



22 November 2016

Attn: Research Director  
Transportation and Utilities Committee  
Parliament House  
George Street  
Brisbane Qld 4000

**Re: *Transport Operations (Road Use Management) (Offensive Advertising) Amendment Bill 2016***

## The Australian Christian Lobby

The Australian Christian Lobby's (ACL's) vision is to see Christian principles influencing the way we are governed, do business, and relate to each other as a community. ACL seeks to see a compassionate, just and moral society through having the public contributions of the Christian faith reflected in the political life of the nation.

With over 80,000 supporters, ACL facilitates professional engagement and dialogue between church and state, allowing the voice of the Church and of individual Christians to be heard in the public square. ACL is neither party-partisan nor denominationally aligned and lobbies in the Federal Parliament and all State and Territory Parliaments.

## ACL's position on the bill

ACL supports this bill. The Queensland Government is to be commended for taking this action.

## Policy objectives of the bill

ACL supports the objective of minimising offensive advertising on Queensland registered vehicles by allowing the chief executive of the Department of Transport and Main Roads to cancel a vehicle's registration to enforce Standards Board determinations. It is a good and sound objective.

## Similar legislation needed in other jurisdictions

This bill is a good start at addressing the issue of offensive advertising on vehicles. ACL notes, however, that an obvious and significant challenge with the approach of this bill is that notorious operators of vehicles employing offensive slogans and images may continue to receive publicity from their attention seeking approach from vehicles registered in other jurisdictions.

Aware of this challenge, ACL has already advocated for, and will continue to advocate for, the adoption of complimentary legislation in other Australian jurisdictions.

ACL notes the recent announcements that Tasmania and Victoria are looking to follow Queensland's lead on this matter. The Queensland Government is to be commended for showing leadership on this issue.

## Governments approach toward advertising more generally

The explanatory notes to this bill make mention of the recommendations of the committee tasked with the *Inquiry into sexually explicit outdoor advertising* tabled in 2014. That inquiry produced a report acknowledging the existence of problems with the current approach and recommended that the Queensland Government introduce legislation to establish a co-regulatory approach to outdoor advertising.

The Queensland Government declined to adopt a co-regulatory approach, instead choosing to "investigate options for the enforcement of ASB decisions so that advertisers who do not comply with determinations to remove offending advertising are penalised." The approach of this bill is consistent with that commitment.

ACL believes that the government can do more to improve the regulation of advertising.

## ACL's position on advertising regulation

ACL will support any legislative or regulatory moves that would increase the effectiveness of upholding community standards in advertising.

The current self-regulatory approach towards advertising is at best, inconsistent, and at worst inadequate to ensure that community standards around sex, sexuality, and nudity are treated with appropriate sensitivity.

All outdoor advertising, no matter the location, should be appropriate for viewing by children and should be free from sexualised images and messages.

The failure of the advertising industry to adequately self-regulate to a threshold that upholds community standards means that the government should look at stronger regulatory options. A number of alternative suggestions are provided further on in this submission.

## Problems with current self-regulation

The current system of self-regulation of advertising does not treat sex, sexuality, and nudity sensitively in outdoor advertisement and prevailing community standards are being ignored.

The Advertising Standards Bureau's own research has revealed a failure by the ASB to reflect "prevailing community standards" in its determinations. Research by the Advertising Standards

Bureau from 2012 shows that the public is more conservative than the ASB with regards to sex, sexuality and nudity.<sup>1</sup>

## Recent Report: Sexualisation of Children and Young People - November 2016

A NSW parliamentary committee released a report into the Sexualisation of Children and Young People on 16 November 2016.

The committee noted the limitations of the current regulatory arrangements, particularly in regard to the timeliness of the complaints resolution process.<sup>2</sup>

The report can be viewed here:

<https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/6088/Sexualisation%20of%20Children%20and%20Young%20People%20-%20Report.pdf>

## Potential reforms for consideration

ACL would like to propose the following range of ideas that the Queensland government might consider as part of reforms to advertising regulation.

### Measures that could be taken by industry under existing self-regulatory framework

#### 1. Best interests of the child are paramount

**One option that might be given consideration is for the Australian Association of National Advertisers (AANA) to amend both their Code of Ethics and Code of Advertising and Marketing Communications to Children so as to include a principle that the best interests of the Child must be paramount.**

**ACL encourages the government to take this matter up with the AANA.**

A more child-focused approach in advertising self-regulation is badly needed. The fundamental principle in international and Australian law concerning children is that in all decisions the best interests of the child must be the paramount consideration.

The United Nations Convention on the Rights of the Child acknowledges the “important function performed by the mass media” and requires States to:

*Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being.*<sup>3</sup>

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<sup>1</sup> Advertising Standards Bureau (2012), Fact Sheet: Community perceptions research 2012 – Overview, <http://www.adstandards.com.au/storage/2899879fe516062936d15b2eacdc700a.Research%202012%20-%20overview.pdf>.

<sup>2</sup> Sexualisation of children and young people / Committee on Children and Young People. [Sydney, N.S.W.] : the Committee, 2016. 100 pages ; 30 cm. (Report ; no. 2/56) Paragraph 3.50 p. 25. <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/6088/Sexualisation%20of%20Children%20and%20Young%20People%20-%20Report.pdf>

<sup>3</sup> Article 17(e), *Convention on the Rights of the Child*.

One serious problem with the current AANA codes is that the threshold of acceptable use of sexual appeal, or sexual imagery depends in part on whether the audience is primarily targeted towards children 14 years and younger. This means that advertising which employs overt sexual themes or nudity and targets adults won't engage the mechanism which triggers the AANA Code of Advertising and Marketing Communications to Children.

The AANA Code of Advertising and Marketing Communications to Children has a higher threshold for objectionable material, but only applies when *"having regard to the theme, visuals and language used, are directed primarily to Children..."*<sup>4</sup> The definition of 'Children' and 'Child' in the code means person(s) 14 years old or younger.

This is not a child-centred approach to advertising. Real world exposure of a child to sexualised advertising occurs regardless of whether the child viewing the advertisement is the primary audience. This is particularly significant to outdoor advertising where parents cannot protect their children from exposure to such images.

## 2. All outdoor advertising should be appropriate for viewing by children – G rated

**The AANA could amend their Code of Ethics, and Code of Advertising and Marketing Communications to Children so as to include a principle that all outdoor advertising must not include sex, sexuality or nudity that would be inappropriate for children's viewing. This principle should apply to ALL outdoor advertising regardless of who the intended audience may be.**

**ACL encourages the government to take this matter up with the AANA.**

The current two code system which applies different codes depending on the intended audience, means marketing firms do not need to consider the impact on children for most ads. This should change.

Outdoor advertising is on display all day and cannot be turned off, or tuned out.

Outdoor advertising should be 'G' rated because it is a public form of media, it is the only approach that will be inclusive to all. All outdoor advertising content should be appropriate for viewing by children. Outdoor advertising is, by its nature, an advertising medium of general consumption. It should be safe for children and families they should not be excluded from community spaces. We should strive for a society where parents do not have to avoid certain areas to keep their children safe.

The Australian Association of National Advertisers could amend their various codes to make **ALL** outdoor advertising safe for Children. The OMA Code of Ethics, the AANA Code of Ethics, and the AANA Code of Advertising and Marketing Communications to Children should all be amended to ensure all outdoor advertising is appropriate for children's viewing, regardless of the audience the advertiser directs the messaging towards.

## Options that could be implemented through legislative reform

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<sup>4</sup> AANA Code for Advertising or Marketing Communications to Children

<http://aana.com.au/content/uploads/2014/05/AANA-Code-For-Marketing-Advertising-Communications-To-Children.pdf>

## 1. Fines for breaches of the code and failure to adhere to ASB determinations

**The introduction of fines for breaches of the AANA codes and for failure to comply with a determination by the ASB should be given consideration.**

This approach is consistent with the QLD government's response to the recommendations of the *Inquiry into sexually explicit outdoor advertising* in which the government made a commitment to penalise advertisers who do not comply with determinations:

*The Queensland Government will investigate enforcement options to penalise advertisers that do not comply with the determinations of the Advertising Standards Board.*

<http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2014/5414T5402.pdf>

The Advertising Standards Board is currently toothless. There are no penalties for advertisers who breach the code. In addition, there are no penalties for advertisers who disregard a determination by the ASB and fail to remove the offending advertisement.

In order to ensure that advertisers make a greater effort to conform to the code, the government could introduce penalties for advertisers who fail to comply with determinations by the ASB.

These penalties should be significant enough to act as a deterrent against breaching the guidelines, and there should be increasing penalties for repeat offenders. These disincentives would need to outweigh the gains from brand awareness raised by the controversy and media attention that offensive advertisements often create. For example, when Sexpo billboard advertisements created community outrage in Ipswich in 2010, newspaper articles were written showing the ads as well as giving information as to when and where Sexpo was taking place, resulting free publicity.

## 2. End self-regulation and introduce a government regulator for outdoor advertising

**The Queensland Government could establish a statutory regulator for outdoor advertising. The statutory outdoor advertising regulator could be given the power to compel outdoor advertisers to comply with determinations and would be able to fine advertisers that breach the code. Doing so would finally ensure that advertising is better in tune with community standards on sex, sexuality, and nudity.**

The advertising industry has had ample opportunity to reform its codes to better reflect community standards for many years and has failed to do so. Long-standing community dissatisfaction with the slow and toothless ASB has been ongoing, with advertisers continuing to enjoy a system which places the onus on a wearied public to complain.

It is contrary to the self-interest of the advertising industry to self-regulate too effectively in this area, after all, "sex sells".

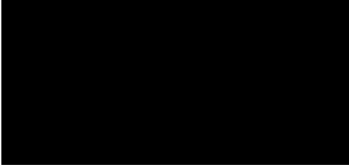
Outdoor advertising has been a source of much frustration for the public. The ASB has been given plenty of opportunities to properly enforce the AANA codes in accordance with community standards and has failed to do so.

The safety of children should come first before the profits of the industry.

## Conclusion

ACL thanks the Queensland Government for taking leadership on this issue. We support this bill and encourage the government to strengthen the regulation of outdoor advertising in Queensland. We hope that the additional measures suggested in this bill are given consideration by the Government.

Yours sincerely,



**Wendy Francis**  
**QLD State Director**  
**Spokesperson for the Dignity of Women**  
**Australian Christian Lobby**