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16 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 75,000 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

Overtly sexualised imagery should not be tolerated in public spaces. ACL believes that all outdoor advertising, no matter the location, should be appropriate for viewing by children and should be free from sexualised images and messages.

ACL's position on the regulation of outdoor advertising is that the current self-regulatory approach is at best, inconsistent, and at worst inadequate to ensure that community standards around sex, sexuality, and nudity are treated with appropriate sensitivity.

ACL is pragmatic in its approach to this issue and will also support any move that would increase the effectiveness of the current self-regulated framework.

ACL, therefore, supports this bill.

Policy objectives of the bill

The explanatory notes to the bill details the policy objectives and raises a number of issues:

- the large and wide range of persons who may be subjected to displays of advertising on vehicles
- the potential for sexist, discriminatory or otherwise offensive material to be contained in such advertising
- the self-regulated nature of the advertising industry
- the fact that the ASB lacks powers of enforcement when there are breaches of the Code of Ethics

ACL's position is that 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 is a good and sound objective. ACL supports the bill's policy objective.

Alternative ways of achieving policy objectives

The explanatory notes to this bill note the recommendations of the committee tasked with the *Inquiry into sexually explicit outdoor advertising* tabled in 2014. Ultimately, the committee's report from that inquiry recommended that the Queensland Government introduce legislation to establish a co-regulatory approach to outdoor advertising.

The Queensland Government's response to that recommendation was to decline to adopt a co-regulatory approach and to instead "investigate options for the enforcement of ASB decisions so that advertisers who do not comply with determinations to remove offending advertising are penalised."

ACL provided a submission to that inquiry and ACL Queensland Director Wendy Francis appeared at one of its public hearings. In that submission, ACL stated:

The current system of self-regulation of outdoor advertising is, at best, inconsistent, and at worst inadequate in its application... ACL submits that sex, sexuality, and nudity is not treated sensitively in outdoor advertisements... "Prevailing community standards" are also being ignored.¹

ACL provided examples where the regulation of outdoor advertising was ineffective. The submission referred to the Advertising Standards Bureau's own research 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.² The submission also provided details of the ASB and Outdoor Media Association's disappointing approach to a billboard advertisement for the Honey B's Strip Club in Brisbane.

¹ Australian Christian Lobby Submission to the Health and Community Services Committee on Sexually Explicit Outdoor Advertising. June 2013. P. 4-5.

<https://www.parliament.qld.gov.au/documents/committees/HSCS/2013/outdooradv/submissions/014.pdf>

² Advertising Standards Bureau (2012), Fact Sheet: Community perceptions research 2012 – Overview, <http://www.adstandards.com.au/storage/2899879fe516062936d15b2eacdc700a.Research%202012%20-%20overview.pdf>.

ACL argued for all outdoor advertising to be required to conform to a “G-rating”, with enforceable regulations and penalties of sufficient deterrence for advertisers who fail to comply.

Whilst ACL’s preference is for wider reforms of the regulation of the outdoor advertising industry, ACL accepts that the approach of this bill is consistent with the government’s commitment to penalise advertisers who do not comply with determinations.

Additional measures to address issues in advertising that the government might consider in future reforms

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

1. Best interests of the child are paramount

The Australian Association of National Advertisers (AANA) could 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 should be paramount.

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

ACL submits that a child-focused approach to regulation of the advertising industry is badly needed. The fundamental principle in international and Australian law concerning children is that in all decisions made and actions taken 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.³

One serious and obvious problem with the current approach to advertising 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. Advertising that 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, but only applies when “*having regard to the theme, visuals and language used, are directed primarily to Children...*”⁴ 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.

³ Article 17(e), *Convention on the Rights of the Child*.

⁴ 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>

This is particularly significant to outdoor advertising where parents cannot protect their children from exposure to such images.

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

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

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.

One solution, that would ensure that advertisers make a greater effort to conform to the code, would be the introduction of penalties for advertisers who fail to comply with the code and with the determinations of 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 in the sort of publicity money can't buy.

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

The Australian Association of National Advertisers 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 not be dependent on the audience the advertiser directs the messaging towards, but should apply to ALL outdoor advertising.

All outdoor advertising content should be appropriate for viewing by children. Outdoor advertising is, by its nature, an advertising medium of general consumption. Outdoor advertising should be 'G' rated because it is a public form of media. Outdoor advertising is on display all day and cannot be turned off, or tuned out. It should be safe for children and families. Public places are shared by families and they should not be excluded from community spaces. A 'G' rating for all outdoor advertising is the only approach that will be inclusive to all.

As a society we should encourage the idea that the outdoors is a place for everyone. We should strive for a society where parents do not have to avoid certain areas to keep their children safe. This is the only system of advertising regulation that will provide a safe environment for all children.

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.

4. Introduce a new regulator for advertising

The Queensland Government could establish a statutory regulator for outdoor advertising. The statutory advertising regulator could be given the power to compel advertisers to comply with determinations and would be able to fine advertisers that breach the code. Doing so would finally ensure that advertising no longer offends community standards on sex, sexuality, and nudity.

The advertising industry has had the 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, in particular, 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.

Consistency with legislation of 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 simply register their vehicles in another jurisdiction.

Aware of this challenge, ACL has already advocated for, and will continue to advocate for, the adoption of complimentary legislation to this bill in any Australian jurisdiction which faces the problem of offensive advertising on vehicles.

Conclusion

ACL thanks the Queensland Government for taking leadership on this issue. We support this bill and look forward to supporting any other ideas that may 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
Australian Christian Lobby