Sexism is in the eye of the beholder: Does the Advertising Standards Board reflect "community standards"?

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SEXISM IS IN THE EYE OF THE BEHOLDER: DOES THE ADVERTISING STANDARDS BOARD REFLECT “COMMUNITY STANDARDS”?

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Abstract
This study examines the Advertising Standards Board’s response to complaints lodged against advertisements between 1999 and 2001 under sub-section 2.3 of the AANA Code (portrayal of sex/sexuality/nudity). Between 1999 and 2001, the ASB considered 419 complaints lodged by members of the general public under this sub-section of the Code, of which only three were upheld. The decisions reported in the ASB’s Case Reports for these three years are examined by assessing three advertisements from each of these years (including the only one in each year against which a complaint was upheld). Inconsistencies in the application of this sub-section of the Code are revealed. Changes to the administration of the self-regulatory system are recommended to ensure that it more effectively reflects the community standards it was established to protect.

Introduction
This study examines the Advertising Standards Board’s response to complaints lodged against advertisements between 1999 and 2001 under sub-section 2.3 of the AANA Code (portrayal of sex/sexuality/nudity). The decisions reported in the ASB’s Case Reports for these three years are examined by assessing three advertisements from each of these years on which the ASB adjudicated (including the only one in each year against which a complaint was upheld) to see whether there is an apparent logic in the decisions made by the ASB.

Regulation of Advertising
There are two approaches that can be taken to the regulation of advertising, as with the regulation of any professional activity, either independently or in conjunction: government regulation or self-regulation. Many countries, including Australia, have opted for a system of self-regulation.

Arguments for self-regulation include a high level of industry commitment to the success of the system (particularly as failure of self-regulation is likely to result in mandatory government regulation); and the economic advantage of a self-funded system which is designed to increase monies available for administration of the system in a linear relationship to the size of the industry (Hoek & Gendall, 2002).

The main argument against self-regulation is the potential conflict of interest – between the economic interests of industry members and the non-economic interests...
of the public (Armstrong & Ozanne, 1983; Jamal & Bowie, 1995; Wotruba, 1997). It has also been argued that self-regulatory codes are often designed in large part to make the industry appear to be committed to ethical behaviour rather than ensuring such behaviour actually occurs (Frankel, 1989; Jamal & Bowie, 1995; Hoek & Gendall, 2002).

Self-Regulation of Australian Advertising

Following the demise of the Australian commonwealth government's Advertising Standards Council in 1996, the major industry body, the Australian Association of National Advertisers (AANA), developed the Advertiser Code of Ethics (which applies to all forms of advertising), and established the Advertising Standards Board (ASB) and the Advertising Claims Board (ACB) to deal with complaints and breaches of this code. Under the new regulatory system, the ASB deals with complaints about taste and decency in advertising, and the ACB deals with rival advertiser complaints. It is important to note that regulatory codes of ethics, as well as providing detailed rules and a system for adjudicating grievances, are usually also “presumed to be enforceable through a system of monitoring and the application of a range of sanctions” (Frankel, 1989, p.111). However, in Australia, the ASB does not have the authority to order removal of advertisements; rather, the Board makes “recommendations” and the outcome rests on the willingness of advertisers to comply voluntarily.

Complaints about “sexual portrayals” in Advertising

This paper focuses on complaints lodged with, and decisions made by, the ASB under Section 2.3 of the AANA Code (ASB 1999a; 1999b; 2000a; 2000b; 2001a; 2001b). This section specifies that advertisements shall “treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant program time zone.”

Between 1999 and 2001, the ASB considered 419 complaints lodged by members of the general public under sub-section 2.3 of the Code. A total of three of these complaints (0.7%) were upheld, with one complaint being upheld in each of the calendar years. This is the lowest rate of upheld complaints across all of the sections of the Code – not that the rates were especially high for any of the other sections – with proportions ranging from 1.0% of sub-section 2.5 (offensive language) complaints being upheld to 5.0% of sub-section 2.4 (causes alarm or distress to children).

It could be argued – and indeed, has been argued at times by ASB representatives – that the majority of these complaints have represented the views of isolated individuals rather than the view of the community at large. For example, the AASC’s 2001 campaign in B&T Weekly to persuade advertisers to continue to pay the levy to maintain the Advertising Standards Bureau included an advertisement with the ridiculing headline: “One person complained and you want us to pull it? No problem. – Reg Bryson, CEO, The Campaign Palace.” Like the other advertisements in the campaign, the smaller text at the bottom of the page reads: “Can’t imagine him saying that? Neither can we…” and goes on to point out that if the ASB ceases to function, advertisers may find themselves “at the mercy of overly restrictive legislation.” However, it is important to note that the Board also states that “while board members read all complaints pertaining to a given ad, the final decision does not turn on the
number of complaints an advertisement attracts” (ASB 2000c, p.8). Rather, the ASB attempts to infer what the majority of citizens – the community at large – would find acceptable or unacceptable.

In practice, however, the ASB appears to apply more liberal criteria than the “majority view.” The ASB specifically (ASB 2000c) allows sexual portrayals that (a) in their collective opinion, are not unnecessarily explicit, (b) do not reveal a state of undress that would not be seen in public, and (c) are placed in media not likely to be seen by “sensitive” audiences (such as children).

The Study

This study presents descriptions of nine advertisements (three from each of the years 1999-2001) that were the subject of complaints under section 2.3 of the Code. The descriptions are taken verbatim (including punctuation) from the ASB’s Case Reports. Each group of three advertisements includes the one against which the complaint was upheld and two which were dismissed. The advertisements are considered in the context of the three above-stated decision criteria of the ASB.

Based on these criteria, the author invites the reader to predict “which advertisement was pulled?” – similar to the well-known text which invites the reader to predict “which advertisement pulled best?” (Purvis & Burton 2003). The answers are revealed in the discussion section of the paper. The author’s own judgements are then compared with the ASB and inconsistencies are discussed, concluding with recommendations for the ASB.

1999

314/98: Australian Therapeutic Supplies – The advertisement comprises photographs and text. The main background photograph is the naked torso of a man. There are three other smaller photographs, two of which are of couples, nude and in intimate embrace (genitals obscured). The third appears to be a smaller version of the larger background photograph. The text includes (at the top of the page) “Enjoy sex with four seasons condoms.” Below this are the words, “Penis size, is there a difference? Of course there is.” The balance of the text includes an explanation of the product and the fact that it is available in different sizes. [This full-page, colour advertisement appeared in a TV guide]

15/99: Yalumba (Antipodean Wine Co.) – The print advertisement comprises a reasonable sized clear photograph of a woman's nude lower abdomen and pubic area. Her pubic area has been shaved into “stripes”. Alongside this is a much smaller photograph of the top half of a bottle of wine. The plastic/foil on the top of the bottle is striped. The name of the wine is “Antipodean”. The words alongside the bottle are, “Embrace Change.” [This full-page, colour advertisement appeared in Rolling Stone and Outrage magazines]

210/99: People's Truth Pty Ltd – The outdoor billboard advertisement largely consists of a photograph of a naked woman, seated and facing the camera with legs spread apart. Star shaped graphics are placed over each breast obscuring the woman's nipples. A cartoon-style illustration of a computer mouse with an apparent tongue sticking out, together with the word “click”, are placed over her genitalia. Accompanying the photograph are the words “www.heartbalm.com.au. Also seen in Truth. On sale $2.50. Racing-Sport-News.” [This advertisement appeared on an outdoor billboard at an unspecified location]
2000

79/00: Windsor Smith Pty Ltd – The outdoor billboard advertisement is headed with the words “Windsor Smith” and is divided into two halves. The right hand half comprises a photograph of three different models of shoes. The left hand half comprises a photograph of a seated woman next to a standing man. The man is dressed in black trousers and shirt, while the woman is wearing a black jacket, bra, high heeled sandals and mini skirt, with underpants revealed as a result of her spread legged pose. The man is cupping the woman's face in his hand, which is held in close proximity to his groin region. [This advertisement appeared on an outdoor billboard at an unspecified location]

84/00: ThompsonConnect Worldwide – The print advertisement comprises three photographs, each depicting the same part of two bodies pierced and joined by rings: ears, women's tongues and women's nipples. Each is caption “connectivity” and sub-captioned “listening to learn”, “speaking the language” and “making an impression” respectively. [This print advertisement appeared in unspecified publication(s)]

219/00: Brisbane Powerhouse Centre for Live Arts – The print advertisement comprises a photograph of a man (face obscured) standing towards and against a brick wall, arms outstretched and underpants pulled down (genitals covered) to reveal his buttocks. The accompanying text includes: “Loiter with intent at Brisbane Powerhouse for a powerfully gripping night in the theatre!”, season details, review excerpts and details of the venue. [This print advertisement appeared in unspecified publication(s)]

2001

73/01: Just Jeans Group Ltd – The television advertisement shows an apprehensive young woman on a bed, fully clothed, being approached by a vampire-toothed, yellow-eyed, young male who climbs on top of her and bites her neck. A trickle of blood reddens the stitching in the side seam of her jeans. The woman draws the man towards her. The advertisement ends with the advertiser's logo, the caption “Red Stitch” and a website. [This advertisement appeared on television during an unspecified program]

196/01: Kosciusko Thredbo Pty Ltd – This print advertisement features a photograph of a naked woman standing looking directly at the reader. The woman's lips are green, there are patches of blue covering her nipples, and her pubic hair's visible. Accompanying text reads: “Thredbo. You'll like it.” [This print advertisement appeared in Black & White and Large magazines]

356/00: YSL Beaute (Opium) – The print advertisement portrays a woman, presented in an upright position, resting against fabric and naked apart from gold high-heeled sandals and necklace and bracelet. Her head is thrown back, her eyes are closed and her mouth is slightly open. Her legs are bent and apart (genitals obscured) and her left hand covers her left breast. In the lower left corner is the text, “Opium – the fragrance from – Yves Saint Laurent”. [This print advertisement appeared in unspecified publication(s)]
Results

It is difficult to determine the exact decision rule(s) utilised by the ASB in arriving at these judgements – given that, in the majority of cases (including five of the nine presented above), the justification for rejecting a complaint is limited to “The Board was of the view that (the images depicted in) the advertisement did not contravene community standards in their treatment of sex, sexuality or nudity and did not breach the Code on this or any other ground.” However, we can consider the decisions in light of the three decision rules outlined above.

The 1999 decisions: The only complaint under this section of the code which was upheld in 1999 was 210/99, the People's Truth ad. This advertisement was deemed to be in breach of Section 2.3 of the Code: “the Board noted the placement of the advertisement on a prominent outdoor billboard site…which rendered it readily accessible to an underage audience…the Board particularly noted the pose adopted by the woman and the placement of the image of the computer mouse.”

I would argue that the Yalumba ad, a full-frontal photograph of a woman’s pubic hair shaved into stripes, was at least as explicit – and revealed a state of undress as unlikely to be seen in public – as the naked woman with her legs spread apart and a cartoon computer mouse covering her genitals in the People’s Truth ad, yet the Yalumba complaint was dismissed. The Australian Therapeutic Supplies ad, which talks about the importance of penis size, was placed in a family-read TV-guide, yet this complaint was dismissed.

The 2000 decisions: The only complaint which was upheld in 2000 was 79/00, the Windsor Smith ad. This advertisement was deemed to be in breach of Section 2.3 of the Code: “the Board noted that the location of the advertisement on prominent outdoor sites effectively placed it on general exhibition…the image, in its overall context, as conveying a strong theme of sexual suggestiveness that was inappropriate for such an audience.”

I would argue that the Windsor Smith photograph of a semi-dressed woman with her underwear exposed in a “suggestive” position is less explicit than the photograph in the ThompsonConnect advertisement of two women’s nipples joined by a ring or the photograph in the Brisbane PCLA advertisement of a man up against a wall with his underpants pulled down and the caption “loiter with intent.” However, the latter two complaints were dismissed.

The 2001 decisions: The only complaint which was upheld in 2001 was 73/01, the Just Jeans ad. This advertisement was deemed to be in breach of Section 2.3 of the Code: “the Board noted that the advertisement had received a PG classification. The Board opined that the material within the advertisement was such that a more restrictive classification should apply.”

I would argue that the portrayal in the Just Jeans advertisement of a fully-clothed young woman being bitten on the neck by a vampire, while it may have been inappropriate for early evening viewing, is less sexually explicit – and no less likely to be seen in public – than the naked woman in the Opium advertisement lying with her eyes closed and her hand on her breast or the naked woman in the Thredbo advertisement with blue nipples from the cold air. However, the latter two complaints were dismissed.

Discussion

As demonstrated above, there appear to be inconsistencies in the application of the AANA code by the ASB. Unnecessarily explicit portrayals are allowed in
some advertisements but not in others. Socially extreme portrayals are allowed in some advertisements but not in others. Some advertisements that may reach sensitive audiences are allowed but not others.

Perhaps most concerning, however, is the ASB’s statement that the decision is not based on the number of complaints received against an advertisement (ASB 2002), which surely would be one measure of the extent to which the advertisements breach the community standards which the ASB was formed to uphold. It is important to note that whereas the ASB is composed of a group of people chosen to “represent the community,” they do not appear to constitute a broad spectrum of everyday Australians. Harker (1998) acknowledges that lay representatives have may have little in common with “the public” and a review of the ASB members shows this to be the case. Membership currently includes five journalists and media producers, two former sporting stars, a best selling author, a working artist, a former politician, a former director of an advertising agency, a current chairman of a market research company, a university media researcher and a media studies graduate (http://www.advertising standards bureau.com.au/industry/members.html). It is likely that part of the problem arises from the composition of this Board; this group of broadminded individuals is likely to evaluate advertisements from a different perspective to the “average” Australian. A recommendation is to measure prevailing community attitudes, using a random survey of Australians to determine empirically, for example, the level of nudity and degree of sexual explicitness that are within community standards.

Although the assessments are those of one judge, the author, it is likely that readers of this paper would reach similar conclusions. This study focuses solely on complaints lodged under one of the six sub-sections of the Code administered by the ASB. The author is currently undertaking a broader review of the consistency of the decisions made by the ASB under the other five sub-sections and, while this study is in the early stages, it appears that the ASB may be consistent at least in its degree of inconsistency.
References


