

# **Queensland Government response to the Health and Community Services Committee *Report No. 36 Inquiry into sexually explicit outdoor advertising***

July 2014

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### **Outdoor advertising in Queensland**

The outdoor advertising industry in Australia is currently largely self-regulated. The Australian Association of National Advertisers (AANA) is the peak body for advertisers, including outdoor advertisers. The system of self-regulation is led by the AANA which publishes codes of ethics for advertisers.

Complaints about breaches of the code of ethics may be made to the Advertising Standards Bureau (ASB). The ASB administers the national system of advertising self-regulation. The public can make complaints about outdoor advertising to the ASB. The complaint will be considered by the ASB's board and if a complaint is upheld, the advertiser is requested to remove or amend the offending advertisement as soon as possible.

The Outdoor Media Association (OMA) is the specific industry body which represents many of Australia's outdoor media display companies, production facilities and some media display asset owners. The OMA also has a code of ethics which refers to the industry's responsibilities to the community. It endorses the AANA code of ethics and supports all decisions made by the ASB.

### **The Health and Community Services Committee Inquiry into sexually explicit outdoor advertising**

On 17 April 2013, the Legislative Assembly referred an inquiry into sexually explicit outdoor advertising to the Queensland Parliamentary Health and Community Services Committee (HCSC).

The HCSC undertook a detailed inquiry into whether the outdoor and billboard advertising industry in Queensland should be reformed, including whether legislative reform is needed to protect children from being exposed to sexually explicit and inappropriate advertising.

After extensive and wide-ranging consultation with industry and members of the community, the HCSC tabled its final report: *Report No. 36 Inquiry into sexually explicit outdoor advertising* (which can be accessed through the Queensland Parliament website at <http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2014/5414T4208.pdf>) in the Legislative Assembly on 31 January 2014.

The report contains eight recommendations which seek to improve Queensland's outdoor advertising industry. Recommendation 1 is addressed to the Queensland Government and recommendations 2 – 8 are addressed to the AANA, the ASB and the OMA (collectively known as the 'industry'). The industry related recommendations propose improvements to the current industry self-regulation of outdoor advertising.

### **Our commitment to making Queensland the safest place in Australia to raise a child**

The Queensland Government is committed to ensuring Queensland is the safest place in Australia to raise a child. The Government acknowledges and thanks the HCSC for its dedicated work reviewing Queensland's outdoor advertising environment and how sexually explicit advertising can impact children.

## **Our future direction for outdoor advertising in Queensland**

In June 2014, the Attorney-General and Minister for Justice held a roundtable meeting with industry to consider the eight recommendations from the HCSC report to inform the Government's response. The roundtable discussed how the industry and the Government can work together in response to the recommendations of the HCSC report.

The Government has also met with other key stakeholders.

The Government commends the industry on its system of self-regulation that operates at no cost to the Queensland community and is generally effective in ensuring that children are not exposed to sexually explicit advertising.

### ***Recommendations for the Queensland Government***

Recommendation 1 calls on the Queensland Government to introduce legislation to establish a co-regulatory approach to outdoor advertising and give statutory recognition to an industry body, such as the AANA. Under the recommendation, this body is to develop a code of ethics for outdoor advertising which is to be given effect by regulation.

Further, the HCSC recommended that an industry adjudication board be established, with the ASB as secretariat, to determine whether outdoor advertisements breach the code of ethics. Non-compliance with board determinations will result in a referral to the Department of Justice and Attorney-General (DJAG), to consider enforcement and penalties and/or to require an advertiser to have proposed advertisements pre-vetted for a specified period.

The HCSC stated that the overarching purpose of this model is to provide a regulatory backstop to ensure that the ASB's decisions were complied with and outdoor advertising reflects prevailing community views.

The Queensland Government understands that the current system of self-regulation relies heavily on the cooperation of advertisers or the owners of outdoor advertising space to comply with relevant codes and to remove advertisements if the ASB board decides that there has been a breach. It is also acknowledged that most advertisers in Queensland are doing the right thing and that it is only a very small number of advertisers that are refusing to cooperate. Compliance with the industry's standards is voluntary and those advertisers that refuse to comply are not subject to any sanctions.

The HCSC report highlighted that only three complaints were made about billboard advertisements in 2012 (4.8 per cent of the total number of complaints received), 1.49 per cent of the total complaints were complaints about transport advertisements, 1.38 per cent were complaints about general outdoor advertisements and 1.88 per cent of all complaints were about poster advertisements. The ASB submitted that industry compliance with ASB decisions was reported at over 99.6 per cent.

With this in mind, the Queensland Government considers the current system is mostly effective in regulating advertisers. The Government is committed to red tape reduction and reducing the regulatory burden in Queensland. It is clear from the HCSC report and industry feedback that there are only a few advertisers that are doing the wrong thing. However, with a view to supporting the industry so that decisions of the ASB can be effective, the Government will investigate options for the enforcement of ASB decisions so that advertisers who do not comply with determinations to remove offending advertising are penalised.

**Recommendations for the outdoor advertising industry**

Recommendations 2 – 8 of the report place responsibility on the ASB, AANA or OMA to make changes to their current procedures. These bodies have indicated that they will endeavour to implement the recommendations of the report where necessary. The Queensland Government is committed to encouraging these industry bodies to accept and implement the recommendations of the report that are specifically addressed to them.

Table 1 below provides details of the Queensland Government’s response to each of the HCSC’s recommendations.

**Table 1: Queensland Government response to the Health and Community Services Committee Report No. 36 Inquiry into sexually explicit outdoor advertising**

Recommendation	Government response
<i>Recommendations for the Queensland Government</i>	
<p><b>1.</b> The committee recommends that the Queensland Government introduce legislation to establish a co-regulatory approach to outdoor advertising which:</p> <ul style="list-style-type: none"> <li>a. provides for recognition of an industry body – in the first instance the Australian Association of National Advertisers</li> <li>b. requires the recognised industry body to develop a draft advertising code of ethics to apply to all forms of outdoor advertising, after consultation with industry, the public and the Department of Justice and Attorney General, and that this be submitted to the Attorney General</li> <li>c. provides for the code of ethics to be given effect by regulation if the Attorney General is satisfied that it is supported by the majority of the industry, that the public has had adequate opportunity to comment on the draft Code and that it provides appropriate community safeguards</li> <li>d. provides for the code of ethics to be reviewed every two years by the recognised industry body</li> <li>e. provides for the establishment by industry of an adjudication board to determine whether outdoor advertisements breach the code of ethics, and that the adjudication board be the Advertising Standards Board, with the Advertising Standards Bureau as its secretariat</li> </ul>	<p>Accepted in principle.</p> <p>The Queensland Government is committed to ensuring that there is no increased regulatory burden for the advertising industry and businesses that advertise in Queensland.</p> <p>However, the Queensland Government is prepared to support the industry self-regulation system so that advertisers who do not comply with determinations by the Advertising Standards Bureau board to remove offending advertising are penalised.</p> <p><b>The Queensland Government will investigate enforcement options to penalise advertisers that do not comply with the determinations of the Advertising Standards Board.</b></p>

	<p>f. enables the adjudication board, if an advertiser does not comply with its determination, to refer the matter to the Department of Justice and Attorney-General to consider enforcement and penalties, including:</p> <ul style="list-style-type: none"> <li>i. imposition of significant fines that would have a deterrent effect, and which can be increased for subsequent offences</li> <li>ii. to require an advertiser to have proposed advertisements pre-vetted for a specified period</li> </ul> <p>g. provides for funds from fines and income from mandatory pre-vetting of advertisements to be allocated to the management of complaints, research, adjudication of matters and related issues by the adjudication board and its secretariat.</p>	
<b><i>Recommendations for industry</i></b>		
2.	The committee recommends that the Australian Association of National Advertisers amend its Code of Ethics so that it puts beyond doubt that the 'relevant audience' for outdoor advertising includes children, and states that care should be taken to avoid locating advertisements which include sex, sexuality and nudity in places frequented by children.	Noted – this is a matter for the Australian Association of National Advertisers to address.
3.	The committee recommends that the Outdoor Media Association develop a placement policy to guide its members and other businesses that advertise outdoors. The placement policy should provide clear advice about the appropriate content of outdoor advertising placed in the vicinity of schools, child care centres and other locations frequented by children.	Noted – this is a matter for the Outdoor Media Association to address.
4.	The committee recommends that the Advertising Standards Bureau website include more clearly defined criteria for appointment as a member of the Advertising Standards Board, including the skills, expertise and the range of views required, geographical location, age and gender of members. In addition the Bureau should publish information about the process and timing for expressions of interest and recruitment of new members of the Standards Board.	Noted – this is a matter for the Advertising Standards Bureau to address.
5.	The committee recommends that the Advertising Standards Bureau undertake more frequent research about prevailing community views to inform the decisions of the Advertising Standards Board, noting the committee's other recommendations that the Bureau charge for pre-vetting advertisements and that revenue from fines be directed to the Bureau to support the system of complaints and determinations.	Noted – this is a matter for the Advertising Standards Bureau to address.

6.	The committee recommends that the Advertising Standards Bureau formalise policies and procedures to prioritise and 'fast track' consideration of complaints about advertisements that meet criteria which suggest that the Code of Ethics may have been breached. The policy and procedures should be published on the Bureau's website	Noted – this is a matter for the Advertising Standards Bureau to address.
7.	The committee recommends that, where an outdoor advertisement uses sex, nudity and sexuality, and potentially breaches the Code of Ethics, the Advertising Standards Bureau and the Advertising Standards Board consider the matter without the need for a complaint.	Noted – this is a matter for the Advertising Standards Bureau to address.
8.	The committee recommends that the Australian Association of National Advertisers and the Outdoor Media Association adopt a policy that all outdoor advertisements display brief information about where to complain about an advertisement.	Noted – this is a matter for the Australian Association of National Advertisers and the Outdoor Media Association to address.