

# **The Regulation of Advertising to Children: A Comparative Assessment**

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## **Abstract**

As the volume of advertising grows so does concern about its acceptability. These concerns are raised more particularly for advertising targeting vulnerable groups. This paper addresses advertising to one such group, that of children. Statutory regulation combined with industry led self-regulation exists across the globe to ensure acceptability of advertising. In so far as children are concerned countries vary somewhat in the approaches they adopt for the regulation of advertising to this group. This paper develops a framework of acceptable advertising to children and compares developing and developed countries on dimensions of the framework that ensures acceptability of advertising to this special consumer group. It is concluded that the framework for acceptable advertising is present in developing countries. This assures the basis for acceptable advertising in developing countries.

## **Key Terms**

Acceptable advertising, regulation, advertising controls, developed and developing countries

## **Introduction**

Children are exposed to advertising on a daily basis through the use of different media such as, television, radio, magazines, newspapers and the Internet. Television, however remains the most commonly used medium for children's advertising as it provides a much greater reach to this

target market and because children spend much of their free time in front of the television on a daily basis (Hastings et al., 2003). Children are vulnerable and susceptible to the effects of advertising as

they do not comprehend commercial messages in the same way as do more mature audiences, and hence are uniquely susceptible to advertising influence (Kunkel et al. 2004: 1).

This vulnerability has prompted the regulation of advertising. Regulatory systems and structures that deal with various aspects of advertising exist in most countries across the globe. The most commonly used method of advertising control is that of self-regulation as it encourages marketers to produce non-deceptive advertising messages. Developed countries appear to have more effective advertising self-regulatory systems than developing countries (Boddewyn, 1992). There seems to be more potential for children in developing countries to be affected by the harmful and persuasive tactics used in advertising as these regulatory structures operate in a less structured and regulated context than those of the developed countries (Cassim & Langton, 1996). Thus children in developed countries would seem to enjoy greater protection offered by their more sophisticated and effective regulatory systems. It may be speculated that both adults and children living in developed countries are more sophisticated consumers. The system of self-regulation in these countries can therefore be regarded as appropriate. The opposite can then be speculated for adults and children living in developing countries. It is therefore important to determine whether or not these assertions are indeed accurate and if so, to document what the differences between developed and developing countries are.

The purpose of this paper is therefore to assess the regulatory frameworks of advertising to children in developed and developing countries. This will be done in the context of the key variables associated with achieving acceptable advertising to children. These variables are used as a framework to analyse the regulation of advertising in three developed and three developing countries. The paper hopes to establish the differences in the regulatory frameworks as well as the efficiency and

effectiveness of these regulatory frameworks in providing sufficient protection for children against the harmful effects of advertising.

### **Acceptable Advertising To Children**

Key variables are identified from the literature that forms the basis for assessing acceptable advertising to children. Harker (1998) and Harker and Cassim's (2002) framework developed in previous work is used as the basis for the development of a framework focussing on acceptable advertising to children. The defined variables need to have specific focus on children.

### ***Advertising to Children***

'Debates have raged for decades about the way that advertising and marketing activities influence children and adolescents' (Friestad & Wright, 2005). The debates are centered on the perceived threats to the well being of children from exposure to advertising. In both developed and developing countries, a significant increase in the quantity of advertising to children has been experienced, in particular, advertising of foods that are high in fat, sugar, and salt (Consumers International, 2005). This increase in advertising to children has been observed as being a direct result of their importance as a growing consumer market (Cardwell-Gardner & Bennett, 1999). It is generally accepted that young children are far more vulnerable to the influencing nature of advertising than any other consumer group. This may be due to their inability to understand the intent of the advertisements that are targeted at them (Friestad & Wright, 2005; Kunkel *et al*, 2004). Children therefore need to be protected from the persuasive techniques used in advertisements (Consumers International, 2005; Sustain, 2004).

Children are an important consumer market in today's society and thus a key focus area for many marketing strategies (Björström, 1994; Goldstein, 1998; Preston, 2004; Preston, 2005). Children are responsible for billions of dollars in sales every year, the result of not only the influence they exert over their parents purchasing decisions but their own purchasing power as well (Goldstein, 1998; Cardwell-Gardner & Bennett, 1999). Despite their growing importance as a consumer market they are at risk of being harmed by the advertisements aimed at them because they do not have the same understanding of advertising intent as adults do. There is a large body of literature that indicates children understand the content and intent of advertising messages and are

influenced by these messages at different ages (Björström, 1994; Lawlor & Prothero, 2003; Kunkel *et al.*, 2004). This understanding should be used in the development of the regulations of advertising.

There is a considerable body of evidence on the effects of advertising on children. One set of studies reports a lack of convincing evidence that advertising affects children's values, eating habits, violence, socialisation, gender stereotypes, use of alcohol and tobacco, or that there are any long-term effects (Björström, 1994; Lvovich, 2003; Moses & Baldwin, 2005). The larger more influential studies conclude that food advertising has an effect (sometimes termed a 'modest direct effect') on children's food choices and behaviour (Hastings *et al.* 2003, McGinnis *et al.* 2006). These larger, more influential reviews of the knowledge base have served the basis for the discussion of policies and regulation in recent times.

Regulatory or legislative controls are in place to provide for the protection of children across the globe. These have in many cases been adapted and applied from the International Chamber of Commerce's Guidelines for Advertising to Children (International Chamber of Commerce, 2003). The regulations are thus similar, and refer to children's inexperience and credulity, avoidance from harm, their social value and their protection in these areas.

### ***Acceptable Advertising***

Acceptable advertising is 'advertising that does not fall foul of either the legal or the advertising self-regulatory system in place in that society' (Harker, 1998:102). Acceptable advertising to children may be described as advertising that is not harmful to their physical, mental or moral health. The control of advertising generally occurs in two main forms, that of self-regulation by the industry or regulation that is statutory in nature and controlled by the state (Cassim & Langton, 1996). Statutory regulation refers to those rules/statutes that are enforced by the government for the purpose of providing consumers protection against harmful advertising (Boddewyn, 1985; Woker, 1999). However, this method of regulation has always been criticised as being oppressive, ineffectual, and weakly enforced (Boddewyn, 1985).

The most common method of regulation is that of self-regulation (Boddewyn, 1985; Boddewyn, 1992). Self-regulation is 'control exercised by an advertiser's peers, including those in the agencies and media used'

(Boddewyn, 1992: 5). Most countries have established regulatory control systems in place that complement their legal systems to ensure consumer protection. These operate on the basis of self-regulation. This is where the industry is responsible for controlling the conduct of its own members, and voluntarily regulates the content of the industry's advertising (Harker & Cassim, 2002). 'Self-regulation is the system by which the advertising industry can actively police itself' (Gray, 2005: 20).

Self-regulation that operates within a framework of legislation delivers the most efficient regulation of advertising (Gray, 2005). Legislation is used to lay down the broad principles, while self-regulation is designed to deal with the finer details of advertising practice and to ensure that the regulations set are complied with. In the newer literature these complementary systems are referred to as co-regulation (European Commission, 2006).

### **Acceptable Advertising To Children - The Key Variables**

Harker's (1996 cited Harker, 1998) framework of acceptable advertising is depicted diagrammatically in Figure 1. This is used as the basis for the design of a framework to assess the regulation of advertising to children.

**Figure 1:** Acceptable advertising: a framework for analysis (Source: Harker, 1998)

This framework needs to be modified to meet the requirements necessary to analyse the regulation of advertising to children. The modifications should have a specific focus on the critical aspects that are



important in the regulation of advertising to children. These aspects are those that impact upon acceptable advertising to children.

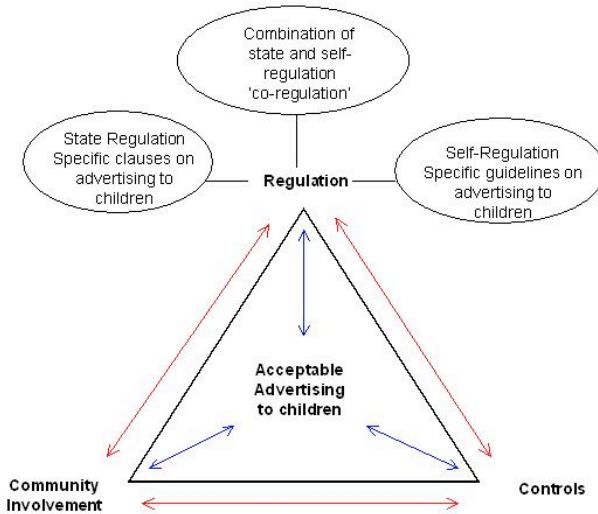


Figure 2: Acceptable advertising to children: A framework for analysis

This is the proposed framework that can be used for the analysis of the regulation of advertising to children. Three main variables are defined as important. First is regulation. This refers to the laws governing advertising to children specifically. Regulation may occur through state regulation, self-regulation and a combination of the two. The other two variables are: community involvement and controls. These variables have been extracted and modified from the original framework of Harker (1996, cited Harker, 1998).

### ***The Variables***

Regulation is the first variable impacting on achieving acceptable advertising. The regulation of advertising to children can be state regulated, self-regulated or a combination of the two. In state regulation, a country's legal regulatory framework needs to be identified and an assessment of the laws and regulations that exist for the protection of children need examination. Where there is self-regulation, the self-regulatory framework should be identified. Here the different self-

regulatory codes and guidelines are examined for their relevance to children.

The second variable of controls refers to the mechanisms in place to ensure that the systems of regulation are observed. These controls are generally effected through the monitoring bodies in charge of implementing the system and through an examination of the systems to ensure industry compliance. Industry compliance refers to compliance to the system of advertising self-regulation, in particular to the self-regulatory codes and guidelines. The enforcement may be achieved through sanctions, which are punitive measures and fines, or rewards and acknowledgements for compliance. The methods generally used by the industry as a measure of compliance are prescreening and monitoring of the advertisements produced (LaBarbera, 1980).

The final variable of this framework is community involvement. LaBarbera (1980) and Boddewyn (1992) both suggest that an advertising self-regulatory system can achieve representation of community standards by involving the public in the advertising self-regulatory system. This involvement occurs through participation in the complaints handling process. Community involvement in essence ensures the legitimacy of a self-regulatory system.

Fourteen questions on the three variables are formulated to assess the selected countries on their regulation of advertising.

## **Methodology**

The aim of the study is to conduct a review of the policy and regulation of advertising to children in developed and developing countries. The specific objectives are:

- To determine the systems of regulation in the selected countries
- To attempt an analysis of the approaches within the framework of acceptable advertising to children
- To compare the regulatory mechanisms of developed and developing countries
- To make some recommendations for developing countries

This paper employs documentary and textual analysis to achieve its purpose. Documents relating to regulation and control of advertising formed the basis for the analysis.

The research was conducted in the following phases:

1. The development of the framework of achieving acceptable advertising to children.
2. The collection of information relating to regulation of advertising and to children (in particular) in countries across the globe.
3. Selection of the countries that would be suitable for the analysis and assessment.
4. The collection of information on the systems, policies and laws pertaining to each of the selected countries.
5. A thorough examination of the websites of the global organizations (housing data on regulations) as well as the country specific websites.
6. An examination of published academic work on the regulation of advertising for sources of verification.
7. Communication via e-mail to specific individuals from the organization to supplement any information that was not available via the websites.

These phases were carried out between September and December 2005. The information was updated during 2006.

An assessment of the impact or indeed of the effectiveness of the regulatory systems is beyond the scope of this paper.

### ***The Countries***

This paper intends to compare the regulatory mechanisms of developed and developing countries to provide developing countries with the relevant and appropriate benchmarks. Developing countries are generally defined as

low and middle-income countries in which most people have a lower standard of living with access to fewer goods and services than do most people in high-income countries (United Nations, 2005).

It is therefore plausible to expect that developed countries have more effective and mature regulatory systems in place than do developing countries. This paper will explore this.

Developed countries have higher volumes of advertising and thus the necessity for regulation assumes great importance (Harker et al.



2001). It can also be assumed that the regulations in developed countries have been in place for a substantial period of time unlike their counterparts in the developing world which might be expected to have fewer regulations in keeping with a much younger system. It is therefore important to select developed countries that have a reputation for effective regulatory systems for advertising to children and use these as benchmarks for the comparative assessment. The developing countries selected, too should have at minimum some form of a regulatory system for advertising to children.

The developed countries that have a reputation for effective systems and are included in the study are: The United States of America, The United Kingdom and Australia. The developing countries selected are: South Africa, Brazil and India. A short overview of the relevant information on each country is delivered below.

### ***The United States of America (USA)***

The United States of America is the world's largest spender in advertising. It is also probably the country with the longest history of the debate on advertising to children. The United States of America has the largest share of the world's advertising expenditure at 34.4% in 2005 (World Advertising Trends, 2006).

### ***Australia***

Australia's total advertising expenditure in 2002 was US \$ 3,938 million, which was 1.3% of the world's total advertising expenditure (World Advertising Trends, 2004). Although Australia is not as dominant a force in the world advertising industry as the United States or the United Kingdom it is a significant player and a valuable country to base the comparison on because of the intensity of the debate and discussion around advertising to children.

### ***The United Kingdom (UK)***

The United Kingdom has one of the most developed advertising self-regulatory systems in the world (Boddeyn, 1992). This is evident in that most countries use it as the basis for the development of their self-regulatory bodies (Harker & Cassim, 2002). The United Kingdom's total advertising expenditure for 2005 was US \$ 25,186 million, which

represents 5.6% of the world share of advertising expenditure (World Advertising Trends, 2006).

### ***South Africa***

South Africa's is a developing country whose adspend for 2005 was US \$ 2, 678 million and this made up a 0.6% share of the world's advertising expenditure (World Advertising Trends, 2006).

### ***Brazil***

'Among third world countries, Brazil has the largest national advertising industry' (Musick, 1999: 5). Brazil's advertising expenditure in 2005 was US \$ 14,161 million placing it in seventh position in the world ranking and contributing 3.1% of the world's total advertising expenditure. Although Brazil is a developing country, it does contribute significantly to the world's total expenditure. It has the highest advertising expenditure in Latin America (World Advertising Trends, 2006).

### ***India***

The total advertising expenditure for India in 2005 was US \$ 2,913 million. This represents 0.6% of the world's total advertising expenditure (World Advertising Trends, 2006).

### **Findings**

The findings of the study are reported in terms of the variables of the framework for acceptable advertising presented earlier.

### ***The Definition of a Child***

An anomaly is raised in examining the regulations of advertising to children. The regulations apply to children of different ages and there appears to be little consensus on the definition of a child. The six countries selected for the study employ different definitions. This is demonstrated in the table below:

COUNTRY	DEFINITION OF CHILDREN
The United States of America <sup>3</sup>	12 years and younger

The United Kingdom <sup>2</sup>	16 years and younger
Australia <sup>1</sup>	14 years and younger
South Africa <sup>4</sup>	18 years and younger
Brazil <sup>5</sup>	12 years and younger
India <sup>6</sup>	18 years and younger

**Table 1:** Definition of Children in Australia, United Kingdom, United States of America, South Africa, Brazil and India

**Source:** adapted from: (*Australian Association of National Advertisers, 2000a1; Advertising Standards Authority of the United Kingdom, 2003a2; Children's Advertising Review Unit, 20003; Advertising Standards Authority of South Africa, 19944; Delgado & Foschia, 20035; Advertising Standards Council of India, 19856*).

This anomaly is evident in global assessments and requires consideration.

## **Regulation**

It has been suggested earlier that most countries in the world deploy co-regulation (a combination of state regulation and self-regulation) in advertising to children. This is due to the complimentary nature of the two (Boddewyn, 1985). All six countries examined employ a self-regulatory approach that is complemented by the established legal regulatory framework of the country.

## ***Legal Regulatory Framework***

All six countries were found to have an established legal regulatory framework with an assortment of legislation that governs marketing activities. As Harker (1998) states, most countries have umbrella legislation that governs broadcasting and consumer protection. This has been found to be the case in the countries chosen for the study. The general themes in the principles and provisions of the legislations are similar. They refer to the protection of children from harmful material, note that children's credulity and innocence shall not be exploited; they

should not be misled or deceived and their safety should not be compromised in any way or be depicted as such (Koester, 2002; Le Guay, 2003; BCCSA, 2003; Delgado & Foschia, 2003; Rocha et al, 2004; Vadehra, 2004).

The legal regulatory framework can be divided into consumer protection legislation and broadcasting legislation. These are reflected for the countries of the study in the table below.

<b>Country</b>	<b>Consumer Protection Legislation/Authority (reference to children)</b>	<b>Broadcasting Legislation/Authority (reference to children)</b>
Unites States of America	The Federal Trade Commission Act (FTC) (Koester, 2002)	Federal Communications Commission (FCC) Children's Television Act (1990)
United Kingdom	Fair Trading Act of 1973	The Broadcasting Act of 1990 Television without Frontiers Directive (Groom, 2005) (This directive applies to the whole of Europe)
Australia	Trade Practices Act of 1974 Fair Trading Act (Le Guay, 2003)	Broadcasting Services Act 1992 Australian Communications and Media Authority in Children's Television Standards
South Africa	Trade Practices Act of 1976 Consumer Affairs Act of 1999 Bill of Rights	The Broadcasting Complaints Commission of South Africa (BCCSA, 2003) Independent Communication Authority of South Africa (ICASA)
Brazil	Consumer Protection Law (Law No. 8,078/90) Industrial Property Law (Law No. 9.279, of May,	

	1996) Copyright Law (Law No. 9.610 of February, 1998).  Brazilian Consumer Defense Code (Código Brasileiro de Defesa do Consumidor) Children and Teenagers Statute (Estatuto da Criança e do Adolescente) (Delgado & Foschia, 2003).	
India	Young Act IT Act (Vadehra, 2004)	Information and Broadcasting Ministry of the Government of India India Cable Television Network Act (1994) Information Technology Act

**Table2:** The Consumer Protection and Broadcasting Authorities and/or Legislation in the six countries

It is quite common to observe that the statutory components are generalized and provide for the general protection of children. It has also been observed in legal opinion that the provisions for general consumer protection may be used for the protection of children.

The limitations on advertising to children based on statutory prescriptions, varies in countries across the globe. Options range from restrictions on advertising based on timing or content to complete bans. The Canadian province of Quebec, Norway and Sweden have complete bans on advertising targeting children (Hawkes, 2004). Specific restrictions on advertising to children in the Hawkes Review may be found in countries like Australia, Austria, Belgium, Canada, Germany, Israel among others.

## ***Self-regulatory Framework***

Self-regulation refers to regulation by the industry itself. This is generally implemented through a Code of Practice and through a process by which the practice is observed. The self-regulatory organization is usually set up by the advertising and media industries in the country upon which the body relies for funding. The Code is generally based on the International Chamber of Commerce's Code of Advertising Practice known as the International Code of Advertising Practice, 1997 (ICC 2005). The Code generally refers to the protection of children from harmful material, children's credulity and innocence shall not be exploited, they should not be misled or deceived and their safety should not be compromised in any way (CONAR, 1978; Advertising Standards Authority of South Africa, 1994; Advertising Standards Council of India, 1999; Australian Association of National Advertisers, 2000a; Advertising Standards Authority of the United Kingdom, 2003b, Children's Advertising Review Unit, 2005).

Self-regulation of advertising to children in the United States is overseen by the Children's Advertising Review Unit (CARU) set up in 1974 'to promote responsible advertising to children' (NARC 2004). CARU works through the Self Regulatory Guidelines for Children's Advertising (version 2003), which applies to advertisements in print, television, radio and online media directed at children under the age of 12 (Armstrong, 1984; Children's Advertising Review Unit, 2005). The self-regulatory guidelines of the United States has been approved by the Federal Trade Commission (Koester, 2002; Newspaper Association of America, 2001).

The United Kingdom has a mature two-tier structure that consists of the monitoring body known as the Advertising Standards Authority of the United Kingdom and the Committee of Advertising Practice (CAP) (Boddewyn, 1992). Its mission is to apply the advertising codes and uphold the standards in all media on behalf of consumers, business and society (Advertising Standards Authority of the United Kingdom, 2005). The written code is the British Code of Advertising Practice that is based on the International Chamber of Commerce's Code and adapted and elaborated to meet national needs (Boddewyn, 1992). The Advertising Standards Authority of the United Kingdom is funded by a 0.1% levy on the billings on all forms of non-broadcast advertising (Boddewyn, 1992)

and the Advertising Standards Board of Finance was established to collect these funds (Harker & Cassim, 2002). The various industry codes monitored by the ASA are: the British Codes of Advertising and Sales Promotion and Direct Marketing, the Independent Television Commission Codes of Advertising Standards and Practice and the Radio Authority Advertising and Sponsorship Code. Provisions on children may be found within these three codes that follow the principles of legal, decent, honest and truthful (Advertising Standards Authority of the United Kingdom, 2003a).

Self-regulation in Australia is addressed through the use of different advertising codes implemented and overseen by the Australian Association of National Advertisers, the Advertising Standards Board and the Advertising Claims Board (Harker, Harker & Volkov, 2001). Australia has a specific code for advertising to children, namely: the Australian Association of National Advertisers' Code for Advertising to Children (Australian Association of National Advertisers, 2000a). The self-regulatory system relies upon industry support for compliance and funding. This funding comes from a 0.035% levy of the gross media billings of advertisers (Australian Association of National Advertisers, 1999). There are other codes that make reference to and provide guidelines for the regulation of advertising to children in Australia, namely, the Commercial Television Industry Code of Practice, Telephone Information Services Standards Council Code of Practice and the Australian Direct Marketing Association's online marketing guidelines (Australian Association of National Advertisers, 2000a).

The three developing countries self-regulatory systems are examined next. South Africa has opted for a self-regulatory approach to advertising regulation and the monitoring body; the 'center piece' of this system is the Advertising Standards Authority of South Africa (Cassim & Langton, 1996). It is a self-regulatory tripartite system between the advertisers, agencies and the media that closely mirrors that of the United Kingdom. The Advertising Standards Authority operates a Code of Advertising Practice (Boddewyn, 1992). The Advertising Standards Authority is funded by the advertising industry by means of a levy on the advertising spend. This levy is determined by the exposure to media and is administered through the Marketing Industry Trust (Harker & Cassim, 2002). There is only one code used for the entire industry and no specific code for the regulation of advertising to children. Provisions for

their protection are made within the Code of Advertising Practice. The Code of Advertising Practice contains a general prohibition against misleading, offensive and untruthful advertising and makes specific reference to children within the Code regarding specific issues (Advertising Standards Authority of South Africa, 1994; Cassim & Langton, 1996).

The self-regulatory monitoring body in Brazil is The National Council for Advertising Self-Regulation (CONAR). CONAR was established as a tripartite system in 1980. Due to the vulnerable nature of children, Brazilian rules and regulations treat advertising addressed to this group with special care. Advertising should not encourage children to behave in an unconventional manner or in any way cause physical or mental harm to them (Delgado & Foschia, 2003). Provisions for this have been made in the National Council for Advertising's Self-Regulation Code of Practice (CONAR, 1978).

The Advertising Standards Council of India is the body responsible for self-regulation in India. Like Brazil there is no separate code for advertising to children but provisions are made in the Advertising Standards Council of India's code of practice, the Code for Self-Regulation in Advertising (Advertising Standards Council of India, 1999). This code with regard to minors and advertisements to minors, 'should not contain anything, whether in illustration or otherwise, which might result in their physical, mental or moral harm or which exploits their vulnerability' (Advertising Standards Council of India, 1999).

In summary the self-regulatory approaches of the six countries is encapsulated in the following table:

	UNITED STATES OF AMERIC	UNITED KINGDO	AUSTRA LIA	SOUTH AFRICA	BRAZIL	INDIA
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	A	M				
<b>Established</b>	1974	1962	1997	1969	1980	1985
<b>Written code</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Number of codes for advertising to children</b>	1	No separate code	1	No separate code	No separate code	No separate code
<b>Monitoring body</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Separate body specifically for children's advertising</b>	Yes	No	No	No	No	No

**Table 3:** Summary of the self-regulatory framework of advertising and to children in selected countries

**Source:** adapted from: (Boddewyn, 1992; Woker, 1999; Advertising Standards Council of India, 1999; Harker & Cassim, 2002; Koester, 2002; Australian Association of National Advertisers, 2003a; Delgado & Foschia, 2003; Children's Advertising Review Unit, 2005; www.asasa.org.za; www.conar.org.br).

Developed countries seem to have a more structured approach to the regulation of advertising to children. While the UK is the only developed country that does not have a specific code on children the recent attention to marketing and advertising to children by Ofcom underlies the importance of the issue in the United Kingdom (Ofcom, 2004, 2005). It is also interesting to observe that the South African system is mature and well established, older than that of the developed countries of the United States and Australia.

### Controls

The second variable of controls refers to the mechanisms in place to ensure that the systems of regulation are observed. The controls are effected through the organizations reflected in the sections above, the monitoring of compliance and the sanctions in place for advertisers in breech of the country codes.

Industry compliance is voluntary in five of the six countries studied. Where compliance is voluntary it is encouraged as it builds confidence in the self-regulatory system of advertising. South Africa is the only country in this study that observes compulsory compliance through its national tripartite system. The Independent Broadcasting Authority Act stipulates that the Advertising Standards Authority of South Africa administers the code that is applicable to advertising. The Broadcasting Monitoring and Complaints Commission administers the code that is applicable to broadcasting. Compliance is secured with the use of the following sanctions:

- Withholding advertising space
- Amending the advertisement
- Referral to disciplinary hearing
- The right to publish the outcome of the investigations

(Harker & Cassim, 2002: 9)

Australia too imposes sanctions but they vary from code to code and within certain media. Failure to comply with the provisions of a code will result in an advertisement not aired (Le Guay, 2003). In the event of any failure to comply with an Advertising Standards Bureau determination, the matter can be referred to relevant media proprietors and government agencies. 'To date, the industry has responded with 100% compliance with all determinants of the Advertising Standards Bureau' (Australian Association of National Advertisers, 1999).

Like Australia and South Africa, the United Kingdom and the United States have similar controls for industry compliance. In the United Kingdom, the vast majority of advertisers, promoters and direct marketers comply with the code. Those that do not comply with the code may be subject to sanctions (Advertising Standards Authority of the United Kingdom, 2003a). The Advertising Standards Authority of the United Kingdom has found that there is a 97% compliance rate (The United Kingdom Parliament, 2004). The Advertising Standards Authority does not have direct authority for the enforcement of the codes; however it has the ability to refer to the Office of Fair Trading or to the Trading Standards Authority under the Control of Misleading Advertisements Regulation 1988. This sanction is rarely used, however (Harker & Cassim, 2002). To make self-regulation work there needs to be some degree of enforcement (LaBarbera, 1980; Boddewyn, 1992) and in the case of advertisements that do not meet the criteria of the codes

set out, these sanctions range from adverse publicity through to the demand for advertisement prescreening and clearance and denial of access to advertising space (Harker & Cassim, 2002). The rulings by the Advertising Standards Authority of the United Kingdom are enforceable (Harker & Cassim, 2002).

In the United States, when an advertisement is found to be in breach of the code, modification or discontinuation of the advertisement is enforced. The Children's Advertising Review Unit seeks the voluntary cooperation of advertisers to revise advertisements that do not adhere to the principles and guidelines. If advertisers refuse to cooperate, the matter is referred to the legal authority, the Federal Trade Commission (Koester, 2002). CARU itself has no power of sanction. The Federal Trade Commission does however, have the power to prohibit advertisers from engaging in further advertising activities (Koester, 2002).

Brazil and India both have sanctions in place to encourage industry compliance. If an advertisement is determined to have breached the code and guidelines, both Brazil and India can enforce modification and withdrawal of the advertisement (Boddewyn, 1992; Advertising Standards Council of India, 1999). In Brazil, the decisions of the Ethics Council are communicated to all interested parties thus establishing some level of transparency for the National Council of Advertising Self-Regulation in Brazil (LaBarbera, 1980). India however appears to have a lower level of industry compliance. There is concern that the basic tenets of advertising regulation is not being observed in India (Vadhera, 2004). Further, only up to 50% of complaints are upheld in India. This reflects a large number of unacceptable advertisements being produced and exposed also to Indian children (Advertising Standards Council of India, 1999).

It may be concluded that all countries in the study have control mechanisms in place to monitor compliance of the self-regulatory codes. Sanctions range from the requests for amendment or withdrawal of the offending advertisements to ordering media companies to withhold advertising space. It should also be observed that a true measure of compliance might be better achieved through an assessment of the complaints relating to children. While the number of complaints was reported on most self-regulatory bodies' websites, those relating to children could not be identified. This task should be undertaken more comprehensively in a future assessment. In sum, the United Kingdom

functions effectively in regard to control mechanisms, as does the United States. However, Australia's system has been documented as 'not as effective' as the two mentioned (Harker & Cassim, 2002) but still far better than that of the developing countries. South Africa fares well relative to the other developing countries in respect of controls. This may be attributed to its tripartite system of control.

### **Community Involvement**

Community involvement occurs through and may be measured by the complaints handling process. Community involvement also strengthens the trust in a self-regulatory process.

All six countries examined have similar procedures for lodging complaints. This process requires a written description of the advertisement in question. The complaint may refer to offensive use of discrimination, sexuality, violence, health, language, and safety. The advertisement is then reviewed and the advertiser is held accountable (Boddewyn, 1992; Australian Association of National Advertisers, 1999; Advertising Standards Council of India, 1999; National Advertising Review Council, 2005; Advertising Standards Authority of South Africa, 2004; CONAR [www.conar.org.br](http://www.conar.org.br)).

Complaints in the United States are made through the Children's Advertising Review Unit's National Advertising Division. The National Advertising Division of CARU reviews complaints from the public but also implements an internal monitoring system of review (National Advertising Review Council, 2005). This Division of CARU that deals with complaints comprises 100% industry personnel (Harker & Harker, 2001)

In the United Kingdom, the Advertising Standards Authority formally deals with complaints made by the public and the Committee of Advertising Practice deals with those made by competitors (Boddewyn, 1992; Harker, 1998). The Advertising Standards Authority of the United Kingdom has the Advertising Standards Council which deals with complaints. It comprises twelve people of whom two thirds are composed of independent members and the rest represent the industry (Harker & Cassim, 2002).

The Advertising Standards Board of Australia is composed of sixteen members of which 10 are non industry or public members. This body handles complains from the public. Once the advertisement in question has been reviewed the outcomes are displayed for the public (Australian Association of National Advertisers, 1999; Harker & Harker, 2001).

In South Africa complaint handling is the responsibility of the Advertising Standards Committee of the Advertising Standards Authority of South Africa. These complaints are dealt with at two levels, the first being the Advertising Standards Authority Directorate where most complaints are resolved, and the second the Advertising Industry Tribunal, which handles complaints made by competitors. The Advertising Standards Committee is made up of 16 members of which approximately eight members are from non industry organizations. This too represents a strong participation of non-industry individuals in the complaint process and may be defined as community involvement. Another body dealing with complaints in South Africa is the Broadcasting Complaints Commission of South Africa (Advertising Standards Authority of South Africa, 2004).

Consumer groups and government authorities in Brazil send complaints in writing to The National Council for Advertising Self-Regulation (Boddewyn, 1992). The Ethics Committee (RICE) of CONAR comprises 132 members with no information on how many of these are from the public (Rocha et al., 2004). The National Council for Advertising Self-Regulation does not have the legal authority to enforce its decisions and recommendations (Musick, 1999).

The Advertising Standards Council of India has made provision for community involvement in the form of the Consumer Complaints Council. The Consumer Complaints Council is an independent unit that deals with and evaluates consumer complaints against advertisements (Boddewyn, 1992). The Consumer Complaints Council is made up of twenty-one members of whom 12 are from the public. This is a strong representation of the public in the consumer handling process.

It may be concluded that all six countries have some level of community involvement in their self-regulatory efforts. There are differences however, in the level of participation in the complaint process. In the developed country assessment, the United States' system

makes no provision for community participation. The other two countries namely, Australia and the UK have more public participation than does the system in the US.

Interestingly the three developed countries have demonstrated community involvement in the self-regulatory structures. South Africa and India have near 50% composition of the wider public in their complaints handling bodies. This augurs well for community involvement in the self-regulatory initiatives.

It may also be speculated that there is awareness of the codes and processes for complaints in these developed countries and better reporting of the complaint process. The Annual Reports of these bodies refer to awareness campaigns designed to increase awareness and raise consciousness on the procedures for complaints.

One issue on which differences were observed relates to the monitoring and complaints handling process. Four of the six countries (Australia, South Africa, Brazil and India) relied on complaints to assess compliance. CARU of the United States monitors advertisements regularly to assess the level of compliance and identify those in breach of the Codes. It has been mandated to do so. The Advertising Standards Authority of the UK engages in spot checks of advertisements to assess compliance.

## **Summary and Conclusions**

The aim of this research was to undertake an assessment of the regulatory frameworks for acceptable advertising to children in developed and developing countries. The variables of the framework were employed in examining the six countries selected for the study. It is on this basis that the comparisons have been made and differences observed.

All countries selected for the study employ co regulation of advertising and in particular to children. The United States of America is the only country in this study that has more of an emphasis on a statutory regulatory approach to advertising through the Federal Trade Commission. The other five countries in this study have more reliance on the self-regulatory approach. A true assessment of the impact of the regulatory approaches needs to be undertaken before a judgement may be

made on the better system to adopt. The United States is also the only country that has a separate monitoring body for the regulation of advertising to children. Again an impact assessment will establish the effectiveness of this approach. It may however be concluded that all countries in this study have a similar standard for regulating advertising to children. While the issue of advertising to children may not have surfaced in public debate of developing countries with the same intensity as that of the developed world, attention is paid to the issues as may be reflected in the self regulatory approaches of the developing world.

All six countries have made reference to the vulnerability of children and the need for their protection in their self-regulatory initiatives. It may be argued on the basis of limited evidence that these provisions may have been forced onto these countries by virtue of their basing their codes on that of the ICC. The self-regulatory mechanisms are however within the framework of acceptable advertising to children.

Some differences may be observed in the compliance levels of the countries examined. This observation will have to be examined through a careful assessment of the complaints in each country. An examination of the nature of the complaints, the source and the outcome will deliver a good comparative assessment.

At the heart of the differences between the countries researched, lies the difference in the access to and availability of resources. In countries where resources are scarce, their allocation will compete with other needs such as health, education and the provision of infrastructure, which tend to enjoy a greater focus from government. The development of a set of national values as contained in a country's constitution is also a vital indicator. In the United States of America where individual rights predominate, the public at large are more likely to take up issues such as wrongful advertising than would be the case in the developing world.

It is therefore possible to conclude on the basis of this assessment that South Africa, Brazil and India have acceptable frameworks for the regulation of advertising to children as those of their more developed counterparts the United States, the United Kingdom and Australia. The foundations are in place in these countries for the implementation of acceptable advertising to children.

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