

22 June 2026
Advertising Standards Authority
Wellington
Email: asa@asa.co.nz

Retail NZ submission: Advertising Standards Code Consultation

Overview

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand’s retail sector. We are the peak body representing retailers across Aotearoa, with our membership accounting for nearly 70% of all domestic retail turnover. New Zealand’s retail sector comprises approximately 30,000 businesses and employs around 222,000 Kiwis.
2. Retail NZ consulted our membership in the preparation of this submission.

Rule 1(a) Privacy

3. While the Advertising Standards Authority (ASA) states very few complaints have been considered under this rule, privacy is a growing concern for the public. It is right there is a rule in the Advertising Standards Code (the Code) that explicitly deals with privacy.
4. However, we recommend there be explicit reference to the Privacy Act in this section to ensure advertisers are completely aware of their obligations under the Act.
5. For the purpose of clarity, we ask the ASA to also consider changing the sentence “Other personal information may only be collected and used with the consent of the individual concerned.” to say “Where personal information is collected to be used in advertising, consent must first be obtained from the person concerned.”

Rule 1(b) Consent

6. Retail NZ and its members consider that this rule is sufficiently covered in the Unsolicited Electronic Messages Act 2007, and therefore removing it from the Code is appropriate.
7. However, the ASA should consider adding a guidance note and linking to the ACT to ensure advertisers are completely aware of their obligations in this area.

Rule 1(c) Decency and Offensiveness

8. Retail NZ and our members have concerns about the rewording of this rule.
9. The removal of the word “widespread” from both the wording of the main rule and the accompanying guidelines in relation to “*humorous and satirical treatment of people and groups of people*”, makes the rule much more difficult for advertisers to interpret and, therefore, adhere to.

10. The commentary within this consultation document notes that the word “widespread” has been difficult to define and apply consistently. However, by removing this word, it makes the interpretation of the rule much more subjective.
11. Under the proposed new rule, “*Advertisements must not contain anything indecent, exploitative, degrading or likely to cause harm or serious offence, or give rise to hostility, contempt, abuse or ridicule*”, advertisers could be found to be in breach even if just one person was seriously offended by an ad. This is also incredibly subjective and could be difficult for advertisers to foresee. Most advertisers do not intend to cause offense, and it can be difficult to consider how each and every person may react to their content.
12. We recommend retaining the “widespread offence” measure in this rule, to ensure it is clear what advertisers’ obligations are under this rule and retains a level of objectivity.
13. Additionally, the new guideline “*Advertisements must reflect generally prevailing community standards*” is quite vague and could be difficult to determine. It will depend on who you consider your “community” as to what you consider to be the prevailing standards, and that might differ from what other communities within New Zealand determine those to be. We recommend this either be removed, re-worded, or more clearly defined as to what “community” is referring to.
14. We would be supportive of definitions of key terms in this rule being included, to help remove ambiguity, subjectivity, and ensure advertisers are clear what they need to consider and action in order to adhere to the code.

Rule 1(d) Exploitation of children and young people

15. Our members are supportive of the removal of this rule from the code.
16. The ASA itself notes it has not considered any complaints under this rule, and Rule 1(c) already sufficiently covers harm and exploitation. There is also the Childrens Advertising Code that covers all advertising specifically targeting children.

Rule 1(e) Safety

17. We are supportive of the proposed changes to this rule, which we think adds clarity.
18. We recommend the third paragraph in the guideline be rewritten to include the word “encouraging” as it is stipulated in the rule itself, i.e. “*Encouraging or condoning dangerous behaviour or unsafe practices includes wording or imagery that trivialises or accepts it. This includes but is not limited to:*” followed by the bulleted list.

Rule 1(i) Protecting the Environment

19. Our members are largely comfortable with the new wording of this rule, though we recommend a few minor changes:
 - a. The first paragraph under the guidelines should include the word “encouraging” as well, as it is used in the rule itself. We suggest a slight rewording to also remove the double-use of “behaviour”, which could be confusing to some: “Encouraging or condoning behaviour includes wording or imagery that trivialises or conveys acceptance.”
 - b. Add harmful to the first bullet point in the guidelines, i.e. “*visual or verbal portrayals of actions that are grossly prejudicial or harmful to environmental protection*”

- c. In the second bullet point, “glamourisation” is missing the ‘u’. (It is correctly spelled in the previous rule).

Rule 2(b) Truthful Presentation

- 20. Concerns have been raised by Retail NZ members about the proposed new wording in some parts of this rule.
- 21. The current rule states that disclaimers must be “*obvious and located and presented in such a way as to be clearly and easily read and /or heard*”, but the proposed new rule changes this language to say they must be “*clear, prominent and presented in a way that is easily read and/or heard*”. However, it may not be practical for disclaimers to be “prominent” in all advertising contexts, particularly some retail formats such as catalogues, multi-product advertisements, or digital placements.
- 22. We recommend retaining the current wording in the guidance: “*The information must be obvious and located and presented in such a way as to be clearly and easily read and /or heard*”. Alternatively, the guidance should explicitly state that prominence should be assessed in context, including the medium, format and audience.
- 23. The proposed new wording in the guidelines relating to clear pricing information gives one of the examples as: “*The full price of the products or services must be shown. Unavoidable additional charges must be clearly identified.*” We recommend the word “unavoidable” be removed, to improve transparency by ensuring any additional charges are clearly identified.
- 24. The fifth bullet point under the guidelines says: “*The terms ‘sale’, ‘clearance’, ‘special’ or ‘special offer’ must be used for a limited time and represent a price below the usual price.*” We worry this is too prescriptive and doesn’t allow for other types of sales terms. We recommend rewording this to say: “**Terms such as ‘sale’, ‘clearance’, ‘special’, ‘special offer’ and other similar terms** must be used for a limited time and represent a price which is genuinely lower than the usual price”.

Rule 2(e) Advocacy Advertising

- 25. Retail NZ is generally supportive of the proposed changes to the wording, which modernises the current rule and provides additional clarity.

Rule 2(h) Environmental Claims

- 26. Retail NZ is generally supportive of the proposed changes to the wording.
- 27. However, we recommend the ASA consider whether it may be appropriate to combine this rule with Rule 1(i), under a *Protecting the Environment and Environmental Claims* heading.

Use of Artificial Intelligence (AI)

- 28. With Artificial Intelligence growing in both sophistication and accessibility, Retail NZ is in support of the Code including specific guidance on the use of AI in advertising.
- 29. The responsible use of AI aligns with the intent of the Code, and it is important that there is transparency around AI use in advertising. A [recent IPSOS survey](#) found 85% of New Zealanders agreed that AI use in products and services should be disclosed; it is clear there is an appetite for transparency and this should be reflected in the Code.

30. Principle 2 of the Code specifically deals with issues around truthful presentation and distinguishing between what is fact and what is opinion. While these rules could be changed to include obligations around AI use, with this being such a fast-growing and increasingly-used tool, there could be benefit to having this as a standalone Rule in the Code, both for clarity and to make it simpler when updates are required
31. We acknowledge there is a difference between using AI as an enhancement tool and using AI as a creation tool, such as creating or making a person, people or product do or say something that it didn't in real life. Any guidelines drafted by the ASA should take into account these differences.
32. The ASA could use rules around marketing by social media influencers - where they must make it clear when their content is an ad, or promoting a product or service they have received for free - as a starting point. These rules require influencers to explicitly state what is ad content, and are well-adhered to. Having similar requirements for advertisers to clearly disclose any use of AI could be a good starting point.
33. If the ASA agrees that specific guidance is required around the use of AI in advertising, we ask that the drafted section(s) be circulated for consultation.

Conclusion

34. Thank you for the opportunity to make a submission.
35. Retail NZ is happy to discuss any aspect of this submission further and would like the opportunity to make an oral submission to the committee.
36. No part of this submission should be withheld under the OIA.

Sincerely,



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CHIEF EXECUTIVE

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