



# See Change

Learning and education for sustainability

*Background Paper 4:*

## *Advertising controls in New Zealand*

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## Introduction

This document provides background information for the Parliamentary Commissioner for the Environment's (PCE) report *See Change: Learning and education for sustainability*. It examines the regulatory system for advertising in New Zealand and implications this may have for learning that contributes to sustainability. It consists of three parts:

1. It explains the existing framework for advertising regulation.
2. It examines the advertising codes with most relevance to learning and education for sustainability.
3. It considers some strengths and weaknesses of this system in the context of promoting learning and education for sustainability.

This background paper supplements the discussion in sections 5.4 and 6.2 of *See Change*.

### **1. The framework for regulating advertising in New Zealand**

Regulation of advertising in New Zealand is based around a system of voluntary self-regulation by the advertising industry. The key agency in this system is the Advertising Standards Authority (ASA).<sup>1</sup> The Chairman of the ASA notes that:

*It is important not only to the public but also the advertising industry that proper advertising standards are maintained at all times. The Advertising Standards Authority is dedicated to ensure that not only does advertising comply with the law but it is also truthful and not misleading or deceptive, and that it is socially responsible.*<sup>2</sup>

Members of the ASA include major advertisers, advertising agencies and media organisations. The authority develops Advertising Codes of Practice, which members agree to abide by. The ASA has also established an Advertising Standards Complaints Board. The public can complain to this Board about breaches of the advertising codes (examples are included in *Box 1* below). If a complaint is upheld, the advertisement in question is usually adapted or withdrawn.

Other key agencies involved in the self-regulation of advertising in New Zealand are:

- The *Television Commercials Approval Bureau*, which scrutinises all advertisements prior to broadcast to check that they are consistent with the Advertising Codes of Practice.<sup>3</sup>
- The *New Zealand Television Broadcasters' Council*, which (among other functions) has produced guidelines for advertising to children on television.<sup>4</sup>

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<sup>1</sup> For more information see [www.asa.co.nz](http://www.asa.co.nz).

<sup>2</sup> Innes. 2003.

<sup>3</sup> For more information see [www.tvcab.co.nz](http://www.tvcab.co.nz).

<sup>4</sup> New Zealand Television Broadcasters' Council. 2001.

## 2. The advertising codes

There are currently 14 advertising codes of practice. Those with the most relevance to education for sustainability are the:

- Code of Ethics
- Code for Advertising to Children
- Code for Environmental Claims.

### Code of Ethics

This code sets the overall philosophy for advertising practice, covering areas such as fairness and respect for people. Its basic principles are that:

1. *All advertisements must comply with the laws of New Zealand.*
2. *No advertisement should impair public confidence in advertising.*
3. *No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer.*
4. *All advertisements should be prepared with a due sense of social responsibility to consumers and to society.*
5. *All advertisements should respect the principles of free and fair competition generally accepted in business.*<sup>5</sup>

It also sets out more specific rules, which include:

2. *Truthful Presentation – Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses trust of the consumer or exploits his/her lack of experience or knowledge...*
3. *Decency – Advertisements should not contain anything which clearly offends against generally prevailing community standards...*<sup>6</sup>

### Code for Advertising to Children

This code highlights that:

*Responsible advertising of products and services normally used by children, and the depiction of children in advertising in general, can serve not only to inform children of these products and services but also about many aspects of society and the world in which they live.*<sup>7</sup>

It refers to the United Nations' Convention on the Rights of the Child, which states that children have the right to "freedom to seek, receive and impart information and ideas of all kinds"<sup>8</sup> and that "the best interests of the child shall be a primary consideration"<sup>9</sup>. The Advertising Standards Authority uses this Convention to claim that children therefore "have the right to receive advertisements along with other information."<sup>10</sup> However, the authority also recognises Article 17(e) of the

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<sup>5</sup> ASA 1996.

<sup>6</sup> *ibid.*

<sup>7</sup> ASA. 2001a.

<sup>8</sup> United Nations. 1989. Article 13.

<sup>9</sup> *ibid.* Article 3.

<sup>10</sup> ASA. 2001a.

Convention, which calls for “appropriate guidelines for the protection of the child from information and material injurious to his or her well-being”.<sup>11</sup> The *Code for Advertising to Children* has therefore been developed with the intention of ensuring that “advertising to children will be conducted in a manner which is socially responsible and does not mislead or deceive children.”<sup>12</sup>

This code covers advertisements “directed at children whether contained in children’s media or otherwise.”<sup>13</sup> It is based on four key principles, which include:

3. *Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive children, abuse the trust of or exploit the lack of knowledge of children, exploit the superstitious or without justifiable reason play on fear.*
4. *Advertisements should not encourage inappropriate purchase or excessive consumption.*<sup>14</sup>

It also includes many guidelines, such as:

- 2(d) *Children should not be urged in advertisements to ask their parents to buy particular products for them.*
- 2(e) *Advertisements should not suggest to children any feeling of inferiority or lack of social acceptance for not having the advertised product.*<sup>15</sup>

#### Code for Environmental Claims

This code covers all advertising, including packaging, that claims an environmental benefit (such as “our product is better for the environment”). It requires claims to be assessed on:

*the complete life-cycle of the product and its packaging taking into account any effects on the environment of its manufacture, distribution, use, disposal etc. Thus absolute claims for environmental benefit, either stated or implied, are not appropriate. e.g. ‘Environmentally friendly’...*<sup>16</sup>

According to this code, all environmental claims must be explained clearly and be able to be substantiated.

### **3. Advertising controls, learning and sustainability**

The ASA can be commended for seeking to be socially responsible in the development of its advertising codes. As suggested by the Chairman of the ASA, it is also in the interests of the advertising industry to try and maintain a ‘licence to operate’ in society.<sup>17</sup> Many of the codes, including those identified above, appear to be very well-intentioned. For example, it is encouraging that the *Code for*

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<sup>11</sup> United Nations. 1989. Article 17(e).

<sup>12</sup> ASA. 2001a.

<sup>13</sup> *ibid.*

<sup>14</sup> *ibid.*

<sup>15</sup> *ibid.*

<sup>16</sup> ASA. 1994.

<sup>17</sup> Innes. 2003.

*Environmental Claims* covers the entire life-cycle of a product – although we have not examined how well these codes are actually being implemented or monitored.

It is important to note, however, that these codes have been built on an assumption that advertising simply “inform[s] about the various goods and services which are available”<sup>18</sup>. The ASA even uses the United Nations’ Convention on the Rights of the Child to assert that children “have the right to receive advertisements along with other information.”<sup>19</sup> This is despite the fact that modern forms of advertising do not merely ‘inform’ people – they are heavily persuasive and often use symbolic associations to build emotional connections between products, brands and people.

The most detailed code is the *Code for Advertising to Children*, which may reflect the delicate social and political nature of allowing advertising to this “audience”. Questions remain, however, about what sort of advertising may be deemed acceptable by the advertising industry under this code. For example, it notes that children should not be “urged” to ask their parents to buy things for them – although it may be acceptable for advertisers to heavily encourage and persuade children to want products, which these children may then ask their parents for. The code also notes that “advertisements should not suggest to children any feeling of inferiority or lack of social acceptance for not having the advertised product.”<sup>20</sup> Is it acceptable, however, to market the opposite – i.e. that social superiority or increased social acceptance may come from having more ‘stuff’?

A major principle of the children’s code is that advertising should “not encourage excessive consumption”<sup>21</sup>, yet it does not define what should be regarded as “excessive”. Is it excessive to encourage people to consume more than their fair share of global resources, or to consume beyond the carrying capacity of the environment? It is also important to point out that the children’s code only covers advertisements directed at children. Despite this, children are exposed to much more advertising outside of children’s viewing times.<sup>22</sup> They are also likely to watch many other advertisements that are not explicitly directed at children. It is therefore useful to reflect on why the guidelines for children do not also apply for advertising to a broader population. For example, is it acceptable to suggest feelings of inferiority or lack of social acceptance to *adults* in advertising?

Another code with relevance to education for sustainability is the *Code for People in Advertising*. This notes that “people should not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product.”<sup>23</sup> Despite this, sexual appeal is commonly used to market all sorts of brands and products (as diverse as cars, carpets, ice-creams and beer). Although this code covers how *people* are portrayed in advertising, it is also important to point out that there is not a code to cover how the *environment* is depicted. This is a significant gap in the current set of codes, especially as the ASA has recently received many complaints from

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<sup>18</sup> *ibid.*

<sup>19</sup> ASA. 2001a.

<sup>20</sup> *ibid.*

<sup>21</sup> ASA. 2001a.

<sup>22</sup> These times are generally Monday to Friday 6:30-8:30am and 3:30-5:00pm; and Saturday 6:00-9:00am, varying slightly depending on channel.

<sup>23</sup> ASA. 2001b.

people about the treatment of the environment in advertising for Sports Utility Vehicles (SUV's) – see *Box 1* below. None of these complaints have been upheld. The *Code of Ethics* for the advertising industry states that “all advertisements should be prepared with a due sense of social responsibility to consumers and to society” and that “advertisements should not contain anything which clearly offends against generally prevailing community standards...”<sup>24</sup>. This raises a question about how these “prevailing community standards” are determined. Based on its recent decisions on SUVs, it seems that respect for the environment is not a standard currently recognised by the ASA.

### **Box 1: Advertisements for Sports Utility Vehicles (SUVs) and the environment**

Recent complaints to the ASA about the portrayal of the environment in SUV advertisements include:

- **2000** – an SUV is driven over terrain including a forest, steep hills, surf and over shale. The complainant said the advertisement was anti-environmental, anti-social and depicted dangerous behaviour. The complaint was not upheld, as the “Board concurred with the Agency’s view that the vehicle was designed and built to traverse off-road conditions, therefore in order to demonstrate the vehicle’s capacity, it was essential to portray it in the environment for which it was designed.”<sup>25</sup>
- **2000** – an SUV is driven at high speed through the breakers on the beach, towing a wake-boarder behind it. The complainant said the advertisement “was atrocious and encouraged anti-social behaviour”, and was particularly concerned with the way the environment was “thrashed”.<sup>26</sup> The complaint was not upheld. In the Board’s view, the advert “was innocuous in terms of presentation, and neither provided nor alleged any evidence of actual environmental damage.”<sup>27</sup>
- **2001** – a person waiting on the edge of a river tries to hitch a lift to the Ureweras. An SUV vehicle “flew up the river bed, stopped, and the driver says, “Sorry mate, heading for Kaimanawas”<sup>28</sup> before accelerating back up the river. The complainant said it was “totally unacceptable to depict and encourage the driving of vehicles through bush and up river beds ostensibly anywhere in New Zealand”.<sup>29</sup> The complaint was not upheld, with the Chairman of the Board noting that the “overriding significance of this advertisement was humour and hyperbole.”<sup>30</sup>
- **2002** – an SUV drives over a city traffic island, down a snow covered slope and half-submerged down a river. It then backs into a river to enable a jet skier to drive on to the back of it. The accompanying music is “You Get What You Give” by the *New Radicals*. The complainant argued that this advertisement depicted “dangerous and irresponsible acts, especially in areas which most believe have recreational and conservation values which are at odds with the vehicle

<sup>24</sup> *ibid.*

<sup>25</sup> ASA Decision 00/131 – Mitsubishi Motors – the New Pajero. [www.asa.co.nz/decisions/dec00131.htm](http://www.asa.co.nz/decisions/dec00131.htm). [Accessed September 2003].

<sup>26</sup> ASA Decision 00/132 – Audi – Wake Boarder. [www.asa.co.nz/decisions/dec00132.htm](http://www.asa.co.nz/decisions/dec00132.htm). [Accessed September 2003].

<sup>27</sup> *ibid.*

<sup>28</sup> ASA Decision 01/217 – Firestone 4WD. [www.asa.co.nz/decisions/dec01217.htm](http://www.asa.co.nz/decisions/dec01217.htm). [Accessed September 2003].

<sup>29</sup> *ibid.*

<sup>30</sup> *ibid.*

displayed.”<sup>31</sup> The complaint was not upheld, with the Board unanimously of the view that the advertiser “had, with regard to environmental issues, taken a due sense of social responsibility into account in the making of the advertisement.”<sup>32</sup>

Other recent advertisements have portrayed SUVs driving over “Mother Nature’s speed bumps” (i.e. rocks) that are simply obstacles “to be overcome”<sup>33</sup>, and depict “features that combine bush-bashing capabilities...with on-road refinement...”<sup>34</sup>

What do these sorts of advertisements say about the relationship between people and their environment? The beauty and integrity of New Zealand’s natural environment, infused with imagery of a rugged ‘Kiwi lifestyle’, is used to sell these vehicles – but this environment is likely to be damaged if it is treated in ways that these advertisements depict. It is also deeply ironic that the vast majority of these vehicles seldom ever stray from the sanctuary of urban streets (where they contribute to more pressures on sustainability than the average car and other forms of mobility).

The ultimate tension with existing advertising controls is that they do not attempt to consider the cumulative and long-term impacts of advertising on learning and sustainability in society.<sup>35</sup> For example, as Orr suggests:

*we have little idea of the long-term effects of excessive materialism on children...The important fact is not simply the effects of materialism but the more complex effects of worldview conveyed in relentless advertising....  
...nature in a culture so lived can only recede in importance.*<sup>36</sup>

The ASA has recognised that advertising may not just “inform” children (and presumably adults) about “products and services but also about many aspects of society and the world in which they live.” While the advertising industry claims that they are simply “informing” people about products and services, while they continue to use all sorts of persuasive techniques to increase consumption, this brings into question the ethical basis for many forms of modern marketing today.

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<sup>31</sup> ASA Decision 02/99 – Mitsubishi – Pajero. [www.asa.co.nz/decisions/dec0299.htm](http://www.asa.co.nz/decisions/dec0299.htm). [Accessed September 2003].

<sup>32</sup> *ibid.*

<sup>33</sup> Jeep Cherokee advertisement included in Madelin. 2003.

<sup>34</sup> Toyota Prado advertisement included in Madelin. 2003.

<sup>35</sup> ASA. 2001a.

<sup>36</sup> Orr. 2002:207.

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