

Our ref: DA/5/RDC/JR

21 June 2013

Sue Cawcutt
Research Director
Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000

By post and email to: hcsc@parliament.qld.gov.au

Dear Research Director

Inquiry into sexually explicit outdoor advertising

Thank you for providing Queensland Law Society with the opportunity to comment on the Inquiry into Sexually explicit outdoor advertising.

Please note that in the time available to the Society, it is not suggested that this submission represents an exhaustive review of the full terms of reference and all associated issues.

The Society notes two recent federal inquiries relating to the issues raised in this Inquiry, namely:

- June 2008- Senate Committee on Environment, Communications and the Arts: Inquiry into the sexualisation of children in the contemporary media environment;¹ and
- July 2011- House Standing Committee on Social Policy and Legal Affairs Inquiry into the regulation of billboard and outdoor advertising.²

We also note that the Australian Law Reform Commission's report published in February 2012 on the National Classification Scheme also may have some relevant recommendations for this Committee's consideration,³ although the Society has not considered these recommendations for this Inquiry.

¹ Inquiry documents and government response found here:
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=eca_ctte/completed_inquiries/2008-10/sexualisation_of_children/index.htm

² Inquiry documents found here:
http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=spla/outdoor_advertising/index.htm

³ Report found here:
http://www.alrc.gov.au/sites/default/files/pdfs/publications/final_report_118_for_web.pdf

The federal inquiries have made a number of recommendations which we consider to be relevant, reproduced here:

House Standing Committee on Social Policy and Legal Affairs Inquiry into the regulation of billboard and outdoor advertising

• **Recommendation 3— Australian Association of National Advertisers**

The Committee recommends that the Australian Association of National Advertisers introduce a code of practice for out-of-home advertising and for use by the Advertising Standards Board when determining complaints about out-of-home advertising. The code of practice should recognise that out-of-home advertisements:

- occupy public space and have the potential to affect the amenity of that space for some community members;
- can be viewed by an unrestricted audience, regardless of their target audience; and
- have a cumulative impact on the community through the social messages they convey.

• **Recommendation 8— Australian Association of National Advertisers**

The Committee recommends that the Australian Association of National Advertisers amend its Advertising Code of Ethics to proscribe sexual objectification of men, women and children.

• **Recommendation 9— Advertising Standards Bureau**

The Committee recommends that the Advertising Standards Bureau, in conjunction with relevant industry bodies, conduct research every two years into:

- community perceptions of the use of sex, sexuality and nudity in advertising in general and specifically in outdoor advertising;
- prevailing community standards on health and safety in advertising in general and specifically in outdoor advertising;
- prevailing community standards on the advertising of food and beverages;
- prevailing community standards on advertising to children; and
- prevailing community standards on the advertising of alcohol.

These findings should be reflected accordingly in determinations by the Advertising Standards Board.

House Standing Committee on Social Policy and Legal Affairs Inquiry into the regulation of billboard and outdoor advertising

Recommendation 12

The Committee recommends that the Advertising Standards Board rigorously apply

standards for billboards and outdoor advertising to more closely reflect community concern about the appropriateness of sexually explicit material and the inability of parents to restrict exposure of children to such material.

Australian Government Response to Recommendation 12

The Government notes that the Advertising Standards Board is an independent organisation. Moreover, the Government recognises that the placement of billboards and other outside advertising material is within the purview of local councils and/or state government planning bodies.

The Society understands the need for sensible regulation in this area, noting that recommendations made by this Committee should be careful not to duplicate regulation already in place nationally.

Outdoor advertising is largely self-regulated, guided by the Australian Association of National Advertisers (AANA) Code of Ethics. The Advertising Standards Bureau and the Advertising Standards Board deal with handling of complaints. We note that in January 2012 (after the two federal inquiries were completed), the AANA Code of Ethics was amended to include the following:

2.2 Advertising or Marketing Communications shall not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.⁴

Guidance on the interpretation of this section can be found in the AANA's practice note dated 26 November 2012,⁵ and the Determinations Summary dated April 2013 on 'Use of sexual appeal in an exploitative and degrading manner'.⁶ The Determinations Summary has some specific guidance on outdoor advertising as a consideration for the Board in determining complaints on sexual appeal:

Outdoor advertising: Outdoor advertising is in the public domain and has a broad audience. The Board believes that messages and images presented in this medium need to be developed with a general audience in mind and has given particular attention to the placement of such advertising e.g. outdoor advertising depicting violence or sexual content that is placed close to schools and churches is of particular concern.

Example: 0015/12 Boyson Meat and Poultry; 0018/12 My Foot Doctor; 0075/12 Mossimo; 0089/12 Grosvenor Hotel; 0113/12 Adult Toybox; 0176/12 Pacific Brands; 0223/12 Pacific Brands; 0146/12 Bras n'Things; 0420/12 Moroccan Tan

⁴ Code of Ethics at 1 January 2012 found at:

http://www.aana.com.au/data/Documents/Codes/AANACodeofEthics_1Jan2012.pdf

⁵ Practice note found at: http://www.aana.com.au/data/AANA_in_the_News/Practice_Note_261112.pdf

⁶ Found at:

<http://www.adstandards.com.au/storage/86dbdac2e40290c6419ee6950d960dcf.Det.Summary%20-%20web->

Given the national nature of the issues involved with compliance and regulation in this area, the Society encourages coordination with federal government and regulatory bodies to ensure effective responses. This is particularly important given that there has been some movement on the part of the self-regulators to address issues raised in previous inquiries. We encourage continued research to be conducted into 'community perceptions of the use of sex, sexuality and nudity in advertising in general and specifically in outdoor advertising', which will feed into the decision-making process for handling complaints. This will also provide guidance and educate organisations and the public as to what may not be acceptable for outdoor advertising. Similarly, we note the recommendation that the AANA should introduce a code of practice dealing specifically with out-of-home advertising, which can encompass aspects of dealing with sexually explicit material.

In our view, it is also important that any reform of outdoor advertising regulation embodies federal and state anti-discrimination laws and does not permit or encourage discrimination on the basis of a protected attribute, such as race, age or sexuality.

Thank you for considering our brief comments in relation to this issue.

Please contact our Policy Solicitor, Ms Raylene D'Cruz on (07) 3842 5884 or r.dacruz@qls.com.au; or Policy Solicitor, Ms Jennifer Roan on (07) 3842 5885 or j.roan@qls.com.au for further inquiries.

Yours faithfully



Annette Bradfield
President