



**Submission: Classification of Publications
(Billboard Advertising) and Other Legislation
Amendment Bill 2013**

CONTENTS

- 01 Glossary 3
- 02 Executive Summary and recommendations..... 4
- 03 About the OMA and the Outdoor Advertising Industry..... 7
 - 3.1 General..... 7
 - 3.2 On-premise advertising 7
 - 3.3 Value of the industry to the Queensland economy 8
 - 3.4 Social responsibility of the industry 9
- 04 Government regulation – generally 10
 - 4.1 Digital signage..... 10
- 05 Regulation of the content of outdoor advertisements..... 10
 - 5.1 Voluntary codes 10
 - 5.2 Australian Association of National Advertisers (AANA) 12
 - 5.3 Advertising Standards Bureau (ASB) 12
 - 5.4 Government regulation of misleading and deceptive advertising..... 13
 - 5.5 Government contracts and policies 13
 - 5.6 Commercial contracts and policies..... 13
- 06 Federal government inquiries into content..... 13
- 07 Compliance with various regulatory frameworks 14
- 08 Effectiveness of self-regulation of outdoor advertising.....15
- 09 Current OMA procedures for content..... 16
- 010 Benefits of self-regulation 18
- 011 Government regulation impact on the industry..... 19
- 012 Impact of the proposed Classification of Publications (Billboard Advertising) and
Other Legislation Bill 2013..... 21
- 013 Conclusion and recommendations..... 22

01 GLOSSARY

AANA

Australian Association of National Advertisers – the peak body representing the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

ASB

Advertising Standards Bureau – the self-regulatory body that considers advertising complaints across all media.

OMA

Outdoor Media Association – the peak industry body representing 90% of Australia’s outdoor media display companies and production facilities, and some media display asset owners. A full list of the OMA’s members is attached at Appendix 1.

On-premise advertising

Vehicles, billboards and other structures that advertise the business, services and products on the advertiser’s property.

Outdoor media display companies

Companies that provide space for third-party advertisements in public areas such as along roadways, in shopping centres, on public transport and at airports.

Street furniture

This includes bus/tram shelters, public toilets, bicycle stations, phone booths and kiosks that are provided and maintained by outdoor media display companies.

Third-party advertising

Advertising in which the advertisement is not associated with the premises on which it is displayed. That is, a land owner allows an outdoor media display company to display an advertisement for a third-party product.

02 EXECUTIVE SUMMARY AND RECOMMENDATIONS

The Outdoor Media Association (OMA) is the peak industry body representing 90% of Australia's outdoor media display companies and production facilities, as well as some media display asset owners.

Outdoor media display companies advertise third-party products including:

- on buses, trams, taxis, pedestrian bridges, billboards and free-standing advertisement panels;
- on street furniture (e.g. bus/tram shelters, public toilets, bicycle stations, phone booths, kiosks); and
- in bus stations, railway stations, shopping centres, universities and airport precincts.

The industry members build, clean and maintain the pedestrian bridges and street furniture, and provide other community infrastructure such as park benches, bins and bicycles.

The OMA does not represent businesses that install 'on-premise' advertisements (vehicles, billboards and other structures that advertise the business, services and products on the advertiser's property). On-premise advertising is more prolific than third-party advertising. For example, in NSW, along Parramatta Road between Broadway and Leichhardt, there are about 2140 on-premise signs compared to 14 third-party advertisements, an area similar to Gympie Road, Queensland.

Advertising and marketing plays a fundamental economic role in society and the advertising industry alone raises annual revenue of about \$10.9 billion. In 2012 the outdoor advertising industry raised revenue of \$503 million, making up approximately 5% of advertising spend in Australia.¹

In 2013, Deloitte Access Economics conducted a study of the outdoor media industry in Queensland and found that for 2012, the industry:

- employed 150 full time equivalent staff;
- raised \$115 million in revenue;
- made a value added contribution to the Queensland economy of \$42.6 million;
- contributed an estimated \$10.43 million to the upkeep of public infrastructure;
- donated a considerable amount in funds and free advertising space to Queensland charities and not-for-profit organisations.

The social responsibility of the industry is further demonstrated by its complete compliance with all findings of the Advertising Standards Board as well as all State and Local Government controls relating to outdoor advertising. In contrast, companies that display on-premise advertising are often not aware of these various controls and regulations.

The socially responsible approach of the industry, as outlined above, demonstrates that the industry can be relied upon to comply with appropriate self-regulatory systems. The OMA submits that the current self-regulatory scheme is effective, as demonstrated by the small number of complaints about outdoor advertisements, and the even smaller number of adverse findings:

- The industry ran more than 12,000 different advertisements in Queensland in 2012.

¹ Commercial Economic Advisory Service of Australia (CEASA), for the year ending 31 December 2012.

- These advertisements were displayed across more than 14,000 different advertising display panels.
- MOVE,² the outdoor advertising industry's audience-measurement system, predicts that almost every person over the age of 14 in Sydney, Melbourne, Brisbane, Adelaide and Perth will see at least one advertising campaign each week.³
- Even with these vast numbers, the ASB only considered 83 cases about outdoor advertisements in 2012.
- 14 of these were found to be in breach of the Australian Association of National Advertisers (AANA) Code of Ethics, of which 11 were **not** third-party advertisements. That is, 78.5% of upheld cases were not about third-party advertisements.⁴
- The 3 third-party advertisements that were the subject of an adverse finding by the ASB represent 0.01% of the 30,000 outdoor industry advertisements nationally. None of the 3 advertisements that received upheld complaints were specific to the industry in Queensland. None of the three advertisements upheld breached in the area of sex, sexuality and nudity. The three breaches are contained in Appendix 2.

The OMA submits that it would be unnecessarily cumbersome to annually subject some 30,000 third-party advertisements nationally and 12,000 in Queensland to government regulation where 99.99% of them are acceptable to the wider community.

Government regulation of outdoor advertising would cause delays and may lead to the homogenisation of outdoor advertisements. These outcomes would enable other media to gain an advantage in an industry that is deadline-driven and communicates differently to different markets. It would also cost the industry an estimated \$3.5 million per year.⁵ The OMA submits that the small number of complaints that have been upheld by the Advertising Standards Board do not justify this loss of advantage. Further, the invariable loss of industry revenue would affect:

- employment in the industry;
- the contribution of the industry to the national economy; and
- the industry's ability to continue making significant contributions to the community.

Again, such consequences do not appear reasonably justified by the small number of complaints that are upheld by the Advertising Standards Board.

Internationally, the preferred method of managing advertising is through self-regulatory bodies.⁶ The benefits of self-regulation include the following:

1. Complaint resolution times are generally quicker than in regulatory and co-regulatory schemes. Any delays in complaint handling timeframes impact upon both the complainant and the respondent.
2. Self-regulatory schemes are adaptable and able to respond quickly to changes in circumstance or community attitudes. In contrast, legislative frameworks take more time and effort to amend.

² In 2010 the OMA launched Measurement of Outdoor Visibility and Exposure (MOVE). MOVE is a national audience measurement system for outdoor advertising.

³ Sydney – 99.6%; Melbourne – 98.9%; Brisbane – 95.8%; Adelaide 98.6%; Perth – 98.2%.

⁴ Data received by the ASB and compiled by the OMA.

⁵ Contribution of the outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

⁶ One exception is Saudi Arabia, where advertising must be compatible with the Islamic religion and its laws, and complaints are managed by government authorities.

3. Both the spirit and the letter of self-regulatory codes should be complied with, as opposed to legislation which generally demands compliance with the strict letter of the law.
4. Self-regulation is funded by industry. Government regulation would require public funds to establish, apply and enforce the scheme.
5. Self-regulation has the support of industry. A system enforced by Government can undermine the goodwill of the industry that is committed to the success of the self-regulatory scheme.

The OMA submits that the benefits of the current self-regulatory system by far outweigh the small number of occasions on which a complaint about outdoor advertising has been upheld.

In view of the above, the OMA makes the following **recommendations**:

1. The current system of self-regulation should be maintained.
2. If a stricter regulatory framework is imposed on outdoor advertising, it should be applied consistently across all outdoor advertising, including on-premise advertising.

03 ABOUT THE OMA AND THE OUTDOOR ADVERTISING INDUSTRY

3.1 General

The Outdoor Media Association (OMA) is the peak industry body representing 90% of Australia's outdoor media display companies and production facilities, and some media display asset owners. A full list of the OMA's members is attached at Appendix 1.

Outdoor media display companies advertise third-party products⁷ including:

- on buses, trams, taxis, pedestrian bridges, billboards⁸ and free-standing advertisement panels;
- on street furniture (e.g. bus/tram shelters, public toilets, bicycle stations, phone booths, kiosks); and
- in bus stations, railway stations, shopping centres, universities and airport precincts.

Large format advertisements (e.g. billboards) remain on display for 4 weeks, whereas smaller displays run for 1 or 2 week periods.

The industry members build, clean⁹ and maintain the pedestrian bridges and street furniture, and provide other community infrastructure such as park benches, bins and bicycles¹⁰.

3.2 On-premise advertising

The OMA does not represent businesses that install 'on-premise' advertisements (vehicles, billboards and other structures that advertise the business, services and products on the advertiser's property). On-premise advertising is more prolific than third-party advertising. For example, in NSW along Parramatta Road between Broadway and Leichhardt, Sydney, there are about 2140 on-premise signs compared to 14 third-party advertisements, a very similar road to Gympie Road in Queensland.

References to 'the industry' in this submission do not include on-premise advertisers.

Some examples of on-premise and third-party advertising are pictured over.

⁷ Advertising in which the advertisement is not associated with the premises on which it is displayed. That is, a land owner allows an outdoor media display company to display an advertisement for a third-party product.

⁸ Standard billboard sizes range from about 13 to 84 square metres. Billboard sizes are set or approved by State Governments or Local Councils.

⁹ Clean includes the removal of graffiti.

¹⁰ For example, 2000 public bicycles have been provided for Brisbane CityCycle scheme.

Pictures 1 and 2 – On premise signs



Pictures 3 and 4 – Third party signs



3.3 Value of the industry to the Queensland Economy

Advertising and marketing plays a fundamental economic role in society and the advertising industry alone raises annual revenue of about \$10.9 billion. In 2012 the outdoor advertising industry raised revenue of \$503 million, making up approximately 5% of advertising spend in Australia.

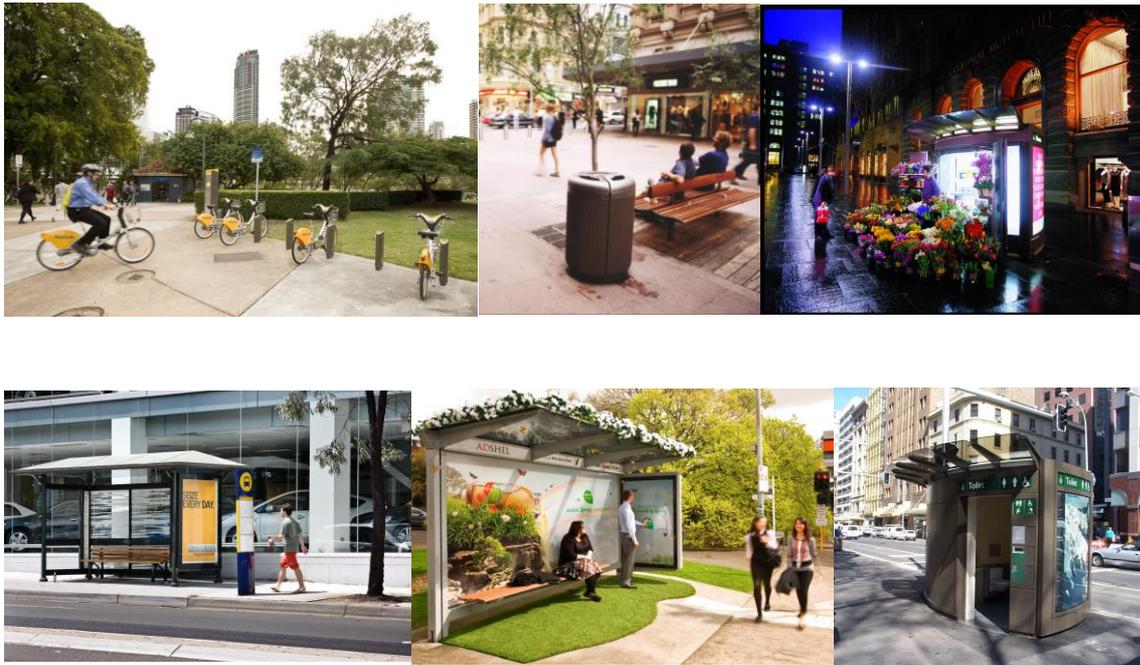
The industry also plays a considerable role in the Queensland economy, raising revenue of \$115 million and providing a \$42.6 million value added contribution to the economy.¹¹ The industry has experienced considerable growth in the last 2 years, increasing the number of sites, revenue and staff numbers. In particular, the number of staff employed in the industry in Queensland has grown 19% to 150 FTE.¹²

The industry plays an extensive role in the community in Queensland by providing assistance to charities and local governments with free advertising space and developing extensive public infrastructure. In terms of public infrastructure contributions, these are primarily bus shelters, bicycle stations and park benches. The items are maintained by the industry at a

¹¹ Contribution of the outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013
¹² Contribution of the outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

cost of \$7.81 million per year with a total expenditure (including capital costs) by the industry of \$10.43 million per year, which would otherwise need to be provided by local governments to upgrade and maintain this infrastructure.¹³

The industry provides significant contributions to the building, cleaning and maintenance of public infrastructure not only contribute to the vibrancy of cities, but also enable Local Councils to spend their funds on other projects. Some examples of public infrastructure provided by the industry are pictured below.



More broadly, across Australia, the OMA and its members have provided ongoing support to charities such as The Big Issue, the Australian Literacy and Numeracy Foundation and National Missing Persons Week. This support totals about \$1.6million per year and has provided these charities with excellent awareness and fundraising outcomes.

The OMA also contributed \$1.6million in 2011 to the Advertising Standards Bureau to assist them in promoting their complaints process.

3.4 Social responsibility of the industry

The significant industry contributions made to the community, discussed above, demonstrate the industry's socially responsible stance. This stance is further demonstrated by the large number of voluntary codes that the industry subscribes to, outlined at section 5.1 below.

In addition to the obligations imposed by the various voluntary codes, the industry is entirely compliant with findings of the Advertising Standards Board as well as all State and Local Government controls relating to outdoor advertising. In contrast, companies that display on-premise signage are often not aware of these various controls and regulations.

The OMA submits that the industry's sense of social responsibility, as well as its proven track record in managing self-regulation, demonstrates that it can be relied upon to comply with

¹³ Contribution of the outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

appropriate self-regulatory systems.

04 GOVERNMENT REGULATION – GENERAL

State and Local Governments regulate advertising devices. The result is a vast array of different frameworks across the country that relate to outdoor advertising. These regulations:

- relate to issues such as spacing, placement, size and lighting of signs; and
- are generally more prescriptive for third-party advertising than for on-premise signage, notwithstanding that the structure of the signs may be the same.

There are some guidelines at a State level that prohibit the display of advertising along a road that, for example, imitates a traffic control device¹⁴. The OMA is not aware of any procedures the State Governments have in place to monitor compliance with such guidelines, however, the OMA's members are aware of the guidelines and compliant with them. Other than these types of guidelines, the content of outdoor advertising is generally not regulated by Government.

Internationally, the preferred method of managing advertising is through self-regulatory bodies.¹⁵ Regulation of the content of outdoor advertisements is discussed in detail at section 5, below.

4.1 Digital signage

A digital sign works in much the same way as a television screen, except that third-party advertising on digital signs generally involves still images. The images on the sign rotate periodically (for example, every 8 seconds), and the displays can be updated remotely.

One of the benefits of digital advertising is that the display of advertisements does not involve the same occupational health and safety considerations as conventional signage and allows the advertiser more flexibility in getting its message to the consumer at various times of the day. However, digital signs are very costly to install, which means that the growth of digital has been very slow internationally and this is likely to be the case in Australia also.

The OMA is currently working with the Department of Transport and Main Roads to regulate the use of digital signage in Queensland.

05 REGULATION OF THE CONTENT OF OUTDOOR ADVERTISEMENTS

The advertising industry across Australia is self-regulated, and the outdoor industry has a world-class system of 12 self-regulatory Codes that the industry adheres to. Advertising content that is placed on outdoor advertising structures is not owned by the media display companies.

5.1 Voluntary codes

The OMA's members are committed to comply with the following codes that regulate the content and placement of advertisements.

¹⁴ For example, the Queensland Department of Transport and Main Roads' Roadside Advertising Guide.

¹⁵ One exception is Saudi Arabia, where advertising must be compatible with the Islamic religion and its laws, and complaints are managed by government authorities.

OMA Code of Ethics (Appendix 3)

This code outlines voluntary principles that all OMA members must adhere to, relating to working with advertisers and regulators, and responsibilities towards the community and the environment. Under the Code of Ethics, the OMA's members are only entitled to endorse the display of advertising that adheres to, among other things, the various AANA codes.

OMA Alcohol Advertising Guidelines (Appendix 4)

Under these guidelines, the OMA's members are required to limit the advertising of alcohol products on fixed signs that are located within a 150 metre sight line of a primary or secondary school. They are also required to only accept copy for alcohol advertising that has been approved for display through the Alcohol Advertising Pre-vetting System, and to support all decisions made by the Alcohol Beverages Advertising Code (ABAC) Scheme Adjudication Panel.

OMA Environment and Sustainability Statement (Appendix 5)

Under this statement, the OMA assists members to minimise the impact of the industry's operations on the built and natural environment, and to contribute to the sustainability of the communities in which the industry operates.

OMA Content Review Policy (Appendix 6)

The Content Review Policy was introduced by the OMA in May 2011 in response to the House of Representatives Inquiry into billboards and outdoor media. The Policy requires OMA members to seek copy advice from the OMA before posting certain types of advertisements. The policy also requires members to immediately take steps to remove an advertisement if a complaint against it is upheld by the Advertising Standards Board.

AANA Code of Ethics (Appendix 7)

This is the overarching code of Australian advertising industry self-regulation, and has the objective of ensuring that all advertising is ethical, and prepared with a proper sense of obligation to consumers and fairness to competitors.

AANA Environmental Claims in Advertising and Marketing Code (Appendix 8)

The object of this code is to ensure that advertisers and marketers develop and maintain rigorous standards when making environmental claims and to increase consumer confidence to the benefit of the environment, consumers and industry.

AANA Code for Advertising and Marketing in Communications for Children (Appendix 9)

This code is designed to ensure that advertising and marketing communications directed at Australian children conform to prevailing community standards.

AANA Food and Beverages Advertising and Marketing Communications Code (Appendix 10)

This code is designed to ensure a high sense of social responsibility in advertising and marketing of food and beverage products and services in Australia.

Alcohol Beverages Advertising Code (Appendix 11)

This code is designed to ensure that alcohol advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

Federal Chamber of Automotive Industries' Voluntary Code of Practice for Motor Vehicle Advertising (Appendix 12)

The primary purpose of this code is to provide guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety.

Therapeutic Goods Advertising Code

The object of this code is to ensure that marketing and advertising of therapeutic goods to consumers is conducted in a manner that promotes the quality use of therapeutic goods, is socially responsible and does not mislead or deceive the consumer. The code can be downloaded at <http://www.tgacc.com.au/codeList.cfm>

Weight Management Industry Code of Practice

This code outlines regulations for responsible advertising of weight management products and services. The code can be downloaded at <http://www.weightcouncil.org/industry/weight-management-code-of-practice.htm>

Again, the industry's commitment to these codes demonstrates its commitment to socially responsible practices.

5.2 Australian Association of National Advertisers (AANA)

The AANA is the peak body representing the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

Australia's system of self-regulation functions under the AANA codes, and in 2010 the AANA launched a review of the AANA Code of Ethics.

The AANA established the Advertising Standards Bureau (ASB) to administer the complaints resolution component of the advertising self-regulation system.

5.3 Advertising Standards Bureau (ASB)

Complaints about the content of outdoor advertisements are managed through the ASB, which considers advertising complaints across all media. Complaints can be made about the issues covered by the various codes – most particularly the AANA Code of Ethics. The ASB does not consider complaints about issues covered by the:

- Therapeutic Goods Advertising Codes Council;
- Weight Management Council;
- Alcohol Beverages Advertising Code;
- Australian Competition and Consumer Commission (ACCC); or
- Australian Security and Investments Commission (ASIC).

Complaints are adjudicated by the Advertising Standards Board, which is made up of individuals who are representative of the community and not connected to the advertising industry. The Board includes 20 people from a broad range of age groups and backgrounds and is gender balanced – representative of the diversity of Australian society. The profiles of the current Board members can be viewed at: <http://adstandards.com.au/aboutus/theadvertisingstandardsboard/boardmemberprofiles>

The ASB conducts research to inform itself about community standards, and the decisions of the Advertising Standards Board have evolved to reflect any changes in community standards.

5.4 Government regulation of misleading and deceptive advertising

Allegations of misleading and deceptive advertising are generally overseen by the Australian Competition and Consumer Commission (ACCC), under the Competition and Consumer Act 2010 (previously the Trade Practices Act 1974).¹⁶ So, for example, we understand that when the ASB received complaints about the veracity of claims made in Advanced Medical Institute (AMI) advertisements, these were referred to the ACCC.

However, allegations of misleading and deceptive advertisements about financial products and services are overseen by the Australian Security and Investments Commission (ASIC) under the ASIC Act 2001.

5.5 Government contracts and policies

Some Local Councils enter into contracts with media display companies, under which the company will build and maintain public infrastructure,¹⁷ in return for opportunities to display third-party advertising (for example, on bus shelters, telephone booths and free-standing advertisement panels). Similarly, some State rail and road authorities enter into contracts with media display companies, under which the company will display advertisements. Among other things, these contracts enable the public authorities to raise revenue through the advertising.

The terms of the contracts, which reflect the policies of the public authorities, may be quite specific about the types of advertisements that are displayed, where and when. So, for example, there may be a condition that no political advertisements may be displayed or that no advertisements of a particular product may be displayed.

5.6 Commercial contracts and policies

Media display companies also enter into contracts with commercial property owners such as shopping centres and airports. Again, the contracts, which reflect the policies of the property owner, may restrict the types of advertising that can be displayed. So, for example, a contract with a shopping centre may prohibit the display of advertisements promoting businesses in a competing shopping centre.

06 FEDERAL GOVERNMENT INQUIRIES INTO CONTENT

In 2011 the following Federal Inquiries investigated advertising content:

1. Inquiry into the Australian film and literature classification scheme – Senate Legal and Constitutional Affairs Reference Committee.
2. Inquiry into the regulation of billboard and outdoor advertising – House of Representatives Standing Committee on Social Policy and Legal Affairs.

There were a number of recommendations that were taken on by the OMA due to the clear community concern in this area demonstrated during the Inquiries, particularly in relation to sex, sexuality and nudity. As such the OMA developed the following policies and practices:

¹⁶ The ASB does consider some issues relating to truth and accuracy and misleading and deceptive behaviour under the specific provisions of the AANA Food and Beverages Advertising and Marketing Code, AANA Code for Advertising and Marketing to Children and the AANA Environmental Claims in Advertising and Marketing Code. However, the Advertising Standards Board considers these issues in the context of community standards and expectations, rather than reaching a legal opinion.

¹⁷ For example, bus shelters, bicycle stations, bicycles, public toilets, kiosks, bins, park benches etc.

1. The OMA introduced a Content Review Policy (see Appendix 6). Under this policy, members refer contentious advertisements to the OMA prior to display. If the OMA considers that the ad is likely to breach the AANA Code of Ethics, it will not be displayed. Since the policy came into effect at the end of June 2011, we have advised against both displaying ads and requested that ads are modified before display (Examples provided below in Section 9). Our judgements about whether an ad is likely to breach the AANA Code are based on our understanding of previous ASB determinations, ASB research and also discussions with the ASB on an individual basis.
2. The OMA commenced a regular program of Content Training for its members – in conjunction with the AANA and the ASB. The education provides members with clear guidance about the various industry codes and how best to comply with them. Over 250 people attended the course in 2011 and further training was completed in early 2013 across Australia.
3. The OMA also established a concept advisory service, which is available for advertisers and their creative agencies and enables them to seek advice about an idea for an advertisement in the early stages of development (Examples provided in Appendix 14).
4. The OMA's members donated a \$1.6 million campaign to advertise the ASB complaints process, which commenced mid-August 2011.
5. The OMA updated its Code of Ethics to include the following statement, 'When we receive a complaint about any advertisement we display we refer the complainant to the Advertising Standards Bureau, an independent complaint adjudicator. We also encouraged members to advertise links to the ASB on their websites.

07 COMPLIANCE WITH VARIOUS REGULATORY FRAMEWORKS

The industry is entirely compliant with State and Local Government regulations, contractual requirements, and the decisions of the Advertising Standards Board. In relation to the latter, the OMA's members have been entirely co-operative on the small number of occasions when they have been asked to remove an advertisement. Advertisements found to be in breach are removed as quickly as practicable and are not re-posted.¹⁸

In order to remove a billboard from display after an adverse finding, the following must be considered by the outdoor media display company:

- How is the site accessed?
- Are road closures necessary?
- Is a permit required to install a new advertisement?
- Does the site require any special equipment (for example, a cherry picker)?¹⁹
- Does the site require qualified abseiling workers and/or safety protection officers?
- Is the site accessed through a building that is only open on weekdays, or only available for after-hours access?
- When can all these factors be co-ordinated to remove the display?

Therefore, depending on the particular site, it can be a complex logistical operation to

¹⁸ Where the Advertising Standards Board upholds a complaint about an advertisement in any media, the ASB requests that the advertiser remove the advertisement within 7 days. The OMA generally tries to work with members to remove signage within 48 hours of the receipt of an upheld complaint, however on rare occasions it may take a little longer due to the logistics of removing an advertisement.

¹⁹ Standard billboard sizes range from about 13 to 84 square metres.

remove an advertisement at short notice. Nevertheless, the industry’s 100% compliance with the findings of the Advertising Standards Board demonstrates its commitment to the self-regulatory framework. This complex issue also means that OMA members are extremely mindful of advertisements which may be deemed controversial due to the cost involved in removing them following an upheld complaint. Due to this members regularly reject copy from advertisers if they have concerns that it will breach any of the Codes.

In contrast, on-premise advertising is generally less regulated than third-party advertising, notwithstanding that the structure of the sign may be similar in nature.²⁰ Where on-premise advertisements are regulated, there is very little compliance. For example, some on-premise signs along the roadside will include flashing lights or scrolling digital messages, contrary to regulatory requirements. These breaches generally continue unchecked by the relevant authority, unless a specific complaint is received by the authority. On-premise advertisers are often not aware of the various controls and regulations.

o8 EFFECTIVENESS OF SELF-REGULATION OF OUTDOOR ADVERTISING

The OMA submits that self-regulation is effective and that the industry has a proven track record of being able to be relied upon to comply with the appropriate self-regulatory frameworks. As discussed previously, the OMA has acted on community concerns and has instituted a range of changes within its membership to ensure that self-regulation continues to be the most robust way of regulating content.

On average the industry posts 30,000 pieces of advertising copy in Australia each year on over 73,000 advertising faces nationally and in Queensland in 2012 over 12,000 pieces of advertising copy were displayed.

The following table outlines the number of complaints the industry has generated over the past three years:

OMA members’ complaints upheld	Number²¹	Percentage²² Of all Outdoor ads	Percentage of²³ complaints to the ASB (Billboards)	In the Top²⁴ Ten ads most complained about	AANA Guideline contravened²⁵
2011	8	.02%	26.35%	3	Sex, Sexuality and Nudity
2012	3	.01%	4.80%	0	1, Violence, 2 Work Health and Safety
2013	0	0	-	-	-

The OMA also submits that judgements about whether an advertisement complies with an agreed set of standards will always be subjective, and will depend on which individual or

²⁰ For example, some Local Councils do not require on-premise signs to go through a lengthy assessment process to qualify for a permit.

²¹ ASB

²² OMA

²³ ASB

²⁴ ASB

²⁵ ASB

group is making the judgements. It follows that a perfect record of no complaints or no breaches is unrealistic; however it is clear from the data that following the introduction of the new OMA policies in late 2011, the number of both complaints and upheld complaints are continuing to fall.

The effectiveness of the current system is supported by the well-established and productive relationship that the OMA has with the ASB and the AANA. The ASB notifies the OMA when a complaint is received about an outdoor advertisement, and again if the Advertising Standards Board upholds the complaint. If the advertisement was displayed by an OMA member, the OMA will ensure that the member assists the complaints process as necessary. Further, the OMA has been a member of an ASB convened industry and community consultative group whose aim was to assist in the design and implementation of community standards research, and therefore has a good understanding of changes in community standards.

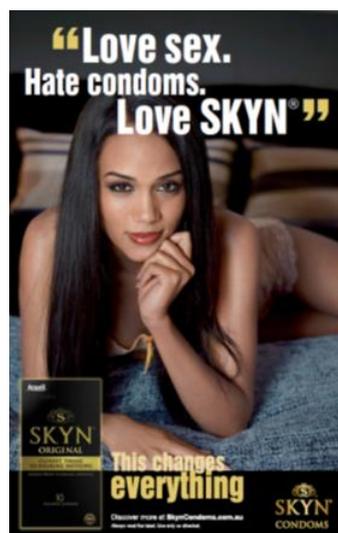
As discussed above, the OMA's members are 100% compliant with the findings of the Advertising Standards Board. Even in the event that an advertiser refuses to withdraw their advertisement, the OMA's members will take the advertisement down.

09 CURRENT OMA PROCEDURES FOR CONTENT

As noted above, the OMA Content Review Policy, which was developed in late 2011, gives members a number of responsibilities in regards to how they regulate content. Currently the system works in the following way:

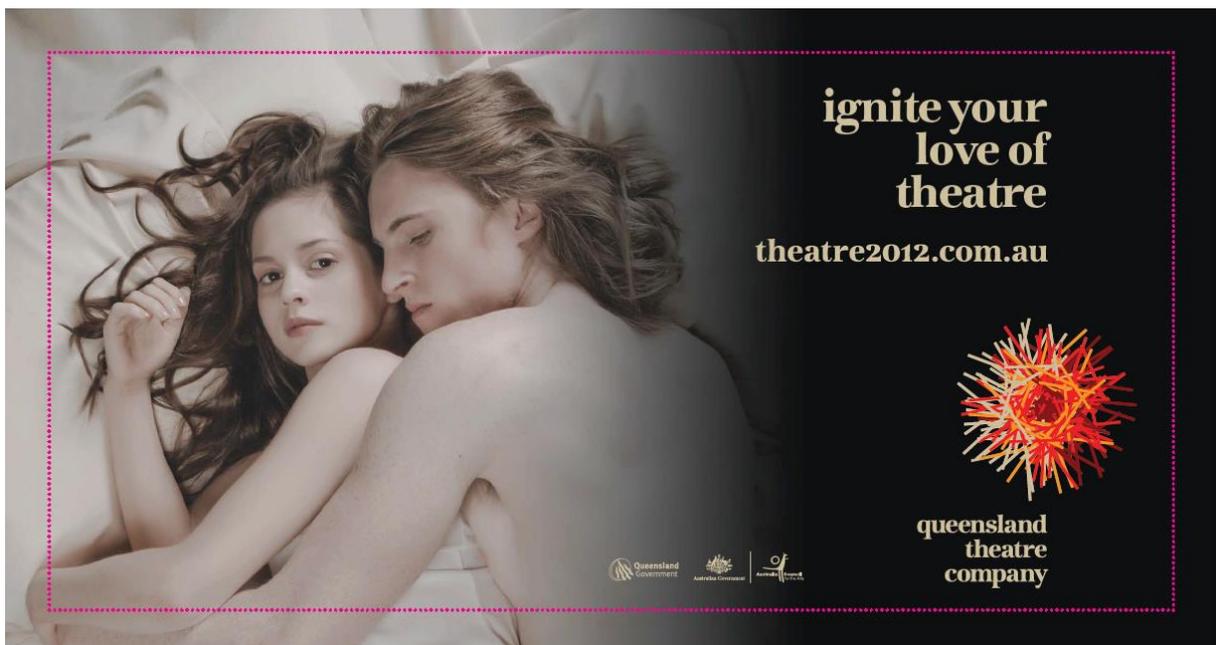
1. Members receive copy and reject it – the vast majority of controversial copy does not get sent to the OMA for review as members immediately identify that it will breach one of the Codes.
2. Members send copy to the OMA to get an opinion if they need further advice to determine whether it will breach any of the Codes.
3. If approved the advertisements are posted and when a complaint is lodged (one complaint sets off the system), the ASB reviews the ad. If the complaint is upheld OMA members will bring it down immediately, members are 100% complaint.

The following advertisements were rejected by the OMA, with some subsequently being posted after review and when appropriate changes were made to the advertisement:





A Queensland specific example of the OMA content policy in action was in relation to the Queensland Theatre Company in 2011/12. A member was initially approached by the QTC with the following advertisement for their upcoming season:



The member contacted the OMA for copy advice and the advertisement was deemed to be not suitable for display as it would breach section 2.4 of the AANA *Code of Ethics, advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience*. The OMA then worked with the member, client and creative agency to come up with the following alternative for display:



Unfortunately despite the OMA’s advice, while the revised creative ran on OMA member sites, the QTC chose to use the initial copy on its on-premise billboard. As predicted by the OMA this then attracted a complaint to the ASB, which was subsequently upheld by the Board.

The OMA is also concerned about promoting a sensible debate about the type of content that is currently displayed by its members. If the rhetoric of some objectors to out of home advertising was to be believed the industry is awash with a plethora of salacious ads that are sexualised images which are demeaning to women and damaging to children. This rhetoric usually comes with images to demonstrate the point:

- AMI ‘Longer lasting sex’ advertisement – However, this advertisement was banned in 2008 and has not been displayed since.
- Windsor Smith Shoes – This advertisement was also banned in the 1990s and not displayed since.
- Various Sexpo advertisements – Were originally banned in 2010 and have since been substantially modified to the following:



The OMA submits that to engage in a sensible debate in 2013 about the type of images that are currently utilised within the industry, those images must be accurate and recent. By utilising advertisements that would no longer be considered appropriate by OMA members to display demonstrates a clear bias against an industry which abides by worlds best practice in self-regulation.

010 BENEFITS OF SELF-REGULATION

The benefits of self-regulation include the following:

1. Complaint resolution times are generally quicker than in regulatory and co-regulatory schemes. Any delays in complaint handling timeframes impact upon both the complainant and the respondent.
2. Self-regulatory schemes are adaptable and able to respond quickly to changes in circumstance or community attitudes. In contrast, legislative frameworks take more time and effort to amend.
3. Both the spirit and the letter of self-regulatory codes should be complied with, as opposed to legislation which generally demands compliance with the strict letter of the law.

4. Self-regulation is funded by industry. Government regulation would require public funds to establish, apply and enforce the scheme.
5. Self-regulation has the support of industry. A system enforced by Government can undermine the goodwill of the industry that is committed to the success of the self-regulatory scheme.

While a rigorous cost benefit analysis has not been able to be completed prior to the due date for this submission the OMA, with the assistance of Deloitte Access Economics, has looked at the costs of a Queensland-specific government regulatory system for outdoor advertising. Whether it be the development of a Commissioner or Ombudsman with only few support staff, the cost to the government would be extensive. For example, the (small) office of the Aircraft Noise Ombudsman has an operating budget of just over half million per year, and larger offices than this have operating budgets of several million per year.²⁶

The OMA submits that the benefits of the current self-regulatory system by far outweigh the small number of occasions on which a complaint has been upheld.

011 GOVERNMENT REGULATION IMPACT ON THE INDUSTRY

As discussed, the outdoor media industry is already subject to a wide range of different regulations and controls.²⁷ The industry also manages a number of challenges that are specific only to outdoor advertising, including:

1. The numerous sizes and types of outdoor advertising displays. An advertiser will often need to provide different advertisement artwork to display on the various types of display panels – some may be in digital format and some may be printed on posters or billboards of varying sizes.
2. The logistical effort and financial cost to install and remove advertisements.

The nature of the outdoor advertising industry is also such that it would not adapt easily to Government regulation, as follows:

1. The outdoor industry is fast-paced and relies on quick processing of advertisements for installation. Some examples of typical deadline-driven scenarios are described in Appendix 13. As a result of the fast-paced nature of the industry, any regulatory delay in outdoor media is likely to cause difficulties for advertisers, with the result that outdoor advertising will become less suitable.
2. Advertising aims to communicate with target markets. As such, an advertisement that is appealing to one demographic of the population may not be appealing to another demographic of the population. Any black and white regulation of this subjective medium would lead to the homogenisation of outdoor advertisements. Again, outdoor advertising would become less suitable to advertisers as a result.
3. An increased burden would be placed on national campaigns as advertisers would potentially have to have different creative for the Queensland component of that campaign.

In view of the above, Government regulation of outdoor advertising would enable other media to gain an advantage. It is likely also that increased regulation would also have a costly impact on the industry, Deloitte Access Economics estimates that the additional costs would

²⁶ Contribution of the outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

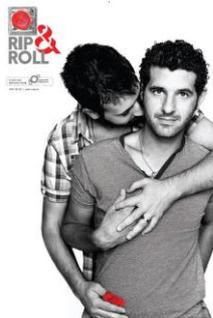
²⁷ Refer to sections 4 and 5 of this submission.

equate to about \$3.5 million per year, taking into account developing Queensland specific content and delays to launching campaigns.²⁸ The OMA submits that the small number of complaints that have been upheld by the Advertising Standards Board do not justify this loss of advantage. Further, the invariable loss of industry revenue would affect:

- employment in the industry, particularly in Queensland;
- the contribution of the industry to the Queensland and national economy; and
- the industry's ability to continue making significant contributions to the community.²⁹

Again, such consequences do not appear reasonably justified where in 2012 only 0.01% of third-party advertisements have been the subject of an adverse finding by the Advertising Standards Board and for the first six months of 2013, no complaints have been upheld.

Further, even with a G rating, references to sex, nudity and violence would still be permitted in some circumstances. A system of classification of advertisements will not eradicate complaints or, on some occasions, breaches. TV is the most classified medium and still receives the most complaints. For example, in 2011 the Rip and Roll campaign was the subject of a campaign by the Australian Christian Lobby. The ad itself was not in breach of the AANA Code of Ethics or any local, state or federal laws and the campaign was reinstated after initially being taken down by one member in Brisbane. It is likely that this particular campaign would have achieved a G rating if a rating system was in place.



It is also concerning that a G rating system may preclude the display of a number of different public health and community awareness campaigns. For example, campaigns similar to the NSW government award winning binge drinking campaign may not achieve a G rating:



²⁸ Contribution of the outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

²⁹ Refer to section 3.3 of this submission.

Other public health campaigns which may also be prevented from being displayed include, the QUIT smoking campaigns, safe sex messages and various road safety campaigns.

012 IMPACT OF THE PROPOSED CLASSIFICATION OF PUBLICATIONS (BILLBOARD ADVERTISING) AND OTHER LEGISLATION BILL 2013

The OMA submits that the proposed Classification of Publications (Billboard Advertising) and Other Legislation Bill, is not a suitable alternative to self-regulation for both government and the industry.

As mentioned, the issue of self-regulation has been discussed in a number of federal government Inquiries and reports. The *Reclaiming Public Spaces Report*, rejected the classification system for regulating outdoor advertising as, ‘the purpose of classification is to provide information on a cover about a publication, film, or computer game’s content, so that consumers can make an informed decision to purchase or view the item. It is not feasible to classify an outdoor advertisement that does not contain any additional content other than that which is on display.’³⁰ The Report then went further to state that, ‘the Committee failed to be convinced that a government regulatory or classification model would improve compliance or provide a more effective means of regulating the industry in line with community expectations.’³¹ A similar conclusion was also reached by the Australian Law Reform Commission.³²

Currently the Commonwealth Classification (Publications, Films and Computer Games) Act 1995 sets out the ratings which have been used to classify billboards under the proposed Amendment Bill. However, these ratings have been developed specifically for films and computer games, not for billboards or other forms of advertising. Indeed, in the public hearings for the Senate Legal and Constitutional Affairs Committees’ Inquiry into the Australian film and literature classification scheme, members of the Classification Board stated that if they were to provide advice on billboard advertising that it would be treated as a publication, not within the film and video game rating system.³³ The OMA submits that this would lead to the classification scheme being used inexpertly for a purpose it was not originally intended, making it unsuitable for use in advertising. The usage of these ratings may also create legal implication if they were being used for a purpose for which they were not intended.

Aside from the above argument, the OMA also submits that most current outdoor advertising falls into the G or PG categories, as set out by the proposed Amendment Bill, including some which have recently cause controversy. For example in the proposed Amendment Bill explanatory notes, the PG category is stated as being, ‘*the impact of PG (Parental Guidance) classified films and computer games should be no higher than mild, but they may contain content that children find confusing or upsetting and may require the guidance of parents and guardians. They may, for example, contain classifiable elements such as language and*

³⁰ House of Representatives Standing Committee on Social Policy and Legal Affairs, *Reclaiming Public Spaces: Inquiry into the Regulation of Billboards and Outdoor Advertising Final Report* (2011), pg. 36.

³¹ Ibid.

³² Australian Law Reform Commission, *Classification – Content Regulation and Convergent Media (ALRC Report 118)* (2012)

³³ Official Committee Hansard, Senate, Legal and Constitutional Affairs Legislation Committee, Reference: Australian film and literature classification scheme, Thursday 7 April 2011, pg 64-65.

themes that are mild in impact.³⁴ For example the following Honey B's advertisement, which has attracted a number of complaints, under this definition would likely receive a PG classification:



The proposed Amendment Bill also sets out a levy system which only applies to M or MA 15+ classified advertisements. As mentioned, currently the outdoor industry generally displays advertisements that comply with the AANA *Code of Ethics*, as such it is highly unlikely that any current billboards would attract an M or MA 15+ rating, meaning that any monies collected by the levy would be negligent. This would therefore mean that the full burden of cost for the establishment of a State Billboard Geographical Classification Zoning Panel and the State Billboard Geographical Classification Zoning Branch would fall on the government alone, and as mentioned in Section 10, economic modelling estimates that this could cost between half a million and several million dollars per year to maintain.³⁵

The OMA would further like to raise concerns with the consultation undertaken prior to the development of the proposed Amendment Bill. While the OMA understands and appreciates the need to take into account the views on the community on these issues, we submit that for a bill to be proposed that directly affects an industry, consultation with that industry should have been undertaken in the first instance. Particularly, due to the additional costs to members, which would run into the millions of dollars per year. The OMA would also like to raise concerns about the lack of consultation with the Classification Branch of the Commonwealth Attorney General's Department, particularly in light of the use of the ratings taken from the Branch. It should also be noted that the proposed Amendment Bill will also have an impact on the Queensland Government, who are current owners of outdoor advertising inventory.

013 CONCLUSION AND RECOMMENDATIONS

The OMA submits that the current self-regulatory system for outdoor advertising is effective. The effectiveness of the current system is demonstrated by:

- the small number of cases upheld by the Advertising Standards Board, relative to the large number of advertisements displayed (0.01% in 2012);
- the industry's compliance with findings of the Advertising Standards Board; and
- the steps taken by the industry to respond to community concerns about content in 2011.

The social responsibility of the industry, as well as its proven track record in managing self-regulation, demonstrates that it can be relied upon to comply with appropriate self-

³⁴ Classification of Publications (Mandatory Billboard Geographical Classification Zoning) Amendment Bill 2013 Explanatory Notes pg. 6.

³⁵ Contribution of the outdoor media industry (Queensland) – 2013, Deloitte Access Economics 2013

regulatory systems.

The OMA submits that the benefits of the current self-regulatory system (including overall effectiveness and cost-efficiency) significantly outweigh the small number of occasions on which a complaint has been upheld. It would be unnecessarily cumbersome to subject some 12,000 third-party advertisements annually to government regulation where 99.99% of them are acceptable to the wider community.

A Government regulatory framework, particularly one that utilises a classification system not originally designed for that specific use, for outdoor advertising would reduce the viability of outdoor advertising in comparison to television, radio, internet and print advertising. The OMA considers that this outcome is not justified by the small number of complaints upheld by the Advertising Standards Board. Such an outcome would have a detrimental effect on the industry and on the industry's ability to continue making substantial contributions to the community.

Therefore, the OMA makes the following **recommendations**:

1. The current system of self-regulation should be maintained.
2. If a stricter regulatory framework is imposed on outdoor advertising, it should be applied consistently across all outdoor advertising, including on-premise advertising.