Perspective from Asia: Overview of Philippine Advertising Regulation

Submitted by: Ad Standards Council
Perspective From Asia:

Overview of Philippine Advertising Regulation

Self-Regulation in PH

Historical Background

• Advertisers (PANA), ad agencies (4As) and media (KBP) got together during Martial Law period - decided to regulate themselves instead of government

• Led birth to the formation of the Philippine Board of Advertising on May 3, 1974
  - Aug 1989 – changed to Advertising Board of the Philippines (Adboard)
  - Mar 2008 – established Ad Standards Council (ASC)

• 42 years of self-regulation
Self-Regulation in PH

All of us in the business of advertising have a responsibility:

**Responsibility**

to our Public,
to our Consumers and
to One Another.

Responsibility means
Advertising must
Inspire Public Confidence
Be Legal
Be Decent
Be Honest and above all,
**Truthful**
Self-Regulation in PH

Self-regulation is a system by which the Industry actively polices itself

Our Success Factors

1. A Common Neutral Review Body (ASC) is recognized by tripartite stakeholders (advertisers, ad agencies and media)


3. Media is ultimate gatekeeper; implements what is approved by ASC and honors/ implements CDOs issued by ASC
Our Success Factors

4. Sanctions are strictly enforced and Penalties for non-conformance are stiff

5. Strong Financial Standing of the organization.

6. Strong Partnership with various government agencies in the implementation of Admin Orders/ Memorandum Circulars

Self-Regulation in PH

• Government agencies have jurisdiction over almost all of the products and services being advertised: DOH-FDA, DTI, MTRCB, HLURB, NMIS, CAB, DA, PAGCOR, BSP, DOLE, MMDA, DOTC, FPA, BAI, etc.

• However, the concerned government agencies do not have the manpower, technical and other resources to review an average of 150 ad materials and release results on a daily basis.

• MOAs/MOUs with ASC
Self-Regulation in PH

- The ASC has incorporated all government agencies’ Administrative Orders and Implementing Rules & Regulations in the Code of Ethics and Manual of Procedures pertaining to advertising.

- The Code & Manual of Procedures are regularly updated as new rules are introduced, e.g., FDA’s Administrative Order on Food/Dietary/Health/Herbal Supplements which do not have therapeutic claims or benefits.

The Ad Standards Council
The Ad Standards Council

- Is a non-stock, non-profit organization which aims to promote content regulation for responsible advertising.
- Its primary function is screening of ads for truth and fairness.
- It also hears complaints and settles disputes regarding advertising content.

ASC Member-O rganizations
ASC 2016 Board of Directors

FDA Director General Ma. Lourdes Santiago as keynote speaker and inducting officer.
Other Affiliate Organizations

- CAAP
- ASAP
- OMAEG
- MORES

Local Gov’t & Global Alliances

- dti
- FDA
- Government Regulatory Body
- National Telecommunications Commission
- Civil Aeronautics Board
- International Chamber of Commerce
- Portman Group
- European Advertising Standards
- Advertising Standards Canada
ASC

**Mission:**
To champion truth and fairness in advertising within the context of the local environment and within the constraints of the laws of the land

**Vision:**
To be seen as the ultimate and respected authority in the effective implementation of the policies and regulations governing advertising content.

**Values:**
Truth, Fairness, Professionalism, Respect, Leadership, and Service

ASC Mandate

Protect consumers from misleading and offensive advertising.
The ASC is Guided by these Laws

1. The Laws of the Land
   a. The Philippine Constitution
   b. AOs and IRRs from government agencies like DTI, DOH-FDA, CAB, DOLE, CAB, NMIS, MTRCB, HLURB, DOTC, MMDA, BSP, NHC, etc.
   c. The Milk Code
   d. The Consumer Protection Act
   e. The Magna Carta for Women, etc.
   f. Protection of Children and Minors

2. The ASC Code of Ethics & Manual of Procedures

3. AdBoard /ASC Precedent Decisions

Updated Code of Ethics & Manual of Procedures

- Principles and guidelines on contests and promotions
- Guidelines on categories that fall under mandatory screening, i.e., alcohol beverages, OTC drugs, and food supplements
- Guidelines on Digital Marketing
- More guidelines on Protection for Children
- Review on Gender Equality
- Sensitivity in Alcohol Advertising
- Environmental protection
- Additional product categories allowed in Direct Advertising

Materials That Are Screened

- TV/CINEMA and RADIO – pre-screened
- OUT-OF-HOME – pre-screened
- PRINT ADS/MERCHANDISING MATERIALS, DIGITAL/MOBILE – generally post-screened, **EXCEPT** if they have any of the following themes or classifications:
  1. With Number 1 claim
  2. With product claim/s that need/s to be substantiated
     i. With exclusivity claim
     ii. With absolute claim
     iii. With comparative claim
     iv. With superiority claim
  3. With sexy tones, exposure of human body and similar execution
  4. With tones of violence

Materials That Are Screened

5. With direct/brand-identified comparison on categories where such comparison is allowed

**If belong to any of the following categories:**
1. Products, brands & services covered by the Milk Code
2. Over-The-Counter (OTC) Drugs
3. Food/Health/Dietary Supplement products
4. Alcoholic Beverages
5. Airlines and other carriers with promotional fares
### Historical Breakdown of Applications

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>TV/Cinema</td>
<td>9,498</td>
<td>9,064</td>
<td>8,649</td>
<td>8,848</td>
<td>8,602</td>
<td>8,561</td>
<td>8,425</td>
<td>4,049</td>
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<tr>
<td>Radio</td>
<td>5,686</td>
<td>5,986</td>
<td>6,704</td>
<td>6,719</td>
<td>7,056</td>
<td>7,042</td>
<td>6,546</td>
<td>2,977</td>
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<tr>
<td>Print</td>
<td>1,590</td>
<td>1,913</td>
<td>2,360</td>
<td>2,649</td>
<td>2,712</td>
<td>2,301</td>
<td>2,142</td>
<td>910</td>
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<tr>
<td>OOH</td>
<td>2,641</td>
<td>3,204</td>
<td>3,940</td>
<td>3,968</td>
<td>4,709</td>
<td>5,527</td>
<td>5,813</td>
<td>2,989</td>
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<td>Collaterals</td>
<td>1,139</td>
<td>1,367</td>
<td>1,443</td>
<td>1,440</td>
<td>1,725</td>
<td>2,289</td>
<td>2,484</td>
<td>1,498</td>
<td></td>
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<tr>
<td>Digital</td>
<td>329</td>
<td>159</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Social</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>11,319</td>
<td>20,554</td>
<td>21,534</td>
<td>23,096</td>
<td>23,624</td>
<td>24,804</td>
<td>25,720</td>
<td>25,739</td>
<td>12,924</td>
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</tbody>
</table>

**% Inc vs PY**

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2016</th>
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</thead>
<tbody>
<tr>
<td>TV/Cinema</td>
<td>4.8</td>
<td>-</td>
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<tr>
<td>Radio</td>
<td>7.2</td>
<td>-</td>
</tr>
<tr>
<td>Print</td>
<td>2.3</td>
<td>-</td>
</tr>
<tr>
<td>OOH</td>
<td>5.0</td>
<td>-</td>
</tr>
<tr>
<td>Collaterals</td>
<td>3.7</td>
<td>-</td>
</tr>
<tr>
<td>Digital</td>
<td>342</td>
<td>-</td>
</tr>
<tr>
<td>Social</td>
<td>342</td>
<td>-</td>
</tr>
</tbody>
</table>

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**2008: April to December**

**2016: January to June**

### The ASC Processes
The ASC Processes

1. Application for Screening
2. Filing of Complaints
   - Panel Hearing
3. Resolution of Complaints
4. Settlement of Disputes

The ASC Review & Approval Process

2-Step Process

- (S1) Review & approval of materials before these are produced
- (S2) Review & approval of finished/produced materials before these are aired/published/displayed/ posted
Applicants submit their materials (S1 for production and S2 for final materials for airing/publication/display/posting)

S1 & S2 Application Forms
ASC Rates (Php)

<table>
<thead>
<tr>
<th>Type of Material</th>
<th>Length</th>
<th>Member</th>
<th>Non-Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>TV Ads</td>
<td>End Tags</td>
<td>550.00</td>
<td>660.00</td>
</tr>
<tr>
<td>TV/Cinema Ads (including OBBs/CBBs/End Tags)</td>
<td>5s, 10s, 15s</td>
<td>715.00</td>
<td>880.00</td>
</tr>
<tr>
<td></td>
<td>16s - 30s</td>
<td>1,430.00</td>
<td>1,650.00</td>
</tr>
<tr>
<td></td>
<td>31s - 60s</td>
<td>2,750.00</td>
<td>3,300.00</td>
</tr>
<tr>
<td></td>
<td>Above 1 min. but not more than 5 min.</td>
<td>4,125.00</td>
<td>4,950.00</td>
</tr>
<tr>
<td></td>
<td>Above 5 min.</td>
<td>7,150.00</td>
<td>8,250.00</td>
</tr>
<tr>
<td>Radio Ads (including live or recorded AOB/DJ spiel)</td>
<td>5s, 10s, 15s</td>
<td>550.00</td>
<td>660.00</td>
</tr>
<tr>
<td></td>
<td>16s - 30s</td>
<td>715.00</td>
<td>880.00</td>
</tr>
<tr>
<td></td>
<td>31s - 60s</td>
<td>1,430.00</td>
<td>1,650.00</td>
</tr>
<tr>
<td></td>
<td>Above 1 min. but not more than 5 min.</td>
<td>2,090.00</td>
<td>2,420.00</td>
</tr>
<tr>
<td></td>
<td>Above 5 min.</td>
<td>3,575.00</td>
<td>4,125.00</td>
</tr>
<tr>
<td>Print Ads</td>
<td>All sizes</td>
<td>550.00</td>
<td>660.00</td>
</tr>
<tr>
<td>Out-of-Home Static Ads</td>
<td>All sizes</td>
<td>550.00</td>
<td>660.00</td>
</tr>
<tr>
<td>Out-of-Home Moving Ads</td>
<td>5s - 30s</td>
<td>1,430.00</td>
<td>1,650.00</td>
</tr>
<tr>
<td></td>
<td>31s - 60s</td>
<td>2,750.00</td>
<td>3,300.00</td>
</tr>
</tbody>
</table>

The Ad Specialists

- Serve as the first line of service in the screening process: review materials and support documents if complete and up-to-date
- Currently 8 Ad Specialists
- Additional Ad Specialist when Online Application starts September 1, 2016
Ad Specialists in Action

The Professional Screeners

- Seasoned marketing and advertising practitioners with extensive experience and wisdom in developing and evaluating advertising campaigns

- Review materials and substantiations and render any of 4 decisions

- Currently a pool of 15 Professional Screeners with 7 everyday who review an average of 150-S1 and 80-S2 per day
Professional Screeners in Action

Applicants presenting their S1 materials (for production) Professional Screeners

The Professional Screeners

Render one of the following decisions:

- APPROVED
- DISAPPROVED
- INCOMPLETE
- REFER TO PANEL
APPROVED

- When an Advertiser/Ad Agency is able to substantiate the claim/s in the ad material
- When ad material does not violate any provision in the Code of Ethics & Manual of Procedures

DISAPPROVED

- When an Advertiser/Ad Agency fails to substantiate the claim/s in the ad material
- Applications with incomplete support or substantiation to claim/s
- When ad material violates any provision in the Code of Ethics & Manual of Procedures
INCOMPLETE

• When applications lack mandatory government requirements from concerned government agency like NTC or FDA except promo permit and approved mechanics.

• When applications lack mandatory copy or statement that are not content-related

• Given 10 calendar days from date of filing to completed; otherwise will be given outright Disapproval without notice to advertiser or agency

Mandatory Government Document and Copy/Statement
### Mandatory Government Document

<table>
<thead>
<tr>
<th>Government Clearance</th>
<th>Product and/or activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>• FDA Certificate of Product Registration (CPR)</td>
<td>• Food, Drugs &amp; Medical Devices</td>
</tr>
<tr>
<td>• FDA Certificate of Product Notification (CPN)</td>
<td>• Cosmetic products</td>
</tr>
<tr>
<td>• DOH-FDA Sales Promo Permit and Approved Mechanics</td>
<td>• Sales and promo materials of OTC drug, food &amp; food supp</td>
</tr>
<tr>
<td>• Department of Health-Interagency Commission (DOH-IAC) Approval</td>
<td>• For products under the Milk Code</td>
</tr>
<tr>
<td>• DTI Sales Promo Permit and Approved Mechanics</td>
<td>• Sales and promo materials of non-FDA registered products, services, and categories</td>
</tr>
</tbody>
</table>

### Mandatory Government Document

<table>
<thead>
<tr>
<th>Government Clearance</th>
<th>Product and activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Housing and Land Use Regulatory Board (HLURB) - License to Sell (LTS)</td>
<td>• Real estate ads</td>
</tr>
<tr>
<td>• National Historical and Cultural Commission (NHCC) Approval</td>
<td>• When showing the flag or other national symbols</td>
</tr>
<tr>
<td>• Bangko Sentral ng Pilipinas (BSP) Permit</td>
<td>• When showing facsimile of Philippine currency</td>
</tr>
<tr>
<td>• DOLE permit</td>
<td>• When using Filipino talents of minor age</td>
</tr>
</tbody>
</table>
### Mandatory Government Document

<table>
<thead>
<tr>
<th>Government Clearance</th>
<th>Product and activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>• National Telecommunication Commission (NTC) Permit</td>
<td>• Sales promo ads of mobile and network services</td>
</tr>
<tr>
<td>• Civil Aeronautics Board (CAB) Approval</td>
<td>• Promo airfare rates of local and international airlines</td>
</tr>
<tr>
<td>• Bureau of Animal Industry (BAI) Certificate of Product Registration (CPR)</td>
<td>• Ad, sales, and promo materials of veterinary products</td>
</tr>
<tr>
<td>• Music License or Agreement to use intellectual property</td>
<td>• If using music, copyrighted materials, trademarks, etc.</td>
</tr>
</tbody>
</table>

### Mandatory Statement/Copy

<table>
<thead>
<tr>
<th>Products or Services</th>
<th>Mandatory Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Promo Materials</td>
<td>• Per DTI promo permit and promo period</td>
</tr>
<tr>
<td></td>
<td>• Per DOH- FDA permit and promo period</td>
</tr>
<tr>
<td>• Price Advertising</td>
<td>• Qualified with Suggested Retail Price (SRP)</td>
</tr>
<tr>
<td>• Airline Promos</td>
<td>• CAB Permit Number</td>
</tr>
<tr>
<td>• Real Estate Materials</td>
<td>• HLURB License to Sell (LTS)</td>
</tr>
<tr>
<td>• Broadband network offering</td>
<td>• Minimum guaranteed connection speed and service reliability (%)</td>
</tr>
</tbody>
</table>
## Mandatory Statement/Copy

<table>
<thead>
<tr>
<th>Products or Services</th>
<th>Mandatory Statement</th>
</tr>
</thead>
</table>
| • Over-the-Counter (OTC) drugs | • If symptoms persist, consult your doctor  
                                | • Prominent exposure/mention of Generic Name                                          |
| • Food/Dietary/Herbal/Health supplements | • MAHALAGANG PAALALA: ANG (NAME OF PRODUCT) AY HINDI GAMOT AT HINDI DAPAT GAMITING PANGGAMOT SA ANUMANG URI NG SAKIT |
| • Alcoholic Beverages | • Drink Responsibly                                                                   |
| • Under Milk Code Products | • Breast Milk is Best for Babies up to two years old                                 |

## Mandatory Statement/Copy

<table>
<thead>
<tr>
<th>Products or Services</th>
<th>Mandatory Statement</th>
</tr>
</thead>
</table>
| • Banks              | • Supervised by the Bangko Sentral ng Pilipinas  
                        Telephone Number: (632) 708-7087  
                        E-mail Address: consumeraffairs@bsp.gov.ph |


REFER TO PANEL

- When subject or execution deals with sex, sexy theme or innuendo, violence or morbidity and other sensitive themes

When claims require further or complex technical substantiation from independent source/s or a 3rd party

Decision is APPROVED, APPROVED with CAUTION OR DISAPPROVED
PANELISTS

- A pool of 120+ Industry volunteers
- Nominated by their respective associations based on their experience in marketing and/or advertising and exposure in campaign evaluation and development
- Must go through an orientation seminar and periodic review on ASC rules and procedures
- Must sign a vow of confidentiality and must declare account involvement to avoid Conflict of Interest (COI)

APPROVED BY PANEL

Material proceeds to production → Submit final material for review if consistent with approved stb/script/layout → If consistent with screened material: 1. Clearance to Air or 2. Clearance to Publish/Display → Proceed to airing/publish/print/display → Release of Clearance
DISAPPROVED BY PANEL

On the spot revision for alternative copy and/or visual.
   If revision is acceptable,
   Panel may approve on the spot.

Revise the material.
   Apply for screening of new material. Only the portion questioned
   by the Panel will be reviewed.
   The Panel approval on the rest of the material will be upheld.

File an appeal.
   An Appeal may be requested, with or without new evidence.

The Complaint Process

• When there are complaints by a party of interest
   against ad materials except those of government agencies and political ads

• The panel will review only the issues mentioned
   in the complaint letter

• Party of interests are all stakeholders, including
   consumers, concerned groups, or institutions
The Complaint Process

1. Complainant files with the ASC; Pays complaint fee
2. ASC reviews validity of the complaint
3. ASC forms a Hearing Panel
4. Complainant presents case
5. Panel presents defense
6. Panel deliberates; decision will be based on the merit/substance of presented documents
7. Panel arrives at a decision on the same hearing day
8. ASC releases decision addressed to Complainant and Defendant

If complaint is not valid, life goes on 😊
If Complaint is VALID

A Cease and Desist Order (CDO) is released to the Defendant and materials must be pulled-out with effect from receipt of CDO notice as follows:

- **TV and Radio**
  - within 5 working days upon receipt of notice

- **Print and Out of Home**
  - effective immediately if with pre-screening violation
  - effective 7 calendar days (if passed through ASC)

- **Digital**
  - within 5 working days upon receipt of notice

- **Point of Sale Materials**
  - within 30 days in Metro Manila and modern trade
  - within 60 days outside Metro Manila and across all store types nationwide

- **Compliance letter** is required to indicate levels of pullout within the prescribed period

Review or Screening Panel

- When there are complaints on print or digital materials which were not screened prior to publication or upload

- Panelists may review other elements of the complaint material which were not raised by the complainant
Basis of Decision

Screening and Hearing Panelists base their decision on appreciation of evidence presented by applicant and/or both parties.

Basis of Decision

Quality of Data is Key

- In-house tests
- 3rd party research
- Methodology or protocol used
- Sample size
- Qualitative or Quantitative research
- Clinical studies/medical journals
- Data from other countries or territories
- Government data
- Industry syndicated research
- Reference books and other published references
## Penalties (Php)

<table>
<thead>
<tr>
<th>Offense</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airing/publication/installation or display without proper ASC clearance</td>
<td>1st Offense – P100,000</td>
</tr>
<tr>
<td>Refer to Manual of Procedures Rule I, Section 3 for materials covered by the ASC rules.</td>
<td>2nd Offense – P200,000 plus non-screening of advertising materials of the product concerned for three (3) months. The guilty party may opt to pay P500,000 in lieu of non-screening for three (3) months, thus the total to be paid is P700,000.</td>
</tr>
<tr>
<td></td>
<td>3rd Offense – P300,000 plus non-screening of advertising materials of the product concerned for one (1) year. The guilty party may opt to pay P1,500,000 in lieu of non-screening for one (1) year, thus the total to be paid is P1,800,000.</td>
</tr>
<tr>
<td></td>
<td>• Non-payment of penalties shall result to non-screening of materials of the product concerned.</td>
</tr>
</tbody>
</table>

## Review or Screening Panel

Screening Panel may question any element in the material under review even if not raised by the Professional Screener

- **However, when a material being reviewed is an Appeal on Disapproval by a Professional Screener or Screening Panel, review must be confined to the copy, claim, or visual element under question by the Screener or original Screening Panel**

- All claims **must** be supported by data

- Understand the spirit of the provisions in the Code when reviewing a material
The Appeal Panel

**Appeal on a Hearing Panel’s Decision**

- A quorum of 5 ASC panelists is convened when an advertiser or ad agency files an appeal on the decision of a Hearing Panel provided there is *new evidence* on the same provisions, copy/claims, visuals, or elements originally complained on.

- The Appeal Panel follows the rules and procedures of the Hearing Panel.

- The Techcom, only in case of reasonable doubt, must first determine if the appellant’s evidence has not been previously presented to the ASC.

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Partnership with Government

The ASC is committed to cooperate and assist in the implementation of Cease & Desist Order (CDO) and Recall of Clearance to Air/ Publish/ Display issued by government agencies like DTI, DOH-FDA, MMDA, NTC, HLURB, DA, CAB, NMIS, etc.
FDA-ASC Forum In Davao City

'FOOD AND DRUG ADMINISTRATION 
AD STANDARDS COUNCIL FORUM 
ON PRODUCT ADVERTISING AND PROMOTION 
8:00 AM TO 2:00PM 
MAY 21, 2015

FDA-ASC Forum at Shangri-la Makati
ASC Industry Orientation

Industry orientation on Updated Code of Ethics & Manual of Procedures

Challenges & Opportunities in PH Self-Regulation
Challenges in PH Self-Regulation

• Getting everyone in the digital space to be aware of self-regulation and the ASC Code of Ethics & Manual of Procedures

• Wider scope of coverage in the review of advertisers’ materials given the Philippines is an archipelago with 7,100 islands

• Diversity and inclusiveness of small and medium enterprises in advertising self-regulation

Challenges in PH Self-Regulation

• Increase awareness for Philippine self-regulation outside of the advertising industry.

• Entry of various imported products like food/herbal/health supplements, drugs, chemical & hazardous products that are being sold via TV/Online Home Shopping
Opportunities in PH Self-Regulation

• Facilitate approval of digital applications using guidelines developed by the Internet and Mobile Marketing Association of the Philippines (IMMAP) in cooperation with ASC.

• Implement Online Application to facilitate application of advertisers outside of Metro Manila and small to medium enterprises.

• Educate small to medium enterprises on the importance of self-regulation thru orientation talks in partnership with Department of Trade & Industry (DTI) and SMEs associations

Opportunities in PH Self-Regulation

• Partner with Communications Educators to teach the ASC Code of Ethics and Values Formation to current Advertising students; conduct an information campaign on self-regulation on radio, print, digital

• Closely work with MTRCB for products in TV/online home shopping; secure CPR/CPN from FDA and ad clearance from ASC
Thank you!