message about the social acceptance of gambling and its normalised association with being a sports fan (Thomas, Lewis, McLeod et al., 2012). Peer pressure to gamble has reportedly increased among young men, as friendship groups have regular discussions about sports betting odds (Thomas, Lewis, McLeod et al., 2012). University students who watch more gambling-sponsored sports broadcasts were found to be more likely to use the sponsors’ products, especially students who already have gambling problems (Hing et al., 2013). Even children can correctly assign gambling sponsors to particular sports or teams (Pettigrew, Ferguson, & Rosenberg, 2013).

The vast majority of adults and adolescents watch televised sport and are therefore exposed to these promotions. In Queensland, over half of adults and two-fifths of adolescents could recall, unprompted, at least one gambling brand from watching televised sport (Hing, Vitartas, & Lamont, 2014). Further, adults, adolescents and sports bettors who were exposed to more sports-embedded gambling promotions were found to have greater intentions to bet on sports (Hing, Vitartas, & Lamont, 2014). Additionally, sports bettors with gambling problems in Queensland reported that these promotions had worsened or maintained their problems (Hing, Vitartas, & Lamont, 2014). Problem gamblers were particularly attracted to promotions featuring micro-bets placed on short-term contingencies during match play (Hing, Vitartas, & Lamont, 2014). Thus, these promotions are likely to be increasing sports betting participation and sports betting problems, especially among existing sports bettors and problem gamblers.

Research into the effects of sports-embedded gambling promotions is in its infancy. Early research suggests that it is increasing gambling participation, gambling problems and the normalisation of gambling among adults, adolescents and children.

**Implications for stakeholders**

- Measures are needed to minimise sports betting problems, including community education and social marketing targeted at high-risk groups to counter messages promoting sports betting.
- Harm minimisation measures provided by sports betting operators need to be rigorous, efficacious and well promoted to bettors so they can opt to track their betting, self-exclude, set betting limits and establish deposit limits, and easily access gambling help resources and services.
- As demand for help for problem sports bettors increases, services will need to provide appropriate treatment, including treatment and self-help measures tailored to sports bettors.
- Exemptions for sport-integrated gambling marketing during general TV viewing times, and the quantity and types of advertisements and promotions allowed during live and televised sport could be reviewed.
- The types of sports betting advertising allowed could also be reviewed, with particular attention to bonus promotions such as money-back guarantees and ‘free’ bets requiring matching deposits.
- Ongoing research into sports betting is needed to ensure that policy developments, industry regulations, public health measures and gambling help services are informed by current knowledge and awareness of shifting trends.
- In particular, further research is needed to better understand the role of sports betting advertising in shaping consumer attitudes and behaviours and to untangle causal pathways between exposure and consumption, especially among vulnerable groups.

**FURTHER READING**

Not just ‘a bit of fun’: why sports, gambling and kids are a bad mix

Children are vulnerable consumers and aren’t capable of making rational, informed choices, write Nathan Grills and Gillian Porter

Have your children watched a footy match recently? Well, if they watched AFL on TV they also consumed about 50.5 separate episodes of sports betting marketing, from TV and stadium ads, to footy jumpers and even the footy commentary. If they went to the ground they would have seen, on average, 58.5 gambling ads.

Australia is a lucrative market for the sport gambling industry – we have the biggest gambling losses per capita of any country in the world. Key players centrebet, sportingbet, TAB Sportsbet, tomwaterhouse.com and bet365 are competing for market share and advertising has been their number one weapon. This year alone there has been a 20% increase in spending on gambling advertising.

So, what’s wrong with these gambling agencies advertising their product everywhere? After all, gambling is legal, advertising is legal, adults can make their own choices and it’s just a bit of fun.

Actually, these arguments are false on all four counts if they relate to children:

1. It’s illegal for children to place bets
2. It’s illegal to advertise gambling during children’s programming, but sporting telecasts are exception.
3. Children don’t understand the persuasive intent of marketing messages and can’t critically evaluate them to make informed decisions
4. It’s not just a bit of fun for many children. Family breakdown, poverty, or even the loss of a parent to gambling-associated suicide is not fun.

Pathological gambling remains a psychological diagnosis in the new diagnostic manual for mental illness (the DSM-5) and continues to cripple thousands of Australians.

The Productivity Commission estimated in 2010 that 80,000 to 160,000 Australian adults were severe problem gamblers, with a further 230,000 to 350,000 at moderate risk of developing problem gambling.

Kids think betting is normal

The saturation of advertising normalises gambling and kids come to associate gambling as integral part of the sport. Rather than talking about their favourite team, kids are now talking about the odds of that team winning.

This inevitably translates into more underage gambling, as kids can now anonymously gamble online and on smart phones. Online checks are insufficient, as ABC1’s Four Corners revealed last night, with kids as young as 12 placing bets and pressuring their peers to bet as part of the fan experience.

At a population level, normalising sport gambling will mean more people take up the habit, and more people will gamble at risky levels. There is also evidence of more risky gambling behaviour when online betting options are used.

Barriers to reform

So if regulators recognise that gambling advertising to children is inappropriate, why are we even having this debate?

We have to remember that the gambling industry pours millions of dollars into sport and it’s not altruism. They pay millions of dollars for advertising rights, naming

The saturation of advertising normalises gambling and kids come to associate gambling as integral part of the sport. Rather than talking about their favourite team, kids are now talking about the odds of that team winning.
rights on jerseys, to TV stations, to club sponsorships. Clubs, codes, media companies and advertisers are all businesses and right now there is much money to be made through gambling.

Why, then, doesn’t the government regulate to prevent advertising that is damaging children? After all at election time it is a good idea to do what voters want.

The powerful gambling and advertising industry has significant sway over the government and has pressured governments to drag their feet. The Gillard government, for instance, was pressured into reneging on the deal with independent MP Andrew Wilkie to introduce effective gambling reforms.

Another factor might be just how addicted our governments are to gambling revenue. Revenue from the gambling industry props up our deflated government coffers. In Australia, the government revenue from gambling is in the order of A$5 billion or around 10% of total tax revenue. The simple proverb “don’t bite the hand that feeds you” might explain the government’s lack of action.

Perhaps another reason for lack of action is the fear of a backlash from industry. This worked for the mining industry but seems to have been ineffective for industries whose name is not so trusted. The tobacco industry opposition to plain packaging, for instance, fell on deaf public ears. The trust and public support for the gambling industry might be similar to that of the tobacco industry.

**The road to real reform**

In response to pressure, FreeTV Australia (representing the broadcasters of Australia) today announced it will submit a revised code to Australian Communications and Media Authority to “ban promotion of live odds during play and by commentators during the game”.

On the surface this seems like a positive step, but it’s more an attempt to deflect from the real issue. This ban will only limit live odds promotion and will mean the industry can continue to advertise gambling to our children 58 times during an average footy match.

What we need is real action. The Joint Parliamentary Committee On Gambling Reform will report back before the election. Several independents and the Greens have suggested the removal of the sporting exemption to bans on gambling advertising during children viewing hours, including weekends. Such bans should also include advertising which is included in match commentary and pre- or post-match reviews.

It’s not only the Greens and independents who are speaking up. There is even support from the conservative side of politics, with Tony Abbott promising to limit gambling advertising to kids during sport. But will the Gillard government act in this area?

This may well win some much-needed votes but more importantly, it will protect vulnerable children from the powerful gambling industry. As a society, we need to be much more aware of the dangers of trapping a new generation into addiction and debt.

Nathan Grills is Public Health Physician and post-doctoral researcher, Nossal Institute of Global Health at the University of Melbourne.

Gillian Porter is Public Health Registrar, Nossal Institute for Global Health at the University of Melbourne.

Reining in advertisers to curb Australia’s body image distortion

Unrealistic advertising can severely damage individual self-esteem, claims Nives Zubcevic-Basic in this article from The Conversation

Body image may be the western world’s ugliest export. Images of thin, toned women and hyper-muscular men are conveyed via television, magazines, movies and the internet to the global market.

The ideal dictated by the mass media is virtually impossible for people to achieve without excessive dieting, excessive exercise, or both. As a result, cultures that used to regard bulk as a sign of wealth and success now have a growing prevalence of eating disorders.

Back home, body image dissatisfaction is increasingly recognised as an important target for public health action. Research evidence links body dissatisfaction to physical and mental health concerns for both men and women – and exposure to the media has been shown to play a significant role.

So how can we rein in advertisers? The United Kingdom’s Advertising Standards Agency has commenced banning ads that appear unrealistic – is it time for Australia to do the same?

Australians’ body image

Among Australian women, body dissatisfaction mainly manifests with concerns about weight, even in those who are underweight or a healthy weight. This is reflected in unhealthy weight-loss practices (crash dieting, fasting, laxative misuse, vomiting) across all weight ranges.

It appears that despite growing acknowledgement that body image is a great concern for both men and women, we are unlikely to see any great change with a voluntary code of conduct. Perhaps the only way to finally start making changes is to enforce mandatory laws regulating advertisers’ use of unrealistic body images.

For men, body image dissatisfaction is more likely to constitute a desire to be larger and more muscular in addition to being thinner.

Among Australian high school girls, research has found that approximately 75% chose an ideal figure thinner than their own.

Sexualisation of children in advertising

April 2012: The Australian Medical Association called for a new inquiry into the premature sexualisation of children in marketing and advertising, claiming that the current self-regulatory approach through the Advertising Standards Bureau is failing to protect children from sexualised advertising which features messages that are disturbing and sexually exploitative, especially of pre-teen girls.

The AMA claims such marketing is likely to be detrimental to child health and development, particularly in the areas of body image and sexual health. The AMA’s call was in response to a renewed debate in the media and in the community sparked by advertising that features young children in images and with messages that were disturbing and sexually exploitative.

The AMA has urged the Government to start a new inquiry with the view to introducing tougher measures, including legislation, to protect the health and development of Australian children by shielding them from sexualised and other inappropriate advertising.

Background:

- In 2008, the Senate Standing Committee on Environment, Communication and the Arts undertook an inquiry into the Sexualisation of Children in the Contemporary Media Environment. The Committee recommended another inquiry 18 months later, which has not been acted upon.
- In 2009, a Private Members motion was moved in the House of Representatives highlighting concerns about the premature sexualisation of children in the media. The motion had the support of Members from the major Parties.
- There were complaints in 2011 about an ad for Oh, Lola! perfume, which references Lolita. The ad was banned in Britain but deemed suitable for Australian audiences by the advertising watchdog.

Source: Australian Medical Association (Media release, 3 April 2012), AMA calls for new inquiry into the sexualisation of children in advertising.
Among adolescent boys, a third wished to be thinner, while more than a third desired to be larger than their current size.

In a community sample of Australian adults, 47% and 24% of healthy weight women and men respectively believed themselves to be overweight.

**Impacting both genders**

While extensive research has explored the body image of women, studies on the media’s influence of male body satisfaction have been somewhat ignored. This is despite evidence that there is a growing use of idealised male body stereotypes by the media. This has also been reflected in the increase in sales of male grooming products and continued growth of the men’s health and fitness movement.

Similar to women’s magazines, men’s publications are now filled with articles that concentrate on their readers’ worries and inadequacies. As images of men became more prevalent in the media, a new sociocultural standard of beauty for men seems to have emerged: a hyper-masculine, muscled, powerfully shaped body. The question is whether this standard will punish men as much as the super-thin standard has punished women.

Women perceive their figures as heavier than their ideals and as heavier than men’s preferences. The reverse is also true for men. Research has found that across Austria, France and the US, the ideal body for men was 13kg more muscular than themselves and they estimated women preferred a male body about 14kg more muscular than themselves.

Younger audiences are more susceptible to body-image disturbance than older audiences. People from a higher socioeconomic status are also more likely to suffer from body-image disturbance than those from lower socioeconomic status.

While physical attractiveness may remain more important to women than to men, some men may place their health at risk, as some women do, in order to attain the cultural ideal. Recently, the pressures on men to obtain and maintain a certain body type have been increasing.

Body dissatisfaction experienced through exposure to idealised images of men in the media is only the beginning of possible outcomes such as anabolic steroid use, eating disorders, and muscle dysmorphia.

**So where to from here?**

The Australian Government’s National Body Image Advisory Group made recommendations in 2010 about the way forward in making young people more resilient to appearance pressure. As a result, the government set up a voluntary code of conduct for the media, advertising and fashion industry. This initiative also included a new set of awards which rewarded the efforts of those in industry that promoted positive body image.

Two years on, magazines aimed at young women such as Dolly and Girlfriend seem to be making some progress in this area, but by and large, this ‘voluntary code’ has failed to have an impact on how the industry operates.

In fact, we’re at a point where Victoria’s Secret models who are portrayed as the ultimate perfection are claiming they ‘need’ to be air-brushed to look better.

And so deeply ingrained are these perceptions of ultimate beauty that when we do see a model who doesn’t fit into that industry stereotype such as Australian plus size model Robyn Lawley, it makes global news.

It appears that despite growing acknowledgement that body image is a great concern for both men and women, we are unlikely to see any great change with a voluntary code of conduct. Perhaps the only way to finally start making changes is to enforce mandatory laws regulating advertisers’ use of unrealistic body images.

Nives Zubcevic-Basic is Director, Master of Marketing at Swinburne University of Technology.

THE CONVERSATION

EXPLORING ISSUES

WORKSHEETS AND ACTIVITIES
The Exploring Issues section comprises a range of ready-to-use worksheets featuring activities which relate to facts and views raised in this book.

The exercises presented in these worksheets are suitable for use by students at middle secondary school level and beyond. Some of the activities may be explored either individually or as a group.

As the information in this book is compiled from a number of different sources, readers are prompted to consider the origin of the text and to critically evaluate the questions presented.

Is the information cited from a primary or secondary source? Are you being presented with facts or opinions?

Is there any evidence of a particular bias or agenda? What are your own views after having explored the issues?

CONTENTS
BRAINSTORM 50
WRITTEN ACTIVITIES 51
RESEARCH ACTIVITIES 52
DESIGN ACTIVITIES 53
DISCUSSION ACTIVITIES 54
MULTIPLE CHOICE 55-56
Brainstorm, individually or as a group, to find out what you know about advertising standards and ethics.

1. What are marketing ethics, and why are they important?

2. What is native advertising, and what are some examples?

3. What is advertising industry self-regulation, and how does it work?

4. What is the Advertising Standards Bureau, and what is its role?
Complete the following activity on a separate sheet of paper if more space is required.

Sports betting is the only gambling form for which participation rates have increased during the last decade – approximately one in seven adult Australians now gambles on sport. This growth has been accompanied by extensive promotion of sports betting during live and televised sport, as well as through newer media such as the internet, mobile platforms and social media.

Form into groups of two or more to discuss how promoting gambling through sport could create awareness, recall, purchase intention and consumption in young people. Include in your answer information on the extent of gambling advertising during sport, how it is promoted and any possible community concerns regarding the promotion of gambling in sport.
Complete the following activities on a separate sheet of paper if more space is required.

1. Among Australian high school girls, research has found approximately 75% choose an ideal figure thinner than their own. Research what has been done, or is currently being done, to protect children from unrealistic body image and sexualisation in advertising. Include relevant recommendations and regulations.

2. Alcohol is promoted through an ever-increasing range of media to which young people are exposed. Make a list of ways young people can be indirectly exposed to alcohol advertising. Also, research and list any industry bodies, codes, standards or regulations that are in place to protect young people from exposure to alcohol advertising.
Complete the following activities on a separate sheet of paper if more space is required.

Businesses are not allowed to make statements that are incorrect or likely to create a false impression. This rule applies to their advertising, their product packaging, and any information provided to you by their staff or online shopping services.

In groups of two or more, write a design brief for an advertisement (include the product, medium, text and images) which demonstrates each of the following common types of false or misleading advertising. Share your ideas with other groups in the class.

BAIT ADVERTISING

‘GREEN’ CLAIMS

COMPARATIVE ADVERTISING

FINE PRINT AND QUALIFICATIONS
Complete the following activities on a separate sheet of paper if more space is required.

One in four Australian children is overweight or obese. Unhealthy food and drink companies spend billions of dollars per year on advertising and marketing promotions because they work. Food marketing affects children’s food choices and purchasing requests.

The Parents’ Jury, *The Facts about Food Marketing to Kids*

Do you believe that advertising and marketing promotions encourage bad food choices? Form into groups of two or more people, and using the space provided below, compile a list of points with which to debate whether you agree or disagree that food marketing encourages young people to make poor food choices. Include examples of advertising campaigns from any medium (print, online or television) to back up your arguments.

________________________________________________________________________
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________________________________________________________________________
Complete the following multiple choice questionnaire by circling or matching your preferred responses. The answers are at the end of the next page.

1. In what year was the Advertising Standards Bureau created, following the adoption of advertising self-regulation in Australia?
   a. 1988
   b. 1992
   c. 1996
   d. 1998
   e. 2002
   f. 2008
   g. 2012

2. When is the peak viewing period for Australian children under 14 years of age?
   a. 5am – 9am
   b. 6am – 7am
   c. 7am – 9am
   d. 11am – 2pm
   e. 5pm – 9pm
   f. 6pm – 7pm
   g. 7pm – 9pm
   h. 9pm – 11pm

3. Free TV Australia and the Advertising Standards Bureau oversee the following codes. Match the code with the relevant self-regulation standard:
   1. Commercial TV Code of Practice
   a. Jointly developed by Free TV Australia and the Australian Communications and Media Authority (ACMA), it requires advertisements to comply with the Children’s Television Standards. Unlike the Standards however, it is not directly enforceable by the ACMA.
   2. Australian QSRI Initiative for Responsible Advertising and Marketing to Children
   b. Signatories have pledged to cease marketing unhealthy foods and drinks in media directed primarily to children under 14 years old (including TV), unless products meet their own nutritional criteria.
   3. Code for Advertising and Marketing Communications to Children
   c. Signatories have pledged to cease marketing ‘unhealthy’ foods and drinks specifically to children under 12 years old.
   4. Responsible Children’s Marketing Initiative
   d. Administered by the Australian Association of National Advertisers (AANA), it contains specific rules on food and beverage advertising to children.
   5. Food and Beverages Advertising and Marketing Communications Code
   e. Administered by the AANA, it provides a set of rules for the content of advertisements that are primarily directed to children under 14 years old.
4. Respond to the following statements by circling either 'True' or 'False':

a. In the 1940s and 1950s, tobacco used to be advertised as promoting health.  
   True / False

b. It is legal for children to place bets.  
   True / False

c. Fast food restaurants and confectionery are the two most common categories of food ads shown during children’s viewing times.  
   True / False

d. Over the course of a year, the average child will see 40 hours of food advertising on television alone.  
   True / False

e. The Advertising Standards Board received over 200 complaints in 2014 about a TV ad featuring a man picking his nose and wiping it on a car door.  
   True / False

f. The Advertising Standards Bureau requires more than one written complaint about an ad before a formal investigation can be mounted.  
   True / False

g. The Advertising Standards Bureau is an industry-funded body.  
   True / False

h. Children as young as 12 have been found to place bets and pressure their peers to bet as part of the fan experience.  
   True / False

i. France has had a complete ban on alcohol advertising and sponsorship since 1991.  
   True / False
In 2009, the Advertising Standards Bureau (ASB) had the largest number of complaints in its 40 years of operation – over 5,000 complaints about 500 ads. (p.2)

In the 1940s and 1950s, tobacco used to be advertised as promoting health. Today an advertiser who engages in such deceptive advertising and fails to tell the truth is more accountable to consumers and the law (Wikipedia, Marketing ethics). (p.2)

A single written complaint is sufficient to initiate a formal investigation of an advertisement (Advertising Standards Bureau, FAQs). (p.7)

The Advertising Standards Bureau is industry-funded; advertisers pay a voluntary levy based on gross media expenditure. The levy has been set at 0.035% – $3.50 per $10,000 of gross media expenditure (Ward, M, Is there any point to the Advertising Standards Bureau?). (p.10)

The Australian Communications and Media Authority (ACMA) registered a new commercial radio advertising code that requires advertisements on commercial radio to be distinguishable to listeners as advertising (ACMA, Code replaces radio advertising standard). (p.13)

Businesses are not allowed to make statements that are incorrect or likely to create a false impression. This rule applies to their advertising, their product packaging, and any information provided to you by their staff or online shopping services. It also applies to any statements made by businesses in the media or online, such as testimonials on their websites or social media pages (ACCC, False or misleading claims). (p.14)

Over a year, the average child will see 40 hours of food advertising on television alone, 22 of these hours, or three and a half school days, will be filled with advertisements for unhealthy foods (Cancer Council Australia, Position statement: Food Marketing to Children). (p.21)

Analysis of food company websites popular with Australian children shows that 79% of websites used ‘advercation’, where information about the company or its foods is presented as educational material, and 28% used ‘advergames’, where branded products and characters are embedded in interactive computer games (ibid). (p.21)

Subtle forms of advertising such as product placements may have a larger effect on children because they are preoccupied with the game, and are trusting and uncritical of its messages (ibid). (p.21)

One Australian study found that primary schools had an average of 57 food billboards nearby, with 80% of food advertisements for unhealthy foods, like soft drink, alcohol and ice cream (ibid). (p.22)

Food packaging is covered by regulations (Food Standards Code), but not by advertising codes. However, food packaging influences purchase decisions for children and adults alike (ibid). (p.23)

In 2009, a number of AFGC member companies signed up to a voluntary code, the Responsible Children’s Marketing Initiative. Under this Initiative, signatories pledged to cease marketing ‘unhealthy’ foods and drinks specifically to children under 12 years old (The Parents’ Jury, Industry Self-Regulation). (p.24)

Unhealthy food and drink companies spend billions of dollars per year on advertising and marketing promotions because they work. Food marketing affects children’s food choices and purchasing requests (The Parents’ Jury, The Facts about Food Marketing to Kids). (p.29)

Current regulations generally apply to advertisements screened during TV shows rated C (for children) and P (for preschoolers). The peak viewing period for children under 14 years old is 5-9pm when up to 500,000 children watch TV, and when unhealthy food and drink ads are also most frequent (ibid). (p.29)

Unlike broadcasting media, which have codes regarding advertising to kids, the internet is unregulated (ibid). (p.30)

A WHO report concluded that marketing of junk food to children has damaging consequences and that tightening restrictions on marketing is central to the fight against childhood obesity (CHOICE, junk food advertising to kids). (p.32)

Independent surveys in Europe, Asia, Australia and North America have found that self-regulation codes by the food and beverage industry have made little change in the past 5 years to the amount of advertising seen by children (ibid). (p.33)

The alcohol industry denies their marketing campaigns specifically target children or teens. However, research consistently demonstrates that young people in Australia are regularly exposed to alcohol marketing across a variety of settings and media platforms (AMA, Alcohol Marketing and Young People: Time for a new policy agenda). (p.34)

An extensive body of research indicates that alcohol marketing shapes young people’s attitudes and behaviours, encouraging them to take up drinking, and to drink more once they do (ibid). (p.34)

The majority of alcohol advertising and sponsorship both in terms of frequency and time of advertising, and in alcohol marketing expenditure, occurs in and around sport (O’Brien, K, ‘As a matter of fact, I’ve got it now’: alcohol advertising and sport). (p.36)

France has had a complete ban on alcohol advertising and sponsorship since 1991. Sport has not suffered and alcohol consumption has decreased in the past 20-odd years (ibid). (p.37)

In 2012, 3,069 individual sports betting advertisements were relayed over all forms of media, not including social media communications (Hing, N, Sports betting and advertising). (p.40)

Sports betting is becoming culturally embedded among young males, who report that peer discussions now include betting odds (ibid). (p.41)

It’s illegal to advertise gambling during children’s programming, but sporting telecasts are an exception (Grills, N and Porter, G, Not just a ‘bit of fun’: why sports, gambling and kids are a bad mix). (p.45)
**Advercation**
Where information about the company or its foods is presented as educational material.

**Advergames**
Where branded products and characters are embedded in interactive computer games.

**Advertisement**
Any form of advertising for goods or services regardless of the medium used.

**Advertising regulation**
Refers to the laws and rules defining the ways in which products can be advertised in a particular region.

**Astroturfing**
Where an organisation, corporation or political group with a particular agenda plants comments on a site or Facebook page appearing to be from a grassroots organisation or citizen group.

**Bait advertising**
Takes place when an advertisement promotes certain (usually ‘sale’ prices) on products that are not available or available only in very limited quantities. It is not misleading if the business is upfront in a highly visible, clear and specific manner about the particular product ‘on sale’ being in short supply or on sale for a limited time.

**Censorship**
The examination by officials of publications, news reports, films, radio programs, websites, etc for the purpose of suppressing parts which have been deemed objectionable on moral, political, religious, military, or other grounds.

**Classification**
The process of assessing media content against criteria and guidelines, and assigning the content to a category, such as ‘G’ or ‘M’. Content is classified for the purpose of providing information to consumers, restricting persons of a certain age from access to some content, and to prohibit certain content.

**Code of ethics**
A written set of guidelines and/or standards adopted by a professional community. These guidelines reflect the expected ethical principles, values and behaviours.

**Code of practice**
A code of practice sets out industry standards of conduct. It can relate to a single business, or represent a whole industry.

**Ethics**
In simple terms, ethics is a system of moral principles. They affect how people make decisions and lead their lives. Ethics is concerned with what is good for individuals and society and is also described as moral philosophy. The term is derived from the Greek word ethos which can mean custom, habit, character or disposition. Our concepts of ethics derive from religions, philosophies and cultures.

**Marketing ethics**
Marketing ethics are marketers’ standards of conduct and moral values, and are based on an imperative that marketing not breach the community’s expectations of truth, accuracy and taste.

**Media regulation**
The use of legal means to control media ownership and the content of media communications.

**Medium**
Refers to any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, telecommunications, television or other direct-to-consumer media including new and emerging technologies.

**Misleading and deceptive advertising**
Businesses are not allowed to make statements that are incorrect or likely to create a false impression. This rule applies to their advertising, their product packaging, and any information provided to you by their staff or online shopping services. It also applies to any statements made by businesses in the media or online, such as testimonials on their websites or social media pages.

**Native advertising**
The delivery of marketing content in a form that mimics editorial content.

**Platform**
The means by which content is delivered – for example, the technical means of transmission such as terrestrial broadcasting, satellite signal, wireless broadband or fixed broadband. It can also be used in a wider sense to refer to an application or online service supplied by an enterprise through which content may be delivered – for example, a social media website.

**Print media**
Traditional hard copy media such as newspapers and magazines.

**Puffery**
Advertising or sales presentation relying on exaggerations, opinions and superlatives, with little or no credible evidence to support its vague claims. Puffery may be tolerated to an extent so long as it does not amount to misrepresentation (false claim of possessing certain positive attributes or of not possessing certain negative attributes).

**Social media**
Media which are designed specifically for electronic communication. ‘Social networking’ websites allow you to connect with friends, family, and colleagues online, as well as meet people with similar interests or hobbies. A typical social network such as Facebook, LinkedIn, or Twitter allows you to create a profile, add friends, communicate with other members and add your own media.

**Sugging**
A technique used by a marketer falsely pretending to be a market researcher conducting a survey, when in reality they are trying to build databases, generate sales leads or directly sell products or services.
Websites with further information on the topic

Advertising Standards Bureau  www.adstandards.com.au
Alcohol Advertising Review Board  www.alcoholadreview.com.au
Australian Association of National Advertisers  http://aana.com.au
Australian Communications and Media Authority  www.acma.gov.au
Australian Competition and Consumer Commission  www.accc.gov.au
Australian Consumers’ Association  www.choice.com.au
Australian Council on Children and the Media  www.childrenandmedia.org.au
Australian Medical Association  www.ama.com.au
Coalition on Food Advertising to Children  www.cfac.net.au
Commercial Radio Australia  www.commercialradio.com.au
Department of Communications  www.communications.gov.au
Junkbusters  www.junkbusters.com.au
The Communications Council  www.communicationscouncil.org.au
The Parents’ Jury  www.parentsjury.org.au

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THANK YOU
> The Parents’ Jury
> Advertising Standards Bureau
> Australian Medical Association
> Australian Association of National Advertisers
> Australian Communications and Media Authority.

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