

7 June 2018

About The Communications Council

The Communications Council is the peak industry organisation representing companies in the Australian advertising industry. Our diverse member base spans more than 160 agencies and offices around the country which operate in the areas of creative, digital, strategic planning, promotion, direct marketing, PR, design, production, and healthcare advertising.

Our members are comprised of local offices from all major holding companies (Omnicom, WPP, Dentsu Aegis Network, Havas Worldwide, Publicis Groupe, Interpublic Group, and M&C Saatchi), smaller international networks and a flourishing segment of largely privately-owned Australian independent agencies.

Introduction & Summary

While we note that the consultation document is strong on principle and intent, we find it is weak on detail. This submission from the TCC concentrates on the concerns we have on this lack of detail on how the proposed new complaints process will be implemented and particularly the experience and resources that the TGA can provide from inside TGA, in assessing complaints, specifically real understanding of advertising and how it works and can be made to work which is central to the majority of complaints.

This becomes even more important as the changeover date for the proposed new code looms even closer while the proposed code is still under major scrutiny and subject to a large number of concerns.

TCC's Therapeutic Goods Advertising Credentials

As Australia's industry body representing all advertising companies in all media and all PR companies, TCC therefore represents the majority of those companies who produce therapeutic goods advertising and promotional material targeting the public. As such we are jointly responsible and therefore liable for the accuracy of what is published/broadcast. This means we have a particular interest on any complaints handling process as we are affected directly. Moreover as producers of materials on an ongoing basis our experience of advertising and how it works is unique and therefore highly relevant to the assessment of advertising/promotional materials, irrespective as to who has produced it.

Needless to say, through both mainstream agencies and specialist healthcare agencies (HCC) we are working with the code on a daily basis so have an acute awareness of its detail which will be continued once the new code is finalised.

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TCC is very experienced in handling complaints as all members work within the broader industry self-regulatory system whereby they will comply with any determination made by AdStandards (formally the ASB).

Need for greater Clarification

Specifically:

1. While the proposed new Complaints process is strong on principle and intent, it is weak on Mode of Action i.e. how TGA will physically implement it:
 - By a standing committee or series of working groups raised to deal with complaints as they arise or what?
 - Who will be its members?
 - What stakeholders will they represent – if any and what will be their area of expertise.
 - Specifically what will be their experience of advertising and how it works and can be made to and in many complaints cases, ‘manipulated’ to work?
 - Because advertising works primarily at a subjective level which is central to the whole process, this requires ‘hands-on’ experience – a degree in communications is not enough. As we have mentioned before advertising is a craft and not a profession, which you go on learning throughout your career.

This implies that you need people with direct experience of creating advertising on the new ‘complaints board’ or at least those actively employed in obtaining advertising on a regular basis – brand and marketing managers.

2. Nowhere in the consultation document are all the penalties listed, mere sight of which can act as a deterrent to those proposing to ‘bend the rules’.
3. Although there is mention of ultimate penalties being taking Civil Action, we all know anything going through the courts will take time – one of the major criticisms aimed at the previous system. It is suggested that the Medicines Australia system for breaches of its Code covering prescription medicines and services, is considered ie to impose fines which can then be appealed if the recipient disagrees
4. Although the document mentions ‘vexatious’ complaints eg inter-company complaints, often designed to disrupt new product launches, there is no detail as to it will be decided as to what is ‘vexatious’.

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Conclusion

TCC would be happy to discuss further and to provide advertising/communication expertise advice on any future complaints board either on a regular or on an as required basis.