International Guide to Developing a Self-Regulatory Organization

Practical Advice on Setting up and Consolidating an Advertising Self-Regulatory System

icas

International Council
for Ad Self-Regulation

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Introduction

Advertising Self-Regulation has been around for more than a century. By committing to voluntary Standards and actively monitoring compliance with these, the industry works to ensure that advertisements are legal, decent, honest and truthful. Ads must be prepared with a due sense of responsibility to the consumer and society, with respect to the principles of fair competition.

Ad Standards are supported by the three pillars of the industry: the advertisers who pay for advertising[1], the advertising agencies responsible for its form and content, and the media that carry it. To enforce the standards, a system must be set up to ensure that non-compliant ads are quickly corrected or removed.

An independent Self-Regulatory Organization (SRO), funded by the industry itself, is typically at the heart of this system. Setting up an SRO is however a challenging task requiring a lot of dedication, diplomacy, discipline, perseverance and enthusiasm. The support of all segments of the industry is particularly critical for the success of the enterprise.

The International Guide to Developing a Self-Regulatory Organization provides some practical tools and tips to those wishing to set up an effective Self-Regulatory System in their market, as well as to those wishing to improve or future-proof an existing SRO. We hope that it will also be useful to anyone with a professional interest in the Regulation and Self-Regulation of advertising and marketing communications.
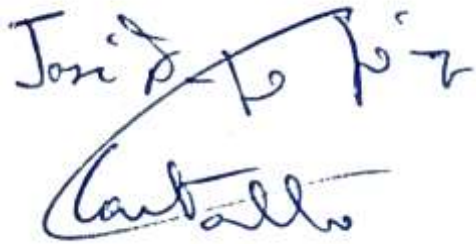
We all know that there is no "single formula" for an effective Self-Regulatory System. Every market has its own specificities. Both the substance of the Standards and the design of the SRO must be tailored to the local advertising ecosystem, as well as to the legal, economic, social and cultural environment.

The present Guide should therefore be seen as a toolbox rather than as a normative set of recommendations. This third edition builds on the experience of the global network of the International Council for Ad Self-Regulation (ICAS). It owes a lot to several individuals who have contributed to the first edition in 2009, and the second edition in 2014. I would like to thank them all for their efforts, in particular Fiona Jolly, ICAS Vice-President and CEO of the Australian Advertising Standards Bureau, Linda Nagel, former CEO of Ad Standards Canada, Raelene Martin, Policy Manager at the International Chamber of Commerce, and Oliver Gray, former Director General of the European Advertising Standards Alliance.

We will continue updating this Guide as required to make it as relevant as possible to the global advertising community. Any suggestions of improvements or complements for future editions are more than welcome and can be sent to the ICAS Secretariat at info@icas.global.

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[1] In some cases, an advertiser may not have to pay a monetary amount for advertising space (e.g. gifts, prizes).

Over the past decade, ICAS has grown into a truly global network that covers more than 35 countries. If your country is not yet a member of our network, or if you are just starting to build the capacity to effectively self-regulate, we invite you to contact us and join our ranks. Through mutual co-operation and sharing of insights, we can continue to serve the public and the industry through effective, responsible and customer-friendly mechanisms for Advertising Self-Regulation.

José Domingo Gómez Castallo
ICAS President

About ICAS

The International Council for Ad Self-Regulation is a global platform promoting effective Advertising Self-Regulation. ICAS members include Self-Regulatory Organizations (SROs) and other national, regional and international bodies working to ensure that ads and marketing communications are legal, honest, truthful and decent.

To find out more, visit https://icas.global

ICAS Annual General Meeting in Athens, Greece, 8 May 2017

About this publication

The objective of this publication is to provide a source of reference at global level for those markets working to develop an efficient Self-Regulatory System for implementing Advertising Standards. It does not offer a ready-made model but rather a series of tools and advice allowing each market to determine how best to achieve the benefits of Self-Regulation while taking local circumstances into account.

This 3rd edition builds on the success of the previous two editions of the Guide, issued in 2009 and 2014 as a joint initiative of the European Advertising Standards Alliance (EASA), the World Federation of Advertisers (WFA), and the International Advertising Association (IAA), with the support of the International Chamber of Commerce (ICC) and the International Alliance for Responsible Drinking (IARD, formerly ICAP).

1 | Advertising Self-Regulation Explained

The Importance of Effective Self-Regulation

Advertising plays an essential part in all market economies. It stimulates growth and innovation, encourages competition and increases consumer choice. It is a swift and efficient means of making consumers aware of product innovations and keeping them informed of the range, nature and quality of the products and services available to them. Advertising has an important role to play in maintaining or increasing market share and is vital for the introduction of new products and services and the improvement of existing ones. It is also closely associated with the value of brands, therefore making responsible advertising essential.

Advertising not only informs people of products, services and brands, but also provides an indispensable life line for the creation of free or low-cost television and radio shows, digital, magazine and newspaper content, to name a few. To fulfill this important task, advertising must have a high-level confidence from consumers and governments. It must be legal, decent, honest and truthful.

If consumers are misled by advertising, they will not buy again. If it offends them, they are unlikely to buy in the first place. Even though 'bad' advertising only accounts for a small percentage of the whole, it works to undermine consumer confidence and, as a result, all advertising suffers. If policy makers feel that consumers are misled, offended or influenced in an irresponsible way by advertising, they will feel responsible to create detailed legislation restricting certain types of advertising, or possibly ban them entirely.

It is, therefore, in the interest of all those in the advertising industry, be it advertisers, advertising agencies or the media, to ensure that advertising follows a set of rules allowing it to be practiced responsibly. This is traditionally done through Self-Regulation, a system that works within the framework of existing legislation.

What is Self-Regulation?

Self-Regulation is a system whereby the industry actively regulates itself. In the advertising sector, it means that market players join forces to promote truthful and responsible advertising, with respect to the principles of fair competition. Market players typically include the three parts of the industry: advertisers, agencies, and the media. After developing

common standards, they set up a system to ensure that advertisements that fail to meet those standards are quickly corrected or removed.

In other words, the advertising industry voluntarily agrees to observe Standards or Principles of Best Practice. Compliance with these rules is monitored by an independent Self-Regulatory Organization (SRO) set up for this purpose and funded by the industry itself.

Self-Regulation exists in most regions around the world. In some jurisdictions, it has been in place for decades. It takes a wide variety of forms in different countries, but its underlying ethos is always the same: advertising should be legal, decent, honest and truthful, prepared with a due sense of responsibility to the consumer, society, and the environment, and with proper respect for the principle of fair competition. Although in some countries advertising is subject to so much detailed legislation that the scope left for Self-Regulation is quite narrow, elsewhere legislation is limited to providing a broad framework, and advertising content is efficiently regulated and enforced by SROs.

Self-Regulation: The Benefits

The primary focus and benefit of Advertising Self-Regulation is to improve the welfare of consumers. By providing a fast and efficient mechanism for removing misleading or otherwise inappropriate ads, Self-Regulation can help ensure that consumers receive the full value of advertising while providing a quick and often cost-free system to handle complaints about individual ads.

In addition to its benefits to consumers, Self-Regulation also benefits the advertising industry. On average, between 30% and 50% of a company's market capitalization is represented by its brand reputation, which is why consumer trust in the brand is crucial to corporate success.[2] Advertising Self-Regulation, through the promotion of responsible advertising, helps build consumer trust in brands, which in turn builds brand loyalty, increases sales, and strengthens market share. Maximized returns on long term investments on advertising benefit not only advertisers but also agencies and the media, who will see a higher demand for creative yet responsible advertising.

Advertising Self-Regulation can also provide benefits to governments by providing workable compliance standards and complementing legislation. When looking at advertising, legislators may not fully grasp the full impact of certain laws they pass on the industry. Due to its unique expertise, the advertising industry is well placed to develop appropriate responses to some of the crucial challenges around social responsibility while avoiding unnecessary market distortions. Companies respond well to rules which are more appropriate and proportionate. By involving the industry in the development of rules governing advertising, buy-in is increased, with a positive influence on the level of compliance.

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[2] Source: WIPO (2013), *World Intellectual Property Report 2013: Brand - Reputation and Image in the Global Marketplace*, Table 1, p. 10: http://www.wipo.int/publications/en/details.jsp?id=384

Moreover, for policy makers, Self-Regulatory Ad Standards provide an additional layer of consumer protection that complements the legal framework. In some markets, Self-Regulatory bodies help avoid problems before they happen by providing copy advice. They keep track of key concerns about ads and take steps to address them when needed, while promoting consumer education and industry awareness.

Self-Regulation and Legislation

Self-Regulation is an alternative to detailed legislation, but not to all legislation. It is generally accepted that Self-Regulation works best within a legislative framework and, in some countries, it is considered useful for the concept of Self-Regulation and/or for the Self-Regulatory System to be formally recognized in the Law. This can help guarantee the independence of Self-Regulatory Organizations vis-à-vis statutory authorities.

The regulatory and self-regulatory approaches complement each other, like the frame and strings of a tennis racquet, to produce a result which neither could achieve on its own. The Law lays down broad principles, e.g. that advertising should not be misleading, while Self-Regulation, because of its greater flexibility and the fact that Standards are interpreted in spirit as well as to the letter, can deal quickly and efficiently with the detail of individual ads.

The legislative framework also creates a legal backstop that Self-Regulation needs to invoke when dealing with fraudulent and/or illegal practices as well as rogue traders, i.e. those operators who repeatedly refuse to abide by any laws or Self-Regulatory Standards.

In some countries, SROs may also support regulators by contributing to the enforcement of legal requirements, whether generic or sector-specific, and by reporting infringements or potential infringements to the relevant authorities. Such actions are however typically only undertaken as last resort when an advertiser refuses to comply with a decision of the SRO.
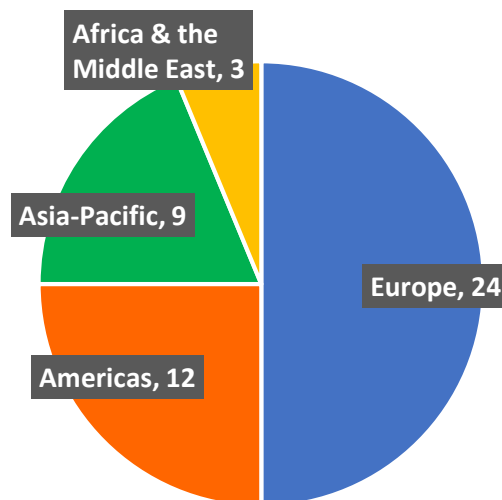
2 | The International Framework

International Development of Self-Regulation

Advertising and marketing communications must adapt to the local cultural and societal environment in each country. It makes sense for a Self-Regulatory System to be tailored to national specificities to ensure that it is relevant to the needs of its members and stakeholders.

In 2017, there were 48 SROs in the world, with several markets in the process of setting up a Self-Regulatory System. More than half of existing SROs are represented in ICAS, either as direct members, or indirectly through the European Advertising Standards Alliance (EASA), which is itself a member of ICAS. Chart 1 shows that Europe counts the highest number of SROs, followed by the Americas and the Asia-Pacific region.

Chart 1. Geographical split of SROs globally

Remark: For the purpose of this Chart and to avoid double-counting, Turkey has been counted in the region "Africa & the Middle East", although it is also part of Europe and Asia.

Cooperation at the regional level takes different forms, and is most institutionalized in Europe where EASA has been acting as the coordinating body for European SROs since 1992. 15 years later, the Latin American Network of SROs, CONARED, was created.

EASA

The European Advertising Standards Alliance is a well-established association representing 39 members, including SROs from 25 European countries and several industry associations representing marketers, agencies and the media. Its objective is to promote Responsible Advertising by providing detailed guidance on how to go about Advertising Self-Regulation for the benefit of consumers and businesses.

The EASA Charter and the EASA Best Practice Model are operational standards of reference for Advertising Self-Regulatory Systems, and the association is actively monitoring compliance with these Standards. EASA also provides a space for its members to work together to exchange information and address common challenges, making sure that Advertising Standards are futureproof.

The EASA Office, located in Brussels, Belgium, employs a small team of permanent staff working to service the needs of members, with a special focus on European policy developments. Over the years, EASA has managed to establish itself as a trusted partner for the European Union institutions and it continues to promote Ad Self-Regulation as a form of Better Regulation.

CONARED

CONARED is the Latin American Network of SROs. It is composed of 10 members which meet at least once a year to discuss challenges to Self-Regulation and opportunities for further developing Ad Standards in the region. Without a permanent Secretariat, CONARED is managed by volunteers from its membership and maintains close ties with ICAS and EASA.

At the global level, ICAS acts as the central representative body for SROs and other global players actively involved in the promotion of Advertising Self-Regulation. Historically, ICAS was created in 2008 as a sub-committee of EASA allowing non-European SROs to exchange best practices among themselves and with their European peers. In October 2016, members decided to launch a new ICAS, independent from EASA, and to give the network a truly global scope.

International Advertising Standards

The International Chamber of Commerce (ICC) has historically been leading international efforts to establish Key Principles and Codes of Practice. In 1937, the ICC adopted the first Code of Advertising Practice, which provides a global framework for responsible creativity and ethical commercial communications. The Code and its accompanying Guidelines are prepared by the ICC Commission on Marketing and Advertising Practice, which is composed of experts from ICC member companies, the marketing and advertising industry, legal advisors from industrial and commercial enterprises, private practice lawyers and representatives from a wide range of business organizations and professional associations.

Over the past 80 years, the Consolidated ICC Code on Advertising and Marketing Communications Practice has been revised nine times. A tenth revision is under way and should be finalized during 2018. These revisions are indispensable to ensure that the Code remains current and adapts to societal changes, as well as changes in marketing techniques and technology.

The current Code establishes some Basic Principles for all types of marketing communications such as the principles of honesty, decency, social responsibility, and truthfulness. Its five Chapters cover Sales promotion, Sponsorship, Direct Marketing, Digital Interactive Media and Environmental Claims. It is often considered as the global standard of reference and is used as a basis for many National Self-Regulatory Codes. The full text of the Code is available at http://www.codescentre.com/icc-code.aspx

The ICC has also developed a wealth of information on Self-Regulation for advertisers, agencies, academics and regulators. Its Codes Centre website contains downloadable translations, companion codes, training materials and links to national and sector-specific Codes around the world. Here are some of the complementary resources to the ICC Code:
- The ICC Framework for Responsible Marketing Communications of Alcohol;
- The ICC International Code of Direct Selling;
- The ICC Resource Guide for Self-regulation of Online Behavioral Advertising (OBA);
- The ICC Framework for Responsible Environmental Marketing Communications;
- The ICC Framework for Responsible Food and Beverage Marketing Communications;
- The ICC/ESOMAR International Code of Marketing and Social Research Practice.

The ICC is also involved in various educational initiatives aimed at raising awareness about the ICC Code and the importance of responsible advertising.

International Organizations and Ad Self-Regulation

The role of Self-Regulation as an alternative and complement to legislation has been acknowledged by several Public-Sector Organizations at national, regional and global level.

The United Nations (UN)

Within the UN, the importance of Advertising Self-Regulation as a policy option has been cited in the context of various sectoral programs. Here are a few examples:
- In February 2004, the United Nations Environment Program (UNEP) published a Resource Kit on Sustainable Consumption and Production which recognizes that Advertising Self-Regulation can support sustainability by ensuring that the term "sustainable development" is not abusively used in ads and marketing communications.
- In March 2010, the World Health Organization (WHO) and the Food and Agricultural Organization (FAO) jointly adopted Guidelines on pesticide advertising which acknowledge the role of Advertising Self-Regulation, recommending that any company involved in the pesticide industry should "communicate agreements made in the context of self-regulation throughout [the] entire organization, from public affairs to marketing operations."
- In May 2010, the WHO issued Recommendations on the Marketing of Foods and Beverages to Children which state that each country should be able to choose the most appropriate approach for reducing marketing to children of foods high in fat and/or high in sugar, whether Statutory Regulation, Self-Regulation or Co-Regulation.

The Organization for Economic Co-operation and Development (OECD)

The OECD, which is composed of 35 member countries, has historically been a strong supporter of Industry Self-Regulation (ISR). Several papers published by the OECD recognize the benefits of the Self-Regulatory approach for consumers, not only in the advertising sector, but also in other sectors of the economy such as telecommunications and financial services.

In a report entitled "Industry Self-Regulation: Role and Use in Supporting Consumer Interests" published in March 2015, the OECD lists several advantages of the Self-Regulatory approach.

For consumers:
• Improved information
• More effective dispute resolution
• Combatting unfair or abusive practices
• Enhanced consumer rights

For the industry:
• Enhancing consumer confidence and improving the image of businesses
• Disciplining businesses that fail to meet commitments
• Improving complaint handling
• Pre-empting formal government regulation
• Providing instructional resources.

The Asia-Pacific Economic Cooperation (APEC)

APEC, which is composed of 21 member economies, has also being actively promoting Self-Regulation since 2012. In August 2014, an Action Agenda on Advertising Standards and Practice Development was endorsed by APEC leaders at a meeting in Beijing, China. This Action Plan includes several recommendations and stresses the need, among others, to "build public awareness programs of available consumer policy tools, including self-regulatory organizations (SROs) for roll out in 2015-2017."

Over the past five years, thanks to coordination efforts by the Australian SRO, the Advertising Standards Bureau, several workshops have been organized under the auspices of APEC in countries such as Vietnam, Thailand and Peru to promote capacity-building and regional cooperation around Advertising Standards in the region.

Business Perspectives on Self-Regulation

Whereas recognition by policy makers and standard-setters is important, the support of the industry is even more essential for Self-Regulation to be successfully implemented. All industry players should be aware that Advertising Self-Regulation helps enhance consumer

welfare but also helps build consumer trust in brands, supporting brand loyalty, higher sales and market share.

As stressed in the Conclusions of the 2007 Global Advertising Summit held in Toronto, Canada, "trust in Advertising Self-Regulation remains a key condition for it to be considered a viable policy option." A set of 10 Principles were agreed at the time by global industry representatives and form the "Perspectives on Effective Self-Regulation", whose full text is available in the Annex.

The following year, at the 2008 Global Advertising Summit held in Atlanta in the United States, the industry further agreed that an efficient Self-Regulatory System should:

- Address the perception that Self-Regulation only reacts to pressure. The industry needs to demonstrate that Self-Regulation can pro-actively anticipate trends in the broader environment in which it operates;
- Emphasize consultation and engagement with stakeholders outside of the industry to help the industry understand how consumer concerns and expectations are evolving;
- Share good practices on how to consult and engage, but acknowledge that there is no 'one size fits all' model that would be appropriate for every market, and that a commitment to dialogue should not be interpreted as negotiation;
- Report back regularly, in a transparent manner, on how the industry delivers against what it has pledged to achieve via Self-Regulation.

As with all Self-Regulation, at the heart of the Business Perspectives is the importance of global principles that provide foundations for the development of locally relevant Standards that take into account the cultural and regulatory environment. In 2013, the Perspectives were endorsed by the APEC Committee on Trade and Investment as a good regulatory practice.

International associations such as the World Federation of Advertisers (WFA) and the International Advertising Association (IAA) play a key role in promoting responsible advertising among industry players. The IAA for instance assists its local chapters and other bodies involved in setting up appropriate Codes and systems in their countries, as well as systems for dealing with cross-border complaints within regional trading blocs.

Sectoral Commitments and Guidelines

In addition to general Standards on Advertising and Marketing Communications, sectoral guidance is often developed at national, regional and/or global level to address specific aspects of advertising or specific industries.

In Europe for example, the EU Pledge is a voluntary initiative by leading food and beverage companies to change the way they advertise to children. Launched in 2007 to build on the

successful "Pledge Program" model developed in the US in 2006[3], and supported by the WFA, it is a response from industry leaders to calls made by the European institutions for the food industry to use commercial communications to support parents in making the right diet and lifestyle choices for their children. In addition to European commitments, some countries such as Belgium, Portugal and Switzerland have adopted their own National Pledges. More information on the EU Pledge is available at: www.eu-pledge.eu

In the European cosmetics sector, a similar initiative was launched in 2012 to promote responsible and sustainable advertising. The cosmetics industry adopted a Charter and Guiding Principles on advertising and marketing communication, while mandating EASA to carry out an independent audit to assess compliance with the Principles. More information on this initiative can be found at: www.cosmeticseurope.eu

At the global level, the International Alliance for Responsible Drinking (IARD) issued Guiding Principles on the Self-Regulation of Marketing Communications for Beverage Alcohol in 2011. The Principles provide guidance to countries seeking to establish or enhance marketing communication Codes of practice for alcohol beverages. In addition, the IARD and leading beer, wine and spirits producers agreed on joint commitments to reduce harmful drinking in support of the World Health Organization Global Strategy to Reduce the Harmful Use of Alcohol. These commitments, among others, encourage the creation of local codes and of robust compliance systems. More information on the IARD Principles and on the Producers' Commitments is available at: www.iard.org and www.producerscommitments.org

In certain cases, the monitoring of commitments made under Industry Pledges can be – at least initially - performed outside of the regular self-regulatory system. The objective should however be as much as possible to integrate the process as part of the Self-Regulatory Code enforced by the SRO, thereby allowing consumers to benefit from enhanced transparency and consistency.

Conditions for Efficient Self-Regulation

From the discussions held with the advertising industry, several points have been highlighted as key to help ensure that Advertising Self-Regulatory Systems develop and operate in the best possible circumstances. To be effective, SROs should:
- Ensure support for Self-Regulation throughout the business community thanks to proactive and operational support;
- Share and learn from existing Best Practices on Self-Regulation;
- Create locally relevant systems based on global Principles, Codes and Standards;
- Recognize the increasingly inter-related nature of issues related to advertising and ensure coherence between local, regional and global Standards;

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[3] For more details on the Children's Food and Beverage Advertising Initiative (CFBAI) in the US, see: https://www.bbb.org/council/the-national-partner-program/national-advertising-review-services/childrens-food-and-beverage-advertising-initiative/

- Demonstrate the value and effects of Self-Regulation by facilitating the assessment of existing initiatives by third parties, including governments and international institutions.

"The success of an advertising self-regulatory system says a lot of the society that experiences it. It says that its advertising industry has matured into knowing that only with the highest standards in advertising they will be able to maintain consumers' trust; that its government trusts competition as the best protector of consumers' interests and, most important of all, that its consumers have realized the power they have before the advertisers, the advertising agencies and the media."

Àngel Deleón Zamora, former Director and General Counsel for Mexico and Central America at Procter & Gamble

3 | How an Advertising Self-Regulatory System works

Like advertising itself, Advertising Self-Regulation is essentially a grassroots activity that is most efficient when conducted at the national level.

Two principal factors are decisive in determining the form that Self-Regulation takes in any country. The first of these is tradition: each country's Self-Regulatory System should reflect its cultural tradition, its business environment, as well as its legal requirements. The second factor is recognition: Self-Regulation's relationship with the Law is complementary and it can therefore best flourish where the legislative landscape allows it sufficient opportunity and scope to take place.

People and organizations wishing to establish a Self-Regulatory System and a Self-Regulatory Organization should ensure that the model chosen is appropriate and proportionate to their national circumstances.

Because Advertising Self-Regulatory Organizations around the world operate within different regulatory, cultural, and societal contexts, this Guide can provide only general guidance on processes and structures. Importantly, the main features of a Self-Regulatory System described in this Chapter should not be considered as universally applicable. In fact, countries like the United States and the Philippines, to cite just two examples, have operated very successful self-regulatory programs for many years based on a different set-up. In the US, the ASRC uses expert legal staff rather than juries. It does not work on the basis of a Code but rather applies general principles to specific advertising, e.g. that ads should be truthful and not misleading, and that all objective claims should be substantiated by reasonable evidence before they are made. For more details on alternative structures, please contact the ICAS Secretariat.

Essential characteristics of a Self-Regulatory System

A Self-Regulatory System essentially consists in three basic elements:
1. An independent Self-Regulatory Body responsible for implementing the System and for ensuring that it is - and is seen to be - impartial in the application and eventual review of the Advertising Standards;
2. A Code of Standards or a set of Guiding Principles governing the content of ads;
3. A system for the adoption, review and application of the Code or Principles.

Within the System, the Self-Regulatory Organization typically displays the following characteristics:

- It is an independent body, i.e. its decision-making function is independent from the government and from specific interest groups;
- It is a body set up and funded by the advertising industry (composed of advertisers, agencies, and the media);
- It has a practical responsibility for enforcing the Standards;
- It has the support and confidence of the advertising industry, which accepts its decisions;
- It has sufficient support from the constituent parts of the advertising industry (or, in the case of a sectoral SRO, enough support from the sector for which it is responsible) to ensure its credibility and funding;
- It is impartial;
- It deals with consumer complaints on a cost-free basis;
- Its decision-making process and adjudications are transparent.

The Self-Regulatory Code or Principles

The Self-Regulatory Principles govern the content of ads. Individual country Self-Regulatory Programs are often based on the Consolidated Code of Advertising and Marketing Communications Practice of the International Chamber of Commerce (the Consolidated ICC Code), and then tailored to meet identified national needs.

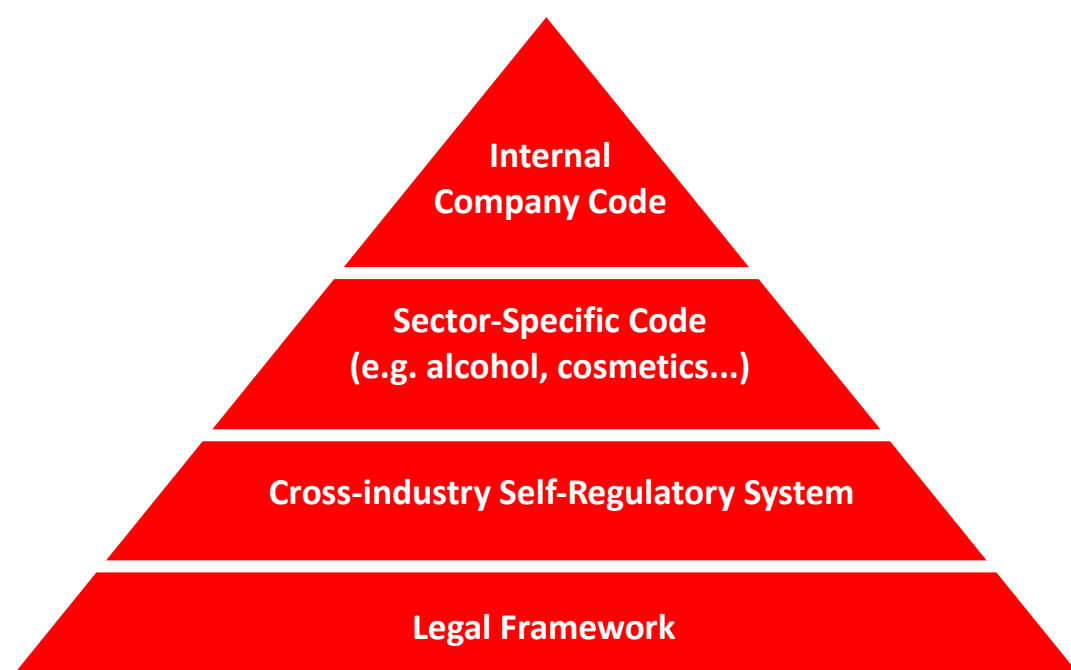Most programs incorporate the basic principles that:

- All ads should be prepared with a due sense of social responsibility, notably in terms of being legal, decent, honest and truthful;
- All ads should conform to the principle of fair competition, as generally accepted in business, and consistent with competition laws;
- No ad should impair public confidence in advertising.

The national Code or Principles should apply to all forms of advertising, usually defined as paid-for commercial communication, and they should be flexible enough to adapt to new forms of advertising techniques and technologies as they develop.

In some countries, the Self-Regulatory Program also applies to product packaging, mirroring local legal definitions of advertising. In other cases, the Program may also encompass non-commercial communications, such as cause or advocacy advertising.

While some countries adopt the Consolidated ICC Code as written, others adapt it to meet national circumstances. In either case, the ICC Code provides a global baseline and as such is the first point of reference. National Codes also often expand beyond the ICC Code, but the underlying principles remain the same. Self-Regulatory Codes are always applied in the spirit as well as to the letter.

Chart 2. Different Layers of (Self-)Regulation

Apart from national Codes, there also exists sector-specific Codes such as Codes for alcoholic beverages, food, gambling, cars etc. The development and implementation of these Codes are usually coordinated by the relevant industry sector, in cooperation with the local advertising ecosystem and Self-Regulatory Organization. Formal arrangements may be necessary to implement the Code and handle sector-specific complaints.

All types of Codes, Principles and Standards should be reviewed on a regular basis, to ensure that they continue to be relevant and address emerging developments and requirements. If a local Code is based on the ICC Code, it should be adapted when required to reflect the latest revisions of the ICC Code. Any review should also take into account the Guidance developed by the ICC to clarify the interpretation of the Code, for example in the areas of food, alcohol and environmental marketing communications.

While Codes should be up to date, they should not be revised so frequently as to create uncertainty. It is important that the Code, and any revisions to it, be freely available to everyone involved in advertising or interested in its Regulation. New versions of a Code should be widely publicized to promote awareness among all stakeholders: consumers, industry and the government.

The Code-Making Body

A feature of many SROs is a body whose specific task is to develop and update the Code or Standards. This body ideally represents the whole industry: advertisers, agencies and the

media (television, radio, press, outdoor advertising, direct mail and digital media, among others).

The purpose of this code-making body is first to agree on the Code or Principles by which the industry is to be regulated, and subsequently to be responsible for reviewing and updating them.

To be effective, a Self-Regulatory System must be able to rely on the moral support of:
- advertisers, because they provide the demand for advertising;
- agencies, because they are largely responsible for its form and content;
- and the media, because the cooperation of the media may ultimately be required to enforce the decisions of the Self-Regulatory Body.

Ensuring that the Code-Making Body represents all three pillars of the industry is important to ensure that the competence, legitimacy and authority of the SRO is accepted by the market. However, when establishing an SRO, it is often unrealistic to expect complete industry support and representation from the outset. It is often better to start with a body that is not fully representative, and then encourage other players to join as the momentum builds. It is wise, however, to ensure that the main players, both local and international, are supportive before launching an SRO.

Applying and Interpreting the Code

The practical application of the Code in individual cases may occur both before and after the publication of an ad. Where it occurs before publication, in the form of copy advice[4] or, more rarely, pre-clearance[5], this is normally the responsibility of the Permanent Secretariat of the SRO.

Where the application of the Code occurs after the publication of an ad, this is typically the result of complaints, either from members of the general public, or from competitors of the advertiser. In some cases, an SRO may also launch an investigation about an ad on its own initiative, for example if it has identified a potential breach of the Code as part of its ongoing monitoring activities.

The Jury, or as it is sometimes called the Complaints Committee, is the body responsible for issuing authoritative interpretations of the Code. It considers cases brought to its attention by the SRO Secretariat where a breach of the Code is alleged.

In some systems, especially in newly established SROs, all complaints are referred to the Jury, whereas in others, uncontroversial cases or those cases where precedents exist are dealt with by permanent staff, while more complex cases are referred to the Jury.

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[4] non-binding advice about the acceptability of a proposed ad.
[5] evaluation of an ad for compliance with specific Self-Regulatory or Regulatory Standards before it can be broadcast or published.

If the Jury determines that a Code violation exists, the complaint is upheld, and the Jury decides on the appropriate action to take. The burden of proof lies with the advertiser whose ad is complained about, rather than with the complainant. This means that the advertiser has to prove that the claims in the ad are true.

Some Juries are able to adjudicate on a complaint within three working days, but this can vary depending on the complexity of the case and other relevant factors. The majority of complaints are typically handled within two months.[6]

To ensure transparency, impartiality and independence, the Jury should be separate from the Code-Making Body.

Within the membership of a Jury, senior representatives of the three different parts of the advertising industry are usually included. However, a significant percentage, or better still, a majority of the Jury's members should be independent lay experts or people representing interests other than those of the industry, such as academics, consumers and professionals from outside the advertising sector. Jury members should be selected for their expertise and their impartiality.

The Jury's Chairperson should always be, and be seen to be, independent from the advertising industry. She or he might, for example, be a retired judge, an eminent lawyer or a retired public servant. The Chairperson and the members of the Jury must have the necessary status and eminence to maintain public confidence in and respect for the Jury's decisions, even though in many countries Jury members are not paid for their time and effort.

It is important for Juries to look at precedents when adjudicating complaints. Inconsistent decisions are frustrating for both consumers and advertisers. The Secretariat of the SRO should ensure that the Jury is provided with information about previous similar cases and their results. It is also important that Jury members are trained, especially with regard to sensitivities surrounding sector-specific Codes and areas of concern to the general public.

Enforcement

Because Self-Regulation goes beyond self-restraint on the part of individual companies, it is bound to involve sanctions, i.e. ways of enforcing compliance on those who breach the rules. Most SROs do not have the power to issue fines. When a jury finds that an ad is in breach of the Code, it will typically request an immediate amendment to the ad, or even a withdrawal of the ad. Such actions are costly for advertisers, especially where the system works fast, and they will often act as a greater deterrent than a fine.

Furthermore, Jury decisions are usually published. The adverse publicity resulting from such "name and shame" can have a negative impact on brand reputation. It informs consumers when irresponsible advertising is being practiced and it can also be instructive to other advertisers.
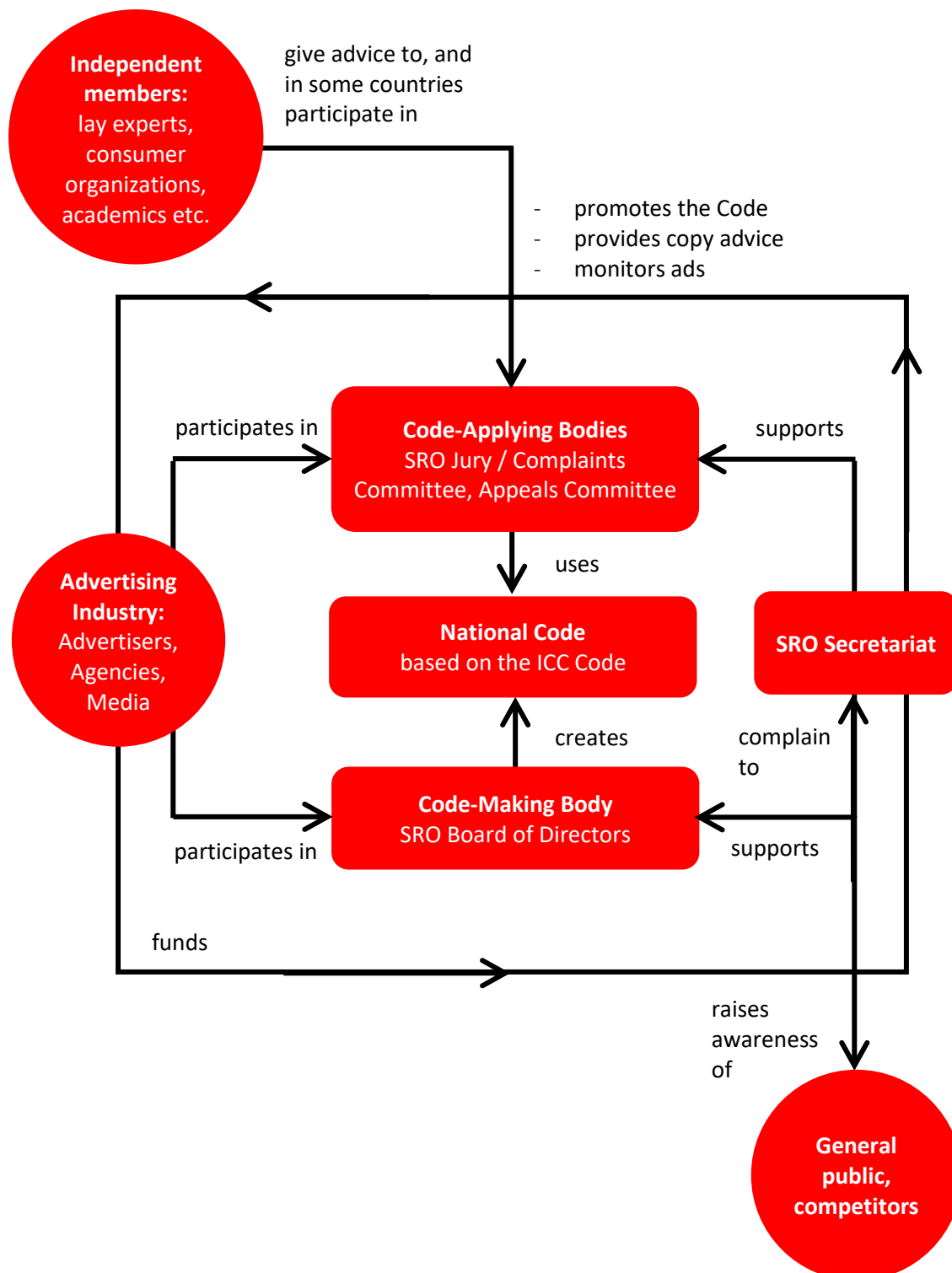
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[6] In 2016, 91% of complaints received by European SROs were handled within two months (source: EASA).

Because Self-Regulation has the support of the advertising industry, most advertisers will respect the decision of the Jury and comply with it. When an advertiser does not voluntarily withdraw an ad following a negative adjudication, some SROs may request support from the media to cease running the ad.

In the case of advertisers which repeatedly refuse to change or withdraw an ad following a Jury decision against them, some SROs are able to employ other sanctions, such as the imposition of compulsory pre-clearance for future advertisements, the encouragement of the withdrawal of trading privileges (such as preferential mailing rates), or the expulsion from the SRO or trade organization.

On those rare occasions where other measures fail, advertisers which have repeatedly and knowingly breached the Code may be referred to the relevant authorities.

Chart 3. The workings of a Self-Regulatory Organization

Independent members: lay experts, consumer organizations, academics etc.

give advice to, and in some countries participate in

- promotes the Code
- provides copy advice
- monitors ads

participates in

Code-Applying Bodies
SRO Jury / Complaints Committee, Appeals Committee

supports

uses

National Code
based on the ICC Code

SRO Secretariat

Advertising Industry: Advertisers, Agencies, Media

creates

complain to

participates in

Code-Making Body
SRO Board of Directors

supports

funds

raises awareness of

General public, competitors

Remark: This diagram aims to give the reader a clearer idea of the composition of an SRO and how it works. There are, however, many countries where the structure is different.

The Appeals Body

To ensure fairness, the system should include an appeals procedure. This facilitates due process and allows either the complainant or the advertiser involved to put forward new evidence to challenge the decision of the Jury. Ideally, appeals should be considered by a different body, or by different Jury members than those who reached the original decision. The Appeals Body does not need to be as large as the Jury and may consist of only two or three people.

In some SROs where no Appeals Body exists or where the numbers of Jury members is not sufficient to have a different group for the appeal, the Chairperson may handle the appeal, or refer the case back to the whole Jury for consideration. To avoid delays and unnecessary administrative burden, appeals are usually subject to conditions, such as the provision of new evidence, and to strict time limits.

The Permanent Secretariat

An SRO should have permanent professional staff, often called the Secretariat, responsible for ensuring the proper functioning of the System. The Secretariat is usually headed by a Chief Executive. It acts as secretary to the Code-Making Body and the Code-Applying Bodies. The Secretariat is also responsible for the day-to-day operation of the SRO and should be well trained and resourced in order to operate efficiently.

Different SROs offer different services and so the range of activities of the Permanent Secretariat varies from market to market. Services may include:
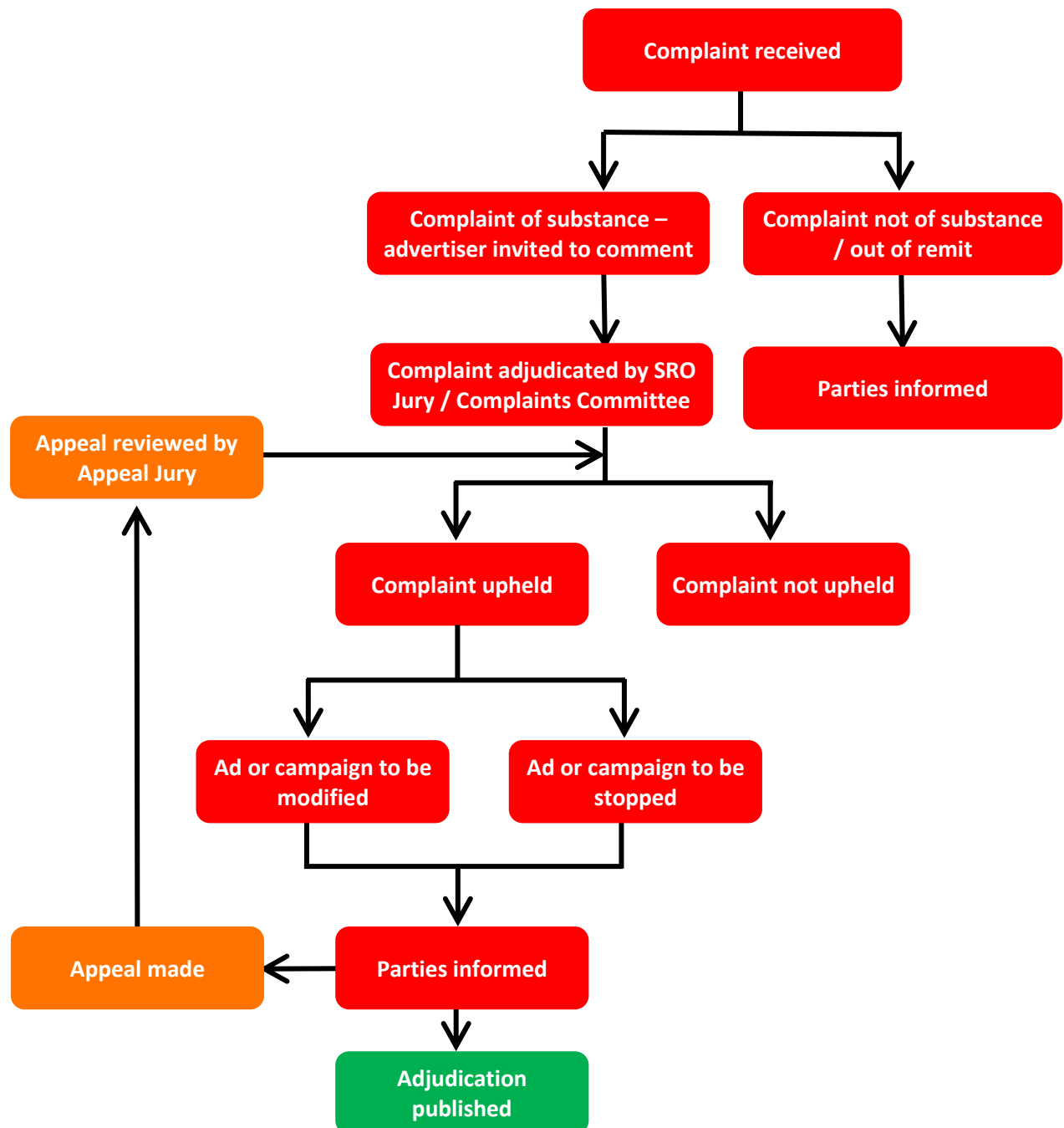
- **Providing support to the Code-Making Body, the Code-Applying Bodies and the Appeals Body**, including by arranging meetings, preparing minutes, drafting documents, coordinating the drafting and/or review of the Code(s).

- **Examining the complaints received by the SRO**, whether from the public or from competitors, to determine whether they are complaints of substance and thus appear to be *prima facie* cases to be considered by the Jury. In well-established Self-Regulatory Systems, the number of complaints received may be too great for each one of them to be considered by the Jury and non-contentious cases may be dealt with by the Secretariat based on previous decisions.

- **Communicating the decisions of the Jury to the involved parties**.

- **Publishing the decisions of the Jury.**

- **Liaising with advertisers and agencies to obtain evidence in support of advertising claims** which have been challenged in a complaint, and examining the evidence to see whether it appears to support the claim(s). In the case of technical claims, many SROs

employ independent experts to assess the technical information supplied by advertisers in support of their claims. Although the Jury is independent and impartial, it will rely on the expertise of the Secretariat (and, where appropriate, technical experts acting as consultants) to determine the facts, i.e. whether the claims in an ad can be substantiated.

- **Providing Copy Advice.** Copy Advice is a non-binding advice provided to advertisers and agencies about the acceptability of a proposed ad which requires the Secretariat of an SRO to interpret the Code and to apply it to particular cases. It is offered, upon request, by many SROs. Copy Advice is particularly valuable in pre-production stages of ad development. It helps prevent problems before they occur and reduces the risk that an ad will give rise to a complaint. If, however, a complaint is subsequently received, the preliminary judgement of the Secretariat is not binding on the Jury.

- **Providing Pre-Clearance**. In some countries, there is a system requiring the transmission and pre-validation of ads before they can be released, usually in sensitive sectors such as alcoholic drinks, or for specific media such as television and radio. Such validation is usually referred to as Pre-Clearance and requires the Secretariat of an SRO to evaluate individual ads for compliance with a specific Self-Regulatory or Regulatory Code before they can be broadcast or published. In most cases, Pre-Clearance is the result of an agreement with public authorities, whereby a given industry sector decides to get pre-cleared ads to ensure compliance with relevant rules. Like for Copy Advice, Pre-Clearance is usually provided against a fee, and the amount of the fee may differ for members of the SRO and non-members (the former typically benefit from a preferential rate).

- **Monitoring ads**. Given the number of ads in circulation, it is impossible for any organization to examine every single ad. In some SROs however, the Secretariat regularly carries out a proactive examination of ads on a random basis to assess compliance with the Code. This examination may result in the SRO having to take appropriate action, such as asking an advertiser to supply evidence in support of its claims or referring a case to the Jury. Apparent Code breaches are then handled pretty much in the same way as they would in the case of complaints. Such monitoring usually concentrates on specific media or categories of ads raising public concern, such as ads targeting children. Monitoring is also a way for an SRO to verify that its decisions have been implemented. When monitoring occurs, SROs provide feedback to the involved advertisers and sectors to help facilitate future compliance.

- **Disseminating information about the SRO, its Codes and activities.** Very often this takes the form of advertising campaigns designed to raise public awareness of the SRO, so that consumers know how to complain about advertisements which they consider misleading or offensive. These campaigns are often created by advertising agencies on a pro bono basis and advertising space is provided free of charge by the media. SROs should secure adequate resources to respond to the increase in the number of complaints that may occur as a result of such campaigns.

- **Conducting research** into areas of particular relevance to Advertising (Self-)Regulation, e.g. with a view to better understand the concerns of consumers and society as a whole.

- **Developing relations with stakeholders**. The Secretariat of an SRO can help it maintain regular contact with government bodies, consumer groups, industry bodies and other interested parties. SROs typically discuss matters of mutual concern with their stakeholders to ensure that they remain in touch with political and social developments. Good stakeholder management can help SROs take timely and appropriate actions, for example by leading them to adopt a new Code to address community concerns, thereby avoiding the need for detailed legislation.

- **Developing trainings and raising awareness about Ad Standards within the industry**. Many SROs organize training events for members and non-members to educate market professionals about the Code(s) and the benefits of the System. In addition to physical events, SROs often develop and maintain online tools and training material. SRO staff members also participate in public and closed events to raise awareness about Ad Self-Regulation. Partnerships are sometimes established with Universities and other educational bodies to make sure that advertising and marketing professionals are properly trained on Ad Standards.

Chart 4. Complaint handling procedure

Remark: This diagram is only an illustrative example and actual complaint handling procedures may differ depending on the SRO and local market characteristics.

Funding and Coverage

Adequate funding is a critical measure of industry support for Self-Regulation and the effectiveness of any program. Since SROs are funded by the advertising industry, it is the industry's responsibility to approve the annual budget and to ensure that sufficient financial resources are available to enable the SRO to function effectively.

Depending on the market, there are different ways to collect funding from the industry. Many SROs are financed by membership fees, which mean that individual companies (mostly advertisers) pay an annual fee in order to participate in the Self-Regulatory System.

Some SROs have adopted a Levy System, which means that a fee corresponding to a small percentage of all advertising costs is levied to finance the operation of the SRO.

Some Self-Regulatory Systems even have a dedicated body whose sole function is to guarantee that the SRO receives the necessary financial support to function efficiently. Such a Fundraising Body might, for example, be a sub-committee of the SRO.

When setting up a new SRO, it may be necessary to establish a start-up fund to cover costs until a permanent funding model is put in place. This should be properly assessed and provided for in the SRO Action Plan and Budget.

Importantly, a Self-Regulatory System should cover all the areas stipulated in its Code. Sectors that account for the majority of advertising expenditures should be included from the start. Adequate provisions should be made to future-proof the Self-Regulatory System in light of emerging technologies and practices.

Credibility of a Self-Regulatory Organization

Self-Regulation must be impartial. This guarantees the credibility and consistency of the control system. Operation and outcome, as well as decisions of the Self-Regulatory System, should be made independently of government and specific interest groups. The fact that decisions are reached in an independent and impartial manner should be reflected in the design of the complaint handling mechanism.

Consumer organizations, NGOs, governments and individual consumers may have doubts about the independence and impartiality of the complaint handling system given that it is funded by the advertising industry. This is why a Self-Regulatory System can only survive and be successful if it is - and is seen to be - impartial and independent.

A Self-Regulatory System can achieve this by seeking non-binding consultation with relevant external stakeholders when (re-)drafting its Code(s) and by making sure that it includes members of civil society in the form of lay experts in its Jury or Complaints Committee.

Another way to enhance the credibility of a Self-Regulatory Organization is to ensure that it works well and swiftly. A process that expeditiously adjudicates on complaints is more credible than one that operates slowly.

The publication of the SRO decisions further enhances transparency and credibility.

Finally, an SRO should ensure that it enforces both national and sector-specific Codes in the spirit and to the letter. A consistent interpretation of the Code(s) is indeed essential for the overall credibility of the Self-Regulatory System.

4 | Setting up a Self-Regulatory System

The steps described in this section do not necessarily have to be carried out consecutively. In fact, several aspects of the set-up process can be run in parallel. For example, the development of the Code, the drafting of the Strategic Plan, and the establishment of the Permanent Secretariat, can be undertaken simultaneously. This type of approach can also help maintain momentum and industry commitment.

Getting Consensus

The first precondition for setting up a Self-Regulatory System is a significant degree of consensus within the advertising industry on the need for such a system. Achieving consensus is not always easy, particularly if the market in question has no established tradition of Self-Regulation. However, as the project develops, industry support and involvement tend to grow.

An effective Self-Regulatory System relies on the support of the entire advertising ecosystem, agencies and media included. Every actor can benefit from Self-Regulation: advertisers have an interest in building consumer trust in brands, agencies benefit from an increase in the demand for their services as brands look to develop creative yet responsible ads, and the media has an interest in making advertising revenues as sustainable as possible.

The rapid growth in digital advertising over the past few years also means that new players such as online platforms are now part of the ecosystem. An SRO should try and include all types of players in the design and implementation of the system from the beginning.

Setting up a fully-functional Self-Regulatory System is a complex and lengthy process and it is unrealistic to expect it to materialize in one stroke. In fact, the most sophisticated SROs have built their reputation and authority over several decades.

Rather than waiting for support from all sectors of the industry, with the risk of losing the momentum in a situation where, for example, there is a threat of detailed legislation or a distinct challenge facing the industry, it is often preferable to concentrate on assembling a core group of influential players with the willingness and power to set matters in motion.

Chart 5. The Advertising Industry Tripartite

Once the first building blocks are in place, it is important for the project leaders to continue working towards a full participation of all market players as quickly as possible. Indeed, as soon as the SRO is set up, it will be expected to produce results and provide proof points that the System is working.

Identifying the Relevant Contacts

Multinational actors, whether advertisers, agencies, or media, are important potential participants in the System and their early involvement can be highly beneficial given that many of them will already have experienced the benefits of Self-Regulation in other markets. They may be able to assist with setting up a local advertiser or agency association if none exists.

Similarly, ICAS and its member organizations can offer advice and assistance based on their experience in different countries and commercial environments. ICAS actually acts as a central contact point for all international projects on Advertising Self-Regulation and can help connect market players, for example by providing contact details of relevant industry associations or Self-Regulation experts.

Digital players such as digital media, internet service providers, third party behavioral advertising companies and mobile phone operators should also be involved as early as possible.

Planning the Self-Regulatory Project

The second step in setting up the Self-Regulatory System is to have a Strategic Plan managed by a specific team. The plan should cover both functional issues such as the drafting of the Code, Articles of Association, procedural rules, a 2-year Action Plan, a budget as well as the establishment of a Permanent Secretariat and a Jury. The plan should set clear targets and deadlines, including a date for signing the Code (or an effective date for launching the program), a date for the public launch of the SRO, and dates for subsequent promotional activities to consumers.

ICAS can help with the development of a Strategic Plan and can provide guidance through its network of SRO members. The ICAS network is very diverse and provides different examples of SROs with different scale, funding models, legal and cultural contexts. ICAS can also provide experts to explain the functioning of Self-Regulatory Systems and to promote the value of Self-Regulation to local industry representative and government officials.

Drawing up the Self-Regulatory Program

An essential step is to draft a credible and locally relevant Code of practice or set of Standards. It is recommended that the Consolidated ICC Code of Advertising and Marketing Communications Practice be used as the first point of reference. If it does not already exist in the relevant language, it may be worth preparing a translation. If the ICC Code does not fully address local needs, Codes used in other countries may also provide a useful reference.

Self-Regulation takes many different forms and familiarity with the Systems in other countries will be helpful in determining what will work best in a particular country. As part of its capacity-building efforts, ICAS can help emerging SROs develop a privileged relationship with one or more well-established SROs willing to share their experience and to provide advice during the development process.

Sector and Issue Specific Codes and Programs

First and foremost, SROs use their national Code(s) and/or Programs to ensure that all advertising is responsible. It is important that there is one main Code to avoid any confusion. The general Code can nonetheless hopefully be complemented by sector, media and/or issue-specific Codes. Sector-specific codes, such as Codes on advertising for alcohol beverages, food products, cosmetics or cars, are usually developed by the relevant market players – sometimes in collaboration with the SRO.

At the international level, some specific Guidelines exist which can provide a useful framework for the design of national sector, media or issue-specific Codes. They include for instance:

- The ICC-ESOMAR International Code on Market, Opinion and Social Research and Data Analytics. Last reviewed in December 2016, this Code sets standards of ethical and professional conduct designed to maintain public confidence in marketing research.
- The ICC International Code of Direct Selling (2007) complements the consolidated ICC Code by specifying way to demonstrate responsibility and good practice in direct selling across the world.
- The IARD Guiding Principles for the Self-Regulation of Marketing Communications for Beverage Alcohol (2011), complemented in 2014 by Digital Guiding Principles.

Although the ICC Code covers all sectors and issues, some specific Guidance is occasionally issued in the form of Resource or Reference Guides to clarify how the Code should be applied to specific sectors or issues. Examples of such Guides include:

- The ICC Toolkit on Marketing to Children (2017)
- The ICC Reference Guide on Advertising to Children (2016)
- The ICC Resource Guide for Self-Regulation of Online Behavioral Advertising (2012)
- The ICC framework for responsible environmental marketing communications (2011).

Once a sector has agreed on its sector-specific Code or Program, it is typically entrusted to the SRO for implementation, in order to guarantee that the Standards are applied in a credible and independent manner. The sector should also ensure that their constituent members across the country or region are well aware of the commitments made and of their responsibility in complying with the Standards.

At the national level, several markets have developed Codes and Systems which go beyond international guidance on specific issues and sectors. In the United States for instance, the Children's Advertising Review Unit (CARU) was established in 1974 as the children's arm of the advertising industry's Self-Regulatory System to evaluate child-directed advertising and promotional material in all media to advance truthfulness, accuracy and consistency with Self-Regulatory Guidelines for Children's Advertising and relevant laws. In France, the advertising industry agreed a far-reaching Code on Sustainability going well beyond mere environmental claims. In Spain, the PAOS Code combines sector and issue-specific rules by addressing Advertising of food and non-alcoholic beverages to children.

Recognition of Self-Regulation in the Law

If discussions are already under way for drafting a framework national law on advertising, this is an excellent opportunity for the advertising industry to emphasize to government the benefits of Self-Regulation and to recommend that the legislative framework should recognize the independence and complementary role of the Self-Regulatory System.

Mentioning Self-Regulation as a valid policy option in statutory law is not indispensable but has the benefit of granting a formal recognition to the SRO, creating room for Advertising Self-Regulation to operate in complementarity with the existing legal framework while providing an additional layer of consumer protection. Statutory provisions on Self-Regulation should be generic enough to allow Self-Regulatory Standards to be amended flexibly without any amendments to the law.

Ensuring an Operational System, Training and Testing

The Strategic Plan should ensure that all the appropriate bodies, structures and procedures are put in place before the System can function effectively. Members of the independent Jury, for instance, should be selected based on clear and transparent criteria before being trained to perform their duties. A realistic budget should be drawn up based on the costs of establishing, operating and promoting the System. As well as financial support, support in kind can be solicited from the advertising industry, such as *pro bono* creative work on the SRO website, logo and promotional advertising. Media space can also be provided free of charge for promoting the launch of the SRO.

Once the SRO has been set up and prior to its operational launch, it is important that SRO staff members be properly trained. ICAS can help identify volunteers from existing SROs to provide training assistance in activities such as Complaint-handling, Copy Advice, Jury Operations and Communications.

Moreover, the SRO's structures and procedures should be tested, for example by using sample complaints and Copy Advice requests. The Jury's decision-making process should also be rehearsed and tested.

A Strategic Communication Plan should be adopted and implemented to raise awareness about the launch of the Self-Regulatory System and the procedure for submitting complaints. Section 5 provides further details on SROs' awareness-raising campaigns. Whatever other actions the industry undertakes, it is essential to communicate the industry's commitment to high standards and responsible Advertising Self-Regulation. A Code-signing ceremony or Charter of intent can be useful in this respect. An industry that claims the right to regulate itself must be able to demonstrate that it is capable of the self-discipline required. Newly

established SROs should always keep in mind that, as soon as the System is set up, it is expected to function efficiently, and the effectiveness of Self-Regulation will be judged by its practical performance.

How ICAS can help

The International Council for Advertising Self-Regulation and its members around the globe can provide help and guidance at any stage of the process described in this Guide. A key objective of ICAS is to support the development of Self-Regulation in as many markets as possible, while empowering SROs to grow and develop their activities.

Because ICAS acts as a central contact point at global level, it is uniquely positioned to facilitate the exchange of knowledge and best practices and to connect markets with one another. The ICAS website provides some basic resources on Self-Regulation, such as a list of Frequently Asked Questions (FAQ) and a Glossary. The Document Library includes reference material, not only produced by ICAS, but also by members and partners actively involved in promoting and implementing Self-Regulation. It can be accessed at: https://icas.global/resources/library

In addition to these publicly available resources, ICAS also collects a wealth of information from its members. In partnership with EASA for European SROs, ICAS is developing internal tools to provide easy access to the latest developments per market, and is happy to provide assistance to anyone wishing to establish or consolidate Self-Regulation in their market. Section 6 of this Guide provides useful contact details if you want to get in touch.

5 | Consolidating a Self-Regulatory System

This section of the Guide focuses on actions which are necessary to develop and grow an SRO once it is functional and has a proper funding system in place.

Extending Self-Regulation across all Marketing Communications and Sectors

An effective Self-Regulatory Organization works to ensure that Advertising Standards are applied irrespective of the product or service advertised, and irrespective of the communication channel used. SROs should thus ensure that their remit is comprehensive, including all types of marketing communications and all products and services described in the Consolidated ICC Code of Advertising and Marketing Communication Practice:

The Consolidated ICC Code applies to all advertising and other marketing communications for the promotion of any kind of goods and services, corporate and institutional promotion included. (…)
The term "marketing communications" includes advertising as well as other techniques, such as promotions, sponsorships and direct marketing, and should be interpreted broadly to mean any communications produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behavior.

If a certain product or service group poses an issue for the SRO, it may be useful to investigate whether there exists some sector or issue-specific Code or Program in other countries addressing these products or services. The development of specific national guidelines may be a way to facilitate the implementation of Self-Regulation in this area, but it is never a good idea to transpose another SRO's Code directly in a new market without assessing first whether its provisions are adapted to local specificities.

Once an SRO is established and if all types of media were not included in the set-up phase, it is important to reach out to all major media channels, including digital players and actors having entered the advertising ecosystem only recently. Technological innovation means that mobile apps, social media, intelligent voice assistants, augmented and virtual reality… become an increasingly important channel for ads to reach consumers. SROs thus need to proactively monitor the market and engage with new players.

In 2010, an ambitious program to deliver Self-Regulation for Interest Behavioral Advertising (IBA) started to be rolled out in the US and initiatives subsequently followed in other markets. IBA (also sometimes referred to as OBA for Online Behavioral Advertising) refers to the collection by a third party over a period of time of web viewing behavior data from a particular computer or device which takes place across multiple web domains not under common control, and which is used by the third party to deliver advertising to that particular computer or device based on the preferences or interests inferred from the data by the third party's technology. These preferences or interests are often categorized into "interest segments" which are then used to target multiple web users with a specific preference or interest.

Existing Self-Regulation Systems are addressing the challenges and implications of IBA technology for consumers. In parallel, technical solutions have been developed jointly by the industry to allow consumers to exercise choice and control over the types of ads they receive. The Digital Advertising Alliance (DAA) is responsible for the application of IBA Self-Regulation in the US and the European Interactive Digital Advertising Alliance (EDAA) performs a similar function in Europe. These programs were established by the industry in close cooperation with SROs, allowing for the involvement of technical experts. To find out more about the technical solutions developed as part of IBA Self-Regulation visit http://www.youradchoices.com and http://youronlinechoices.eu.

Keeping the Code and Principles up to date through Stakeholder Consultation

Both the EASA Best Practice Model and the Perspectives of Effective Self-regulation (see Annex) emphasize the importance of establishing a procedure for regularly reviewing and updating the Code or Principles. This ensures that the Code or Principles remain abreast of developments in the market place, shifts in public concerns and consumer sensitivities, as well as technological innovations.

A distinction can be made between "technical updates" on the one hand, and fundamental changes to the substance of the Code or Principles, on the other hand. Minor updates can occur on a 'need to have' basis, whereas a complete rewrite of the Code or Principles may not be necessary for a decade or more. It is recommended that the Code or Principles be reviewed at least every three to four years to ensure that they remain relevant. More frequent revisions are however not recommended as they could create uncertainty on which rules apply. Revisions of Codes or Principles should also reflect as much as possible the latest ICC guidance.

As with the initial drafting phase, there can be considerable variations in the procedures used to amend the Code or Principles. The most important thing to keep in mind is that the review process should be - and perceived to be - transparent, pragmatic, and not unduly influenced by vested interests. The credibility and acceptance of the Code or Principles should not be jeopardized by the review process.

To ensure transparency and credibility, it is recommended that the SRO should consult all interested parties on the changes to be made to the Code or Principles, ideally as early as possible in the process. These should include key industry representatives as well as civil society and consumer representatives. Stakeholder consultations are typically non-binding, but they are very helpful to identify areas for improvement. They can take different forms: online consultations, open hearings, or even bilateral discussions.

Pre-Screening Complaints

Recent SROs may have gained some experience in handling complaints, but they may find that they do not have the capacity to handle a growing volume of complaints. The next stage of development for the SRO then usually consists in training senior Secretariat Staff to pre-screen complaints before they are transmitted to the Jury - where there is a Jury. Complaints which are out of remit or which do not raise issues under the Code do not need to be referred to the Jury. Some established SROs may even utilize staff to adjudicate complaints where these are similar to complaints previously adjudicated by the Jury. Complaints of a different nature or raising particularly complex issues should however systematically be referred to the Jury.

Providing Copy Advice Facilities

Many SROs provide Copy Advice as a service to advertisers and agencies. Copy Advice is defined as non-binding confidential pre-publication advice about a specific ad proposal. After the proposed ad is sent to the SRO for consultation, the SRO reviews it for compliance with the Code and, if required, provides advice on the changes that are required to conform to the Code.

Because an ad which has been reviewed prior to publication is less likely to generate complaints than an ad which has not received any Copy Advice, advertisers, agencies and the media should be actively encouraged to seek Copy Advice from SROs. Many SROs provide Copy Advice to anyone who requests it, but in some markets there are legal constraints on the provision of advice to non-members which may restrict the scope of the service.

SROs should not regard Copy Advice as a major source of revenue and any fees charged to the requesting parties should not be so great as to act as a deterrent. SROs should look to provide such services at preferential rates to members where a membership system is in place.

To be able to give Copy Advice, the SRO should request, at a minimum, to receive the script for audiovisual ads, or the text for printed or digital media ads. Whether or not visual details are needed will depend on the ad itself. Copy Advice should be provided in writing. Keeping a permanent record of the Copy Advice provided is important for the SRO to ensure consistency in its interpretation of the Code. These records also constitute useful background information in view of future complaints about an ad, as well as for statistical purposes. In

providing Copy Advice, the SRO must be careful not to prejudice any subsequent review that may occur as a result of a consumer or competitor complaint.

Some markets have developed very elaborate Copy Advice systems allowing advertisers and agencies to enter ideas for an ad in an online database maintained by the SRO. For more detailed information on the different systems used by SROs for Copy Advice, please contact the ICAS Secretariat.

SPAIN: Providing Copy Advice Facilities

AUTOCONTROL, the Spanish SRO, was created in 1995, although there had been a Self-Regulatory System in Spain since 1977. AUTOCONTROL began offering copy advice services in 2003, and since then requests for advice have grown from 873 per year to over 35,000 in 2017.

For the industry, the ability to obtain Copy Advice has helped protect the reputation of advertisers by ensuring that they do not invest time and money in 'bad' advertising. Early modifications on ads to make them more responsible also helps reduce the number of complaints.

Moreover, because Copy Advice acts as an alternative control method for the industry, it has helped avoid further mandatory legal controls. The generalized use of Copy Advice for the advertising of financial products for instance contributed to the decision of the Bank of Spain to remove mandatory prior controls on such ads.

Copy Advice also contributed to strengthen the profile of AUTOCONTROL in the eyes of consumers and public authorities, who can see the direct impact it has in ensuring responsible advertising. In practice, several Spanish public authorities agree to consider that those ads which have received a positive Copy Advice enjoy a presumption of good faith in case of a complaint. Such ads are not often penalized, although the authorities could issue different judgements depending on the case.

The success of AUTOCONTROL's Copy Advice service has led to its extension in the field of digital advertising. The Cookie Advice Service was launched in 2013 and takes the form of a technical and legal consulting service, helping advertisers and webmasters comply with self-regulatory and legal requirements on cookies, i.e. the small pieces of data sent by websites and stored on users' computers to retain information about the user's preference.

Ensuring Organized Compliance Monitoring

Some consumer organizations and national authorities consider that the weakness of Self-Regulatory Systems is that they intervene only when they receive complaints. This is why some SROs have decided to proactively monitor ads for compliance with the Code. In practice, the staff of the SRO take the initiative of evaluating certain ads, selected based on relevant criteria (e.g. targeting those sectors or service providers having generated concerns on the part of the public).

The monitoring exercise can be carried out on a regular or ad hoc basis, but it should be consistent in its methodology. Usually, a product or service group is monitored across a range of media, or all ads in one type of media are reviewed.

The results can be used, not only to correct potential breaches of the Code, but also to identify trends and provide sector analyses. Monitoring data contributes an extra dimension to the statistics published by an SRO as evidence of its activities. It also provides an invaluable set of factual examples for industry education and training.

The provision of feedback to the advertising industry as a result of a monitoring exercise can also have a didactic value and help improve compliance levels by increasing industry awareness of the SRO and its Codes and policies.

Special care should be taken, in cases arising from monitoring, to ensure that the Code is applied with absolute impartiality. Advertisers are likely to object strongly if they suspect that monitoring is being conducted on an arbitrary, 'hit-or-miss' basis, or that they are being asked to comply with Standards more rigorous than those applied to their competitors.

As with all services, monitoring requires funding. Depending on the financial situation of the SRO, monitoring can be done in-house as part of the typical activities an SRO undertakes - this is the ideal situation. If on the other hand funding is insufficient to carry out the monitoring in-house, extra funds may be obtained from the industry sector or the medium that is being monitored. Indeed, the industry being monitored can benefit from the exercise by publicly showing its proactive commitment to comply with the Code and by creating benchmarks of compliance. The monitoring exercise can also provide useful examples for in-house training with the sector concerned while raising awareness of the Code provisions.

For monitoring exercises involving several countries, ICAS and EASA can play a coordination role, in close cooperation with the relevant industry associations. For examples of recent international monitoring exercises, please contact the ICAS Secretariat.

Awareness Raising Campaigns

To be credible, Self-Regulatory Systems and processes should be transparent, understandable and easily accessible. It is vital for SROs to communicate on and demonstrate the effectiveness of Self-Regulation as a complementary approach to legislation. Communication should be targeted at the three main types of stakeholders, namely individual consumers, government bodies, and industry professionals.

Communication campaigns can take a variety of forms but one tried and tested way is the awareness campaign. It is recommended that SROs undertake regular publicity campaigns, both in traditional media and online, to create and maintain consumer awareness of the System. The cost of such campaigns can be limited by the provision of reduced-fee or pro bono creative work by the advertising industry, and by free advertising space provided by the media.

To secure support from industry members, SROs should be able to present a plan outlining the purpose and measurable outcomes of the proposed Communication campaign and how it will contribute to raising awareness of the Self-Regulatory System.

> ### INDIA: Awareness Raising Campaigns
>
> In 2011, ASCI launched a three-part initiative to raise awareness of its work on Advertising Standards. The initiative involved two conferences and a public ad campaign. ASCI felt it was important to take a holistic approach which aimed not only at raising awareness of consumers and regulators about the SRO, but also at encouraging responsible advertising within the industry.
>
> The first conference targeted regulators and consumer activists. ASCI made sure that the main regulators responsible for issues related to advertising were present by securing the attendance of the Minister of Information and Broadcasting and the Minister of Consumer Affairs.
>
> The second conference was designed to connect ASCI with the ad industry and took place during GoaFest 2011, India's biggest Advertising Awards Festival. 100 young creatives were invited to take part in the Creativity with a Conscience Competition, which involved teams creating installations based on the theme of responsible advertising for display around the venue.
>
> Both conferences were sponsored by the ad industry, mainly in the form of ASCI members, and the World Federation of Advertisers (WFA) also provided key financial support.
>
> The third step, an ad campaign aimed at raising awareness of ASCI amongst the general public, was created pro bono by BBH India and was displayed in the media for free.
>
> The campaign had positive results on several fronts. First, more consumers exercised their rights, and, in the following months, the number of complaints received by ASCI doubled. The first conference also allowed ASCI to develop a better relationship with key consumer activist associations. On the industry front, the SRO also gained twenty new members.
>
> Furthermore, the Government Ministers who attended the ASCI event publicly commended the work of the SRO and highlighted their intention to work with ASCI on future regulation of ad content.

Handling a Surge of Complaints as a result of an Awareness Campaign

When an SRO is initially established, it launches a first awareness campaign to inform the public of its existence. Once it is more established, it should consider launching new awareness campaigns to encourage consumers to send in their complaints and to promote the benefits of Responsible Advertising through Self-Regulation.

Based on past experience, the increase in the number of complaints received by an SRO after an awareness campaign can be anywhere between 20% and 300%. The worst-case scenario

is one where the SRO faces a surge in complaints without having the resources to deal with them. In order to avoid endangering the credibility of the SRO, it is thus essential to anticipate the rise in complaints prior to launching an awareness campaign.

Undertaking Research and Consumer Awareness Surveys

Consumer awareness surveys are a very useful way of finding out how familiar the general public is with the SRO and the concept of Self-Regulation. Based on the survey responses, an SRO can decide whether it is necessary to launch an awareness campaign, or assess the impact of a recent campaign. The ad industry will often be called on to help finance the survey. If resources permit, it is recommended to measure consumer awareness of the SRO before and after an awareness campaign.

Education, Training Resources and Events

As mentioned in section 3, it is important for the staff and Jury members to be properly trained prior to the launch of the SRO. Once the SRO is established, however, training remains crucial. Training supports the quality of services provided by an SRO while facilitating the acquisition of new competences to develop new services. The Jury in particular should receive systematic trainings when changes are made to the Code.

Many SROs provide in-house training courses for ad professionals, ensuring their familiarity with the Code. Trainings can take various forms, whether in person or online. Physical workshops have the advantage of ensuring that the SRO staff have the opportunity to meet with local industry representatives and tend to facilitate the sharing of experiences.

SROs also often work in partnership with higher education institutions like universities to promote the inclusion of Advertising Self-Regulation in the curriculum, e.g. for marketing and law students.

> **BRAZIL: Education, Training Resources and Events**
>
> The Conselho Nacional de Auto-Regulamentação Publicitária of Brazil, CONAR, was established in 1980 and is one of the founding members of CONARED and ICAS.
> In 2005, CONAR identified a need to develop evidence-based arguments in defense of the right to advertise in a context of repeated regulatory threats linked to sensitive products and communication techniques, for example ads targeted at children and product placement.
> To meet this need, CONAR launched a partnership with Escola Superior de Propaganda e Marketing (E.S.P.M.), a leading educational institution in Brazil dedicated to professional training, teaching and research in marketing. Together they created a Reference Center on Freedom of Speech. Ethics and Legislation were already compulsory subjects in all communications courses in Brazil, but the partnership with ESPM went a step further. It

ICC's Business Action for Responsible Marketing and Advertising (BARMA) Program

BARMA is an advocacy and educational initiative of the International Chamber of Commerce involving the full range of industry stakeholders (advertisers, agencies, intermediaries and the media) to "promote greater application of ICC's international codes for advertising and marketing practice and to support Self-Regulation in markets where it is underdeveloped or at risk."

The Program rests on three pillars. It aims to:
1. Educate current and future practitioners on the importance of compliance with the ICC Code and the role of effective Self-Regulation in building consumer confidence, maintaining corporate reputation and preserving businesses' license to market their products and services;
2. Increase public and political awareness of Self-Regulation in marketing and its advantages;
3. Act as a catalyst for further development of Self-Regulation in key international markets.

Together with the famous international business school INSEAD, the ICC developed a case-study based training program for use in marketing education. It is available free of charge to professors and SROs around the world to assist them in teaching the application of the Code principles. A modular version of this training program has also been developed by the ICC for use in seminars with practitioners and policymakers.

In early 2018, the ICC is expected to launch a new online training course, largely based on the BARMA Program, but with an extended scope. A teaser is already available at: https://youtu.be/C9CgIf8NpBY

To find out more about other educational and training initiatives at national and international level, please contact the ICAS Secretariat.

6 | Useful contacts

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Self-Regulatory Organization Members

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CONARP -   Comisión Nacional de Autorregulación Publicitaria
c/o UCEP, Calle 99 No. 7A-77, Edificio Advance, Oficina 401, Bogotá
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CNP - Consejo Nacional de la Publicidad
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Ph.: +33 1 40 15 15 40 | contact@arpp.org
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ASCI - The Advertising Standards Council of India
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IRELAND
ASAI - The Advertising Standards Authority for Ireland
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SRC - Stichting Reclame Code
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ASA - The Advertising Standards Authority
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CONAR - Consejo de Autorregulación Publicitaria del Perú
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ASC - Advertising Standards Council
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ARP - Auto Regulação Publicitaria
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RAC - Romanian Advertising Council
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ASA - The Advertising Standards Authority of South Africa
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SPAIN
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ABG - Advertising Business Group
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ASA - Advertising Standards Authority
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ASRC - Advertising Self-Regulatory Council
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SRO Association Members

EASA - European Advertising Standards Alliance
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Industry Members

EPC - European Publishers Council
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FEPE International - Out of Home Advertising
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IAA - International Advertising Association
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Ph.: + 1 646 722 2612 | iaa@iaaglobal.org
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WFA - World Federation of Advertisers
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Other Useful Contacts

APEC - Asia-Pacific Economic Cooperation
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IARD - International Alliance for Responsible Drinking
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ICC - International Chamber of Commerce
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Annex: Perspectives on Effective Advertising Self-Regulation

The "Perspectives" emanate from the Toronto Global Advertising Summit of April 2007. They describe the various component parts of effective Self-Regulatory Systems, and are directly inspired from the EASA Best Practice Self-Regulatory Model of April 2004 .

The elements outlined here are based on experience in implementing Self-Regulation at a local level. They will not necessarily need to be implemented simultaneously, and they should not be understood as universally applicable to all local systems. These principles are rather intended to serve as an informal guidance for stakeholders to evaluate, initiate and develop effective and credible systems in key emerging markets. It can help identify areas where investment is needed to develop existing national arrangements in order to improve the operation of Self-Regulation.

1. Universality of the Self-Regulatory System

An effective Advertising Self-Regulatory System should apply without exception to all practitioners—advertisers, agencies and media. To achieve this, there needs to be a general consensus on the need for a Self-Regulatory System and the practical, active support of all three parts of the industry.

Additionally, a Self-Regulatory Organization (SRO) must be able to depend on the moral support of a large majority of the industry, to lend credibility to its decisions and ensure that they can be applied even to uncooperative advertisers. This can be achieved only if the system covers all significant forms of advertising and has the active participation of practitioners in all areas of commercial communications, including Direct Marketing and new forms of advertising e.g. the so-called New Media.

2. Sustained and Effective Funding

Effective Self-Regulation is the best means of maintaining the freedom to advertise and freedom has a price. Self-Regulation is not a cut-price option: it can function effectively only if it is properly funded.

A Self-Regulatory System requires a robust method of funding involving the commitment of all the parties involved in the various sectors of commercial communications. It is important that such a method is sustainable, i.e. affordable and not extravagant, but it should also be buoyant, i.e. so designed that it cannot be placed in jeopardy by the unilateral action of any company or industry sector.

Finally, the funding method should be indexed to ensure that it keeps pace with increased costs and reflects changes in the advertising market. A levy system based on a small percentage of all advertising expenditure has been found to be a very satisfactory way of fulfilling all these criteria.

3. Efficient and Resourced Administration

SROs should be managed in a cost-efficient and business-like manner with defined standards of service. To maintain public confidence in the system, an SRO must be—and be seen to be—independent of the industry which funds it. To achieve this, it requires a dedicated Secretariat within a structure that provides the necessary independence and external credibility. The number of staff will depend to some extent on the size of the market, but it must be adequate to ensure the efficient functioning of the SRO. Even the smallest SRO is unlikely to be able to function properly with fewer than two full-time staff and most will need substantially more.

Staff numbers should be reviewed regularly to ensure that they are appropriate to the workload and the SRO's budget should be reviewed each year and kept at a level adequate to meet its needs. To maintain impetus, the SRO is encouraged to have a strategic action plan, put in place at its inception and updated on an annual basis. To establish and maintain awareness of its activities, it is also advisable to have a communications plan, conducted on the same basis.

4. Universal and Effective Codes

A key element of any Self-Regulatory System is an overall Code of Advertising Practice. This should be based on the universally-accepted ICC Codes of Marketing and Advertising Practice; it may subsequently be extended and developed in response to national requirements.

It is important that the code should apply to all forms of advertising. It is equally important to establish a procedure for the regular review and updating of the code, ensuring that it keeps abreast of developments in the market place, changes in public concerns and consumer sensitivity, and the advent of new forms of advertising.

Finally, the code must be made widely available and advertisers, agencies and media must be familiar with its contents.

5. Advice and Information

One of Self-Regulation's key roles is to prevent problems before they happen by providing advice to advertising practitioners. The advice provided by an SRO can take several forms:
- First, copy advice, i.e. confidential, non-binding advice about a specific advertisement or campaign, may be supplied on request before publication

- Second, the SRO can offer general advice on Code interpretation. This advice will also draw on 'case law', i.e. precedents established in previous adjudications. General advice of this kind can also be made available in the form of published guidance notes, which supplement the code and indicate best practice, for example in high-profile or problem areas. Like the code itself, guidance notes can be updated as necessary.

6. Prompt and Efficient Complaint Handling

The public perception of a Self-Regulatory System will depend to a very large extent on how efficiently it is seen to deal with complaints. One of Self-Regulation's principal advantages over the judicial process is, precisely, its speed. Consequently, it is essential that complaints are seen to be handled promptly.

The amount of time required to investigate a complaint will depend on its complexity. Business to business complaints typically may take longer to resolve. SROs however should manage their activities particularly in this area against defined standards of service, including complaint handling targets.

In cases alleging misleadingness, a fundamental principle of Self-Regulation is that the advertiser must bear the burden of appropriately substantiating their claims. The SRO should ensure that it has the means to evaluate technical evidence produced by advertisers to support their claims, including access to independent, specialist experts. Competitive complainants should be able to show *prima facie* evidence of a code breach in order to avoid abuse of the system.

7. Independent and Impartial Adjudication

A Self-Regulatory System must be able to demonstrate that it can judge cases brought before it efficiently, professionally and above all impartially. Different ways to structure the complaints handling process exist, including alternative dispute resolution systems and formalized Complaints Committees. Deliberations in such bodies must be conducted in an independent and unbiased manner.

The adjudication process is incomplete without some provision for the review of decisions in case of appeal. The review process should be thorough but need not be elaborate. It should be so designed that it cannot be used merely as a delaying tactic to postpone the implementation of a decision.

8. Effective Sanctions

Although in most cases Self-Regulatory Systems can count on voluntary compliance (however reluctant) with their decisions, their credibility depends in no small measure on the ability to enforce them. The so-called "name and shame" principle, involving routine publication of adjudications, with full details of the complaint and the name of the brand and the advertiser,

has proved to be a powerful deterrent. It can, where necessary, be reinforced by deliberately publicizing a case where voluntary compliance with a decision is not forthcoming.

However, perhaps the most effective means of enforcing a disputed decision is media refusal of the offending advertisement. This requires a commitment on the part of the media to uphold the decisions of the SRO and is likely to depend on the adoption of a standard "responsibility clause" in all advertising contracts, by which both parties agree to be bound by such decisions.

9. Efficient Compliance and Monitoring

To be truly effective, an SRO cannot afford to restrict its activities to responding to complaints: if it does so, its interventions will inevitably be haphazard and lack consistency or thoroughness. To proceed effectively against violations of the Code, it will need to put in place a planned program of systematic monitoring, based on specific product sectors or problem areas.

This allows the SRO both to institute cases on its own initiative and to evaluate levels of Code compliance. This, in turn, enables potential problems to be discussed with the industry and eliminated before they become too serious. Regular dialogue with the industry should be a routine part of the SRO's activities. Monitoring and compliance surveys will also indicate areas where the code may need to be strengthened or changed.

10. Effective Industry and Consumer Awareness

An effective self-regulatory system should maintain a high profile. In other words, consumers should be aware of where and how to complain and the industry should be aware of the Codes and procedures by which it regulates itself. To achieve this, the SRO will need to undertake regular publicity campaigns to create and maintain awareness of the system among consumers. It can be assisted by the provision of free media space, both in traditional media and the increasingly important electronic media. It should be simple and straightforward for consumers to complain, both online and offline.

Simultaneously, an ongoing program of promoting its Codes and procedures to the advertising industry—paying particular attention to those joining the business—will enable the SRO to establish practical awareness at working level.

Finally, the SRO will need to be able to produce information and evidence of its activities, in the form of published surveys, case histories and statistics (for example, numbers of complaints handled or copy advice requests). Information of this kind is essential to demonstrate the effectiveness of Self-Regulation.

"Advertising supports the foundation of a free press and a thriving economy, but advertising must be responsible at all times. Self-Regulation creates the accountability framework necessary for responsible advertising to flourish. The IAA understands the true benefits of Self-Regulation and is proud to be a strong supporter and advocate of the work ICAS accomplishes in furthering the goal of promoting effective Advertising Self-Regulation."

Carla Michelotti
Vice-President, International Advertising Association (IAA)

"Trust is essential in order to build successful brands. Trust starts with truthful and responsible communication. Effective industry-wide Advertising Standards are a pre-requisite for this. They underpin the integrity of the whole brand marketing community. This guide spells out the basics for effective Ad Standards in practical terms. It is the basis on which industry partners around the world can build and strengthen their own systems so that they too can increase trust in brand marketing communications."

Stephan Loerke
CEO, World Federation of Advertisers (WFA)

"In 1937, the International Chamber of Commerce issued its first Advertising Code, the foundation of what would become the most important resource to spread Advertising Self-Regulation across markets and reduce trade barriers from divergent laws or restrictions. Today's globalized economies and technology have resulted in unfathomable connectivity and cross border flows. This only underscores the value and relevance of the Consolidated ICC Code on Advertising and Marketing Communication Practice. This ICAS Guide offers practical guidance on implementing the rules for markets new to Self-Regulation and ensuring credible systems to enforce them. ICAS' valuable contribution to this shared goal is most commendable."

Brent Sanders
Chair, ICC Commission on Marketing and Advertising

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