

ADVERTISING SELF-REGULATION IN ASIA AND AUSTRALASIA

Sankaran Ramanathan



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FOREWORD

The ADASIA Congress 2009 held in Kuala Lumpur, Malaysia witnessed the adoption of the Kuala Lumpur Declaration by the 700 delegates who attended this historic event. Apart from commending the secretariat of the Asian Federation of Advertising Associations (AFAA) and its co-sponsors for their leadership role and initiatives to promote knowledge and awareness of Asian standards in advertising, the delegates noted that there should be greater and more intensified efforts towards promoting industry self-regulation among countries in Asia and Australasia.

Preoccupation with advertising standards is not just the agenda of a few dedicated professionals in advertising; it affects all segments of civil society in every country in this vast region. Further, as this Report shows, the different levels of media development (and consequently, the differing levels of advertising self-regulation) in the countries surveyed, point to the need to raise consciousness and awareness about industry self-regulation, particularly in the field of advertising, which has come under much public scrutiny in this decade.

Delegates at ADASIA 2009 were also reminded that we live in troubled times, since the global financial meltdown had not ended at the time of writing this Report. Nevertheless, there seem to be rays of sunshine appearing in the near horizon. It is our sincere hope that these rays will be the harbinger of good times to come for the Asian and Australasia advertising industry at the start of the second decade of this 21st century.

This Report comes at a crucial time, when members of the advertising industry are fashioning their own indigenous and home-grown responses to the various criticisms hurled against the advertising profession. The Report has highlighted good practices and codes of advertising standards in 12 countries that can serve as models for other Asian nations to emulate. Simultaneously, it has given a succinct account of issues in advertising, general themes related to advertising self-regulation and notable trends in the development of advertising in Asia-Pacific region.

We hope this Report becomes a handy reference guide, not only for AFAA and IAA members, but also for the advertising fraternity at large.

Happy reading!

PRADEEP GUHA

Chairman, Asian Federation of Advertising Association

Vice-President & Area Director, International Advertising Association Asia Pacific

ABOUT THIS REPORT

This Report has been specially compiled and written for members of the advertising industry in the Asia-Pacific region. It is also intended as a document on advertising self-regulation in Asia and Australasia that may be of relevance to a wider audience of readers interested in this important field of inquiry.

The approach adopted in this report is largely descriptive in nature, and incorporates an historical perspective. Our focus is to describe aspects of advertising in Asian and Australasia countries and the role of advertising organizations, especially those whose mission is to promote advertising self-regulation. Notwithstanding that, we have incorporated a sociological/behavioral perspective wherever possible, especially to explain the nature of self-regulation in the 12 countries that do have associations and codes of advertising practice, and also to explain why there is little or no self-regulation in the remaining Asia-Pacific countries.

The reader will note from this Report that the implementation of advertising self-regulation throughout the various nations covered in the Report is not uniform. Since self-regulation in advertising depends very much upon the state of media development in each nation, we have begun with an overview of media development in the Asian-Australasian continent. In this overview section, we have also discussed the changing media regulatory landscape, issues in advertising and attempts at media re-regulation.

The bulk of this Report deals with self-regulation in advertising. Beginning with the role and development of Asian and Australasian advertising associations, we have gone on to examine general codes of advertising practice. Next, we have presented country profiles of selected Asian and Australian countries, focusing on general themes in advertising

self-regulation and countries with developing self-regulatory mechanisms. Finally, we have outlined notable trends in Asian advertising and how these impinge upon the future for advertising self-regulation in Asia.

These materials have been assembled from a variety of sources, primarily from reports sent by national advertising associations in 12 countries. The summarized versions of these reports are presented as appendices. Additionally, we have compiled information from books, annual reports websites and search engines for information about countries where there is little or no self-regulation in advertising.

We would like to acknowledge the support of the following in preparing this Report:

- International Advertising Association (Asia-Pacific) and the Asian Federation of Advertising Association, which provided the bulk of the funding for this Report.
- The representatives of the various national advertising associations who provided the country reports (see Appendix).
- Professor Ang Peng Hwa, Vice-President, Consumers Association of Singapore (CASE), who provided the Singapore report.

In tandem with the accepted protocol, we are responsible for any errors, omissions or inadequacies.

DR. SANKARAN RAMANATHAN
Kuala Lumpur
October 2010

Section 1: **OVERVIEW, DEFINITIONS AND ISSUES IN ADVERTISING**

Global advertising spending in measured media is expected to exceed \$500 billion for the first time ever this year following an economy recovery that also sparked significant ad spending increases in 2010 according to a report from GroupM. (December 6, 2010). The report forecasts that advertising expenditure in Asia Pacific will grow by 8.1% in 2011.

What does this mean for the advertising industry in the Asian continent? Specifically, how can Asian advertising associations promote self-regulation of advertising more vigorously in Asia and Australasia? What are the means and avenues for the promotion of higher standards of advertising in Asia?

I.1 OVERVIEW OF MEDIA DEVELOPMENT IN ASIA

I.1.1 Introduction

There is no consensus with regard to what Asia is and what is Asian. The confusion is most evident when we look at the former components of the Soviet Union and try to classify whether they belong to Europe or Asia. Yet another aspect of contention is the use of the term “Middle East” to describe the collection of nation-states located on the Western fringes of the Asian continent. In the field of soccer, for example, the Australian team plays in the Asian zone, while the Israel team plays in the European zone.

Notwithstanding the above, in this report, we shall take “Asia” to mean the region stretching from the Central Asian Republics in the West to Japan and Korea in the East, and from China/Korea in the North to the edge of Indonesia in the South. The term “Australasia” has been used to refer to Australia and New Zealand. However, the Central Asian Republics, Israel and the Middle East will be excluded from this report. Fiji, Papua New Guinea and other countries in the Pacific Rim have also been excluded from this report.

At the risk of being cited for over-generalization, we shall state the following generalizations about Asia:

- **Largest of the five continents**, it is still not easy to travel by land from one end to the other end of this vast continent.
- **The most populous**, and with highest rate of population growth. Asia is home to the two most populous nations, China and India, that are home to more than one billion people each.
- **Geographically very widespread**, hence there are varying climate changes, differing topographies (with some mountainous countries that are hardly accessible by land), and with many countries surrounded by seas.
- **Diverse along various dimensions**, principally religion, ethnicity, language, education, income levels and systems of government. For example, India is a solid land mass, while Indonesia with about 17,000 islands, is the world's largest archipelago. China, the largest nation in the world, occupies some 9.6 million sq. km., while Singapore occupies less than 700 sq. km. Infant mortality rates range from about five deaths per 1000 births in Singapore to over 100 in India. Korea, Vietnam and Japan have only one principal language, while India has 12 major languages.
- **Disparities in various economic indices**, i.e. per capita income, gross national product and currency values (these have been exacerbated by the Asian financial crisis of 1997).

It is possible to identify various historical commonalities that have unified the Asian people, namely:

- Major religions of the world (Hinduism, Buddhism, Christianity and Islam) originated in Asia;
- Asia has been home to many ancient civilizations (Sumerian, Indus Valley, Chinese Byzantine and Arab civilizations);
- Most Asian countries have been colonized directly or indirectly by Western countries;
- Many countries have shared the experience of post-colonial independence that took place after the *Second World War* (1941 — 45);
- While a few Asian countries are considered developed, the vast majority has still not attained this status.

For Asian countries, nationhood has led them to take different shapes. Some have remained as constitutional monarchies, others have become republics and some (China, North Korea and Vietnam) have chosen to retain socialist or Communist governments. Myanmar has retained a socialist government, with strong military rule. At the other end of the continuum, there is the Philippines, a republic that follows an America-style constitution and government that emphasize strong democratic ideals. The other Asian countries fall somewhere within this continuum. Thus, the extent to which the media can be regarded as free and independent in these countries depends very much on the philosophy and system of government that they have adopted.

Despite the varying political systems, there is little doubt that at the beginning of this century, the dominant economic drive in all Asian countries is towards free markets, development of private enterprise, and deregulation and privatization of state-owned enterprises. This is true even for the Communist regimes in Vietnam and China, where the move towards free enterprise has been hastened by the decline of Communism in Europe from the 1980s.

1.1.2 Media Development in Asia

Asian viewpoints about media development can be plotted along a continuum. At one end, there are those who believe that technology represents an unstoppable tide that will change the world. At the other end, there are people who believe that the impact of technology, particularly in Asia is being over-emphasized and that there are other pressing problems that Asian nations must address.

The current technological transition throughout Asia is marked by advances in the field of information and communication technology (ICT). This transition has not occurred in isolation, but in tandem with economic, political and socio-cultural changes in the continent. For instance, ICT development has facilitated freer flow of information and made it necessary for many ASEAN governments to review existing laws and regulations relating to the mass media (Kaur and Ramanathan; 2008).

The development of media in the Asian continent should therefore be viewed against the backdrop of this transition. Since there are changes to the existing framework of ICTs, such as increased and wider flow of communication, the state as well as the media and other allied institutions will have to adjust to this transition.

Post-World War Two, many Asian governments set about modifying media laws and regulations, balancing their own need to maintain inter-racial harmony and political control with their attempts to attract domestic and foreign investors to support their developmental goals. They have implemented new media regulations to deal with rapid media development. These include the need to promote a climate of liberalization, particularly in telecommunications and broadcasting, and also the need to regulate communication in cyber space.

In this changing media landscape, advertising laws and regulations have come under much scrutiny, as will be discussed in this report.

1.2 DEFINITIONS

- **Advertisers** are defined as private or public sector organizations that use media to achieve an organizational objective. They decide to invest resources in purchasing time or space in the media.
- **Advertising** is a form of communication of information used in helping sell products and services. It communicates a message including the name of the product or service. It is usually persuasive in nature.
- **The key characteristics of advertising are:**
 - Directed to groups of people rather than to individuals.
 - Mostly paid for by sponsors.
 - Mostly intended to be persuasive.
 - Promotes goods and services.
 - Increasingly used to advocate ideas.
 - Generally identifies its sponsor.

- **Viewed as a process, advertising** can be part of marketing, communication, economics, public relations, or information and persuasion.
- **Advertising agency** is an independent organization of creative and business people who specialize in developing and preparing advertising plans, advertisements and other promotional tools for advertisers. The agency also negotiates with media on behalf of its clients for purchase of space and time.
- **Advertising development has witnessed five stages:** domestic, export, international, multi-national, and global. For global advertisers, there are four, potentially competing, business objectives that must be balanced when developing worldwide advertising: building a brand while speaking with one voice, developing economies of scale in the creative process, maximising local effectiveness of ads, and increasing the company's speed of implementation.
- **Advertising research** is the key to determining the success of an advertisement in any country or region. The ability to identify which elements and/or moments of an ad that contribute to its success is how economies of scale are maximised. Once one knows what works in an ad, any other market can import that idea or ideas.
- **Advertorial** is an advertisement that is partly advertising and partly editorial, with the primary aim of influencing public opinion rather than to sell a product or service.
- **Brand loyalty** refers to the loyalty of a consumer to a particular brand because he/she perceives that the brand has the desirable features, quality, image, etc.
- **Consumer behaviour** refers to the activities, actions and influences of consumers who purchase goods and services to satisfy their personal or household needs and wants.
- **Corrective advertising** is advertising that is placed for some period of time in order to explain and correct previous advertising about the same product or service.
- **Creative mix** refers to the advertising elements that a company or agency controls in order to achieve its advertising objectives.
- **Culture and cultural characteristics** are terms that are difficult to define because of various interpretations. Broadly, culture is a set of beliefs, attitudes and ways of doing things that is handed down for generations and is practiced by a particular group of people. The ways of doing things are regarded as the group's **cultural characteristics**.
- **Decency** refers to whether a particular act conforms to recognized standards of proper behaviour, good taste and modest behaviour.

However, what is indecent in one culture may not be viewed as such in another culture.

- **Deceptive advertising** is any advertisement in which there is a misrepresentation, omission or other practice that can mislead consumers.
- **Demographics** refer to the statistical characteristics (age, sex, ethnicity, domicile, etc) of a particular population, while demographic profile refers to the description of that population according to its statistical characteristics.
- **Marketing mix** refers to a marketing strategy that consists of four elements called the four Ps (product, price, place and promotion).
- **Medium** is a channel of communication that is used by advertisers to reach their target audiences. In addition to the traditional mass media (radio, television, newspapers and billboards), advertising uses other media such as direct mail, brochures, videos and digital/mobile avenues.
- **Psychographics** refers to a consumer's pattern of interests, opinions and activities that makes up his/her lifestyle.
- **Puffery** refers to exaggerated and/or subjective claims in advertisements that cannot be proved to be true or false.
- **Self-regulation** is a system by which the advertising industry actively polices itself. The three parts of the industry — advertisers, advertising agencies and media- work together to agree upon standards and set up a system to ensure that advertisements which fail to meet these standards are corrected or removed (EASA–The Blue Book, p. 11.).
- **Stereotyping** is the phenomenon by which individuals or groups of people are portrayed as possessing certain characteristics.
- **Subliminal advertising** refers to the act by which advertisers embed messages in advertisements just below the threshold of perception.
- **Testimonials** are the endorsements of products or services by celebrities, authorities or those who have expertise in a particular field.

1.3 ISSUES IN ASIAN AND AUSTRALASIAN ADVERTISING

We begin with the vexatious question of **ethical issues in advertising**. People in advertising have to make ethical decisions almost daily, and an ethical dilemma arises when there is an unresolved interpretation of an ethical issue.

The following are some of the **ethical issues in advertising**:

- Honesty/truthfulness in advertising claims.
- Whether information given to consumers is complete and accurate.

- Social, cultural and economic appropriateness of the advertisement.
- Promotion of materialism and materialistic lifestyles through advertisements, especially in less developed countries.
- Potentially beneficial or harmful effects of an advertisement on:
 - ♦ Groups of individuals, e.g. children and women.
 - ♦ Segments of the society, e.g. different races.

Advertisers who commit an ethical lapse with regard to any of the above issues may be hauled up by government regulators and charged with unethical behaviour.

This is not, and should not be, the primary reason why advertisers should be careful about crossing the line between ethical and unscrupulous behaviour. As emphasized by many writers, critics and commentators, ethics begins with the individual, and ethical behaviour hinges very much upon the moral and religious upbringing of the individual — be he an advertiser, media owner or government regulator.

Three levels of ethics can be identified:

- **Primary rules of ethical behaviour** established by a particular society; these are based on the traditional actions taken by people in a society, and the philosophical rules that the society establishes to justify such actions.
- **The personal value systems that** an individual acquires; these are made up of his/her attitudes, feelings and beliefs towards other individuals, the community and the society at large.
- **Singular ethical concepts** such as duty, integrity, truth, empathy, good and bad, right and wrong. Quite often the individual is confronted with situations wherein he/she has to choose between some of these concepts.

From the above, it can be deduced that advertisers are confronted with a host of ethical issues in their daily work. Generally, it can be stated that most advertisers strive to practice socially responsible advertising, and to maintain their ethical standards.

Aspects of Asian Advertising

Advertisers need to be wary when advertising the following:

- Advertising of Tobacco Products and Alcoholic Drinks
- Advertising and Children
- Food Advertising
- Stereotyping
- Advertising and Women
- Advertising via the New Electronic Media
- Religion and Advertising
- Motor Vehicle Advertising
- Halal Products
- Environmental advertising

Section 2: **SELF-REGULATION IN ADVERTISING**

2.1 **THE GENERAL SCENARIO**

The arguments for and against restricting advertising messages, especially in developed countries, tend to centre on the issue of free speech. The same holds true for questions regarding where and how advertisers choose to spend their money. In a free market economy, advertisers can send their messages in whatever form and through whatever media are appropriate, as long as the media are legal. (Woods, 1995: p. 58.).

In the context of developed nations in North America, Europe and the Australian continents, legislation and self-regulation in advertising are generally considered as mutually reinforcing instruments. In these nations, self-regulation is regarded as an alternative to detailed legislation, and it is accepted that self-regulation works best within the framework of laws and regulations that have been legislated in the respective countries.

In these countries, the advertising industry operates a system of self-regulation. Advertisers, advertising agencies and the media agree on a code of advertising standards that they attempt to uphold. The general aim of such codes is to ensure that any advertising is “legal, decent, honest and truthful”. Some self-regulatory organizations are funded by the industry, but remain independent, with the intent of upholding the standards or codes like the *Advertising Standards Authority (ASA)* in the UK.

In many countries worldwide, advertising is also governed by self-regulatory codes of conduct. Advertisers, advertising agencies and the media agree on a code of advertising standards—a set of ethical and behavioral rules they commit to respecting—which is enforced by a *Self-regulatory Organisation (SRO)*, often an independent industry-funded body, responsible for drafting, amending and enforcing the code.

In most Asian countries too, media owners and operators exercise a considerable degree of media control and self-censorship; this depends upon the religious and socio-cultural values that are applied within the particular organization. In general, TV and radio commercials are more restricted than print and direct mail advertisements, especially in those countries where the broadcast media are government-controlled.

Self-regulatory Codes

Self-Regulatory Organizations for advertising are increasingly following the best practice model agreed with regulators and consumer and public health groups in developed countries. At a minimum, the general aim of self-regulatory codes is to ensure that any advertising is ‘legal, decent, honest and truthful’.

Advertising self-regulation is built on different levels. On a global level, the *International Chamber of Commerce* (ICC) has drafted a global code on marketing communications. All forms of marketing communications worldwide must conform to the ICC *Consolidated Code on Advertising and Marketing*. The code includes a specific section, detailing the special care needed when communicating with children.

Since 2006, a global code of practice on food marketing communications is also in place. *The Framework for Responsible Food and Non-Alcoholic Beverage Marketing Communications* of the ICC sets down global requirements for food and beverage marketing communications on all media, including the internet. Key provisions include: the need for substantiation for claims or health benefits; no encouragement of excess consumption; no representation of snacks as meals; no undermining of healthy lifestyle messages; no undermining of the role of parents.

These codes provide a minimum requirement for marketing communications worldwide. National self-regulatory codes, based on the ICC codes, are established, policed and enforced by local self-regulatory organizations and industry in over 100 countries and apply to a range of media, increasingly also including digital marketing communications. The ICC and national codes are reviewed regularly to ensure that they remain relevant to local, cultural and consumer concerns and that they promote best practice. The ICC *Framework* is applicable globally but remains a benchmark of minimum standards, designed to be adopted and transposed into self-regulatory codes at national level. Many countries have implemented self-regulatory provisions that use the ICC *Framework* as a basis, but go further in several respects, depending on local considerations.

In addition to industry-wide self-regulation, individual companies and industry sectors have introduced a wide range of additional provisions relating to marketing communications directed at children. For example, most multinational food and beverage companies have developed their own policies on food and beverage marketing communications to children and, most recently, have announced the joint implementation of these individual commitments.

2.2 CODES OF ADVERTISING PRACTICE

The process of self-regulation begins when representatives of the advertising industry in a country get together to formulate a code of standards and practice. In drafting the code, they generally follow earlier prototypes, such as the International Code of Advertising Practice, first published in 1937 (EASA — The Blue Book).

They set up an independent body (the SRO) to administer the code, and ensure that this body is well-staffed and funded.

The SRO usually has three constituent parts:

- **The code-making body:** it writes the code and ensures that the code is updated. This body represents the constituent parts of the advertising industry — advertisers, agencies and media.
- **Complaints committee or jury:** this body is responsible for interpreting the code, applying it and deciding upon appropriate action to be taken. The jury is usually made up of individuals that are independent of the advertising industry.
- **Permanent secretariat:** professional staff responsible for the day-to-day administration of the SRO.

All self-regulatory codes are based on the same principles, as follows:

- Advertising must be legal.
- It must be decent.
- It must be honest and truthful.
- It should have been prepared with a sense of social responsibility.
- It must respect and uphold the principles of fair competition.

The country's national code generally reflects the social, religious, cultural and commercial traditions that prevail in that country. Since the code is written by and for representatives of the country's advertising industry, it is particularly well-suited for the needs of all representatives of the advertising industry (advertisers, media organizations and consumer bodies).

In countries where advertising is extensively regulated by law, there is deemed to be a reduced scope for self-regulatory rules. However, in countries where self-regulatory mechanisms exist, they are often updated in consultation with representatives of the media, consumer bodies and the medical profession.

Section 3: **ADVERTISING SELF-REGULATION IN ASIA AND AUSTRALASIA**

Industry self-regulation occurs when the industry develops, uses, and enforces norms or codes of standards concerned with ethics. These codes are obligatory for members of that profession to follow. Members can be disbarred or blacklisted if they breach the code. Self-regulation is most evident in countries that practice the libertarian or social responsibility theory of the press.

Media ethics and self-regulation are complicated by the different performance standards that mass media operations establish for themselves. Further, a single standard of self-regulation is impossible to apply to all mass media, as some standards may be in conflict with each other. Additionally, audience expectations and participation are vital to the success of attempts at self-regulation.

In this report, we have identified 10 Asian countries in which there are moves towards the development of advertising self-regulation, and have drawn country profiles of each country.

Asian countries in which there is little or no self-regulation (primarily because of the socio-political factors) are listed and briefly discussed in the second part of this Section.

3.1 COUNTRY PROFILES OF SELECTED COUNTRIES

In this section, we present country profiles of selected countries that are moving towards self-regulation in advertising.

3.1.1 Australia

The world's smallest continent, Australia is also the world's sixth largest country and includes the island of Australia and the island state of Tasmania. Australia covers an area of 7,686,900 square kilometers. One third of Australia's land is desert.

Media in Australia

By law, free-to-air channels in Australia must show a minimum of 55 percent Australian made content. Home-produced shows make up 90 percent of content in USA, 78 percent in the UK (BBC), 60 percent in Canada and 42 percent in New Zealand.

Cinema and television have become mainstays of Australia's cultural life since moving film was introduced over one hundred years ago and film-makers were quick to embrace the new technology. Marius Sestier, a Lumiere cameraman, arrived to Sydney in August 1896, presenting Australia's inaugural public screening of 'moving photography' a month later. Sestier, assisted by native-born Walter Barnett, filmed the first motion picture footage on Australian: the Melbourne Cup of 1896. Since this time, film has played an important role in documenting Australia's social and political history.

Media in Australia is an important component of the country's economy. Australian media is widely accessible and caters to a wide variety of audiences. Ninety-nine percent of households have a TV set, and all households have at least one radio set.

The Australian Broadcasting Corporation (ABC) and Special Broadcasting Service (SBS) are two publicly-funded media outlets (owned by the government). They broadcast on free-to-air television, radio and are also available online.

There are three major commercial television networks: the Nine Network, the Seven Network and Network Ten. Most of Australia's heavily populated cities are serviced by all three networks. Free-to-air broadcasts commenced in January 2001. Analogue broadcasts were originally intended to be phased out by 2008, however the target has been moved to 2013. Approximately 25% of Australian households had access to pay television services by the end of 2005. Currently there are

274 operational commercial (funded by advertising) and 341 community (publicly funded) radio stations.

There are two national and 10 state/territory daily newspapers, 37 regional dailies and 470 other regional and suburban newspapers. All major newspapers are owned either by News Limited, a subsidiary of News Corporation, or Fairfax media. Of 1600 magazines published in Australia, 30 have circulations of more than 80,000.

There is a high degree of press freedom, and regulation of Australian media is limited to a narrow range of specific areas. The Australian Communications and Media Authority (ACMA) is the broadcasting regulator for radio and television in Australia, and also the co-regulatory Online Content Scheme. Consumers who have complaints about programs on television and radio or certain types of content on the Internet can apply to the ACMA. The Commercial Television Code of Practice is a set of regulatory guidelines, registered with the ACMA, of which commercial television broadcasters should comply.

The Australian Press Council is the self-regulatory body for print media. The Council deals with complaints from the public about editorial material in newspapers and magazines published in Australia, and aims to maintain press freedom.

Controls over media ownership in Australia are laid down in the Broadcasting Services Act 1992, administered by the ACMA. Even with laws in place Australia has a high concentration of media ownership as compared to other Western countries. Ownership of national and the newspapers of each capital city are dominated by two corporations, Rupert Murdoch's News Corporation, (which was founded in Adelaide but now operates from the US) and John Fairfax Holdings. Murdoch-owned titles account for nearly two-thirds (64.2 per cent) of metropolitan circulation and Fairfax-owned papers account for a further quarter (26.4 per cent). According to Reporters Without Borders in 2006, Australia was in the 35th position on a list of countries ranked by Press Freedom; well behind New Zealand (19th) and United Kingdom (27th) (but well ahead of the USA, ranked 53rd).

Self-regulation in Advertising

Advertising self-regulation is under the purview of the following organizations:

- **Advertising Standards Board** – provides free public service of complaint resolution and comprises 20 independent members of the community.

- **Group of Independent Reviewers** – selected for their expertise in relevant fields; they review appeals against decisions of the Standards Bureau.
- **Advertising Claims Board** – jury for complaints from competitors
- **Advertising Standards Bureau (ASB)** – this is the Australia's SRO that administers the complaints resolutions part of Australia's national system of advertising self-regulation. It has a secretariat of seven people who report to the Bureau (Governance) Board comprising six industry members.

(See SRO Report – Appendix 1)

3.1.2 Hong Kong

Hong Kong was a former British colony from 1840 until it was handed over to China in a peaceful hand-over exercise in July 1997. Chinese entrepreneurial skills and British capitalism have turned this tiny territory of about 17,000 sq. km. into an international industrial and financial centre.

Hong Kong is also the centre for multinational publishing companies, and many international publications publish and distribute their Asian editions from here. International broadcasters also base their Asian operations in Hong Kong. In addition, multinational advertising and public relations companies use it as the base for their Far East operations. With the prominence of Western media enterprises, Hong Kong is often described as the "meeting place of East and West."

Hong Kong is also the main source for Cantonese and Mandarin films for the world. It has a thriving film and television production industry that rivals Hollywood in technical efficiency. There is also a strong musical industry producing Chinese pop music that is distributed world-wide mainly to diasporic Chinese audiences.

More than 12 years after the handover, the Chinese government currently seems content to maintain the status of Hong Kong as a Self-Administered Region (SAR). Hence, media and the advertising industry continue to remain free from government control.

Advertising Self-regulation in Hong Kong

As Hong Kong is a former British colony, self-regulation of advertising is modeled along the lines of the British self-regulating body.

(See Appendix 2 — SRO Report from Hong Kong)

3.1.3 India

Covering a land area of 3.2 million sq. km., India has a population of more than 1 billion people, second only to China. India has been described as the world's largest democracy, and this condition has fostered the development of a vibrant media system that operates in a free environment.

The Constitution of India guarantees “freedom of thought and expression” including freedom to publish, for all its citizens. Even before the country achieved independence, its leaders Mahatma Gandhi (principal architect of India's freedom) and Jawaharlal Nehru (its first prime minister) had expounded on the importance of a free press, whereby all views could be freely aired.

Privatization of radio and television from the 1990s has altered the broadcasting scenario, and there are now at least five major commercial television broadcasters competing with the national broadcaster Doordarshan. Some of them, such as Sun TV and Zee TV, have managed to reach out to diasporic Indian communities in the US, Europe, Australia and Southeast Asia.

India continues to remain the world's largest film producer; it is estimated that an average of 8 films is released daily in one of the 12 major languages, and totaling about 1,800 films a year. Indian film exports earned about US\$4 billion in 2008, while animation exports earned about US\$3 billion.

In this decade, India has firmly moved towards establishing a free market economy, especially in the field of the media industries (print and broadcast media, its industry and the new electronic media). Thus, the advertising industry has also witnessed a steady growth.

Advertising Self-regulation in India

The Advertising Standards Council of India (ASCI), established in 1985, is committed to the cause of self-regulation in advertising, ensuring the protection of the interests of consumers. The ASCI was formed with the support of all four sectors connected with Advertising, viz. Advertisers, Ad Agencies, Media (including Broadcasters and the Press) and others like PR Agencies, Market Research Companies, etc.

Main Activities of ASCI (SRO)

ASCI seeks to ensure that advertisements conform to its Code for Self-regulation which requires advertisements to be:

- Truthful and fair to consumers and competitors.
- Within the bounds of generally accepted standards of public decency and propriety.
- Not used indiscriminately for the promotion of products, hazardous or harmful to society or to individuals particularly minors, to a degree unacceptable to society at large.

ASCI propagates its Code and a sense of responsibility for its observance amongst advertisers, advertising agencies and others connected with the creation of advertisements, and the media.

ASCI encourages the public to complain against advertisements with which they may be unhappy for any reason and ensures that each complaint receives a prompt and objective consideration by an impartial committee, Consumer Complaints Council (CCC) which takes into account the view point of the advertiser, and an appropriate decision is communicated to all concerned.

ASCI endeavors to achieve compliance with its decisions through reasoned persuasion and the power of public opinion.

ASCI is represented in all committees working on advertising content in every Ministry of the Government of India. ASCI's membership of The European Advertising Standards Alliance (EASA) ensures that it gets valuable advice, learning and even influence at the international level.

ASCI Members can avail of ASCI's free **Copy Advice**. In keeping with the best practices in self-regulation, the main purpose of ASCI's **Copy Advice** service is to prevent problems before they happen; this benefits not only the advertiser, agency and media immediately concerned, but also the wider advertising industry, by avoiding complaints and promoting social and consumer responsibility.

Complaints Handling

ASCI has handled about 3300 complaints since its inception in 1985, there is an 80% Compliance Rate.

The ASCI Code and Guidelines

The ASCI Code covers four principles:

- Ads have to be truthful and honest.
- Ads have to be decent.
- Ads cannot promote unsafe practices.
- Ads must observe fairness in competition.

Additionally ASCI also has two sets of guidelines:

- **Self-regulation Guidelines on Advertising of Foods & Beverages directed at Children under 13 years of age:** Children's choice of diet (food and beverages) and level of physical activity, can impact their general health and well being. It can have a positive influence by encouraging a healthy, well balanced diet, sound eating habits and appropriate physical activity. Caution and care therefore should be observed in advertising of Foods & Beverages especially ones containing relatively high Fat, Sugar and Salt.
- **Self-regulation Guidelines on Advertisements for Automotive vehicles:** Advertisements have a significant influence on people's behaviour. As such, Advertisers are encouraged to depict advertisements, in a manner which promotes safe practices, e.g. wearing of helmets and fastening of seatbelts, not using mobiles/cell phones when driving, etc.

Appeals

The CCC Procedure provides for a Review of a CCC decision if all of the following conditions are satisfied:

- A written application for a Review is made within 2 weeks of receipt of a CCC decision.
- The application is accompanied by a payment of Rs.10,000/- as non-refundable fee for consideration of a Review of the CCC decision.
- The advertiser is in a position to provide additional pertinent information/material not submitted earlier, to ASCI.
- The advertiser has confirmed suspension of the offending Ad, pending review.
- The advertiser has given an undertaking in the review application, that he will accept and comply with the review decision.

Complaints of a same or similar nature, on the same or similar advertisements, on which CCC decisions have been notified, will generally not be taken up for renewed deliberation by the CCC.

Sanctions

ASCI's Code for Self-regulation in Advertising is now part of the advertising code under Cable TV Act's Rules. Violation of ASCI's Code is now violation of Government rules.

Other Activities

ASCI is represented in all committees working on advertising content in every Ministry of the Government of India.

(See Appendix 3 — SRO Report from India)

3.1.4 Indonesia

The largest archipelago in the world, Indonesia consists of five main islands and many smaller ones, totaling 17,508 islands. With a total territory of 5.2 million sq. km., it has a population of about 230 million people. It is also one of the most pluralistic nations, comprising some 500 ethnic groups, speaking some 250 languages and dialects.

After Suharto stepped down as President of Indonesia in June 1998, the media scene has changed dramatically, in tandem with the political scene. The Indonesian experiment with democracy has resulted in greater media liberalization and establishment of a free market economy.

There is great potential for the development of the Internet in Indonesia, which was launched in 1994. This also includes using the Internet for community radio, of which there are many Indonesian success cases. The potential for the development of radio is vast, as it is estimated that there are about 850 radio stations across the archipelago, including those in the far-flung small towns. Satellite communication (managed by *Indosat*, the country's consortium) has also been instrumental in modernizing radio, television and telecommunication development throughout the archipelago.

Brief Summary of Self-regulation in Indonesia

Self-regulation has been undertaken by advertisers, advertising agencies and the media and their respective associations in Indonesia based on the *Code of Ethics* containing the *Code of Conduct* and *Code of Practice* agreed to in 1981 and amended in 1996 and 2003.

Code of Ethics

The *Code of Ethics* covers all media, including the internet and cellular telephones, and encompasses all aspects of advertising, from the subject matter to the audience, from actors to messages conveyed. Every national advertising association or institution must participate in upholding this *Code of Ethics* among its members. Enforcement of the *Code of Ethics* is undertaken by the *Dewan Periklanan Indonesia* or *Indonesian Advertising Council*.

(See Appendix 4 — *SRO Report from Indonesia*)

3.1.5 Japan

A cluster of islands lying in the Pacific Ocean to the east of the Korean peninsula and China, Japan occupies a land area of 377,810 sq. km.

The factors that have contributed to Japan's economic success in the second half of the last decade have been identified as follows: patriotism, discipline, good work ethics, competent management and close cooperation between the government and the private sector (Kiyo Akasaka, 2009).

In tandem with the growth of its economy, Japanese mass media have also grown to be gigantic enterprises. With a literacy rate of 99 per cent, Japan has been ranked as the first in the world with regard to per capita circulation of newspapers. Japan has a mixed media system for radio and television, similar to that in the UK, Canada and many other European countries. The Internet and new media have also flourished in Japan.

Advertising Self-regulation

The **Japan Advertising Review Organization Inc. (JARO)** was established as a non-profit, non-government organization in October 1974. Headquartered in Tokyo, it currently has 969 members.

JARO handles complaints and inquiries of advertising as its mandate. Due to its limited resources, however, it does not assume pre-clearance duties, but gives advice and information, on request, to anyone. JARO does not take any monitoring or investigative action on its own initiative, but receives complaints from anyone. A complainant's calling, letter or e-mail always triggers JARO to move.

Instead of mediation or arbitration, JARO follows the written materials only in any case, by looking into the advertising claims at issue and examining the statement of a complainant and the advertiser concerned. Its judgment is notified in written format to both parties who are expected to pay regard for it.

If any party appealed against the finding, the case will be deliberated again by the Advertising Review Committee (ARC) and, when appropriate, submitted before the Final Review Panel (FRP) for final decision. Only a few such cases have been recorded.

After a case is closed, the copy of a Recommendation or warning will be sent to the parties and the relevant media for information. At the same time the advertiser will be requested to submit a future advertisement to JARO for confirmation.

JARO does not impose sanctions against the advertisers who ignore a JARO finding, but only refers the case to the appropriate agencies and the media involved, when it is very likely to cause monetary or other damage to a substantial number of consumers. Such an occasion has not ever arisen.

Other Activities and Information Activity

JARO maintains communication with public and private sectors so as to help them gain a deeper understanding of its role and to obtain their cooperation.

For the public sector, JARO routinely holds meetings with officers representing: ten Ministries, the municipalities around the Metropolitan Tokyo area and central and local consumer centers. For the private sector, JARO has a conversation with the representatives of consumer advocate groups ad-related bodies and fair trade associations.

Under its restricted budget, JARO has traditionally relied on media members for its nation-wide publicity. Almost all of the broadcasters and newspaper publishers voluntarily donate time or space to make JARO more well known.

The JARO staff responds to the increasing requests from the public or business societies which want to know the role or function of JARO or about current issues of advertising. The staffers have traveled throughout the country to participate in the 44 meetings, training sessions and seminars held in 2008.

JARO holds a seminar every month to keep its members informed of current issues in the advertising industry and regulatory movements in the government.

Further, JARO issues a newsletter and a case report monthly, as well as a world report once a year. It also compiles the Presidential Report, a selection of the cases already closed and authorized by the FRP to be put on record as the "Precedents".

(See Appendix 5 — *SRO Report from Japan*)

3.1.6 The Republic of Korea (South Korea)

South Korea has a land area of 99,016 sq. km. and a population of about 50 million people. At the time of the financial crisis in 1998, the broadcasting and newspaper companies suffered a major downsizing and had to restructure their organizations. Also in 1999, a comprehensive broadcasting law was passed and Korea has since entered into an era

driven by ‘multi-media’ and ‘multi-communication’. Korea has seen a sizable growth in local on-line newspapers and Internet development, television services, as well as web-based advertising. It has also witnessed a substantial increase in domestic demand for wireless communication products.

Advertising Self-regulation

The Korea Advertising Review Board (KARB) was established in March 1991. Headquartered in Seoul, it has a current membership of 3617 members. It was created to establish advertising ethics, and to have its members to follow the industry’s ethics and social standards, thereby promoting responsible advertising.

(See Appendix 6 — SRO Report from Korea)

3.1.7 Malaysia

The close relationship between media and the state in Malaysia is essentially a legacy of the British colonial era. All media, including print media are subject to licensing for reasons of political and economic interests.

However, a different approach was adopted with regard to ICT and the new media, beginning from the second half of the 1980s, in the wake of the push towards privatization. Hence, telecommunications and television were privatized.

A new Act, the **Communications and Multimedia Act** (CMA 1998), was legislated to provide for a regulatory framework for the communications and multimedia industry. It was intended to replace all previous regulations pertaining to this area, including the **Broadcasting Act 1988** and the **Telecommunications Act 1950**. Thus private electronic media, is primarily regulated by the *Ministry of Information, Communications and Culture* whereas the *government electronic media* remains under the control of the *Ministry of Information*.

In addition, there are several other agencies that exist and carry out various functions related to the content industry and which have an impact on the networked content industry. They are: Perbadanan Kemajuan Filem Nasional Malaysia (FINAS), Film Censor Board or Lembaga Penapisan Filem (LPF), Ministry of Home Affairs (MOHA) and Ministry of Information. They have the MOHA/LPF Censorship Guidelines and the Radio-Television Malaysia Broadcasting Guidelines.

Advertising Self-regulation

Self-regulation of advertising in Malaysia is carried out through the Advertising Standards Authority of Malaysia (ASA), whose members, all experienced in advertising, are drawn from Malaysian Newspapers’ Publishers Association, Association of Accredited Advertising Agents Malaysia, Malaysian Advertisers Association and the Media Specialist Association.

Self-regulation by the media industry serves to complement existing government regulations on advertising. Advertisements of certain nature, especially those of products or services containing health or religious based claims have to be approved by a government set-up committee.

Developments in the new media technologies — Internet, mobile telephony, audio-text services, SMS, MMS and other new media forms — and the recognition of their contribution to economic growth and internationalization bear strong implications for the further deregulation and liberalization of the broadcast and telecommunication sectors as well as a push for a stronger self regulatory environment of the media industry. This self-regulation though can only benefit the industry if it is comprehensive and has sufficient details to provide proper guidance to the relevant parties.

It will be in line with national aspirations as the media will still be subject to the federal constitution and other more encompassing laws and regulations.

Market liberalization has led to media growth particularly with the increase in the privatized television and radio stations and online publications. Regulators, particularly of the converging media, continue to examine ways to promote greater media freedom and industry self-regulation.

(See Appendix 7 — SRO Report from Malaysia)

3.1.8 New Zealand

New Zealand, a wealthy Asia-Pacific nation is made up primarily of two large islands.

Media Landscape

The media of New Zealand include television stations, radio stations, newspapers, magazines, film and websites. Foreign-owned media conglomerates dominate this media landscape, although NZ On Air

funds public service programming on the publicly-owned *Television New Zealand* and *Radio New Zealand*, and on community-owned and privately-owned broadcasters. Most media organizations operate Auckland-based newsrooms with Parliamentary Press Gallery reporters and international media partners, but most broadcast programmes, music and syndicated columns are imported from the US and UK.

Reporters without Borders ranks New Zealand high on press freedom, with a seventh placing in 2008. Censorship of media in New Zealand is limited to expressions of extreme political views, violence or sexual content, although strict libel laws follow the English model and contempt of court is severely punished. The *Office of Film and Literature Classification* classifies and sometimes censors films, videos, publications and video games, the New Zealand Press Council deals with print media bias and inaccuracy and the *Broadcasting Standards Authority* and *Advertising Standards Authority* considers complaints.

The media of New Zealand predominantly use English, however some local TV stations and community broadcasters, and local Pacific and Asian media organizations provide news and entertainment for linguistic minorities.

Television was introduced in 1960. Provision was first made for the licensing of private radio and television stations by the Broadcasting Act 1976. In addition to the analogue network, there are three forms of broadcast digital television: There are currently 11 national free-to-air channels, 22 regional free-to-air stations and several pay TV networks.

New Zealand radio is dominated by twenty-seven networks and station-groups, but also includes several local and low-powered stations. Eight radio networks are operated by The Radio Network, ten are operated by MediaWorks New Zealand, three are operated by Rhema Broadcasting Group and three are operated non-commercially by **Radio New Zealand**.

The number of newspapers in New Zealand has dramatically reduced since the early 20th century as a consequence of radio, television and new media being introduced to the country. Auckland's *New Zealand Herald* is the country's national newspaper and serves the upper North Island, Wellington's *The Dominion Post* serves the lower North Island and Canterbury's *The Press* and *Otago Daily Times* serve the South Island. Provincial and community newspapers, such as the *Waikato Times* daily, serve particular regions, cities and suburbs. Ownership of New Zealand newspapers is dominated by Fairfax New Zealand and APN News & Media with Fairfax having 48.6% of the daily newspaper circulation.

The New Zealand film industry is small but successful, boasting world-renowned directors such as Peter Jackson and Jane Campion. There are many films made in New Zealand, made about New Zealand or made by

New Zealand-based production companies. Peter Jackson's *Lord of the Rings* film trilogy was produced and filmed in New Zealand, and animation and photography for James Cameron's *Avatar* was primarily done in New Zealand.

Self-Regulation in Advertising

Advertising self-regulation in New Zealand is under the purview of the *Advertising Standards Authority* (ASANZ). Formerly known as the *Committee of Advertising Practice*, it was incorporated as the ASANZ in 1990. Members comprise advertising agencies, advertisers and the media. Managed by a Board of Directors, the ASANZ has two complaints boards and an appeal board to deal with governance issues.

The advertising industry subscribes to a principal *Code of Ethics* in advertising, and there are numerous subsidiary codes covering core areas in advertising. Core rules for all these codes are based on the principles of social responsibility and truthfulness in advertising. The ASANZ assesses written complaints to determine whether they raise an issue under the *Code of Ethics*. After listening to representations the *Complaints Board* makes a written decision (including any sanctions deemed necessary) that is conveyed to all parties. Aggrieved parties can appeal to the *Appeals Board*.

(See *SRO Report – Appendix 8*)

3.1.9 Philippines

The Philippines, a cluster of islands bordering Indonesia and Malaysia, became independent in 1945.

Historically, the Philippines has a long-standing tradition of trailblazing in media and communication. Right from independence, the country has maintained the free press tradition. Print and broadcast media in the Philippines have been privately owned. Radio is still the most important mass medium, with 539 commercial stations that reach 95 per cent of the population.

The Internet is developing rapidly, primarily as a commercial venture, and with the involvement of big multinational and national corporations, educational institutes and media organizations. Newly-established as well as existing telecommunications and computer companies are providing Internet access on a regular and commercial basis.

Self-regulation of Advertising in the Philippines

Self-regulation is under the ambit of the Ads Standards Council Inc., which had drafted a 28-page document on Standards of Advertising that apply to members of the following organizations:

- Philippines Association of National Advertisers.
- Association of Accredited Advertising Agencies.
- Kapisanan ng mga Brodkaster ng Pilipinas.

(See Appendix 9 —sro report from the Philippines)

3.1.10 Singapore

One of the world's smallest island-states, with a population of under 4 million people living in some 600 sq. km., Singapore can be considered to be among the leading "ICT -rich" countries, not only in Asia but also in the world. It has been at the forefront of Internet-related developments that have given the country the highest Internet penetration among Asian countries.

In 1999, Singapore set up the Infocomm Development Authority of Singapore (IDA), with the mandate to help realize Singapore's vision to be a global info-communications hub and digital city. In 2000, the government launched two parallel initiatives, i.e. Infocomm 21 and e-Government 2000 to further infuse ICT in Singapore.

Further restructuring in subsequent years resulted in the formation in 2004 of the Media Development Authority (MDA), which has overall responsibility for the development of all kinds of media in Singapore.

Internet self-regulation has been supported by the Ministry of Information, Communication and The Arts (MICA), principally through the Media Development Authority and the Infocomm Development Authority of Singapore. Both government bodies have actively encouraged and fostered industry co-regulation.

Among the initiatives are:

- Setting up of the National Internet Advisory Committee in 1996.
- Development of two voluntary codes, namely the Industry Content Code for the Internet and Model Data Protection Code for the Private Sector.
- Parental Action Group for the Internet (PAGI), set up in 1999.

The effectiveness of self-regulation of the Internet depends on the following:

- Rapid development of the Internet in Singapore will result in further liberalisation of the laws governing its usage. This is where industry self-regulation becomes even more important.
- Internet self-regulation is also important because the Internet is one of the most difficult media that can be regulated.

Self-regulation of advertising in Singapore can be regarded as being not very effective as it is still subservient to general government regulations.

(See Appendix 10 —sro Report from Singapore)

3.1.11 Taiwan

Officially the Republic of China (ROC), Taiwan established itself as an independent entity in 1949. With a land area of 36,000 sq. km. and population of some 23 million people, it has a thriving economy and a vibrant media industry.

In 1980, Taiwan began to internationalise its economy by gradually privatizing many of its state enterprises, including the media. One major consequence of this policy has been the introduction of privately-owned television channels.

Advertising Self-regulation

In view of the global development of digital convergence and restructuring of regulatory authorities in various jurisdictions, as well as the integration of the authorities regulating the telecommunications and broadcasting sectors, Taiwan government held its 8th Strategy Research Board meeting in 1998 and proposed the establishment of one regulatory body to oversee telecommunications, information and broadcasting sectors within an integrated framework.

The enactment of the **Fundamental Communications Basic Act** on January 7, 2004 and the **National Communications Commission Organization Act** on November 9, 2005, enabled the establishment of the **National Communications Commission (NCC)** on February 22, 2006, thereby creating a governmental body for the regulation of the telecommunications, information and broadcasting sectors.

The NCC is the first independent regulatory body of its kind in Asia, and works in step with global trends. The NCC performs the above-mentioned

duties objectively and professionally based on the two acts enacted for its establishment so as to ensure effective competition in the marketplace, protection of public interest, and elevation of national competitiveness.

The convergence of the three sectors — telecommunications, broadcasting and information technologies and services is increasingly evident. The NCC has assumed the roles as an integrator and a regulator of the nation's telecommunications industry. It is the objective that this integration and restructuring of the regulatory bodies will effectively remove the barriers between and among the three sectors thereby enabling fair competition and efficient interaction on a level-playing ground and accelerate of the development of related industries. The success of this project benefits the government, consumers, and operators in terms of technological advancement and industrial integration.

The **primary objectives of the NCC** are fourfold:

- 1 enhancement of effective competition in digital convergence;
- 2 promotion of sound development of the telecommunications and broadcasting sectors;
- 3 protection of public interests; and
- 4 promotion of cultural diversity and respect for the disadvantaged.

These four objectives are based on (1) Article 1 of the Fundamental Communications Act, which prescribes, “facilitate technological convergence, encourage sound development of telecommunications and broadcasting sectors, safeguard the rights of citizens, protect consumer interests and promote cultural diversity,” and (2) Article 1 of the NCC Organization Act, which prescribes, “protect constitutional right to free speech; uphold the determination to have political parties, the government and the military withdraw from the media; promote sound development of telecommunications and broadcasting sectors; preserve the independence of the media; enforce effective regulations on telecommunications and broadcasting sectors; ensure fair and effective competition in the telecommunications and broadcasting markets; protect consumer interests and respect the rights of the disadvantaged; promote balanced development of pluralism; and elevate national competitiveness.”

(See Appendix 11 — SRO Report from Taiwan)

3.1.12 Thailand

Thailand being a land of freedom (Thailand means ‘land of freedom’ in fact), a land of smile with all these creative people and colorful culture - also those world re-known tourist attractions.

The beautiful color of life has been translated well into their unique approach of advertising (full of emotional/touching elements of laugh, fun and sometimes sadness). There are so many world-class award winning TVCs like Thai Life Insurance, Kasikorn Bank, Soken DVD Player etc. Advertising business in Thailand one of the fastest growing industry in the past 10-15 years. Creative works from Thailand have been awarded internationally - and, possibly the most awarded advertising country in Southeast Asia.

Our advertising production capability is second to none. This is witnessed by our award-winning print advertising craftsmanship. Also, Thai advertising film directors are ranked number one in the world, consecutively, for the past 5-6 years.

Thailand is a constitutional monarchy that has remained independent since its beginning.

Print and broadcast media are well-developed in Thailand, while the film industry has progressed steadily, to be accorded international stature. There is a considerable degree of press freedom.

The Thai government is carrying out a comprehensive plan of privatization which includes the telecommunications sector.

Brief Summary of Self-regulation in Thailand

In response to the government regulation, which has granted professional associations the authority to monitor and regulate their own performance rather than be controlled by the government itself, The Advertising Association of Thailand together with a network of academics from various universities worked together to create a self-regulation process model, which is based from practice in 22 European countries (EASA). Prior to implementation 6 networking sessions have been conducted with participants representing advertisers, government agencies, consumers, academics, students, and interested members of the public. The results have been used to modify the self-regulation model to fit the Thai advertising industry context.

Also, the Advertising Code of Ethics was revised to apply to advertising in all media.

There are commendable moves towards self-regulation of the advertising industry in Thailand. For example, four networks representing child pediatricians and nutritionists in Thailand have launched a childhood

obesity campaign and have submitted recommendations to snack and 'junk food' manufacturers, asking them to make more nutritional, low-calorie products and designing new food packages.

There are also frequent calls spearheaded by academics and media critics for controls to be imposed on advertisements with sexual overtones. However in a country that relies heavily on tourism, the rules do not seem to be universally applied.

(See Appendix 12—sro report from Thailand)

3.2 COUNTRIES WITH FEW OR NO SELF-REGULATORY MECHANISMS

Afghanistan: This is still a war-torn country which is beginning to find its course after the fall of the Taliban regime some 15 years ago. Supported by the presence of the US, its allies and UN agencies, the country is starting to experiment with democracy. There is no advertising self-regulation in this country.

Bangladesh: With an estimated population of 100 million people where the majority of the population lives in rural areas. Attempts at advertising self-regulation are far from being comprehensive.

Bhutan: This is a land-locked mountain kingdom sharing borders with India, China and Nepal, hence, radio is the most powerful medium of communication. The inaccessibility of the remote areas, helps to explain why print media have little penetration beyond the capital city of Thimpu. Impact of new communication technology such as the Internet is also very low. There is little advertising self-regulation in this country.

Brunei Darussalam: This is an oil-rich kingdom located on the northwest coast of the Borneo peninsula that is now ruled as a constitutional monarchy. It has a population of 300,000 living in an area of 5,769 sq. km. The government has a multi-million dollar plan to wire up the entire nation with optic fibre cables to enable the country to transmit and receive real time information and images simultaneously. As with other media industries, advertising is controlled by the government.

Cambodia: This country shares borders with Vietnam in the east, Laos in the north and Thailand in the west. Penetration of print media outside the capital cities is low. With the introduction of democracy in 1993, there has been a mushrooming of TV and radio stations, including cable

and satellite broadcasters. Radio and television are in their infancy, as are telecommunication services. The advertising industry is just being developed.

Laos: This is a land-locked country sharing borders with Thailand, Myanmar, China, Cambodia and Vietnam. Media penetration is the lowest in the region and confined mainly to the capital city, Vientiane. Almost all media in Laos are government-controlled, hence there is no advertising self-regulation in this country.

Maldives: This is a monarchy consisting of a cluster of 12 islands situated in the Arabian Sea, off Sri Lanka. Development of the media sector is still in its infancy. There is no advertising self-regulation in the Maldives.

Mongolia: Mongolia is the most sparsely populated independent country in the world, and also the world's second-largest landlocked country. The Mongolian media currently consists of around 300 print and broadcasting outlets. Since 2006, the media environment has been improving with the government debating a new Freedom of Information Act, and the removal of any affiliation of media outlets with the government. Market reforms have led to an increasing number of people working in the media, and there some initiatives towards formulating a body for advertising self-regulation.

Nepal: Situated between India to the South and China to the North, Nepal is a mountainous land-locked country that includes the highest mountains in the world, the Himalaya. 23 million people live in Nepal and the majority does not have access to much of the country's communications media. Newspaper and print media circulation is low and the Internet is under-developed. Thus radio has the widest reach, as television transmission is affected by the mountain terrain. There is no self-regulation in advertising.

Pakistan: Along with India, Pakistan obtained independence from the British in 1947. Print and electronic media in Pakistan can be considered well-developed by Asian standards, as is the advertising industry. Media controls by the different governments have varied over the years, thus moves towards advertising self-regulation have been restricted.

Sri Lanka: This island country at the tip of the Indian peninsula obtained its independence from the British in 1948. Sri Lanka has a high literacy rate of more than 90 per cent. Though the advertising industry is fairly well-developed, there is no advertising self-regulation in the country.

Vietnam: Located nearly in the centre of Southeast Asia, this country has a surprisingly vibrant media, with over 500 publications, primarily newspapers and magazines, most of which are to be found in the two big cities, Ho Chi Min City and Hanoi. Increasingly, the country is attracting investments, not only from the multinational corporations but also from Asian ICT companies. Broadcast media are expected to register steady growth throughout this decade. Advertising regulation remains under the purview of the government.

Section 4: **THE FUTURE SCENARIO**

4.1 **NOTABLE TRENDS IN THE DEVELOPMENT OF ASIAN ADVERTISING**

The future of advertising in Asia will involve addressing a number of challenges. Among these are:

- an evolving Asian audience whose demographic characteristics are changing;
- rapidly-changing media technologies that will change the ways in which advertisers address creative and planning campaigns involving the media; and
- the current economic global meltdown that is still impacting upon the advertising industry in many Asian countries.

4.2 **THE FUTURE FOR ADVERTISING SELF-REGULATION IN ASIA AND AUSTRALASIA**

As we witness the end of the first decade of this 21st century, we observe that there are many challenges ahead for advertising self-regulation in Asia. Among these are:

- relationship between the various stakeholders namely:
 - ♦ government authorities (responsible for regulation and monitoring of advertising).
 - ♦ the advertising industry.
 - ♦ media owners and operators.
- the ongoing debate about concepts, models and implications for media regulation, deregulation and re-regulation;
- the scope of self-regulation; and
- challenges posed by the unprecedented development of e-commerce and internet-related commercial activities.

Asian advertising associations, at both national and regional levels must synergise their approaches and activities, particularly with regard to establishing guidelines for advertising and marketing that use the new electronic media. It is only through voluntary self-cooperation among interested parties that there can be more effective self-regulation in Asian advertising.

4.3 **CONCLUSION**

In this Report of advertising self-regulation in Asia, we have concentrated on selected countries in Asia. Collectively, they constitute more than half the world's population,

In addition to addressing thematic issues, we have provided brief profiles for each country selected. These profiles indicate that not only are there differences in the levels of media development, there are also differences among these countries with regard to advertising regulation and self-regulation.

Coming to the advertising scene, we note that while the advertising market has experienced a steady growth for most of this decade, there has been a slowdown in 2008 and 2009, primarily because of the economic meltdown that originated in the US.

The challenge for the advertising industry in these troubled times is to ensure that it retains the confidence of the various stakeholders, namely government, the private sector and the general public. Simultaneously, the Asian advertising industry should help move the world and change behaviour in ways that benefit humanity in general and Asia in particular.

To this end, all concerned and committed parties must work harder in order to sustain and promote advertising self-regulation in Asia.

SCOREBOARD

	AUSTRALIA	HONG KONG	INDIA	INDONESIA	JAPAN	KOREA		MALAYSIA	NEW ZEALAND	PHILIPPINES	SINGAPORE	TAIWAN	THAILAND
Self-regulatory feature	●	●	●	●	●	●		●	●	●	●	—	●
Self-regulatory body	●	—	●	●	●	●		●	●	●	●	—	●
Code	●	—	●	●	—	●		●	●	●	●	—	●
Copy advice	●	—	●	●	●	●		●	●	●	●	—	●
Monitoring	—	—	—	—	—	—		—	—	—	—	—	—
Free handling of consumer complaints	●	—	●	●	●	●		●	●	●	●	—	●
Online complaints facility	●	—	—	—	●	—		●	—	—	—	—	—
Publications of decision	●	—	—	—	—	—		—	●	●	—	—	●
Appeals procedure	●	—	●	●	●	●		●	—	●	●	—	●
Broad consultation in code drafting	●	—	●	●	—	●		●	●	—	●	—	●
Independent element in jury	●	—	—	—	—	—		—	—	—	—	—	—
Promotional campaigns	●	—	●	—	●	—		—	●	—	—	—	●
Website	●	—	—	—	●	—		●	●	●	●	—	●

LEGEND:

● Yes
— No

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California: Wadsworth Publishing Co, 1995

Appendix:
**SELF-REGULATORY ORGANIZATION REPORTS
FROM SELECTED COUNTRIES:**

- 01 Australia
- 02 Hong Kong
- 03 India
- 04 Indonesia
- 05 Japan
- 06 Korea
- 07 Malaysia
- 08 New Zealand
- 09 Philippines
- 10 Singapore
- 11 Taiwan
- 12 Thailand

I AUSTRALIA

Brief Summary of Advertising Self-regulation


The Advertising Standards Bureau (ASB) administers the complaints resolution part of Australia's national system of self-regulation, accepting complaints about advertisements for determination by the Advertising Standards Board and the Advertising Claims Board.

The Advertising Standards Board determines complaints about individual advertisements through a panel of public representatives from a broad cross-section of the Australian community. The Advertising Claims Board resolves complaints between competing advertisers through a panel of legal specialists.

Structure

The Australian self-regulatory system consists of:

- the Advertising Standards Board which provides a free public service of complaint resolution, and comprises 20 independent members of the community, chosen on merit to broadly represent community views and standards, including academics, public servants, creative artists and people with knowledge of the advertising industry. Individual Board members do not represent any interest group and are individually and collectively independent of the advertising industry;
- an Independent Reviewer system. Independent Reviewers review appeals against decisions of the Advertising Standards Board and are



Advertising Standards Bureau (ASB)

ADDRESS:
 Level 2, 97 Northbourne Avenue
 Canberra ACT 2612, Australia

DATE ESTABLISHED:
 1998

STATUS:
 Non-profit organisation

MEMBERSHIP:
 The sole member is the Australian Association of National Advertisers. The AANA membership includes Australia's major advertisers, marketing service providers and advertising agencies.

WEBSITE:
www.adstandards.com.au

SENIOR OFFICER:
 Ian Alwill, Director of Marketing Communications, Nestlé Australia (Chairman of the Bureau Board)
 Fiona Jolly (Chief Executive Officer of the Advertising Standards Bureau)

selected for their legal, judicial or administrative experience. They have no relationship with the members of the Advertising Standards Board and are empowered only to make a recommendation to the Board on an appealed decision;

- the Advertising Claims Board (jury for competitor complaints) provides for a fee, an alternative dispute resolution process primarily to resolve disputes between competitors that might otherwise lead to litigation. Following adjudication, the ASB can make the final report publicly available. This includes identifying the advertiser, the product and the subject matter involved, and describing the final decision and the reasoning behind it;
- the Advertising Standards Bureau, a group of seven people who provide secretariat services to the Advertising Standards Board and the Advertising Claims Board;
- the Bureau Board (Governance Board) comprising six industry members who oversee the strategic directions and finances of the Advertising Standards Bureau.

Responsibilities

AREA	HELD BY
Code-making	AANA or specific industry group
Code implementation	Advertising Standards Bureau
Copy advice	AANA (proposed)
Complaint adjudication	Advertising Standards Board/ Advertising Claims Board
Appeals body	Independent Reviewer
General administration	Advertising Standards Bureau

Funding

Media buying organisations collect a levy of 0.035% of advertising spend from all advertisers and remit this through their accounting systems to an independent organisation, the Australian Advertising Standards Council (AASC). The AASC holds the industry funds in an account which is drawn down annually to pay the costs of the Advertising Standards and Advertising Claims Boards and the self-regulatory system.

Codes

Most codes administered by the ASB are owned and developed by the Australian Association of National Advertisers (AANA), and are based on the ICC Consolidated Code of Advertising and Marketing Communication Practice.

When drafting or updating its codes, the AANA consults widely within the advertising industry, consumer bodies, interest groups, academics, the general public and government. The ASB also provides input. Such wide consultation is considered to be important to ensure acceptance of, and compliance with, the Codes.

Product-/Sector-Specific Codes and Rules

- AANA Code for Advertising and Marketing Communications to Children
- AANA Environmental Claims in Advertising and Marketing Code
- AANA Food and Beverages Advertising and Marketing Communication Code
- Alcohol Beverages Advertising Code
- Australian Food and Grocery Council (AFGC) Responsible Children's Marketing Initiative
- Australian Quick Service Restaurant (QSR) Initiative for Responsible Advertising to Children
- Federal Chamber of Automotive Industries (FCAI) Motor Vehicle Code

General Rules

AANA Code of Ethics:

- The ASB deals with issues raised in Section 2 of the AANA Code of Ethics:
 - ♦ advertising to children
 - ♦ advertising contrary to prevailing health and safety standards
 - ♦ advertising depicting sex, sexuality and nudity
 - ♦ advertising of food and beverages
 - ♦ advertising of motor vehicles
 - ♦ non-discriminatory advertising
 - ♦ use of language
 - ♦ violent advertising

Principal areas not covered by the AANA Code of Ethics

- advertising of specific products or services as opposed to the content of the advertising which is covered by the Code
- advertising subject to litigation by a Court or Government Agency initiated independent of any self-regulatory issues or involvement and prior to the receipt of a complaint regarding this advertising
- cost of premium mobile services
- labels or packaging
- label directions
- noise levels of advertising
- non-prescription health care products and therapeutic goods
- overseas advertising
- point of sale
- political advertising
- prizes and promotions
- questions of law
- slimming products
- subliminal advertising
- timing or number of advertisements
- tobacco advertising
- unlawful business practices
- use of TV logos – the use of a logo by a TV station to promote that TV station on its own channel is a promotional activity, which does not fall within the ASB

Main Activities of the SRO

Complaints Handling

ASB responds to written complaints from consumers and competitors (preferably on-line via the complaints form on the ASB website, but also by post or fax). Complaints from the public are handled free of charge, while those from competitors are subject to a fee.

ASB staff members assess the complaint to determine whether it raises an issue under the Codes. The advertiser is invited to respond within five working days and to provide a copy of the advertisement, should the complainant not have provided one. Complaints of substance are referred to the Advertising Standards Board.

Experts are consulted if the Board requires specific scientific or other advice to reach an informed decision.

The Board usually meets twice per month - once in person and once by teleconference. When the Board reaches a decision, a written case report is produced. All parties including the media are informed of the outcome and the case report is published on the ASB website. A hard copy of case reports is published annually.

Typically a complaint is handled and adjudicated within 45 days.

Mediation

ASB provides the possibility to competitors to resolve disputes between competitors that might otherwise lead to litigation for a fee. Its remit includes complaints involving truth and accuracy or possible breaches of the law under the AANA Advertiser Code of Ethics. Complaints are adjudicated by a panel of lawyers chosen from a register of legal practitioners qualified in the areas of advertising and trade practices law.

Appeals

The Advertising Standards Bureau appointed an Independent Reviewer in 2008, enabling the public and advertisers to appeal against Board decisions. Either party can ask for the review of a decision within ten working days of receiving final written notification of a Board decision.

The following constitute grounds for appeal:

- new or additional relevant evidence;
- a substantial flaw in the Board's decision (i.e. a decision clearly in error having regard to the Code, or against the weight of evidence); and
- a substantial flaw in the decision-making process.

Each appeal is considered by the Independent Reviewer or the alternate Independent Reviewer (if the incumbent is unavailable).

All parties have an opportunity to comment on the appellant's submission. If the Independent Reviewer considers the appeal to be of substance, he or she will review the case and recommend to the Board that the decision should be reconsidered, amended or confirmed. The Board is required to consider the recommendation of the Independent Reviewer, after which it either confirms or amends its original decision.

The cost of lodging an appeal is AUS\$500 for individual complainants, AUS\$1000 for complainants from Incorporated Organisations and AUS\$2000 for advertisers.

All aspects of this system are currently under review to ensure that best practice principles are being followed. Results of the review should be available early in 2011.

Sanctions

When the Advertising Standards Board finds that an advertisement breaches the AANA Code, the advertiser is directed to either modify or discontinue the advertisement. Although compliance with Board decisions is voluntary, the widespread support for the self-regulation system in Australia is reflected in 100% compliance. The ASB has specific arrangements with certain media bodies that will assist in withdrawing advertisements which have had complaints upheld against them by the Board. If an advertiser is reluctant to comply with Board decisions, the ASB can also call upon executive members of the industry to assist in negotiating compliance.

Other Activities

Information and Publications

The ASB publishes an annual "Review of Operations" which includes statistics on complaints and trends. A quarterly newsletter, "AdStandards News", is sent to industry, the media, government and consumer bodies. Recently ASB has developed a regular e-bulletin which summarises current issues and Board decisions for stakeholders. These publications are available from the website (www.adstandards.com.au), as are all media releases produced by ASB.

The current ASB website was redesigned during 2010 and features an online complaints form as well as a complete archive of cases considered by the Board since its inception in 1998. Codes administered by the Board are available on the website as well as information on the Advertising Standards Board, Advertising Claims Board, the Independent Reviewer and procedures.

The ASB produced two research reports in 2009 (Community perceptions of Violence in Advertising and Community Perceptions of Discrimination and Vilification in Advertising) and a report in 2010 (Community Perceptions of Sex, Sexuality and Nudity in Advertising) which can be downloaded free of charge from the ASB website. Guidelines on these topics are available on the website to assist industry parties and consumers.

During 2008, ASB conducted a comprehensive consumer awareness campaign - "Tell someone who cares" - using television, radio and print media. This campaign has increased awareness of ASB with the public, industry and government. The campaign is available on the ASB website.

Training and Education

The ASB participates in industry events on a regular basis and participates in the Advertising Federation of Australia's Accreditation Program, presenting at workshops around the country targeting mainly creative agency staff. ASB also makes occasional informal presentations to media agency staff. ASB conducts workshops for lawyers specialising in advertising and individual presentations are available on request. ASB personnel also lecture, by invitation to university students studying communications.

Each year, ASB's CEO holds a series of lectures and seminars as part of the Advertising Federation of Australia's Accreditation Program, conducted in State Capitals and designed to promote professional development and raise advertising standards. ASB also financially supports this programme.

In 2009, the ASB conducted a series of Legal Conferences for legal professionals in a number of Australian cities. These Legalwise Seminars are also offered to Government and other interested parties.

Other Self-regulatory Bodies

Alcohol Beverages Advertising Code (ABAC)

ASB receives all complaints about alcohol advertisements. Complaints are forwarded to ABAC Scheme Ltd- some complaints can be considered by both ABAC Scheme Ltd and ASB.

National Legislation on Advertising

Categories of Advertising prohibited by law: Tobacco

Statutory Authorities

- Australian Communications and Media Authority (www.acma.gov.au)
- Australian Competition and Consumer Commission (www.accc.gov.au)
- Fair Trading and Consumer Affairs organisations in Australian States and the Commonwealth:

- www.accc.gov.au
- www.fairtrading.nsw.gov.au
- www.fairtrading.qld.gov.au
- www.consumer.vic.gov.au
- www.commerce.wa.gov.au
- www.ocba.sa.gov.au
- www.consumer.tas.gov.au
- www.ors.act.gov.au
- www.caba.nt.gov.au

ASB has no formal relationship with these bodies, but maintains contact with them and interacts as necessary.

National Legislation

Consumer Protection Against Misleading Advertising

LAWS IN PLACE	DATE LAW WAS IMPLEMENTED
• Trade Practices Act 1974	1974
• New South Wales Fair Trading Act 1987	1987
• South Australian Fair Trading Act 1987	1987
• Western Australian Fair Trading Act 1987	1987
• Queensland Fair Trading Act 1989	1989
• Tasmanian Fair Trading Act 1990	1990
• Northern Territory Consumer Affairs and Fair Trading Act 1990	1990
• ACT Fair Trading Act 1992	1992
• Victorian Fair Trading Act 1999	1999

Copyright

- **Trademarks Act 1995**, protects marks used to distinguish the goods or services of one trader from another. (Date law was implemented: 1995)
- **Copyright Act 1968**, includes the Moral Rights amendment, and protects from the unauthorised reproduction or adaptation of original creations such as books, computer programs, drawings, scripts etc. (Date law was implemented: 1968)

Digital Media

SPAM Act 2003, prohibits the sending of commercial electronic messages to an individual unless that individual has consented to receiving such communications. (Date law was implemented: 2003)

Lotteries & Gambling

Various Commonwealth and State legislation relating to trade promotion lottery laws - provide protection when organisations give away prizes to either trade customers or consumers - see <http://www.australia.gov.au/topics/culture-history-and-sport/gambling-and-lotteries>. (Date law was implemented: several)

2 HONG KONG

Code of Practices

This Code of Practice exists for three reasons:

- to reassure advertisers who employ members of the Association that they are dealing with companies and individuals who subscribe to Code of Practice;
- to ensure the continuation of the advertising agency business in Hong Kong as a professional and profitable enterprise; and
- to provide a basis for standards and business practices that is common to both Hong Kong and the People's Republic of China.

The purpose of strengthening, clarification and uplifting of standards is:

- to ensure that each member will carry on his profession and business in such a manner as to protect the public interest and uphold the dignity and interests of the profession, the Association and its members generally; and
- to force competition between advertising agencies into the area of upgrading the quality and extending the scope of their various services, rather than restricting such activities to meet a financial need

Membership of the Association of Accredited Advertising Agencies of Hong Kong requires that a member company, individual or a partnership shall acknowledge acceptance of the Code of Practice either under Company Seal or personal signature.

The Code of Practices spells out what practices advertising agencies should follow with regard to the following aspects: fees, duties and taxes, minimum scales of remuneration, rebates, disclosures and commission



Association of Accredited Advertising Agencies of Hong Kong

SECRETARIAT:
MassLane Communications Ltd.

CONTACT:
Tel: 2576 9009
Fax: 2576 6887
E-Mail: info@hk2a.com

DATE ESTABLISHED:
September, 1961

WEBSITE:
www.hk2a.com

SENIOR OFFICER:
Celine Ho (Chairperson)

sharing, purchases; professional practice, direct mail/direct marketing; new business presentations.

Code of Advertising Standards

The Association also endorses and supports in spirit as well as the letter, such codes of advertising standards as are laid down by the laws Hong Kong. The Association is also a self disciplining body. Any member found guilty of a contravention or non-compliance with the provisions of this Code will be penalised in accordance with Rules 9, 10, 11, 12 and 58 of the Rules of the Association. The Code below represents, briefly, the minimum standards to which the Association subscribes, and these are to be read in conjunction with prevailing Ordinances on the subject of advertising. The word “Advertisement” shall be construed throughout this Code in its broadest sense to embrace any form of advertising.

The general principle which will govern all advertising is that advertising shall be legal, decent, honest and truthful.

The Code of Advertising Standards deals with the following aspects:

A Presentation

- i An Advertisement shall always be truthful about what is offered and shall not be liable to misinterpretation by implication or because of omissions.
- ii No advertisement shall contain statements or visual presentations offensive to accepted standards of public decency and good taste.
- iii Advertisements must comply with the laws of Hong Kong.
- iv Advertisements shall be clearly distinguishable as such to avoid confusion with editorial matter.
- v Special production techniques or substitute materials used in advertisements to depict the advertised product shall not be used unless the resultant picture presents a fair and reasonable impression of the product and its effects.

B Descriptions and claims

- i No advertisement shall contain any descriptions, claims, or illustrations which directly or by implication mislead about the product or service advertised and in particular regarding the following matters:-

- a quantity (which includes length, width, height, area, volume, capacity, weight and number), size or gauge;
 - b method of manufacture, production, processing or re-conditioning;
 - c composition;
 - d fitness for purpose, strength, performance, behaviour or accuracy;
 - e any physical characteristics not included in the preceding paragraphs;
 - f testing by any person and results thereof;
 - g approval by any person or conformity with a type approved by any person;
 - h place or date of manufacture, production, processing or re-conditioning;
 - i person by whom manufactured, produced, processed or re-conditioned; and
 - j other history, including previous ownership or use.
- ii Special attention should be paid to the advertising of food and drugs, precious and semi-precious metals, medical products where specific requirements are set down by the law.

C Substantiation

- i All descriptions, claims and comparisons which relate to matters of objectively ascertainable fact should be capable of substantiation.
- ii No advertisement claim expressly stated to be based on, or supported by, independent research or assessment should be made, unless the member is in possession of evidence of such independent research or assessment.

D Testimonials

- i Testimonials used in advertisement shall be the testimony of competent, impartial persons containing no misstatement of facts or misleading implications and should reflect the current opinion of the authors. An advertiser shall not use fictitious testimonials, or testimonials originally given for products other than that currently offered by the advertiser. This will include testimonials making statements or claims which the advertiser knows to be incorrect. Members should ask the advertiser to supply a copy of the supporting evidence for any testimonial claim.
- ii Where an identifiable picture of a person is used in conjunction with a quotation commending an advertised product, the person shown should be the person whose words are quoted.

E Imitation

Devices or methods of advertising likely to create confusion in the minds of people as between products or services shall not be used. This relates to imitation of a competitor as to trade marks, packaging design, labelling of products, copy, layout, illustrations, advertising slogans, visual presentation, music or sound effects as to be likely to mislead or confuse.

F Comparative Advertising

Substantiated competitive claims inviting comparison with a group of products or other products in the same field are permissible under certain circumstances, provided that:-

- i It should be made clear with what the comparison is being made and that the differences being compared are true and can be proven.
- ii The subject matter of the comparison should not be presented to suggest a better bargain is being offered than is truly the case. Different weights, sizes, units of measurements, qualities and prices prevailing at different times, natural vs substitute products should be taken into account and comparisons made on an equivalent basis.
- iii Comparisons in all cases should be substantiated and supportable by research and/or other statistical evidence.
- iv Members should be aware of the legal implications of making comparisons between branded goods and named services rather than generic product groups or services.
- v Members should abide by principle that the comparison being made is fair and reasonable and that presentations in words and images do not disparage competitors.

G Disparaging Advertising

Whilst advertising which compares one product to a group of products is allowable in certain circumstances (see above) the Association does not permit its members to indulge in disparaging advertising. Disparaging advertising can be defined as advertising which seeks to compare a product or service to similar or other products or services in a way which is misleading, derogatory, false in implication or in fact. Advertising which implies that a competitive product is not fit for purpose is not allowable. Care should be taken when creating comparative advertising that facts are manifestly true and that proof is available of the comparative differences. When considering whether advertising is disparaging, the net effect of the total communication will be taken into account.

H Scientific and Medical Terms

- i All quotations from laboratory data statistics and containing scientific terms shall be taken from competent sources. Excerpts of data which distort or fail to disclose the true test results shall not be used in support of claims. Pseudo-scientific terms shall not be used in advertisements to make claims appear to have a scientific basis they do not possess.
- ii Testimonials by medical doctors, dentists, paramedical personnel including nurses, pharmacologists, physiotherapists, radiographers, and medical and dental technologists should not be used. Nor should any suggestion be made that a product or method of treatment is recommended generally by doctors, or approved by a particular hospital, unless the advertisement is intended only for publication in a bona fide medical journal.
- iii Special care should be taken where medical preparations, alleged cures and treatments are involved. Members are recommended to read the following for further clarification:-
 - a Pharmacy and Poisons Ordinance (Cap. 138)
 - b Undesirable Medical Advertisement Ordinance (Cap. 231)
 - c Medical Registration Ordinance (Cap. 161)
 - d Antibiotics Ordinance (Cap. 137)
 - e Dangerous Drugs Ordinance (Cap. 134)

I Tobacco Advertising

- i All cigarette advertisement shall bear the appropriate health warning and tar designation of the cigarette being advertised.
- ii No children or juvenile shall participate in presentation of advertisements relating to tobacco and in particular, parents featured as smoking in the presence of children.
- iii Members are cautioned to comply with the requirements under the Smoking (Public Health) Ordinance (Cap. 371) and the Television Advertising Standards

J Alcohol Advertising

- i Advertisements of alcoholic drinks shall not associate drink with driving or dangerous machinery; specific warnings however may be used in these circumstances.
- ii Advertisements should not suggest that drinking has therapeutic benefits or convey the message that drinking is a prerequisite to relaxation.

- iii Advertisement themes to induce purchasing of certain brands because they have a higher alcoholic content shall not be used.
- iv Advertisement of alcoholic drinks shall be directed only to adult audience.
- v No children or juvenile shall participate in presentation of advertisements relating to alcohol, unless they form part of the natural background.

K Advertisements to Children

- i Advertisements directed to the primary attention of children shall contain nothing, in illustration or otherwise, which might result in harm, physically, mentally or morally, or which exploits their natural credulity. In particular, such advertisement shall avoid the portrayal of any of the following:-
 - a the commission of any crime, acts of violence or cruelty or sexual acts;
 - b circumstances of agony or anguish;
 - c children acting dangerously or showing a disregard for safety e.g. playing on the road, leaning out or climbing heights unattended, lighting fires or explosives, dealing with power supplies or complicated machinery, or handling unsafe material and chemicals.
- ii Advertisements should not encourage children to make themselves a nuisance in order to persuade others to buy the advertised products; nor should it suggest to children that if they did not buy the advertised product, or encourage others to do so, they will be failing in their duty, or lacking in their loyalty or liable to be held in contempt.
- iii Approximate prices of the goods portrayed in advertisements directed to children should be indicated.
- iv The sizes of the goods intended for children should be realistically portrayed in the advertisement.
- v Members shall comply with the comprehensive Television Advertising Standards on advertising to children for advertising in all media.

L Price Claims

Advertisements shall not contain exaggerated, fictitious price comparisons, nonexistent discounts or savings, or employ list prices known to be false or not current. All prices quoted shall be accurate and incapable of misleading by distortion or undue emphasis.

M Free Gifts

Except where the law prohibits use of the word “free” in advertising, goods or services offered without cost or obligation to the recipient may be unqualifiedly described as “Free”. The term “Free” can also be used conditionally where the offer requires the recipient to purchase some other item—provided all terms and conditions are accurately and conspicuously disclosed in immediate conjunction with the use of term “Free” and further provided that the article or service required to be purchased is not increased in price or decreased in quality or quantity. However, if the so-called free item is not an accessory, extra or duplicate but an essential component part of an article normally sold as a complete unit, then the term shall not be described as free in the advertisement.

N Guarantees

The word “Guarantee” is to be used according to its legal meaning. Wherever used, the terms of the guarantee are to be clearly stated - or information given as to where the full terms can be obtained.

O Special Claims

An advertisement shall not contain any reference calculated to lead the public to assume that the product advertised has some special ingredient unless the qualities and properties of this ingredient can be scientifically established. The use of hyperbole or frank exaggeration primarily intended to amuse or direct attention is permissible provided they are clearly to be seen as humorous or hyperbolic and are not likely to be understood as making literal claims for the advertised product.

P Mail Order Advertising

- i Advertisers shall be prepared to meet any reasonable demand created by their advertising and shall readily refund in full money to buyers who can show reasonable cause for dissatisfaction with their purchase or delay in delivery. Samples of goods advertised shall be available at the advertiser's place of business for public inspection during normal business hours.
- ii All mail order advertisements shall contain the following information:-
 - a the name and address of the advertiser;
 - b whether the advertiser will accept a return of the goods, and conditions of refund; and
 - c the period within which the advertiser undertakes to fulfil orders.

iii Advertisements for articles made of precious metals shall state the amount and fineness of the metal involved in the pieces on offer.

Q Swith Selling (Baid Advertising)

Advertisers shall ensure that merchandise of the quality or specification advertised is available prior to the advertising of such merchandise and that an adequate quantity or number of such goods shall be available to meet reasonable public demand having regard to the nature of the merchandise. Where it becomes clear that the advertised product is no longer available, immediate action should be taken to ensure that any further advertisements for the products are promptly amended or withdrawn.

R Instructional Courses

Advertising offering courses of instruction in trades or subjects leading up to professional or technical examinations shall not imply the promise of employment, or exaggerate the opportunities of employment or remuneration alleged to be open to those taking such courses; neither shall it offer unrecognised “degrees” or qualifications.

S Superstition and Fear

Advertisements shall not be framed in a manner as to exploit the superstitious or unduly play on fear to induce people to purchase goods or services.

T Social Responsibility

Advertising as far as possible should show social responsibility, and in particular:-

- i Advertisements should not disparage sectors of the society, whether by sex, race or creed.
- ii Advertisements should neither encourage nor condone violent or anti-social behaviour.
- iii Where the context admits, advertisements should seek to encourage civic duties and consideration for the public, e.g. throwing an emptied can or cigarette butt into a bin.

3 INDIA

Brief Summary of Advertising Self-regulation

The Advertising Standards Council of India (ASCI), established in 1985, is committed to the cause of Self-regulation in Advertising, ensuring the protection of the interests of consumers. The ASCI was formed with the support of all four sectors connected with Advertising, viz. Advertisers, Ad Agencies, Media (including Broadcasters and the Press) and others like PR Agencies, Market Research Companies, etc.

Main Activities of ASCI (SRO)

ASCI seeks to ensure that advertisements conform to its Code for Self-regulation which requires advertisements to be:

- Truthful and fair to consumers and competitors.
- Within the bounds of generally accepted standards of public decency and propriety.
- Not used indiscriminately for the promotion of products, hazardous or harmful to society or to individuals particularly minors, to a degree unacceptable to society at large.

ASCI propagates its Code and a sense of responsibility for its observance amongst advertisers, advertising agencies and others connected with the creation of advertisements, and the media.

ASCI encourages the public to complain against advertisements with which they may be unhappy for any reason and ensures that each complaint receives a prompt and objective consideration by an impartial committee Consumer Complaints Council (CCC) which takes into



The Advertising Standards Council of India

ADDRESS:

219 Bombay Market,
78 Tardeo Road, Mumbai 400034.

DATE ESTABLISHED:

October 31st, 1985

STATUS:

Non Profit

MEMBERSHIP:

Advertisers	133
Ad Agencies	92
Media Specialists	48
Others	25
TOTAL	298

SENIOR OFFICER:

Alan Collaco (Secretary General)

account the view point of the advertiser, and an appropriate decision is communicated to all concerned.

ASCI endeavors to achieve compliance with its decisions through reasoned persuasion and the power of public opinion.

ASCI is represented in all committees working on advertising content in every Ministry of the Government of India. ASCI's Code for Self-regulation in Advertising is now part of ad code under Cable TV Act's Rules. Violation of ASCI's Code is now violation of Government rules. ASCI's membership of The European Advertising Standards Alliance (EASA) ensures that it gets valuable advice, learning and even influence at the international level.

ASCI Members can avail of ASCI's free Copy Advice. In keeping with the best practices in Self-regulation, the main purpose of ASCI's Copy Advice service is to prevent problems before they happen; this benefits not only the advertiser, agency and media immediately concerned, but also the wider advertising industry, by avoiding complaints and promoting social and consumer responsibility.

Complaints Handling

ASCI has handled about 3300 complaints since its inception in 1985. There is an 80% Compliance Rate.

Appeals

The CCC Procedure provides for a Review of a CCC decision if all of the following conditions are satisfied:

- A written application for a Review is made within 2 weeks of receipt of a CCC decision.
- The application is accompanied by a payment of Rs.10,000/- as non-refundable fee for consideration of a Review of the CCC decision.
- The advertiser is in a position to provide additional pertinent information/material not submitted earlier, to ASCI.
- The advertiser has confirmed suspension of the offending Ad, pending review.
- The advertiser has given an undertaking in the review application, that he will accept and comply with the review decision.

Complaints of a same or similar nature, on the same or similar Ads, on which CCC decisions have been notified, will generally not be taken up for renewed deliberation by the CCC.

Sanctions

ASCI's Code for Self-Regulation in Advertising is now part of ad code under Cable TV Act's Rules. Violation of ASCI's Code is now violation of Government rules.

Other Activities

ASCI is represented in all committees working on advertising content in every Ministry of the Government of India.

Structure & Funding

Funding is based on Annual Membership Fees. Advertisers; Based on Annual Ad Spend. Media; Based on Annual Turnover. Ad Agencies; Based on Annual Revenue. Allied Professions; Based on Annual Turnover.

Codes

- ASCI's Code For Self-regulation in Advertising.
- Self-regulation Guidelines on the Advertising of Foods & Beverages directed at Children under 13 years of age.
- Guidelines on Advertisements for Automotive Vehicles.

4 INDONESIA

Brief Summary of Advertising Self-regulation

Self-regulation has been undertaken by advertisers, advertising agencies and the media and their respective associations in Indonesia based on the Code of Ethics containing the Code of Conduct and Code of Practice agreed to in 1981 and amended in 1996 and 2003.

The Code of Ethics covers all media, including the internet and cellular telephones, and encompasses all aspects of advertising, from the subject matter to the audience, from actors to messages conveyed. Every national advertising association or institution must participate in upholding this Code of Ethics among its members. Enforcement of the Code of Ethics is undertaken by the Dewan Periklanan Indonesia or Indonesian Advertising Council.

Membership

Advertisers:

- Indonesian Association of Advertisers (APPINA)
- Indonesian Association of Advertising Initiators and Patrons (ASPINDO)

Ad Agencies:

- Indonesian Association of Advertising Agencies (PPPI)



Dewan Periklanan Indonesia

ADDRESS:
Graha Niaga 20th Floor,
Jalan Jenderal Sudirman Kav. 58,
Jakarta 12190.

DATE ESTABLISHED:
September 17th, 1981

STATUS:
Non Profit Professional Organization

SENIOR OFFICER:
Harris Thayeb (Chairman)

STRUCTURE & FUNDING:
The Indonesian Advertising Council is headed by a Chairman and comprise members representing the above associations. Funding is provided by the member associations through annual dues and contributions.

Media Print & Non-Broadcast:

- Union of Newspaper Publishers (SPS)

Media Electronic:

- Association of Indonesian Private Television Stations (ATVSI)
- Association of Indonesian Local Television Stations (ATVLI)
- Televisi Republik Indonesia Foundation (Yayasan TVRI)
- Association of Indonesian Private Radio Stations (PRSSNI)

Others:

- Indonesian Association of Movie Theaters (GPBSI)
- Indonesian Association of Outdoor Media (AMLI)
- Indonesian Association of Production Houses

Codes

General Rules

Advertisements and advertising professionals must be:

- Honest, truthful and responsible.
- Compete in healthy manner.
- Protect and respect the public, does not degrade religion, culture, state and ethnic groups, and not against the law.

Television

- Advertisements on cigarettes, alcoholic drinks and adult products can only be aired from 21.30 to 05.00 hours.
- Advertisements which are identical cannot be shown back to back more than twice.
- Advertisements which show dramatization must contain the words: "This scene is dramatized."
- Advertisements which show dangerous scenes must contain the warning: "Dangerous scene. Not to be copied."
- Scenes which are not appropriate for consumption by under-five children and children must contain the words: "Parental Guidance" or a symbol of similar meaning.

Non-Broadcasting Media

- Print advertisements which appear similar to an editorial must contain the words: “Advertisement No.”
- Informative advertisements, including supplements, must be marked in accordance with the kind of informative advertisement, in a position which can be clearly read without any intention to hide it.
- Out of home advertisements cannot be placed to the extent that they obstruct part all of other out of home advertisements already placed in that location.
- Out of home advertisements cannot be or placed adjacent or very near an advertisement of a competitor’s product
- Out of home advertisements on alcoholic drinks can only be placed in locations with adult audiences.

Radio

- Advertising for cigarettes, alcoholic drinks and adults-only products can only be aired from 21.30 to 05.00 hours.
- Advertising materials which are identical cannot be shown back to back more than twice.
- Radio advertisements which use sound effects which generates very horrifying or disgusting imagination can only be aired at a proper time.

New Media (Internet/On-Line or Interactive)

- Advertisements cannot be shown in a way that inhibits the ability or convenience of the audience to browse and interact with the site.
- Must clearly show the address of the sender of the inhibits the ability or convenience of the audience to.
- Must give the reason why the receiver is sent the advertising message.
- Provide clear and easy instructions on how to no longer be sent the advertisement from the same address.
- Guarantee the rights and privacy of the person receiving the advertisement.
- For online/interactive media, advertisements do not:
 - ♦ request information on the audience beyond what is required;
 - ♦ do not use the information on the audience for purposes not related to the transaction; and
 - ♦ guarantee that the method of payment applied to the buyer is safe from wire-tapping or misuse.

Main Activities of SRO

- Enforce implementation of the Code of Ethics.
- Forge partnerships with the government and enhance the national advertising industry.
- Encourage associations and supporting institutions to adopt self-regulation.
- Address conflicts about the Code of Ethics among the members of different associations and institutions.
- Monitoring and give advise to advertisement which do not comply with the Code of Ethics.

Complaints Handling

The DPI will respond to public complaints in advertisements which violate the Code of Ethics. Advertisements which clearly violate the Code of Ethics will be asked to stop broadcasting and be given a certain deadline.

Appeals

The DPI will review complaints and hear the explanation given by those involved (advertiser/media) and obtain supporting evidence. The DPI will collect information and additional proof from other sources, after which it will decide to allow the advertisement as it is or to apply a certain sanction.

Sanctions

The form of sanctions towards violations will have the following severity and phase:

- Notice, up to two times
- Stoppage of broadcasting/publication or issuance of a recommendation to apply sanctions on the institution(s) in question or inform all interested parties.

For each violation, a time limit is given.

Other Activities

Supervision over the implementation of the Code of Ethics will made by monitoring institutions, observers or advertising overseers and the government and general public.

National Legislation

Laws e.g. Medicines (Advertising) Regulations; Trade Description Act, etc.

- Law No. 24/1997 on Broadcasting
- Law No. 8/1999 on Consumer Protection
- Decree of Minister of Health No. 386/Kes/SK/IV/1994 on Advertising Guidelines for over-the-counter drugs, traditional medicine, medical tools, cosmetics, household health products and food and beverages.

Categories of Advertising Prohibited by Law

- Advertisements which violate the national ideology, is subversive in nature or negatively refers to ethnic, religious, race and community groups.
- Advertisements which are pornographic in nature, show excessive violence and are culturally and religiously offensive.

5 JAPAN

Brief Summary of Advertising Self-regulation

- In 1953, private broadcasting started, the consumption boom occurred by postwar growth.
- In 1960, the number of false and exaggerated advertisements increases.
- In 1962, “The Premiums and Representations Act” was enacted.
- In 1962, “The Four Basic Consumer Rights” was declared. The consumerism gains power.
- In 1968, The Basic Consumer Protection Law was enacted.
- In 1970, “Japan Advertising Association” members inspected the American BBB and installation of “Self-regulatory Organization” was examined referring to British ASA.
- In 1973, the installation of the Self-Regulating Organization was resolved.

Structure & Funding

The organization consists of two tiered functions:

- **Management Function:** The Board of Directors, at the top of the management function, supervise the entire operation of JARO, with 50 directors chaired by President and three Vice-Presidents. They are named by the General Assembly and serve for two years at least. The advisory Panel of seven members gives advise to the Board, when necessary. Under the Board of Directors, the General Management Committee of 13 members oversees



Japan Advertising Review Organization, Inc. (JARO)

ADDRESS:

Tsukiji MK Bldg., 2-11-26, Tsukiji, Chuo-ku, Tokyo, 1040045.

CONTACT:

Tel: 81 3 3541 2811

Fax: 81 3 3541 2816

DATE ESTABLISHED:

October, 1974

STATUS:

Non Profit/Non Government

MEMBERSHIP:

Advertisers	428
Ad Agencies	181
Media Specialists	172
Media Print & Non-Broadcast	140
Media Electronic	22
Others	26
TOTAL	969

SENIOR OFFICER:

Masatoshi Murakami (President)

Masatoshi Ito, Masahiro Yamamoto and Kunihiro Mutamatsu

(Vice-President)

Hajime Shishido (Executive Director)

the general affairs of the organization; the Financial Committee of 14 members checks routinely the financial position of JARO; the Public Relations Committee of 13 members contrives a project to make JARO well known; and the Kansai Committee of 12 members considers specific matters in Osaka and the western area of the country.

- **Advertising Review Function:** The Advertising Review function is anchored by the Advertising Review Committee (ARC) which is comprised of 18 members who are at executive level in charge of advertising of the JARO member companies. The arc Chairman is appointed by President and selects his members. The ARC makes decisions as the official JARO finding on advertising controversies. The decision, called as a “Recommendation” or “Warning” usually urges the advertisers to modify or discontinue the ad claims questioned. A Recommendation or warning is drafted by one of five subcommittees under the ARC. The subcommittees each consist of about fourteen members of a junior director level representing the member companies.

Beside those Committee and subcommittees of ad review composed by the industry members, and in the wake of the Supreme Court in the judicial system, JARO sets the Final Review Panel (FRP) upon the ARC. The panel with quorum of eleven members (seven now in office) are commissioned by JARO President, who are persons of knowledge and experience outside the industry, reexamines the case to which the ARC could not bring a conclusion or in which either of the parties or both disagreed with the arc’s finding and makes its final and irrevocable decision.

The FRP also supervises the compilation of the case histories “Precedents”, by looking through the cases already settled and rereading the sentence of the recommendations thereof issued in the past.

Codes

JARO has no code but only five clause-principle of the ad review as a moral discipline and, when making examinations of a complaint, always uses and refers to the laws and regulations, as well as self-regulatory rules in the private sectors.

Main Activities of SRO (JARO)

JARO handles complaints and inquiries of advertising as its mandate. Due to its limited resources, however, it does not assume pre-clearance duties, but gives advice and information, on request, to anyone. JARO does not take any monitoring or investigative action on its own initiative, but

receives complaints from anyone. A complainant’s calling, letter or e-mail always triggers JARO to move.

Instead of mediation or arbitration, JARO follows the written materials only in any case, by looking into the advertising claims at issue and examining the statement of a complainant and the advertiser concerned. Its judgment is notified in written to both parties who are expected to pay regard for it.

If any party appealed against the finding, the case will be deliberated again by the ARC and, when appropriate, submitted before the FRP for final decision. Such cases have been recorded only a few.

After a case is closed, the copy of a Recommendation or warning will be sent to the parties and the relevant media for information. At the same time the advertiser will be requested to submit a future advertisement to JARO for confirmation.

JARO does not take sanctions against the advertisers which ignored a JARO finding, but only refers the case to the appropriate agencies and the media involved, when it is very likely to cause monetary or other damage to a substantial number of consumers. Such an occasion has not ever arisen.

Other Information and Activities

JARO maintains communication with public and private sectors so as to help them gain a deeper understanding of its role and to obtain their cooperation.

For the public sector, JARO routinely holds meetings with officers representing; ten Ministries, the municipalities around the Metropolitan Tokyo area and central and local consumer centers. For the private sector, JARO has a conversation with the representatives of; consumer advocate groups ad-related bodies and fair trade associations.

Under its restricted budget, JARO has traditionally relied on media members for its nation-wide publicity. Almost all of the broadcasters and newspaper publishers voluntarily donate time or space to make JARO more well known. If JARO had to pay for such advertising cost, it would have amounted to nearly 5.6 billion yen in 2008.

The JARO staff responds to the increasing requests from the public or business societies which want to know the role or function of JARO or about current issues of advertising. The staffers have traveled throughout the country to participate in the 44 meetings, training sessions and seminars held in 2008.

JARO holds a seminar every month to keep its members informed of current issues in the advertising industry and regulatory movements in the government.

The subject and a speaker addressing the internet advertising attract the participants recently.

Further, JARO issues a newsletter and a case report monthly, as well as a world report once a year. It also compiles the Precedential Report, a selection of the cases already closed and authorized by the Final Review Panel to be put on record as the "Precedents".

National Legislation

- Consumer Protection Fundamental Act: 1968 (issued by Prime Minister's office)
- Act Prohibiting Unfair Competition: wholly amended in 1993 by Ministry of Economy, Trade and Industry (METI)
- Act Against Unjustifiable Premiums and Misleading Representations: 1947 (issued by Fair Trade Commission)
- Broadcasting Act: 1950 (by Ministry of Internal Affairs and Communications)
- Outdoor Advertising Materials Act: 1949 (by METI)
- Food Sanitary Act: 1947 (by Ministry of Agriculture, Forestry and Fisheries)
- Pharmaceutical Act: 1960 (by Ministry of Health, Labour and Welfare)
- Act Concerning Quality Standards of Household Products: 1962 (by METI)
- Installment Sales Act: 1961 (METI)
- Door-to-Door Sale Act: 1976 (by METI)
- Act Concerning Housing and Land Transactions: 1952 (by Ministry of Land, Infrastructure, Transport and Tourism).
- Security Exchange Act: 1958 (by Ministry of Finance)
- Travel Agencies Act: 1962 (by Ministry of Land, Infrastructure, Transport and Tourism)

Categories of Advertising Prohibited by Law

- Prescription drugs (by Pharmaceutical Act, 1960)
- Investment solicitation by unauthorized persons (by Act Prohibiting From Accepting Deposit and Investment, 1954)
- Guns and swords (by Act Prohibiting From Possessing Guns, Swords and the Similar, 1958)
- Prostitution (by Act for Specific Entertainment Businesses, 1949)

6 KOREA

Brief Summary of Advertising Self-regulation

The *Korea Advertising Review Board* was created to establish advertising ethics and to have advertisers follow to company ethics and social standards, thereby promoting responsible advertising and establishing advertising ethics and self-regulation for the advertising industry.

Structure

General Meeting:

- Chairman; Committee of advertising deliberation standards (re-deliberation);
- 1st committee of advertising deliberation (spot).

Board of Directors:

- Executive secretary;
- 2nd committee of advertising deliberation (informercial);
- 3rd committee of advertising deliberation (prints).

Technical Expert Office:

- Planning office;
- Deliberation office;
- Planning & management team;
- Deliberation management team;
- Public relation team;
- Deliberation team 1;
- Deliberation team 2;
- Deliberation team 3;
- Deliberation team 4.



Korea Advertising Review Board

ADDRESS:
10F, Korea Broadcasting Advertising Corporation B/D, 7-11, Sincheon-Dong, Songpa-Gu, Seoul 138921.

CONTACT:
Tel: 82 2 2144 4300
Fax: 82 2 2144 4307

DATE ESTABLISHED:
March 27th, 1991

STATUS:
Corporation Aggregate

FUNDING:
Deliberation Fee

MEMBERSHIP:

Advertising bodies	26
Certification members (company members)	3568
Civic groups	23
TOTAL	3617

Codes

The items of deliberation standards from KARB are as follows;
Foods, health foods, medical supplies, medical instruments, cosmetics, agro-chemicals, alcoholic drinks, movies, school, institute, textbook, travel, tourism, mail order, etc.

Main Activities of SRO

- 1 Advertising Self-regulation & Control:
 - ♦ Broadcast censorship.
 - ♦ Monitoring of newspaper, broadcast, magazine & outdoor.
- 2 Censorship of Non-compliant Advertising and False Advertising:
 - ♦ Dispute control as a result of advertising censorship.
 - ♦ Censorship & Regulation of Dispute or Reported Advertising:
 - ♦ Arbitration of disputed or reported advertising by consumers, social groups, membership groups, clients and advertising owners.
- 3 Research & survey for Establish of Advertising Ethics:
 - ♦ Research & survey of a self-regulation and ethical systems about advertisement.
 - ♦ Consciousness survey of consumer and advertising agents about advertisement.
 - ♦ Publication (Monthly Advertising censorship).
 - ♦ Publication (An annual advertising general report and relation datas).
- 4 Advertising Guidance & Advice:
 - ♦ Guidance & advice for advertising messages to consumers.
 - ♦ Guidance & advice for quality advertising.
- 5 Assistance for Existing Advertising Regulations:
 - ♦ Assistance and control of advertising regulations by media and industry.
 - ♦ Aid in industry compliance to maintain and adhere to regulations.

Complaints Handling

A civil appeal of management committee for ad-complaints such as viewer complaints and discontent of inappropriate ad-expression.

Appeals

List of Civil Appeal

- Contents of applicant's disadvantage and inappropriate public interests.
- Contents of approval for commercial censorship.
- Others:
 - ♦ Complaints of advertising of broadcasting, newspaper, magazine.
 - ♦ Notice to unfair advertisement.
 - ♦ Uncomfortable of viewer's rights and interests and customer service.

Application

- Receipt & closing of censorship application:
 - ♦ Tuesday 14:00 closing: presentation on the same week Thursday meeting.
 - ♦ Thursday 14:00 closing (as for modified censorship): presentation on next Tuesday.
 - ♦ Friday 14:00 closing: presentation on next Tuesday.
- Documents for censorship application and application process (Seoul & Kyungki Metropolitan area):
 - ♦ 1 censorship application with on-line.
 - ♦ Advertisement material:
 - ♦ In case of TV movie advertisement (except for id-if necessary, need to submit 1 material): Analog or digital betacam tape,
 - ♦ 1 DVD/CD.
 - ♦ In case of radio advertisement: 1 cassette tape.

Sanctions (Advertising Censorship Procedure)

Deliberate Council 1, 2, 3

Membership admission with on-lined advertising censorship:

- Membership admission;
- Submission with documents related to membership certified (business enterprise certified as membership):
 - ♦ Copy for business certificate.
 - ♦ Original certificate for one's seal authorized by law.
- Membership certification: (Receiving advertisement of applicant for censorship):
 - ♦ Beginning censorship: Tuesday 14:00/Friday 14:00 receipt closing.
 - ♦ Censorship for revision: Tuesday, Thursday, Friday 14:00 receipt closing.
 - ♦ Preliminary censorship by the Secretariat (every Monday, Wednesday, Friday).
 - ♦ Based on the result of preliminary censorship, proposed to the 1st advertising censorship council.
 - ♦ Report "possible on-air" advertisement without any problems to advertising censorship committee.

1st Advertising Censorship Council

- Censorship & decision of presented item:
 - ♦ Every Tuesday, Thursday 16:30 opening.
 - ♦ Decision for possible on-air, conditional on-air, no on-air.
- confirmation on revised advertisements without any problems (possible on-air)

Deliberate Council 1, 2, 3

- Report censorship decision of the 1st advertising censorship council to applicant;
- Issue for censorship stamp note.

Categories of Advertising Prohibited by Law

- Tavern or bar for pleasure business by the Food Sanitation Act (2005. 12. 30 revised).
- Private detective service.
- Brokerage for the relationship of opposite sex.
- Related matters with superstition such as fortune telling, spiritualism, phrenological interpretation.
- Weapon, explosive substance, and imitation, etc.
- Gamble and similarly related bad acts.
- Advertisement related with smoking.
- Manufactured powdered milk, manufactured milk, nursing bottle, and nipple products.
- Publication & video contained by filthy something.
- Banking business without permission by finance law.
- Massage parlor.
- Classified ad for donation.
- Alcoholic beverages more than 17 per centages of alcohol.
- Edible spring water advertised by TV.

7 MALAYSIA

Brief Summary of Advertising Self-regulation

As advertising proliferated, there was more criticism leveled against it. Advertising is both lauded and criticized for the role it plays in selling products and influencing society. Although there were legislation and consumer protection agencies to protect consumers against unfair and misleading practices, advertisers, advertising agencies and the media owners got together to monitor their own practices. Out of this discussion the Advertising Standards Authority (ASA) was established in 1977 to provide independent scrutiny of the then newly created self-regulatory system set up by the industry. The ASA is the independent body responsible for ensuring that the self-regulatory system works in the public interest. The Malaysian Code of Advertising Practice was drawn up as the fundamental part of the system of control by which Malaysian advertising regulated its activities. The code is administered by the ASA. The Code contains principles describing the essence of good advertising. It covered both print and broadcast advertisements. In 2004 the Content Code was developed to deal specifically with electronic net worked medium. It is administered by the Content Forum, also an independent body.



Advertising Standards Authority Malaysia

ADDRESS:

Unit 706, Block B, Pusat Dagangan
Phileo Damansara 1, Off Jalan
Damansara, 46350 Petaling Jaya,
Malaysia.

CONTACT:

Tel: 603 7660 8535

Fax: 603 7660 8532

Email: asa@macomm.com.my

WEBSITE:

www.asa.org.my

DATE ESTABLISHED:

1977

MEMBERSHIP:

Trade associations representing
advertisers, ad agencies, media
specialists and print media make up
the constituent membership of ASA.

SENIOR OFFICER:

Y Bhg Tan Sri Dato' Seri Panglima
Abdul Kadir bin Haji Sheikh Fadzir
(Chairman)
J Matthews (Secretary)

Structure and Funding

- The ASA Committee is chaired by a distinguished personality and he/she shall not be from amongst the advertising or allied industries. The Council comprises three representatives from each constituent Member.
- Funding — the cost of administering the system is equally shared from amongst the constituent Members.

Codes

- The Malaysian Code of Advertising Practice for non broadcast advertising and the Content Code for the electronic net worked medium.
- The Malaysian Code of Advertising Practice contains general guidelines relevant to all advertisements as well as rules for specific sectors such as medicinal and related products and advertisements containing health claims, children and young people, etc.
- The Content Code sets out the guidelines and procedures for good practice and standards of content disseminated to audiences by service providers in the communications and multimedia industry. It includes a section on Advertisement.

Main Activities of ASA

- Complaints Handling — Basically the ASA handles complaints from competitors and consumers. All complaints from consumers are handled free of charge while competitors pay a complaint handling fee.
- Copy advice — the ASA Constitution provides that asa is prepared to offer advice to any advertiser, advertising agency or media owner who might be in doubt as to the interpretation of the Code
- Update of Code — the ASA Committee undertakes a periodical review of the Code to ensure that the Code is kept up to date with industry practices.

Complaints Handling

Complaints are investigated free of charge when lodged by consumers. They must be in writing and should be accompanied by a copy of the advertisement or a note where and when it appeared. Equal weight is given to the investigation of all complaints irrespective of their source. However, before approaching ASA, industry complainants should wherever possible endeavour to resolve their differences between themselves. Appeals against ASA adjudications should be in writing and accompanied by new evidence or demonstrate a substantial flaw in the conclusion reached by ASA.

Sanctions

A number of sanctions exists to counteract advertisements that conflict with the Code: the media may deny access to space or time; adverse publicity may result; recognition may be revoked by the advertisers/agencies professional association

National Legislation

The Code and the self regulatory framework that exists to administer them, were designed and have been developed to work within and to complement legal controls. They provide an alternative, and in some instances, the only means of resolving disputes about advertisements.

In Malaysian legislation exists for the marketing communications industry to adhere. The key ones are:

- Medicine (Advertisement & Sale) Act 1956 (revised 1983)
- Consumer Protection Act 1999
- Film Censorship Act 2002
- Indecent Advertisements Act 1953
- Food Act 1983/Food Regulations 1985
- Pesticides Act 1974
- Trade Description Act 1972

Categories of Advertisements Prohibited by Law

- Tobacco, cigarette and its accessories
- Alcohol in electronic media
- Pork Products
- Any form of gambling
- Pornography

8 NEW ZEALAND

Membership

Advertising agencies (through the Communications Agencies Association of New Zealand, advertisers (through the Association of New Zealand Advertisers and the New Zealand Marketing Association and the media via their industry associations – covering all mainstream media channels.

Structure and Funding

The ASA has 5.8 FTE staff and a budget of NZD\$800,000. It has two complaints boards and an appeal board to deal with complaints and a Board of Directors that deal with governance issues. The ASA is funded via a 0.05% levy on national advertising media placement costs collected from advertisers and remitted to the ASA via their advertising agencies. ASA members including the media also pay an annual subscription.



The Advertising Standards Authority (ASANZ)

ADDRESS:

Ground Floor, 79 Boulcott Street
PO Box 10-675, WELLINGTON

CONTACT:

Tel: +64 4 472 7852
Fax: +64 4 471 1785
Freephone: 0800 AD HELP
Email: asa@asa.co.nz

DATE ESTABLISHED:

The ASA in New Zealand began in 1973 and was formerly known as the Committee of Advertising Practice. The ASA was incorporated in 1990.

STATUS:

Incorporated society

SENIOR OFFICERS (2010):

Rick Osborne, CEO, CAANZ (ASA Chairman)
John McClintock, Executive Director
Magazine Publishers Assoc. (ASA Deputy Chairman)
Hilary Souter (ASA Chief Executive)

WEBSITE:

www.asa.co.nz

Main Self-regulatory Codes

Code of Ethics and subsidiary codes on Advertising to Children, Comparative Advertising, Environmental Advertising, Motor Vehicles, Financial Advertising, Alcoholic Beverages over 1.15%, People in Advertising, Food, Weight Management, Therapeutic Advertising, (i.e. medicines and treatments), and Gambling. There is a new Code for Naming, Labelling, Packaging and Promotion of Liquor and the Children's Code for Advertising Food.

The core rules are based on social responsibility and truthful presentation.

Scope of Codes

All media and liquor packaging and promotion.

Activities

- **Copy advice:** This is provided on an informal basis.
- **Pre-clearance:** ASA NZ does not pre-clear advertisements. However, advertising for branded liquor and medicinal products are pre-cleared by other bodies as part of the total self-regulatory structure. Television advertisements are also pre-cleared through one body.
- **Complaints handling:** Complaints, from consumers or competitors, should be in writing. They are first assessed to determine whether they raise an issue under the Code. After the advertiser, agency and media have been invited to respond to the complaint, complaints of substance are considered by the Board and a written adjudication is produced. All parties, including the media, are informed of the outcome.
- **Publication of decisions:** Decisions are published on the ASA NZ website, and released to the media.
- **Sanctions:** There is a request to the advertiser, agency and the media to remove the advertisement. These requests are invariably complied with. The media, are available to assist if the advertiser or agency indicate that they will not comply with the decision of the Complaints Board. The release of all decisions to the media is also a useful tool. ASCB decisions are regularly reported by a number of different media in New Zealand.

- **Other activities:** The ASA Chief Executive is involved in seminar presentations throughout the year to member organisations, non-members, schools and tertiary institutions. In addition, the ASA will make submissions to government agencies on matters relating to advertising self-regulation and also submit on relevant legislation or inquiries to select committees of the New Zealand House of Representatives. The ASA Secretariat also has responsibility for managing the codes review process.
- **National Legislation on Advertising:** There are over 50 pieces of legislation that impact on what you can and can't advertise or say in an advertisement. The following is a list of some commonly used statutes in this area - Fair Trading Act 1986, Securities Act 1978, Medicines Act 1981, Human Rights Act 1993, Gaming and Gambling Act 2003, Electoral Act 1993, Major Events Management Act 2007, Sale of Liquor Act 1989, Smoke-free Environments Act 1993, Weights and Measures Act 1987.

Categories of Advertising Prohibited by Law

- Tobacco

9 PHILIPPINES

Brief Summary of Advertising Self-regulation

Advertising self-regulation in the Philippines has been initiated and developed by various media and advertising industry associations, beginning with the declaration of martial law in the Philippines in 1972, which saw the formation of a “Mass Media Council”. This Council organized a number of meetings that ultimately resulted in the formulation of a Code of Ethics that was approved and ratified by all participating organizations in March 1974.

Meanwhile, the industry’s leading practitioners worked on a national self-regulatory organization (SRO), the Philippine Board of Advertising (PBA), which was established in May 1974. In August 1989, this organization was renamed as the Advertising Board of the Philippines (AdBoard), which reviewed the Code of Ethics, updated and improved it. A Trade Practices and Conduct Committee (TPCC) was then set up in 1992, tasked with the drafting of a comprehensive Manual that was subjected to numerous revisions in the 1990s. The 2006 edition of the TPCC Manual incorporates and reflects the changes suggested by various drafting and review committees.

(See website of the AdBoard (www.adboard.com.ph) for the full version)



Advertising Board of the Philippines

ADDRESS:
6/F DAO I Condominium
189 Salcedo St., Legaspi Village
Makati City.

CONTACT:
Tel: 02 818 6158/817 7724
Fax: 02 818 7109

DATE ESTABLISHED:
May, 1974

SENIOR OFFICER:
Mr. Oscar T. Valenzuela
(Executive Director)

Standards of Advertising

The Ads Standards Council Inc. has drafted a 28-page document on Standards of Advertising that apply to members of the following organizations:

- Philippines Association of National Advertisers.
- Association of Accredited Advertising Agencies.
- Kapisanan ng mga Brodkaster ng Pilipinas.

The Manual is organized into four articles, as follows:

- General Standards of Presentation; these cover:
 - ♦ Respect for country and the law.
 - ♦ Philippine standards and symbols.
 - ♦ Sex, profanity, obscenity and vulgarity.
 - ♦ Crime, violence and morbidity.
- Standards of Presentation for Consumer Protection and Safety; these cover:
 - ♦ General provisions.
 - ♦ Claims of product/service properties or characteristics.
 - ♦ Misleading presentations.
 - ♦ Price and terms.
 - ♦ Public safety.
- Standards for the Protection of Children; these cover:
 - ♦ Presentations.
 - ♦ Advertisements directed at children.
 - ♦ Use of children in advertisements.
- Other Standards of Presentation; these cover:
 - ♦ Disparagement.
 - ♦ Comparison advertising.
 - ♦ “Before” and “after” comparisons.
 - ♦ Use of “new” and “improved”.
 - ♦ Suggestive brand name advertising.

(See website of the ACRC for the full version of the ACRC Code and Manual)

Standards of Trade Practices and Conduct

The AdBoard has issued a document entitled “Standards of Trade Practices and Conduct in the Advertising Industry” to be monitored by its Trade Practices and Conduct Committee (TPCC).

This document spells out the following:

- Nature of trade practices in the advertising industry — good and bad practices.
- Conduct of trade in the advertising industry — good and bad conduct.
- Code of ethics for the advertising industry.
- Structural provisions — functions of the TPCC, its composition, meeting requirements, structure and powers of the technical sub-committee
- Standards for trade practices — general provisions, provisions for the advertising sector, and provisions for the advertising agency sector.

Among the general provisions are:

- These standards shall be guided by the principles of free enterprise and fair competition.
- All those engaged in the advertising trade shall treat each other as equals, and with mutual respect and consideration.
- People in advertising shall not receive, solicit and offer any form of remuneration other than what is legitimate and/or standard.
- Conflicts of interest should be avoided.
- Confidentiality of information should be maintained.
- Advertisers and advertising agencies should at all times seek to adhere to the Code of Ethics for the advertising industry.

Handling of Complaints and Appeals

Complaints and appeals regarding advertisements are handled by the Advertising Content Regulation Committee (ACRC), which was formed in 1984 following amendments to the By-Laws of the Advertising Board of the Philippines (AdBoard).

The system of advertising content regulation was established to form part of the implementation of the AdBoard Code of Ethics for Advertising, in the belief that advertising practitioners should protect their own industry through self-regulation. Consonant with this belief, the AdBoard encourages resolution of advertising issues/conflicts by practitioners themselves. The ACRC becomes involved only when mediation fails.

The ACRC has drafted a 72-page Manual of Procedures for Screening and Filing of Complaints and Appeals that consists of:

- 1 Statement of General Principles, as follows:
 - ♦ The paramount consideration is in the interest of the consumer.
 - ♦ Content regulation serves to safeguard truth in advertising.
 - ♦ It is meant to facilitate the production and placement of the advertisement.
- 2 Details about the ACRC — its organization, meeting requirements, screening panel, etc.
- 3 General provisions — general review guidelines, materials covered by regulations, materials exempted from regulations, pre-screening by the executive director, confidentiality of information, consistency, extension of disapproval, inhibitions and conflicts (between screening panel, advertiser and agency), and dealing with materials that do not have proper AdBoard clearance.
- 4 Pre-screening requisites — these refer to information required from the advertiser and relevant support documents.
- 5 Procedures regarding complaints; there are two types of complaints, i.e.:
 - ♦ Complaints by competitors against advertisements given prior approval by the Executive Director or by a Screening Panel and are already on air.
 - ♦ Complaints against advertisements raised by the government sector, consumers or the public in general.
- 6 Procedures regarding appeals — these are primarily appeals for reconsideration of decisions on advertisements that had been disapproved by the Screening Panel of by the main ACRC committee in a previous review.
- 7 Other ACRC policies — these cover pre-emptive rights, plagiarism, sanctions to presenters fabricating evidence, print materials under cease and desist order, etc.

Sanctions

The above document also spells out the various sanctions that can be imposed by the ACRC. Among them are:

- Sanctions to presenters fabricating evidence.
- “Cease and Desist Order.”
- Recall of clearance to air.
- Warnings.

IO SINGAPORE

Brief Summary of Advertising Self-regulation

Advertising Standards Authority of Singapore (ASAS) was started by the Consumers Association of Singapore. It was modeled after the British Advertising Standards Authority. It is the best example of industry self-regulation in Singapore. Its decisions are accepted by the industry and complied with. Multinational companies take it for granted that their advertising agency will comply with the advertising code Singapore Code of Advertising Practice (SCAP). Government agencies do give inputs but more in an advisory capacity. The final decision regarding the acceptability of an advertisement is carried by the ASAS Council.

Membership

- **Advertisers:** Singapore Advertisers Association, The (2AS).
- **Ad Agencies:** Association of Accredited Advertising Agents, Singapore, The (4AS).
- **Media Print and Non-Broadcast:** Association of Media Owners (Singapore) (AMOS).
- **Media Electronic:** Association of Broadcasters (Singapore).



Advertising Standards Authority of Singapore

ADDRESS:
170 Ghim Moh Road,
#05-01 Ulu Pandan Community Building, Singapore 279621.

DATE ESTABLISHED:
1973

STATUS:
Non Profit

FUNDING:
Deliberation Fee

SENIOR OFFICER:
CASE acts as the secretariat of ASAS.

MAIN ACTIVITIES OF SRO:
Self-regulation of Advertisements in Singapore.

CODES:
Singapore Code of Advertising Practice rev 2008.
General Rules—Non Broadcast

APPEALS:
Appeals are to ASAS. There is no body above ASAS.

INFORMATION AND ACTIVITY:
<http://www.case.org.sg/asasintroduction.html>.

- **Others:** Agri-Food & Veterinary Authority of Singapore, Consumers Association of Singapore, Direct Marketing Association of Singapore, Health Sciences Authority, Infocomm Development Authority of Singapore, Media Development Authority, MediaCorp Pte Ltd., Ministry of Health, Pharmaceutical Society of Singapore, Singapore Association of Pharmaceutical Industries, Singapore Medical Association, Singapore Press Holdings Limited.

Structure and Funding

- ASAS is funded by Singapore Press Holdings and MediaCorp.
- Together, the two entities have almost 90% of the adspend in Singapore.
- Government entities support through giving inputs on the products and services being advertised.
- The Consumers Association of Singapore is there representing consumers interest. Meetings are held at the CASE office. CASE started ASAS.

National Legislation

List of Acts

- Architects Act (Cap 12)
- Banking Act (Cap 19)
- Betting Act (Cap 21)
- Chit Funds Act (Cap 39)
- Common Gaming Houses Act (Cap 49)
- Consumer Protection (Trade Description and Safety Requirements) Act (Cap 53)*
- Contact Lens Practitioners Act 1995 (Cap 25/95)
- Currency Act (Cap 69)
- Employment Act (Cap 91)*
- Factories Act (Cap 104)*
- Indecent Advertisements Act (Cap 135)*
- Insurance Act (Cap 142)
- Maintenance of Religious Harmony Act (Cap 167a)*
- Massage Establishments Act (Cap 173)
- Medicines Act (Cap 176)*
- Medicines (Advertisement and Sale) Act (Cap 177)*
- Miscellaneous Offences (Public Order and Nuisance) Act (Cap 184)
- Moneylenders Act (Cap 188)
- National Library Board Act (Act 5 of 1995)*

- Newspapers and Printing Presses Act (Cap 206)*
- Parliamentary Elections Act (Cap 218)
- Penal Code (Cap 224)
- Presidential Elections Act (Cap 240A)
- Printers and Publishers Act (Cap 246)*
- Private Investigation and Security Agencies Act (Cap 249)
- Professional Engineers Act (Cap 253)
- Sale of Commercial Properties Act (Cap 281)
- Sale of Drugs Act (Cap 282)*
- Sale of Food Act (Cap 283)*
- Securities Industry Act (Cap 289)
- Media Development Authority Act (Act 15 of 1994)*
- Singapore Totalisator Board Act (Cap 305A)
- Smoking (Control of Advertising and Sale of Tobacco) Act (Act 10 of 1993)*
- Smoking (Prohibition on Advertisements) Act (Cap 309)*
- Telecommunication Authority of Singapore Act (Cap 323)
- Travel Agents Act (Cap 334)
- Undesirable Publications Act (Cap 338)*
- Vandalism Act (Cap 341) Categories of Advertising
- Prohibited by law

II TAIWAN

Brief Summary of Advertising Self-regulation

Introduction of the National Communications Commission (NCC)

In view of the global development of digital convergence and restructuring of regulatory authorities in various jurisdictions, as well as the integration of the authorities regulating the telecommunications and broadcasting sectors, Taiwan government held its 8th Strategy Research Board (SRB) meeting in 1998 and proposed the establishment of one regulatory body to oversee telecommunications, information and broadcasting sectors within an integrated framework.

The enactment of the Fundamental Communications Basic Act on January 7, 2004 and the National Communications Commission Organization Act on November 9, 2005, enabled the establishment of the National Communications Commission (NCC) on February 22, 2006, thereby creating a governmental body for the regulation of the telecommunications, information and broadcasting sectors.

The NCC is the first independent regulatory body of its kind in Asia, and works in step with global trends. The NCC performs the



National Communication Committee (NCC)

ADDRESS:

No. 50, Sec. 1, Ren-ai Rd.,
Jhong-Jheng District, Taipei City
10052, Taiwan (R.O.C.).

CONTACT:

Tel: +88 608 0017 7177/
+88 62 3343 7377/08 0017 7177
Fax: +88 62 3343 7379

WEBSITE:

www.ncc.gov.tw

INFORMATION SECURITY

& PRIVACY STATEMENT:

No. 16, Sec. 2, Ji-Nan Rd.,
Jhong-Jheng District, Taipei City
10054, Taiwan (R.O.C.).

Tel: +88 62 2343 3723

DATE ESTABLISHED:

January 7th, 2004:

The enactment of the Fundamental
Communications Basic Act.

November 9th, 2005:

The National Communication
Commission Organization Act.

February 22nd, 2006:

The establishment of the National
Communications Commission (NCC)

STATUS:

Non Profit Organization

SENIOR OFFICER:

Mrs. Peng, Bonnie (Commissioner)

above-mentioned duties objectively and professionally based on the two acts enacted for its establishment so as to ensure effective competition in the marketplace, protection of public interest, and elevation of national competitiveness.

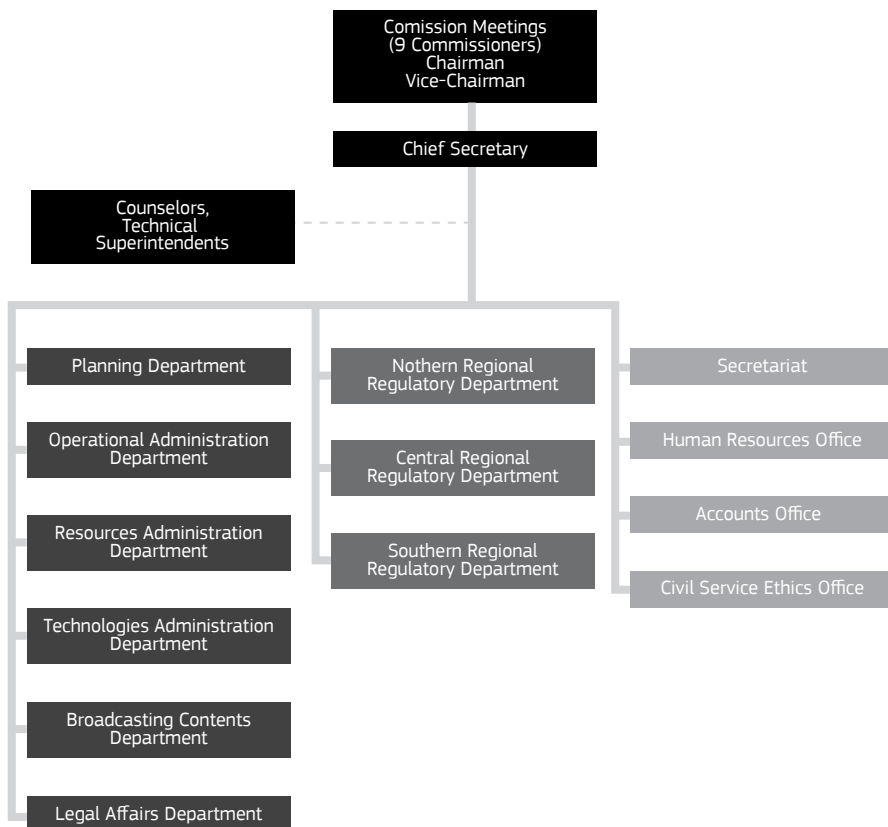
The convergence of the three sectors — telecommunications, broadcasting and information technologies and services — is increasingly evident. The NCC has assumed the roles as an integrator and a regulator of the nation's telecommunications industry. It is the objective that this integration and restructuring of the regulatory bodies will effectively remove the barriers between and among the three sectors thereby enabling fair competition and efficient interaction on a level-playing ground and accelerate of the development of related industries. The success of this project benefits the government, consumers, and operators in terms of technological advancement and industrial integration.

The primary objectives of the NCC are fourfold: (1) enhancement of effective competition in digital convergence, (2) promotion of sound development of the telecommunications and broadcasting sectors, (3) protection of public interests, and (4) promotion of cultural diversity and respect for the disadvantaged. These four objectives are based on (1) Article 1 of the Fundamental Communications Act, which prescribes, “facilitate technological convergence, encourage sound development of telecommunications and broadcasting sectors, safeguard the rights of citizens, protect consumer interests and promote cultural diversity,” and (2) Article 1 of the NCC Organization Act, which prescribes, “protect constitutional right to free speech; uphold the determination to have political parties, the government and the military withdraw from the media; promote sound development of telecommunications and broadcasting sectors; preserve the independence of the media; enforce effective regulations on telecommunications and broadcasting sectors; ensure fair and effective competition in the telecommunications and broadcasting markets; protect consumer interests and respect the rights of the disadvantaged; promote balanced development of pluralism; and elevate national competitiveness.”

The NCC consists of 7 full-time Commissioners. By internal election, a Chairperson, the representative of the NCC, and a Vice Chairperson are appointed. The term of office is four years for the Commissioners, with the possibility of one consecutive term.

The NCC performs the following duties:

- 1 Formulates regulatory policies, as well as drafting, revising, annulling and executing laws and regulations;
- 2 Monitors operations and issuing certificates and licenses;
- 3 Inspects systems and equipment;
- 4 Prescribes technical specifications;
- 5 Establishes standards related to transmission content ratings and others as stipulated by law;
- 6 Manages telecommunications and broadcasting resources;
- 7 Maintains trading order;
- 8 Establishes technical specifications and regulations on information and communications security;
- 9 Handles major industry disputes and consumer protection matters;



- 10 Handles foreign affairs and international cooperation and providing exchanges concerning telecommunications and broadcasting matters;
- 11 Manages funds related to telecommunications and broadcasting businesses;
- 12 Oversees, investigates and makes decisions on matters related to telecommunications and broadcasting operations;
- 13 Clamps down on and imposes punishments for violations of telecommunications and broadcasting laws and regulation; and
- 14 Supervises other telecommunications and broadcasting matters.

NCC Operation

- A NCC is separated from the Executive Branch with a total of seven full-time Commissioners serving four-year term.
- B Its Chairperson and Vice-Chairperson are elected by the Commissioners themselves.
- C The Commissioners supervise all NCC activities, delegating responsibilities to operating departments and supporting offices.
- D Decisions of the Commission Meeting:

- Collegiate system.
- Resolutions on the matters discussed shall be voted by majority of the Commissioners, however, usually in consensus.
- If any Commissioner has a concurring opinion or dissenting opinion concerning the resolutions of a Meeting, he/she may request to attach such opinion in the minutes, to be published as reference.
- 561 employees.
- Budget:
 - ♦ Remuneration of employees; government appropriation;
 - ♦ Regulatory activities: funded by a per centage of income from regulatory fees (excluding auction revenues) at a rate of 5%~15% of total fees – 7% was approved for 2007 by the Executive Yuan.
- Organization of Internal Unit:
 - ♦ 6 department;
 - ♦ 4 supporting offices;
 - ♦ 3 regional supervisory department;
 - ♦ A telecom police brigade from Ministry of the Interior (MOI).

Duties, Missions and Authorities of NCC

Duties of NCC

- Accommodating the convergence of technology.
- Promoting the sound development of communications.
- Safeguarding the rights of citizens.
- Protecting the interests of consumers.
- Promoting cultural diversity.

Missions of NCC

- Promoting the healthy development of communications.
- Preserving the independence of the media.
- Exercising regulation on communications effectively.
- Ensuring fair and effective competition in the communications market.
- Protecting the consumer and respect the rights of the disadvantaged.
- Promoting the balanced development of cultural diversity.

NCC Authorities

- Developing regulatory policies & regulations.
- Processing applications for licenses.
- Overseeing communications operations.
- Regulating content of broadcasting.
- Assigning radio frequency and numbers.
- Setting engineering and technical specifications and conducting type-approval.
- Setting info-communications security standards and regulations.
- Protecting consumers' interests.
- Engaging in international matters relating to communications operation.

Codes

General

- National Communication Commission Organization Act
- Telecommunications Act

Broadcast/Radio

- Fundamental Communications Act
- Cable Radio & Television Act
- Radio & Television Act
- Satellite Broadcasting Act

Non-Broadcast

- TV Commercial Production/Broadcasting Regulation
- TV Commercial Censorship Regulation
- TV Program Commercialised/Placement Rule
- Public Advertisement Censorship Regulation

12 THAILAND

Brief Summary of Advertising Self-regulation

In response to the government regulation, which has granted professional associations the authority to monitor and regulate their own performance rather than be controlled by the government itself, The Advertising Association of Thailand together with a network of academics from various universities worked together to create a self-regulation process model, which is based from practice in 22 European countries (EASA). Prior to implementation 6 networking sessions have been conducted with participants representing advertisers, government agencies, consumers, academics, students, and interested members of the public. The results have been used to modify the self-regulation model to fit the Thai advertising industry context.

Also, the Advertising Code of Ethics was revised to apply to advertising in all media.

Structure and Funding

The Advertising Association of Thailand is the governing body that is in charge of advertising self-regulation. The funding is based on the membership fee from the advertising agencies.

Based on the Advertising Code of Ethics advertising agencies have to observe the code of ethics in the development of the advertising execution



The Advertising Association of Thailand

ADDRESS:

12/14 Prachaniwet 1 Rd.,
Latyao Chattuchak, Bangkok 10900.

CONTACT:

Tel: 006 591 6461

Fax: 662 589 9470

WEBSITE:

www.adasso thai.com

MEMBERSHIP:

Advertisers	17
Ad Agencies	50
Media Specialists	5
Others	8
(University Representatives)	
Individuals	70
TOTAL	150

DATE ESTABLISHED:

2007

STATUS:

Non Profit Organization

SENIOR OFFICER:

Wittawat Chaiyapanee (President)

Niwat Wongphrompreeda, Ph.D.

(Secretary General)

in all media. The only exception is the censorship process of television media because of its relatively large impact to society and the readiness of the process, which has existed under a prior censorship law.

Under this monitoring process for television advertising agencies are required to submit advertising prior to broadcast to the Television Censorship Board (TCB).

The TCB conducts both a pre-censor, which is before production of advertising spot, and post-censor, which is after the finished spot has been made according to pre-censor approval.

The TCB consists of representatives from all commercialized TV stations, plus representatives from the Advertising Association of Thailand.

TCB will evaluate television advertising based on related laws and regulations, as well as the Advertising Code of Ethics.

The Advertising Code of Ethics

Basic Tenets

- All advertising should be legal, decent, honest, and truthful.
- Advertising should not be in conflict with public morals.
- Every advertising should be prepared with a due sense of social responsibility and should conform to the principle of fair competition, a general acceptance in business.
- No advertising should impair public confidence in advertising.

Details of Practice

- Practice within the limits of standard practice under the rule of law.
- Should not perform any action that will damage the reputation of the industry.
- Be socially and morally responsible.
- Should not create advertisements that degrade any religion or belief held by the public.
- Should not create advertisements that distort the facts about the product or service or over exaggeration of the qualities that may mislead consumers.
- Should not create advertisements that use superstition and belief in luck to motivate consumers.
- Should not create advertisements that copy the logo, slogan and message from other advertisements that may mislead consumers in the identification of the product.

- Should not create advertising that uses statistics and results of scientific research in ways that will mislead consumers about the benefits of the product.
- Should not create advertising that makes references to people or institutions that do not exist or have not used or tested the product.
- Should not create advertising that may be harmful to youth by taking advantage of their lack of knowledge to exploit and abuse them.

Main Activities of SRO

The Advertising Association of Thailand organizes training and workshops in member agencies every year to develop an understanding based on the laws and code of ethics. In addition government agencies would be invited to hold seminars to inform the advertising agencies of the changes in regulations and how it may affect the communications.

Complaints Handling

Should any claims of misconduct be made, the association will consider all claims provided it is made in writing. Once a complaint is made the Committee for Ethical Practice will be called in session to consider the matter. The ruling of the committee will be communicated to the agency and the media. The advertising agency will consider further action such as removing the advertising that is in question from the media, or making necessary correction.

The Advertising Association of Thailand has many channels through which it can receive complaints. The channels include mail and e-mail. The only requirement is that this complaint must be made in writing accompanied by the full name and address to verify the authenticity of the claim. The Advertising Association has the duty to verify all of the claims made.

The committee consists of the representatives from five groups as follows:

- Representatives from consumer group.
- Representatives from advertising association.
- Representatives from media group.
- Representatives from academic group.
- Representatives from the marketing association.

Each group appoints three representatives and having a term of two years. The member will alternate in their attendance of the case consideration.

The Committee is deemed to be completed only when at least one representative is present from all five groups.

The Judgment

The Committee for Ethical Practice will make the decision based on the code of ethics and the advertising agency will be informed of the ruling. The decision of the committee will be based on the majority of votes. The types of action that can be taken include stopping the advertising release in the media.

Appeals

The advertising agency has the right to appeal for a new decision in the case that they do not agree with the judgment, having new evidence, or new argument. However, this appeal must be made within 5 working days from the day that the committee informed the company of the ruling.

The appellate committee will be made up of the same composition of members as the first committee that considered the case. However, each group must send a different representative to the appellate committee.

Once the considerations have been completed. The association will inform the advertising agency of the results of the judgment.

Sanctions

In case the judgment made by the committee has been violated, the association will issue a written warning to the advertising agency. Should the practice continue the committee has the right to issue an appropriate measure to sanction that advertising agency.

The methods of sanctions are as follows:

- Request cooperation from the media to ban the advertisement.
- Disseminate the committee's judgment through the media.
- Removal of membership privileges given by the association.
- Withdraw membership status from the association.

Information and Activity

Whenever there are any new developments in the government regulations and policies, the Advertising Association of Thailand would send a letter informing all member agencies. This will keep all members abreast of the changes that are happening.

National Legislation

- Broadcasting Act 2008
- Consumer Protection Act 1998
- Medicine Act 1967
- Food Act 1979
- Medical Equipment Act 1988
- Cosmetic Act 1992
- Mental disorientation Drugs Act 1975
- Tobacco Act 1992
- Other regulations would control specific industries such as hospitals, medical care and financial services.

Categories of Advertising Prohibited by Law

- Total ban on tobacco products.
- In the case of alcoholic beverages, the content of advertising must be social contribution in the form of corporate advertising. In the case of television advertising the time of airing is only after 10 pm.
- In the case of energy drinks, there are no limitations of time but the advertisement can only be in the form of corporate image.

GLOSSARY OF TERMS AND ACRONYMS

A

AAAA	Association of Accredited Advertising Agents.
AAT	Advertising Association of Thailand.
ABC	Audit Bureau of Circulation.
Ad Alert	Communication issued by an SRO to alert authorities and advertising industry officials about evidence of fraudulent or unethical activity by an advertiser who cannot be located.
AdAsia	Congress of Advertising Association and Agencies in Asia.
AFAA	Congress of Advertising Association and Agencies.
AMIC	Asian Media Information and Communication Centre; regional communications research and training organization based in Singapore.
APEC	Asia-Pacific Economic Caucus/Cooperation, a regional association.
ASA	Advertising Standards Authority of Malaysia.
ASAS	Advertising Standards Authority of Singapore.
ASC	Advertising Standards Council Philippines.
ASCI	Advertising Standards Council of India.
ASEAN	Association of South-East Asian Nations.
ASTRO	Malaysia's satellite television subscriber service.

B

Blog	Also known as weblog, a form of personalized communication on the Internet.
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C

Cable TV	Television signals carried to households by cable and paid for by subscription.
CASE	Consumer Association of Singapore.
CFM	Communications and Multimedia Consumer Forum of Malaysia.
CMA	Communications and Multimedia Act in Malaysia.
CMCF	Communications and Multimedia Content Forum in Malaysia.
Consumer Advocates	Individuals and groups who actively work to protect consumer rights.
Consumer Complaint	Complaint about an advertisement by a member of the public or from a consumer organization.
Consumer Redress	The process established to resolve disputes between consumers and traders.
Copy advice	Advice on a proposed advertising campaign provided by a regulatory body, usually on a non-binding basis.
Co-regulation	System of regulation combining statutory and self-regulatory elements, and sometimes involving other stakeholders, e.g. consumer associations.

D

Denigration	Disparaging reference(s) to competitors or other advertisers, their products or services.
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DPI

Dewan Periklanan Indonesia
(Indonesian Advertising Council).

E

EASA	European Alliance for Standards in Advertising.
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F

FCC	Federal Communications Commission (in the US).
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FDA	Food and Drug Administration (in the US).
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FINAS	National Film Development Board of Malaysia (Perbadanan Kemajuan Filem Nasional Malaysia).
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FOMCA	Federation of Malaysian Consumers Associations.
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FTC	Federal Trade Commission (in the US).
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G

GCC	General Consumer Code of Practice for the Communications and Multimedia Industry of Malaysia.
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H

Halal	Food/drinks/products that can be consumed, eaten or used by Muslims; usually with certification by an appointed authority.
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I

IAA	International Advertising Association.
ICT	Information and Communication Technology.
IDA	Infocomm Development Authority of Singapore.
IMF	International Monetary Fund.
INDOSAT	Indonesian Satellite Consortium.
Infomercial	A TV commercial which contains a lot of information.
Internet	A worldwide network of computer systems that facilitates international electronic communication.
IT	Information technology.
ISA	Internal Security Act (in both Singapore and Malaysia).
ISP	Internet Service Provider.

J

JARING	Malaysia's first ISP.
JARO	Japanese Advertising Regulatory Authority.
Jingle	A musical commercial usually sung with a sales message.
Jury	Group within an SRO responsible for deciding on complaints, also referred to as the complaints committee.

K

KARAB	Korea Advertising Review Board.
KDN	Kementerian Dalam Negeri (Ministry of Internal Affairs Malaysia) permit for print media publishers.
KIS	Knowledge and Information Society.

L

LPF	Film Censorship Board (Lembaga Penapisan Filem) Malaysia.
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M

MAA	Malaysian Advertising Association.
MCMC	Malaysian Communications and Multimedia Commission.
MDA	Media Development Authority of Singapore.
MDeC	Multimedia Development Corporation in Malaysia.
MEASAT	Malaysian East Asian Satellite Consortium.
Media Refusal	Refusal by media to accept and advertisement, usually at the request of an SRO.
MICA	Ministry of Information, Communication and The Arts in Singapore, formerly known as MITA.
MIMOS	Malaysian Institute of Microelectronic Systems.
MoHA	Ministry of Home Affairs Malaysia.
Monitoring	Examination of advertisements by a regulatory body to ensure that they comply with codes of practice or legislation.
MSC	Multimedia Super Corridor in Malaysia.

N

NCC	National Communications Commission (Taiwan).
NITC	National Information Technology Council in Malaysia.

O

OECD	Organization for Economic Cooperation and Development, a regional grouping of countries.
OPEC	Organization of Petroleum Exporting Countries.
OSA	Official Secrets Act (in both Singapore and Malaysia).

P

PANA	Philippines Association of National Advertisers.
PPPA	Printing Presses and Publications Act (in both Singapore and Malaysia).
Pre-clearance	Examination of an advertisement by a regulatory body—usually a compulsory pre-condition before it is published or transmitted.

R

RTM	Radio-Television Malaysia.
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S

Sanction	The primary means of enforcing compliance with the ruling of a regulatory body.
SBA	Singapore Broadcasting Authority.
SRO	Self-regulating organization.
Statutory Authority	Government or public body responsible for the enforcement of legislation or codes.
Statutory Code	Code that has the force of law and/or is enacted by legislation or by a governmental authority.
Substance	A complaint that has evidence of a breach of the code and raises an issue that requires investigation.
Substantiation	Evidence that supports claims made in an advertisement.

U

UNESCO	United Nations Educational, Scientific and Cultural Organization.
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V

Vision 2020	Vision for Malaysia to achieve developed country status by the year 2020.
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W

WTO	World Trade Organization.
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ACKNOWLEDGEMENTS

- Advertising Board of the Philippines
- Advertising Council of India
- Asian Federation of Advertising Associations
- Dr. Sankaran Ramanathan
- Figtree Design Sdn. Bhd.
- International Advertising Association – Asia Pacific
- Japan Advertising Federation/IAA Japan Chapter
- Komisi Periklanan Indonesia/IAA Indonesia Chapter
- Korea Federation of Advertising Associations/IAA Korea Chapter
- Macomm Management Services Sdn. Bhd.
- Malaysian Advertisers Association/IAA Malaysia Chapter
- Professor Ang Peng Hwa, Vice President,
Consumers Association of Singapore
- Taipei Association of Advertising Agencies/IAA Taipei Chapter
- The Advertising Association of Thailand

ABOUT THE AUTHOR

Dr. Sankaran Ramanathan is an internationally recognised Asian Communications Scholar and writer whose works are cited in Google. Queries, comments and suggestions are welcome via email – mediaplusconsultancy@hotmail.com.

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