

Director, Digital Competition Unit
Market Conduct Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: digitalcompetition@treasury.gov.au

8 February 2023

Dear Digital Competition Unit

Submission to the Digital Platforms: Government consultation on ACCC's regulatory reform recommendations – Consultation Paper (December 2022)

We are pleased to provide our submission in response to the *Digital Platforms: Government consultation on ACCC's regulatory reform recommendations – Consultation Paper (December 2022)*

Effective and efficient advertising regulation

Specifically, our submission addresses the threshold question of “*the extent to which some or all of the benefits of the proposed new measures could be achieved through existing general consumer and competition protections*” (as per page 6 of the Consultation Paper).

As the administrator of Australia's advertising self-regulation system for the past 25 years, we provide a policy alternative to complex and costly regulation, at **no cost to government or consumers**.

We provide an **independent, platform neutral and flexible solution** to handle consumer complaints about advertising on all media – including on social media platforms.

We also monitor key trends and concerns about advertising and have the flexibility to be **responsive to technological and societal changes**.

Ad Standards appreciates this opportunity to share information and insights related to our role in handling consumer complaints about advertising on social media with Treasury.

Responses to Consultation Paper questions

Set out below are our comments in response to the Consultation Paper questions that seek information about alternative regulatory options.

Questions

- 1. Do you agree with the ACCC's conclusion that relying only on existing regulatory frameworks would lead to adverse outcomes for Australian consumers and businesses? What are the likely benefits and risks of relying primarily on existing regulatory frameworks?**
- 2. Can existing regulatory frameworks be improved or better utilised?**
- 3. Are there alternative regulatory or non-regulatory options that may be better suited?**

Existing advertising regulatory framework

Ad Standards already plays an effective role in the regulation of advertising content on digital platforms (and all media) in Australia. We are therefore well placed to handle complaints from consumers about misleading or deceptive content in advertising (under the [Industry Codes](#) that we administer) and should be considered as an alternative to the introduction of regulatory reforms in this area.

A key advantage of the Ad Standards system is that we can quickly and effectively resolve complaints about digital advertising, including in some circumstances within days of receiving the complaint. Our system ensures consumer protection by providing a free and fast route for consumers to express their views about advertising and to have an impartial body adjudicate.

Although misleading and deceptive conduct is dealt with under the Australian Consumer Law (ACL) and administered by the ACL Regulators (i.e., the ACCC and relevant state/territory consumer law bodies), there are many Australian consumers whose complaints about truth in advertising are not heard or dealt with. This is due to the limited resources of the ACL Regulators and that they are typically not well adapted to handling individual consumer complaints.

Ad Standards fills this 'regulatory gap' in the areas of food and beverage advertising, advertising to children, and environmental claims (as specifically covered under the relevant [Industry Codes](#)) and provides an efficient and effective avenue for consumers to raise concerns about misleading or deceptive advertising. We welcome the opportunity to continue to work with the ACCC, government and other regulators to ensure coherence across the regulatory ecosystem.

Question

- 10. Is a new independent external ombuds scheme to resolve consumer disputes with platforms warranted? Can any or all of the functions proposed for the new body be performed by an existing body and, if so, which one would be most appropriate?**

Consumer dispute resolution

Ad Standards gives a voice to community concerns about advertising content and guides industry in maintaining decent and honest advertising aligning with community standards and values. Our organisation is recognised and respected by Australian State and Federal Governments, sector regulators and the advertising industry as a reliable platform for consumer protection in advertising content across all mediums.

We therefore submit that consumer complaints about the content of advertising should continue to be handled under our current system, or if an ombuds scheme is introduced, that it work hand in hand with our current system, perhaps via an MOU and cross-referral mechanism.

Our complaints handling system is transparent and accessible to all, with easy-to-follow steps and support provided to all parties throughout the process. Our system is funded by advertisers through a levy based on advertising spend. It operates at no cost to the consumer or to government.

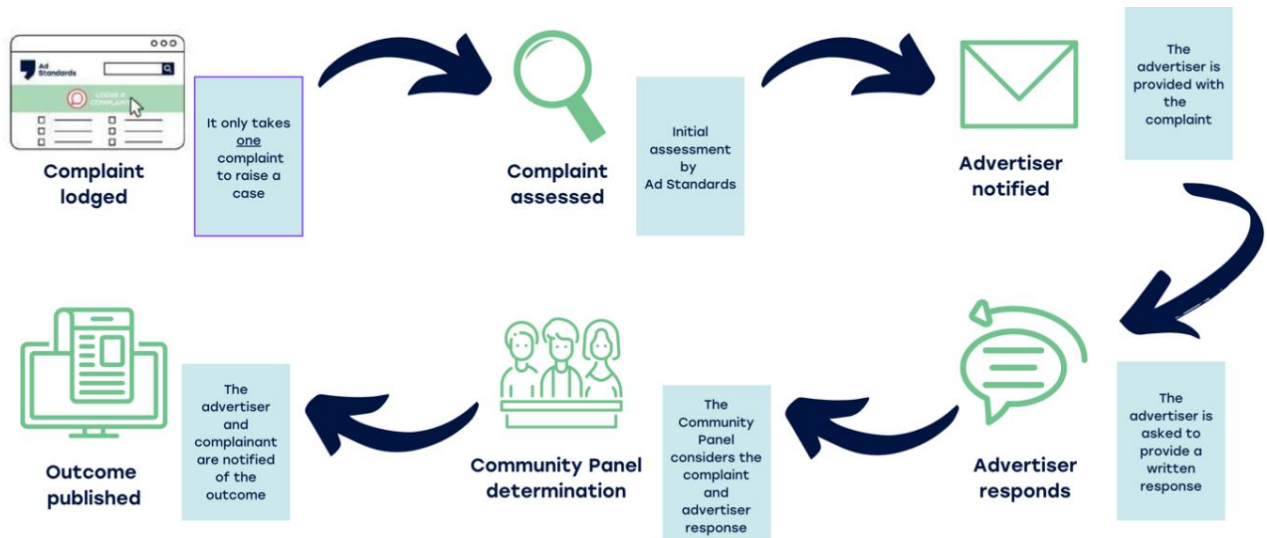
When required, Ad Standards is supported in enforcing compliance by media and media industry associations, and we engage regularly with social media platforms as part of our complaint resolution and industry education processes.

Our advertising regulation system has demonstrated its effectiveness during the past 24 years - with a record of nearly 100 per cent (average of 96% over the past 10 years) compliance by industry with Ad Standards Community Panel determinations.

Ad Standards also has processes in place for referral of non-compliance (or serious matters warranting immediate resolution) to relevant government bodies. Ad Standards has only had to seek the support of government bodies in very rare instances.

Consumers may lodge a complaint quickly and easily via Ad Standards’ website, free of charge. Below is an overview of the process. Further details are set out [here](#).

Process for consumer complaints



If a complaint is made about an ad on social media that raises an issue relating to misleading or deceptive claims that fall within the codes, Ad Standards will open an investigation. The Ad Standards Community Panel will review the complaint and make a formal decision on whether the ad is misleading and/or deceptive.

Ad Standards communicates with advertisers whenever a complaint is made about an ad on any of the social media or posted by an influencer which may breach the codes.

Depending on the circumstances, the cooperation of the social media service on which the advertisement was published is sought.

If a complaint is upheld by the Community Panel, the advertiser is required to remove or modify the advertisement. An example of a recent upheld case in relation to a misleading ad on social media is linked [here](#).

In conclusion

Ad Standards is pleased to engage with Treasury about ways that we can respond to community concerns about advertising content and to support constructive reform through our trusted and effective advertising regulation system.

We would be happy to elaborate further on the information provided in this submission and look forward to continuing to work with Treasury and the ACCC to ensure that advertising on all media meets community standards.

Yours sincerely

Richard Bean
Executive Director