

## Submission

on the

### Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016

to the

### Transportation and Utilities Committee

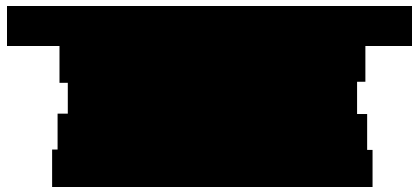
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by

FamilyVoice Australia



21 November 2016

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# 1. Introduction

**Warning: This submission contains explicit sexual content and profane language.**

On 8 November 2016 the Hon Mark Bailey MP, Minister for Main Roads, Road Safety and Ports and Minister for Energy, Biofuels and Water Supply, introduced the *Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016* and the Bill was referred to the Transportation and Utilities Committee, which is due to report to the House by Thursday, 2 February 2017.

FamilyVoice Australia is a national Christian voice – promoting true family values for the benefit of all Australians. Our vision is to see strong families at the heart of a healthy society: where marriage is honoured, human life is respected, families can flourish, Australia’s Christian heritage is valued, and fundamental freedoms are enjoyed.

We work with people from all mainstream Christian denominations. We engage with parliamentarians of all political persuasions and are independent of all political parties. We have full-time FamilyVoice representatives in all states.

FamilyVoice has had a longstanding interest in advocating policies that protect children from sexualisation.

The closing date for submissions is Tuesday, 22 November 2016.

## 2. Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016

### 2.1. Intent of the Bill

The *Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016* legislation is an important step to better protect children from being exposed to sexually explicit material.

The intent of the legislation is to enable vehicles registered in Queensland that display sexually explicit or obscene advertisements to have their registration cancelled, if they are subject to an adverse Advertising Standards Board (ASB) determination and they fail to comply. This intent is fully supported.

The proposed law is long overdue. For too long, parents have been unable to protect their children from offensive advertisements displayed on other vehicles, particularly by Wicked Campers. One such Wicked Campers vehicle featured the slogan: “In every princess there is a little slut who wants to try it just once”.<sup>1</sup>

Paula Orbea, a mother who started a petition against the advertisement, said:

*I just feel like it's wallpapering our lives, this idea, this obsession with sex, and creating a sex-obsessed male and a victim female, a hyper-sexualised 'asking for it' female.*<sup>2</sup>

Other slogans that have appeared on Wicked Campers include: “she can't wrestle, but you should see her box [vagina]”, “a wife: an attachment you screw on the bed to get the housework done”, “save a tree, eat a beaver [vagina]” and “can your pussy do the dog.”<sup>3,4</sup>

Earlier this year *Sydney Morning Herald* writer Clare Kermond wrote about the lack of action following a complaint she made about the company:

*I emailed a complaint to the company. No response. I wrote to the Advertising Standards Board and was impressed to receive a prompt reply saying it had considered my complaint and upheld it. Excellent, now we'll see some action, I thought. That was until I read the fine print and noted that the board had found against the company two years ago, only to be roundly ignored.*

*An ASB spokesman wrote: "Wicked Campers did not reply to our board's determination. We have been working with the relevant authorities in Queensland, including the police and the Attorney-General's department, to try and enforce compliance."<sup>5</sup>*

A problem with the current regime is that ASB determinations lack teeth. The *Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016* will give ASB determinations with respect to offensive vehicle advertisements some much needed force.

**Recommendation 1:**

***The Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016 would enable decisions of Advertising Standards Board to be enforced and should be supported in principle.***

## **2.2. Unintended consequences**

While the intent of the legislation is fully supported, it may have unintended consequences. Of particular concern is that because of the wording of the Australian Association of National Advertisers (AANA) Code of Ethics, political advertisements may be subject to an adverse finding.

The Code of Ethics defines "Advertising or Marketing Communications" to mean:

- a. *any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,*
  - *over which the advertiser or marketer has a reasonable degree of control, and*
  - *that 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,*
- b. *but does not include*
  - *labels or packaging for products*
  - *corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like*
  - *in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel or station.<sup>6</sup>*

"Medium" is defined as:

*any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, telecommunications, television or other direct-to-consumer media including new and emerging technologies.<sup>7</sup>*

Most importantly, section 2.1 states that:

*Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race,*

*ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.*<sup>8</sup>

It is not too difficult to imagine a situation in which an advertisement on a car supporting real marriage or the natural family could be subjected to an adverse finding by the ASB for discriminating against homosexuals.

Clearly this is not the intent of the legislation but it could be the effect. To mitigate the risk to freedom of political communication, the Bill should be amended to make clear that only adverse findings by the ASB with respect to sexually explicit and obscene advertisements are covered by the legislation.

***Recommendation 2:***

***The Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016 should be amended to make clear that it applies only to sexually explicit and obscene advertisements and not political material.***

### **3. Conclusion**

The current regime for monitoring advertisements on vehicles is inadequate. It has failed to ensure that the community, especially families with young children, is not confronted with sexually explicit and obscene material.

The *Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016* is supported subject to an amendment to ensure political material is not covered.

## 4. Endnotes

- <sup>1</sup> “Australia's Wicked campervan company under fire for ‘misogynistic, sexist’ slogans”, *ABC News*, 14 July 2014, <http://www.abc.net.au/news/2014-07-13/wicked-campers-under-fire-for-sexist-slogans/5592984>
- <sup>2</sup> “Australia's Wicked campervan company under fire for ‘misogynistic, sexist’ slogans”, *ABC News*, 14 July 2014, <http://www.abc.net.au/news/2014-07-13/wicked-campers-under-fire-for-sexist-slogans/5592984>
- <sup>3</sup> “Australia's Wicked campervan company under fire for ‘misogynistic, sexist’ slogans”, *ABC News*, 14 July 2014, <http://www.abc.net.au/news/2014-07-13/wicked-campers-under-fire-for-sexist-slogans/5592984>
- <sup>4</sup> “Stop Wicked Campers ‘vilifying’ women by changing law”, *Brisbane Times*, 29 July 2015, <http://www.brisbanetimes.com.au/queensland/stop-wicked-campers-vilifying-women-by-changing-law-20150728-gimgrb.html>
- <sup>5</sup> Clare Kermond, “Why I’ve gone to war against Wicked Campers”, *Sydney Morning Herald*, 10 May 2016, <http://www.smh.com.au/comment/crude-slogans-make-a-wicked-joke-of-the-law-20160503-gol3q8.html>
- <sup>6</sup> Australian Association of National Advertisers Code of Ethics, [http://aana.com.au/content/uploads/2015/12/Code\\_of\\_Ethics\\_081215.pdf](http://aana.com.au/content/uploads/2015/12/Code_of_Ethics_081215.pdf)
- <sup>7</sup> Australian Association of National Advertisers Code of Ethics, [http://aana.com.au/content/uploads/2015/12/Code\\_of\\_Ethics\\_081215.pdf](http://aana.com.au/content/uploads/2015/12/Code_of_Ethics_081215.pdf)
- <sup>8</sup> Australian Association of National Advertisers Code of Ethics, section 2.1, [http://aana.com.au/content/uploads/2015/12/Code\\_of\\_Ethics\\_081215.pdf](http://aana.com.au/content/uploads/2015/12/Code_of_Ethics_081215.pdf)