



Code of Ethics

PRACTICE NOTE | FEBRUARY 2021

Objectives



This Practice Note is provided as a guide to interpretation to assist advertisers, their agencies and the community. The interpretations in this **Practice Note** are based on the **AANA's** intent in relation to the **Code** and relevant determinations of the **Ad Standards Community Panel**.

This **Practice Note** must be applied by the **Ad Standards Community Panel** in making its determinations. In the event of any ambiguity the provisions of the **Code** prevail. The **Practice Note** may be amended by the **AANA** from time to time.

What does the code apply to?



The Code applies to material which draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct, and includes:

- all advertising or marketing communication under the reasonable control of the advertiser, whether or not a payment or other valuable consideration has been involved;
- all advertising or marketing communication where any of the potential customers of the product, service etc. are physically present in Australia and the advertising or marketing communication is directed to those customers;
- sponsorship announcements such as "this program brought to you by . . .";
- advertorials and infomercials;
- community service announcements;
- user generated content which is communicated via a site or digital platform over which the marketer has a reasonable degree of control; and
- any media, including online and social media (the Code is technology neutral).

The Code does not apply to:

- labels and packaging
- corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy
- promotions for a broadcaster's programs aired on that network (television or radio).

For the avoidance of doubt, placing advertising and marketing communication online or publishing it in a digital format does not by itself mean that the communication is directed to a particular audience – for example, advertising or marketing communication contained on an international website will not be considered to be directed to Australians unless the material is clearly addressed to Australian consumers. Where advertising or marketing communication are directed to consumers physically present in Australia, the Code applies to the advertiser or marketer who has reasonable control over the communications – for example, in the case of an international campaign this may be a brand owner based overseas and not the local entity for the brand, where the local entity does not have reasonable control over the communication.

Two sections of the code

The Code is divided into two sections. The purpose of the two sections is to differentiate between the provisions which apply to complaints by competitors (**Section 1**) and complaints which are brought by consumers (**Section 2**).

Section 1 Competitor Complaints

Section 1 is intended to provide a mechanism for complainants to resolve disputes between competitors in an efficient and low-cost way without the need for recourse to the courts.

Section 2 Consumer Complaints

Section 2 is the section for complaints under the Code by consumers.

Section 1 Competitor Complaints



Section 1 reflects the consumer protection principles in the **Australian Consumer Law** (part of the Competition and Consumer Act) (ACL). Complaints are made to the Ad Standards Industry Jury: www.adstandards.com.au/process/claimsboardprocess

Section 1.2 reflects concepts in the **ACL** in relation to misleading and deceptive conduct. To establish that advertising or marketing communication is not misleading or deceptive an advertiser may be required to provide substantiation of any claims made. This means that an advertiser must have a reasonable basis for their claims. Substantiation may be in the form of tests, studies or expert reports depending on the type of claim made.

The **Ad Standards Industry Jury** will consider whether the information most likely to be taken from the advertisement or marketing communication by an average consumer in the target market would be reasonably regarded as truthful and honest. The **Industry Jury** will consider the advertiser's stated intention, but may also consider, regardless of stated intent, that an advertisement is by design misleading or deceptive.

Section 2 Consumer Complaints



Section 2 of the Code provides the self-regulatory rules around portrayal of people, violence, treatment of sex, sexuality and nudity, appropriate language, health, safety and distinguishability in advertising.

The **AANA** Codes apply to advertising and marketing communication where two key criteria are met:

- Does the marketer have a reasonable degree of control over the material?; and
- Does the material draw the attention of the public in a manner calculated to promote the product or service?

Material may originate to provide information to stakeholder groups such as media, investors or government and not be covered by the Codes. However once it is targeted directly at consumers or the public in a way that is calculated to promote a service or product and in circumstances where the brand owner retains reasonable control over the material, then the Codes would apply. Contextually targeted branded content, integrated content, native advertising – that is, material which seeks to provide content generated by brands which does not look out of place in the habitat within which it is being viewed, heard or experienced – is included within the definition of advertising.

► **Prevailing Community Standards** apply to all parts of **Section 2**. This means that the Ad Standards Community Panel will have regard to community standards at the time the advertising or marketing communication was published. Prevailing Community Standards are determined primarily by the Community Panel, whose members are representative of the community, on a case by case basis, as part of the complaints process.

To assist advertisers and complainants, this Practice Note provides some guidance into Prevailing Community Standards. It is influenced in part by previous decisions of the Community

Panel, the **AANA's** intent in developing this Code and any relevant research of the **AANA** or Ad Standards. There is no one test of Prevailing Community Standards. The Prevailing Community Standard will differ in relation to health and safety, nudity, language, violence and portrayal of people.

► **Relevant audience** is applicable to the restrictions on treatment of sex, sexuality and nudity and language. Relevant audience is informed by the content of the advertising or marketing communication as well as other material that may be provided by the advertiser including classification material, audience measurement data and the media placement plan, to determine the audience that the advertiser intends to see the advertising or marketing communication.

The Community Panel will have regard to the audience or readership composition data for the relevant media where this is provided.

In the case of social media, the Community Panel should have regard to the opt-in nature of the medium and the age gating which may apply to some social media sites in determining the relevant audience. The Community Panel will consider reasonable members of the relevant audience in making its determinations.

For the purposes of advertisements in public places, the Community Panel will not only take account of the intended audience, but it can also take a broad view of the actual audience. This recognises the broad nature of the audience for advertisements in public places, which may include Minors. The Community Panel will take that into consideration in determining their view of whether the advertisement treats sex, sexuality and nudity with sensitivity to that audience or whether the language used is appropriate for that audience.

Discrimination / Vilification



Section 2.1 prohibits the discrimination or vilification of any individual or group of people on the basis of certain defined attributes. 'Discrimination' and 'vilification' are defined as:

Discrimination

unfair or less favourable treatment

Vilification

humiliates, intimidates, incites hatred, contempt or ridicule

The defined attributes are:

RACE – viewed broadly this term includes colour, descent or ancestry, ethnicity, nationality, and includes, for example, ideas of ethnicity covering people of Jewish or Muslim origin

ETHNICITY – those with a common social identity as a result of customs, traditions or belief about historical origins

NATIONALITY – people belonging to a particular nation either by birth, origin or naturalisation. This can change over time so, for example, a person born in the United States who becomes a citizen of Australia by marriage may describe their nationality as either/both Australian or/and American

GENDER – refer to the attributes, roles, behaviours, activities, opportunities or restrictions that society considers appropriate for girls or boys, women or men. Gender is distinct from 'sex', which refers to biological differences

AGE – based on a person's actual age (i.e. from the date they were born) and not a person's biological age (i.e. how old they may appear)

SEXUAL ORIENTATION – means a person's sexual orientation towards:

- persons of the same sex;
- persons of a different sex; or
- persons of the same sex and persons of a different sex

RELIGION – a belief or non-belief in a faith or system of worship

DISABILITY – a current, past or potential physical, intellectual, psychiatric, or sensory illness, disease, disorder, malfunction, malformation, disfigurement or impairment, including mental illness

POLITICAL BELIEF – support for or opposition to a particular political party or ideology

Advertising which shows members of a certain group as ridiculous, unintelligible or unable to recognise a dangerous situation incites ridicule towards their behaviour.

Advertising which compares members of a specific group to animals or objects will be seen as degrading and vilifying.

HUMOUR

A negative depiction of a group of people in society may be found to breach [Section 2.1](#), even if humour is used. The depiction will be regarded as a breach if a negative impression is created by the imagery and language used in the advertisement of a person or group of people on the basis of a defined attribute listed above. Advertisements can humorously or satirically suggest stereotypical aspects of a group of people in society provided the overall impression of the advertisement does not convey a negative impression of people of that group on the basis of one or more of the attributes listed above.

DISABILITY

A realistic depiction of people with a disability can be acceptable, even if the advertisement may be upsetting to some members of the community, where there is an important message being delivered.

GENDER STEREOTYPES

Harmful gender stereotypes are unacceptable because they perpetuate unconscious bias and rigid norms of femininity and masculinity that shape what it means to be a girl, woman, boy or man.

Advertisements should take care to avoid suggesting that skills, interests, roles or characteristics are:

- always uniquely associated with one gender (eg. family members creating a mess while a woman has sole responsibility for cleaning it up);
- the only options available to one gender;
- **or**
- never carried out or displayed by another gender,

as this may amount to discrimination on the basis of gender.

This includes, but is not limited to advertisements that:

- mock people for not conforming to gender stereotypes;
- portray an activity or product as being inappropriate for a girl or boy because it is stereotypically associated with another gender; or
- portray one sex failing at a task that is stereotypically associated another gender (eg. a man trying and failing to undertake simple parental or household tasks).

Portraying a person as attractive does not, in and of itself, constitute discrimination or vilification. However, ads should be sensitive to the emotional and physical well-being of vulnerable groups of people who may be

under pressure to conform to particular gender stereotypes. For example, an ad aimed at new mums which suggests that looking attractive or keeping a home pristine is a priority over other factors such as their emotional wellbeing.

In relation to ads featuring or aimed at children, ads can be targeted at and feature a specific gender but should take care not to explicitly convey that a particular children's product, pursuit, activity, including choice of play or career, is uniquely suited to one gender or inappropriate for one or another gender. Explicit labelling of children that contrasts stereotypical characteristics in a way that reinforces perceptions of what children can or cannot be, because of their gender, is more likely to be problematic.

Advertising which highlights the causes of violence against women, does not suggest that all men are violent towards women or that men cannot be victims of domestic violence.

Advertisements for services or activities only available to one gender are legally able to be advertised and highlighting this key feature in advertising does not amount to discrimination or vilification.

Nothing in this rule is intended to prevent ads from featuring:

- one gender only;
- products designed or made for one gender featuring only that gender (eg tampons, breastfeeding products);
- gender stereotypes as a means to challenge their negative effects.

Exploitative or Degrading



Section 2.2 prohibits the use of sexual appeal in advertising which is exploitative of or degrading to any individual or group of people. 'Exploitive' and 'degrading' are defined as:

Exploitative

(a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities;

or

(b) focusing on their body parts where this bears no direct relevance to the product or service being advertised.

Degrading

lowering in character or quality a person or group of persons.

Treating humans as sexual objects or commodities for sale perpetuates the harmful view that people, particularly women and girls, are evaluated based on their appearance and risks the premature sexualization of children.

Section 2.2 applies to all genders, with distinct criteria when it comes to the portrayal of minors.

In advertisements where minors, or people who appear to be minors, are used, sexual appeal is harmful, not acceptable and will always be regarded as exploitative or degrading. Advertisements must not include sexual imagery, state or imply that minors, or people who appear to be minors, are sexual beings or that ownership or enjoyment of the advertised product will enhance their sexuality. Minors, or people who appear to be minors, must not be portrayed in a manner which treats them as objects of sexual appeal. Advertising featuring someone who appears to be a minor in a pose which indicates they are trying to appear alluring has been found to breach this section of the Code.

For material to breach this section of the Code, it must contain sexual appeal.

Models in underwear or lingerie surrounded by or next to fully clothed models may suggest a power imbalance and be found to be exploitative or degrading.

Material can be found to be exploitative or degrading even where the model is looking confident where the model is being depicted as a product or commodity or the focus on body parts is not relevant to the product or service being advertised. Advertising which used sexual appeal and suggests that a person is a product, or that they exist only for the enjoyment of others has been found to breach this section of the Code. Likewise, advertising which uses attractive models in revealing clothing, where the use of the model is not relevant to the product, has been found to be exploitative.

'Focusing on body parts' can include a close-up, multiple close-ups or long-still on breasts or buttocks or cropping in such a way as to emphasise these body parts. Such focus on body parts is not acceptable unless used to advertise relevant products and services.

The Community Panel may have regard to the context or medium in which the material appears.

Violence



Section 2.3 prohibits the use of violent content unless it is justifiable in the context of the product or service advertised.

Although the depiction of violence in an advertisement may be relevant to the story being told in the advertisement, any violence must also be justifiable in the context of the product being advertised, or else will be in breach of this section of the Code.

Any advertising message that can be interpreted as condoning or encouraging suicide is not justifiable in the context of any product advertised. Likewise, sexual violence is not acceptable under any circumstances.

The results or consequences of violence (e.g. a black eye) and audio representations of violence may also be prohibited. However, graphic depictions of violence or the consequences of violence may be justified by the community safety message involved.

Violence against animals is caught by this section. However graphic depictions of violence against animals or the effects of such violence may be justified by the community message involved.

In considering whether the violence or menace depicted in an advertisement is justifiable, the Community Panel may have regard to the audience of the advertisement. Graphic depictions of violence or a strong suggestion of menace have been found to present violence in an unacceptable manner especially when visible to a broad audience which includes children. For example, advertising for violent or horror movies, tv shows or video games should take care not to include images that give the impression that a character has just committed violence against someone (for example, a weapon with dripping blood), was the victim of violence (for example, freshly severed limbs) or is about to commit violence against someone (for example, gun aimed directly at a person or the viewer) where there is a broad audience which includes children. More leeway is permitted where the depiction is stylised rather than realistic. However, advertisers should exercise caution when using cartoon violence as a cartoon style may be attractive to children.

Sex, Sexuality or Nudity



Section 2.4 prohibits the harmful use of sex, sexuality or nudity in advertising and requires that such content must be appropriate for the relevant audience. Images that are considered harmful and which are not permitted are those which are overtly sexual and inappropriate having regard to the relevant audience.

This section applies equally to images of men as well as images of women and children.

Sex

sexual intercourse; person or persons engaged in sexually stimulating behaviour.

Sexuality

the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters.

Nudity

The depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity.

Sensitivity

Understanding and awareness to the needs and emotions of others.

Overtly sexual depictions where the depiction is not relevant to the product or service being advertised are likely to offend Prevailing Community Standards and be unacceptable.

Full frontal nudity and explicit pornographic language are not permitted. Images of genitalia are not acceptable. Images of nipples may be acceptable in advertisements for plastic surgery or art exhibits for example.

Overtly sexual images are not appropriate in outdoor advertising or shop front windows.

Although not exhaustive, the following may be considered to be overtly sexual:

- Poses suggestive of sexual position: parting of legs, hand placed on or near genitals in a manner which draws attention to the region;
- People depicted in sheer lingerie or clothing where a large amount of buttocks, female breasts, pubic mound or genital regions can be seen; The use of paraphernalia such as whips and handcuffs, particularly in combination with images of people in lingerie, undressed or in poses suggestive of sexual position;
- Suggestive undressing, such as pulling down a bra strap or underpants; or
- Interaction between two or more people which is highly suggestive of sexualised activity.

Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.

Images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects).

Models who appear to be minors should not be used in sexual poses.

The use of the word "sex" does not, of itself, make an advertisement unacceptable. However, such advertisements must not contain images that are overtly sexual and inappropriate having regard to the relevant audience.

Images of naked couples embracing when viewed in a public space, has been found to be inappropriate and to not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience.

Sexualised images which include elements which would be attractive to children, such as cartoons or depictions of Santa, when in a medium which can be seen by children have been found to not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience.

Images of naked people when viewed in a public space, where the nudity is evident and the focus of the advertisement, have been found not to treat the issue of nudity with sensitivity to the relevant audience, even when the image is not sexual in nature.

Language



Section 2.5 prohibits the use of strong or obscene language and requires that the language used in advertising must be appropriate for the circumstances.

Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner.

The “f” and “c” words are generally viewed as harmful, unacceptable and not permitted. Nonverbal representations of the “f” word are also generally not permitted. Words and acronyms that play on the ‘f’ word, e.g. WTF and LMFAO, but do not use the actual word are normally considered acceptable if used in a light hearted and humorous way, are in subtitle rather than spoken word and are appropriate to the situation. Advertisements which use the ‘f’ word in full will be seen to constitute strong and offensive language, even when the audience is restricted. Advertising which uses the ‘f’ word where it has been insufficiently censored so that it can be easily understood by audiences, will be seen to constitute strong language, especially when seen by a broad audience.

Advertising which sufficiently beeps or censors language so that it cannot be understood will not be seen to be strong or obscene language.

Advertising which uses rhyming words, or similar words to strong language, will not be seen to be strong or obscene when used in a light-hearted and humorous manner.

There is a higher sensitivity in the community relating to the use of inappropriate language by children, even when it is not used in a demeaning or aggressive manner.

When considering the application of this section to user generated content (UGC) within the control of the advertiser, the Community Panel will have regard to the contextual and conversational nature of social media. In some cases, the use of the vernacular in UGC may not offend Prevailing Community Standards of the relevant audience.

Advertising that uses sexualised double entendre will often be seen to not breach the Code when there is a non-sexualised interpretation which would be understood by children viewing the advertisement.

Health & Safety



Section 2.6 requires that advertising must not depict content that would encourage or condone unhealthy or unsafe behaviour having regard to Prevailing Community Standards.

UNSAFE PRACTICES

Images of unsafe driving, bike riding without helmets or not wearing a seatbelt while driving a motor vehicle are likely to be contrary to prevailing community standards relating to health and safety irrespective of whether such depictions are for the product/service being advertised or are incidental to the product.

In relation to the portrayal of farming, the dangerous use of quad bikes, children riding on tractors or other unsafe practices involving farming machinery will be contrary to prevailing community standards relating to health and safety. Similarly, advertisements depicting unsafe practices or images, such as riding down a hill in a wheelie bin, using a mobile phone while driving or apparently hiding in a chest freezer etc are unacceptable.

Advertising which demonstrates the unsafe use of machinery, even when not the focus of the advertisement, is likely to be seen as unsafe and against prevailing community standards on health and safety.

Advertisers should take care not to depict behaviour that children may imitate. For example, advertisements which are likely to attract the attention of children or could indicate to children that appliances or other domestic/commercial equipment are a safe place to hide, are seen to encourage unsafe behaviour.

Advertisements which feature exaggerated or fantastical elements, which are unlikely to be seen as realistic by the relevant audience, are unlikely to be found to be encouraging or condoning unsafe behaviour.

This rule is not intended to prevent advertisers from depicting unsafe behaviour as a means to demonstrate potential negative effects, such as an advertisement for road safety depicting someone driving in a car after drinking alcohol.

BULLYING

The age of the people depicted in an advertisement, their relationship to each other and the nature of the communication are relevant in determining whether an advertisement constitutes bullying and is contrary to Prevailing Community Standards. More care must be taken when the people depicted in an advertisement are Minors or if there is an unequal relationship between the people in the advertisement, e.g. student and teacher, manager and worker.

Health & Safety (continued)



BODY IMAGE

Advertising must not portray an unrealistic ideal body image by portraying body shapes or features that are unrealistic or unattainable through healthy practices. Exposure to unrealistic body ideals can lead to harmful body dissatisfaction and disordered eating and for this reason it is not acceptable in advertising.

UNREALISTIC IDEAL BODY IMAGE: Advertising that provides an unrealistic ideal body image by portraying body shapes or features that are unrealistic or unattainable through healthy practices, which is not justifiable in the context of the product or service being advertised, will be contrary to prevailing community standards relating to health and safety.

An unrealistic ideal body image may occur where the overall theme, visuals or language used in the advertisement imply that:

- a body shape, or feature, of the kind depicted (e.g. very thin or very muscular) is required to use the product or service or to participate in an activity associated with the product or service;
- those people who do not have a body shape, or feature, of the kind depicted cannot use the product or service, or participate in a particular activity; or
- those people who do not have a body shape, or feature, of the kind depicted should alter their body shape, or features, before they can use the product or service, or participate in a particular activity.

An unrealistic ideal body image may also occur where models are depicted in a way that:

- promotes unhealthy practices
 - presents an unrealistic body image as aspirational; or
 - is reasonably likely to cause pressure to conform to a body shape that is unrealistic or unattainable through healthy practices (such as diet or physical activities);
- unless such depictions are justifiable in the context of the product or service advertised.

BODY SIZE: The Code does not require the use of 'healthy weight' models as this term could exclude people in smaller or larger bodies from advertising and unnecessarily limit the portrayal of diversity in society. As such, advertisements may include a diversity of images, including people who have a variety of sizes and shapes, but advertisers should take care to avoid images of people with extreme body weights or shapes that are unrealistic or unattainable through healthy practices which are not justifiable in the context of the product or service advertised, and which are contrary to prevailing community standards relating to health and safety.

While the use of people in smaller or larger bodies is itself not necessarily problematic, advertisers must ensure that models do not adopt a pose or are not depicted in a way which produces an unrealistic sense of body image, for example through the style of the advertising, the clothing, lighting, or make-up used.

ALTERATION OF IMAGES: The use of digitally-enhanced images is a normal part of the production process used in many aspects of the media and advertising industries, and is a vehicle for visual expression. The Code does not prevent the use of post-production, altering or digitally enhancing an image. Similarly, the Code does not require a disclosure that images have been digitally altered.

However, where technology is used to digitally alter images of people to such an extent that their body shape, or features, are no longer realistic or attainable through healthy practices, or where the changes are not justifiable in the context of the product or service advertised, the advertisement may breach the Code if it is contrary to prevailing community standards relating to health and safety. Advertisers should refrain from altering images in a way that changes the body shape or proportions portrayed, for example by lengthening a person's legs to the extent they are not in proportion with the rest of their body or tightening their waist disproportionately to the rest of their body, so that the resulting image portrays a body shape or features that are unrealistic or unattainable through healthy practices.

Clearly Distinguishable Advertising



Section 2.7 requires that advertising must be clearly distinguishable as such.

Advertisers should be cognisant that, in seeking to make their advertising and marketing communication more engaging, they do not camouflage the fact that it is advertising. Advertising or marketing communication should not be disguised as, for example, news, current affairs, independent market research, user-generated content, private blogs or independent reviews.

There is no absolute requirement that advertising or marketing communication must have a label however it must be clear to the audience. If it is clear to the audience that the content is commercial in nature (for example by the nature of the content, where the content is placed, how consumers are directed to the content, the theme, visuals and language used, or the use of brand names or logos), then no further disclosure or distinguishing element is needed.

For example, where a brand is advertising their own product on their own channel (e.g. the brand's Facebook or Instagram account), no specific labels are required where it is clear to the audience that the brand is advertising their own product or service.

Influencer and affiliate marketing often appears alongside organic/genuine user generated content and is often less obvious to the audience. Where an influencer or affiliate accepts payment of money or free products or services from a brand in exchange for them to promote that brand's products or services, the relationship must be clear, obvious and upfront to the audience and expressed in a way that is easily understood (e.g. #ad, Advert, Advertising, Branded Content, Paid Partnership, Paid Promotion). Less clear labels such as #sp, Spon, gifted, Affiliate, Collab, thanks to... or merely mentioning the brand name may not be sufficient to clearly distinguish the post as advertising.

Where advertisers have made commercial arrangements for the branded products to feature as a product placement, and no other claim is made about the products, no label or disclosure may be required. Even though consumers may not realise the advertisers have made a commercial arrangement for their products to appear, the use of the branded products may be sufficient to distinguish the material as an advertisement or marketing communication. Further disclosure of product placement may not be necessary because there is a prevailing community view that audiences do not need to be notified of this sort of product placement.

Advertisers have flexibility as to how to ensure that material is distinguishable as advertising or marketing communication. Advertisers may use logos or brand names combined with other visual or audio cues where appropriate, such as background shading, outlines, borders, graphics, video or audio messages depending on the medium. When advertisements are targeted to a specific audience, the relevant perspective is that of a typical member of the targeted group.

Responsibility for developing content that is aligned to the AANA Codes falls to the advertiser – the brand owner who has control over the relevant material and whose products or services are being promoted. The AANA Codes do not apply to the broadcaster or publisher unless they are acting as advertiser for their own products or services.

Be aware that other industry codes, such as the Commercial Television Industry Code of Practice; Commercial Radio Code of Practice; ASTRA Codes of Practice; ADMA Code of Practice may also apply.



User Generated Content

User Generated Content (UGC) is material which has not been created by the brand owner but by a person interacting on the brand owner's digital marketing platform. A brand owner has reasonable control of user generated content when it becomes aware of the material. An advertiser becomes aware of material when:

- it has posted or published material;
- it becomes aware of UGC through reasonable review;
- a user notifies the advertiser/marketer of the UGC; or
- a complaint is lodged with Ad Standards about the UGC.

The Code does not apply to: UGC on pages and sites which are not within an advertiser's reasonable control even if brands or products are featured. Examples include:

- A user posting a brand's TVC on YouTube with additional footage/comments;
- A user posting footage on YouTube using a brand or product but with no involvement from the advertiser/marketer;
- UGC featuring hashtags that may relate to a brand or brand campaign from platforms such as Twitter and Instagram;
- A tweet from a brand re-tweeted with added content by a user, over which the advertiser/marketer has no control;
- UGCs that are reposted by a person other than the brand.



Public Relations Communication

Advertising includes consumer public relations communication. Material produced for use in the media or by the media can be presented in a variety of formats, including video, infographics, question and answer articles, photos, audio or online.

The following are excluded from the definition of advertising:

- corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy
- any form of editorial content such as independent review content, editorial blog content or claims made in the context of editorial content
- corporate social responsibility (CSR) programs.

What are “corporate reports”?

Corporate reports are not covered by the **Codes**. This includes:

- Corporate public affairs messages in press releases and other media statements;
- Annual reports; and
- Statements on matters of public policy and the like, such as:
 - a. corporate/stakeholder websites, social media or career sites;
 - c. internal company communication, sustainability reports, investor documents;
 - d. submissions, position statements, comments on policy issues; and
 - e. direct communications to audiences in their capacity as commercial stakeholders of the company.

Consumer public relations material, as distinct from corporate reports, that is reproduced as public facing content (e.g. a press release posted on a brand’s consumer facing website) would be covered by the Codes because the brand owner has retained a reasonable degree of control over the material and it was used in a manner intended to directly promote a product or service.

Note this inclusion does not apply to material published for other purposes, such as investor relations or regulatory affairs. Where brand owners have provided material for their employees to promote a product or service via social media or similar, the material would be covered by the Codes if that material is reproduced substantially unaltered.

Do the Codes apply to editorial content?

Editorial content such as independent review content, editorial blog content or claims made in the context of editorial content is excluded from the Codes.

For example:

- Material that is produced by a brand owner for the purpose of direct reproduction as content and which is not subject to editorial discretion/control would be covered by the Codes.
- Consumer public relations material that is provided directly by a brand owner (or their agent) to journalists for editorial.

About the AANA

AANA is the Voice for Brands. Founded 90 years ago, AANA exists to inspire and promote responsible, innovative and respected marketing through a commitment to sustainable industry collaboration. As the peak industry body, our members represent some of Australia's biggest advertisers and the world's best known brands across all major sectors who contribute to an estimated advertising spend of more than \$15 billion a year including FMCG, automotive, banking, finance and insurance, travel, health and beauty, media and communications. On behalf of our members, the AANA's mandate is to maintain and evolve the advertising codes which underpin the system of self-regulation in Australia, safeguard the rights of its members to commercial free speech and protect consumers by ensuring marketing communication is conducted responsibly, while giving them the networks and pathways to career learning.

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