

Interim Advertising Council

Meeting 2
4 August 2003
8.30 am – 4 pm

Centra Hotel, Auckland

Minutes

1. Attendance

Mr Mike Codd (Chair)	
Mr Mike Cocks	Australian media/advertising industry
Dr Fiona Cumming	Therapeutic Goods Administration and Executive Secretary, IAC Support Group
Ms Jean Drage	Consumer (NZ)
Mr James Hart	Natural healthcare profession (Aust and NZ)
Mr Jeremy Irwin	Association of New Zealand Advertisers (NZ)
Ms Val Johanson	Complementary Healthcare Council of Australia (CHC)
Ms Linda McLauchlan	Pharmacy (Aust and NZ)
Ms Susan Martindale	Medsafe
Mr Tony Miller	New Zealand Self-medication Industry (SMI)
Dr Robyn Napier	Medical profession (Aust and NZ)
Mr Kieran Schneemann	Medicines Australia (Aust and NZ)
Ms Juliet Seifert	Australian Self-medication Industry (ASMI)
Dr Derek Weir	Consumer (Aust)
Mr Glen Wiggs	Advertising Standards Authority Inc. (NZ)
Ms Judith Brimer	IAC Secretary

2. Apologies

Mr Pio Cesarin	Therapeutic Goods Administration (TGA)
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3. Minutes

The following amendments were agreed.

1. Item 6.1(d)(i)
Insert the following paragraph

(i) The definition of ‘advertisement’.

It was noted that this was a preliminary discussion on the definition and that this issue would be addressed at a subsequent meeting. One view, put forward by the Australian media/advertising industries representative, was that valuable consideration should form part of the definition.

2. Item 6.1(d)(iii)
Insert the underlined clause
Members were of the view that, for the purpose of defining who practitioner-only advertising should be permitted to be directed to, the definition should refer only to those people listed in a schedule to the Rules to be developed jointly by Australia and New Zealand as part of the trans Tasman joint agency process.

3. Item 6.1(e)(ii)
Replace “Bone fide news” with “Bona fide news”

Insert last sentence as follows:

The Australian media/advertising industries representative disagreed with this view.

Replace “it was decided that” with “the majority took the view”.

The minutes were confirmed as amended.

In discussion on the reason for amendment 2, there was clarification that the minutes should reflect that the discussion referred only to advertising directed to healthcare practitioners.

The relevance of the medium in which material is directed to practitioners was discussed, and it was noted that, because of the professional status of healthcare practitioners, regulation by industry bodies of the material directed to them is appropriate.

4. Matters arising from the minutes of the meeting held 16 May 2003

4.1 New Zealand (NZ) Parliamentary Health Select Committee inquiry.

It was noted that the committee has been continuing its inquiry, preparatory to publishing its findings and recommendations.

4.2 Discussion papers

It was agreed that discussion papers supporting agenda items or IAC meetings should be given a version number, dated and attributed.

4.3 Support Group and IAC members

It was noted that:

- Cath Patterson has left the trans Tasman team to take up an appointment as Senior Advisor to the Australian Minister for Health.
- Alison Cossar, Medsafe, has joined the Support Group.
- Susan Martindale is the Medsafe member of the IAC.
- Dr Derek Weir is the Australian consumer representative

Nine papers had been circulated for discussion at this meeting.

5 Agenda Paper 1 – Feedback from consultation process

5.1 Feedback from the consultations held in Sydney (1 July) and Auckland (3 July)

Submissions were tabled.

Comments from these meetings and from the submissions had been included for consideration in the draft Key Principles, Therapeutic Products Advertising Code and Advertising Guidelines, to be considered later in the agenda.

5.1.1 Representation at consultation meetings

- Concern was expressed by the New Zealand consumer representative at the relative lack of consumer representation at the consultation meeting. It was suggested that the location of the meeting in Auckland presented a problem for consumer attendance due to the cost of travel.
- It was noted that the Australian Consumers Health Forum had raised a similar issue about the difficulties of ensuring consumer engagement in the consultation process.
- The meeting agreed that the best ways to ensure engagement by consumers need to be addressed.
- IAC members felt it to be important for consumers to be involved with other stakeholders during the consultation process rather than having specific consumer consultations.
- To facilitate the process, notification of the date of a consultation meeting should be provided as far in advance of meetings as possible and, should it be apparent from responses to invitations to attend consultation meetings that there are gaps in representation, this should be addressed.
- It was suggested that ethnic media involvement is an issue which will need to be addressed.

The outcomes from the consultation meetings held in Sydney and Auckland were noted.

6 Agenda Paper 2 – Work plan

The need for certain additional stakeholders to be added to the consultation list at Attachment 2 to the work plan paper was noted.

Members were invited to submit contact details for any such additional people.

The addition of New Zealand government agencies to the list was requested.

6.1 Amendments to the work plan and consultation table

Some amendments to the work plan and consultation table at Attachment 2 to the work plan paper were flagged, as per the revised table at **Attachment 1** to these minutes.

It was noted that:

- it is expected that the final draft of the Key Principles and the penultimate draft of the Advertising Code will be determined at this meeting;
- the Advertising Guidelines are to be restructured to accommodate sector relevance, ease of use and consistency with the penultimate draft of the Advertising Code;
- timing of finalising the legislative framework will be sufficiently flexible to ensure it is in accordance with the development of the overall Joint Agency legislation;
- after discussion at this meeting, work on developing the legal framework and the functions of the Advertising Board will continue and will be considered again at the 22 October meeting;
- Advertising Board representation will be dealt with at the February 2004 meeting; and
- a first draft paper on the preapproval risk-based dividing line is to be developed for the next meeting, followed by consultation and finalising at the December meeting.

6.2 Protocol for monitoring and evaluation of performance of the advertising scheme

In introducing a proposal to develop a performance monitoring protocol for the existing and proposed new advertising schemes for consideration by the IAC, the Chairman noted that, to enable the Advertising Board to properly report to Ministers on the operation of the whole system, there needs to be a process for performance auditing. It was suggested that in order to achieve a relevant and effective process, a base-line assessment of current operation against which future performance can be tested is necessary. Examples of elements of the system that could be measured were discussed, including the speed of response to complaints, the effectiveness of the approval processes and the awareness of the system by consumers.

The meeting agreed that the proposal to develop a protocol defining what is to be measured, both as a base line and going forward, is a necessary addition to the work program.

- **A draft project plan, including performance indicators to be monitored, is to be presented to the next meeting. Experience in Australia at the time delegations were offered to industry may be relevant.**

6.3 Consultation process

In answer to questions asked about the status of the 'finalised' documents from this meeting, the following was noted:

- The major process of consultation on the Key Principles and Advertising Code has taken place;
- It is anticipated that the revised documents will be posted on the TGA website;
- There will be opportunity for further comment before the final package goes to the Ministers if any substantial issues with the documents are identified;
- Views put forward at the consultation meetings are considered by the IAC and a majority view reached by IAC members as to recommendations made to Ministers. Where appropriated, dissenting views would also be conveyed to Ministers (see recommendation at 7.1).

The next set of issues for consideration by the IAC, followed by the next round of consultations, will include:

- The risk-based dividing line for pre-approval of advertisements; and
- The Advertising Board – its function and associated processes.

The next consultation meetings are likely to be held towards the end of November. This will enable adequate notice of the meeting and circulation of the draft documents from the 22 October IAC meeting. The outcome of the consultation meetings will be considered by the IAC at the December meeting.

The meeting was informed that once Ministers have signed a treaty to establish the Trans Tasman Therapeutic Products Agency, a draft Bill for an Act and an outline of the Rules will be circulated. The Chairman noted that it is hoped that feedback from consultations on the 'exposure' draft legislation, including the Key Principles, will be able to be discussed at the December IAC meeting, with sign-off by the IAC at the February 2004 meeting.

The Australian consumer representative underlined the importance to consumers of adequate time to prepare for consultation, including in relation to draft legislation.

The adjustments to the work plan were noted.

It was noted that the next round of formal consultations will occur in late November.

6.4 Approach to issues where it is not possible to reach agreement

Where it is not possible to reach agreement on a particular issue, members agreed to the approach of accepting a majority view for any recommendation to Ministers, at the same time informing the Ministers of any dissenting view in the group.

7 Agenda Paper 3 Draft 3, Key Principles, Advertising Code, Advertising Guidelines

It was agreed that the definition of advertisement and the place of generic information be discussed first.

7.1 The definition of ‘advertisement’

The discussion began with consideration of the definition as in version 3 of the Advertising Code, which was as follows:

Advertisement means any words, whether written, printed or spoken, and any pictorial representation or design, used or appearing to be used to promote the use or sale of therapeutic products or the use of any method of treatment [refer Guideline 1.1(b)]

Initial discussions centred on whether the definition of advertisement is intended to include only ‘trade’ advertising or also the inclusion of information campaigns, generic information and generic advertising.

7.1.1 Inclusion of generic information in the definition

The *New Zealand Advertising Codes of Practice* was tabled and members were referred to an item of interpretation of the codes on page 11, as follows:

the word ‘advertisement’ is to be taken in its broadest sense to embrace any form of advertising and includes advertising which promotes the interest of any person, product or service, imparts information, educates, or advocates an idea, belief, political viewpoint or opportunity.

This interpretation was discussed at length. It was noted that there had been general acceptance of the inclusion of generic information within the definition at the consultation meetings. The CHC representative expressed concern about the inclusion of generic information and educational information in the definition of advertisement.

It was suggested that inclusion of part or all of the above item within the definition of advertisement would preclude the necessity of referring to generic information throughout the document.

After further discussion it was agreed that the following clause be added to the definition:

“or which imparts information or seeks to educate with a view to promoting the use, sale or supply of therapeutic products.”

The current draft definition of ‘therapeutic products’ was examined, as there was some concern that the definition would not pick up generic information about substances. It was felt that the wording of the current version of the definition of ‘therapeutic product’ could be interpreted as including substances. If that interpretation were confirmed, it would make the recommended definition viable.

Further legal advice is to be sought on this interpretation.

7.1.2 Inclusion of services in the definition

It was agreed that services, in so far as they relate to the use, sale and supply of therapeutic products, should be embraced within the definition.

It was agreed that the term ‘method of treatment’ could be taken to cross over into the area of health practitioner practice.

After discussion it was agreed that the following clause be added to the definition, to replace “or the use of any method of treatment”:

“or services embracing the use, sale or supply of therapeutic products”

7.1.3 Inclusion of the concept of valuable consideration in the definition

The Chairman noted the strong views held by publishers and possibly others for the inclusion of the concept of valuable consideration in the definition, and the strong view of consumer, pharmacy and medical healthcare practitioners that the definition be kept broad by not referring to valuable consideration.

The media/advertising industries representative raised issues as follows:

- Objectivity *vs* subjectivity. A recommendation was made to amend the code so as to include “calculated or intended” rather than “used or appearing to be used”.

The Australian consumer representative firmly expressed the view that the take out message is what is salient to consumers and that the proposed definition, including ‘used or appearing to be used’ captures the objective concept of the ‘reasonable’ person.

The Chairman summed up by noting the importance of the consumer perspective, that such an approach has been in operation for several years without any problem and that sensible judgements have been made based on the take-out message by the consumer.

- Payment of valuable consideration. If valuable consideration is included in the definition the concern about the exclusion of ‘below the line’ material could be addressed by devising different definitions of ‘advertisement’ applicable to the media used.
- Editorial freedom. There must be editorial freedom, and advertisements per se are only those which are paid for.

The majority felt that, although censorship of editorial freedom is not wanted, the power to address material that is damaging to public health and safety needs to be retained. By including the concept of valuable consideration in the definition, this right would be excluded.

The ASA representative tabled a paper that is used in New Zealand to determine what an advertisement is and what is an editorial.

There followed a discussion on bona fide news, editorials, entertainment programs, public interest programs and publishers as advertisers.

In establishing what a public interest program is, it was suggested that as with the approach taken in the tabled paper in determining whether or not material is an advertisement or editorial, a similar approach could be taken to determine what constitutes a public interest program.

Members formed the view that specific exclusions could be referred to in the Advertising Code for bona fide news, bona fide editorial and bona fide public interest programs.

It was agreed that the guidance tabled by the ASA could form the basis for consideration of what might be included in the Advertising Guidelines and would be brought forward in the Advertising Guideline paper for the next meeting.

It was noted that the definition could be interpreted as embracing health professionals, educators, academics and scientists going about their normal business. Since this is not the intention, it was agreed that guidance as to appropriate interpretation be developed and incorporated in the draft Advertising Guidelines.

The IAC, with the dissent only of the media and advertising industries representative, agreed that the concept of valuable consideration would not be included in the definition. The dissent of this representative would be noted in the recommendations to Ministers and, should an alternative definition be provided, it would be forwarded to Ministers and linked to that dissent.

The CHC representative indicated that the proposed definition could not be supported until the inclusion of generic and educational information was clarified with regard to its effect on the complementary healthcare industry.

It was the majority view of members that the definition of ‘advertisement’ is as follows:

Advertisement	means any words, whether written, printed or spoken, and any pictorial representation or design, used or appearing to be used, to promote the use, sale or supply of therapeutic products, or services embracing the use, sale or supply of therapeutic products, or which imparts information or seeks to educate with a view to promoting the use, sale or supply of therapeutic products.[refer Guideline 1.1(b)]
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7.2 Key Principles

The Object and Principles were reworded to distil, simplify and clarify the intent.

A question was asked about the possibility of the central complaints bodies applying industry codes of practice and the implications for such a process if there was any inconsistency between the Advertising Code and an industry code.

It was noted that the process of authorisation of the industry codes (which will require to incorporation of the Advertising Code in its entirety into the industry codes) by the Advertising Board will preclude any inconsistency. The industry codes may contain additional material and requirements.

Noted, too, was the expectation that the industry associations would be authorised by the Advertising Board to deal with competitor complaints, including those from or about non-members as well as complaints about advertisements directed to healthcare practitioners.

In providing a single point of entry to the advertising scheme for consumers, the Central Complaints Panel is also anticipated to have a role in applying industry codes of practice. The legal implications of this approach need to be considered.

The revised version of the Key Principles is to be found at Attachment 2.

7.3 Advertising Code

7.3.1 Object

As marketing embraces more than advertising, references to marketing were removed.

The wording was revised to simplify and clarify the intent of the clause.

7.3.2 Interpretation

The addition of 'read and applied' to the first paragraph was accepted.

An additional paragraph referring to the public interest criteria to be found in the Advertising Guidelines was added.

7.3.3 Legislative Framework

It was agreed that the reference to the World Health Organisation ethical criteria should be removed. The decision was taken on the grounds that they are secondary to the Advertising Code and they apply only to medicines, whilst the Advertising Code will apply to medicines and medical devices.

7.3.4 Definitions

The definition of advertisement was addressed earlier in the meeting.

7.3.4.1 Generic information

It was suggested that with the inclusion of generic advertising and information in the definition of advertisement, this definition might not be needed. However, the meeting agreed that a separate definition for generic information should be retained in order to clarify the hierarchy of approval requirements.

It was agreed that generic information that does not promote the use or supply of therapeutic products (including substances) was not intended to be covered by the Advertising Code.

The agreed definition of generic information is:

Generic information means information about substances that may be used as an ingredient or component in the manufacture of therapeutic products but which does not identify those particular therapeutic products.

7.3.4.2 Healthcare professional

Members agreed that the term 'practitioner', having broader application, was more appropriate than 'professional'.

Further elaboration on advertising to healthcare professionals and advertising by healthcare professionals is to be found in the Advertising Guidelines.

7.3.4.3 Sponsorship advertisement

Discussion around this definition centred on what is understood by the term ‘sponsorship advertisement’ as it is currently used in New Zealand. (In Australia, the term has not been previously used.)

Consideration was given to the need to differentiate sponsorship from endorsement. The view was put forward that where a health related event was sponsored by a healthcare company, there could be an inappropriate public inference that the company’s products are endorsed by the event.

The view was formed that a sponsorship representation, even if just using a company or brand name and not making a therapeutic claim, is an advertisement. It was held that this type of advertisement would require neither preapproval nor the minimum requirements (as set out in the Advertising Guidelines). This confirmed the need for a definition of sponsorship advertisement, to differentiate it from the broad definition of ‘advertisement’.

It was thought that the term ‘sponsorship credit’, which is an acknowledgement during a broadcast program of advertiser’s sponsorship of the program content, should be covered by the definition of ‘sponsorship advertisement’.

The definition agreed for ‘sponsorship advertisement’ was:

Sponsorship advertisement means a representation that the advertiser is sponsoring a person, competition, activity, program or event and no therapeutic claim is made.

It was accepted that once a therapeutic claim is made, the material forms an advertisement (rather than a sponsorship advertisement) and will be treated as such under the Advertising Code.

7.3.4.4 Therapeutic database

Members suggested inclusion of a definition of ‘therapeutic database’; that being the database of licensed therapeutic products that will be held by the Joint Therapeutic Products Regulatory Agency.

7.3.5 Application of the Code

The agreed wording for the definition of advertisement was incorporated into the opening paragraph of this section.

By agreement, the second paragraph was amended to read:

Guidelines to this Code, as determined by the Advertising Board, must be observed.

In the discussion on this wording, the concept of ‘mandatory’ guidelines was noted. However, the need for legal underpinning by cross-reference in the Advertising Code, as a safeguard and to ensure compliance, was agreed.

It was noted that the reason for not including the Guidelines within the body of the Code is to enable ready amendment by the Advertising Board, to provide surety for the delegated approval function and to provide guidance at complaint.

Wording on the function and status of guidelines put forward by the Advertising Standards Authority representative is to be built into the preamble to the guidelines. This wording is as follows:

The guidelines are examples, by no means exhaustive, of how advertising rules are to be interpreted and applied, thus many are mandatory requirements.

It was agreed that, because all advertisements must comply with the Advertising Code, the paragraph entitled ‘Advertising to the General Public’ is redundant.

The paragraph entitled ‘Advertising to Healthcare Practitioners’ was retained, with revised wording as follows:

The oversight of the application of the Advertising Code will reside with the Advertising Board, but the administration will be delegated primarily to the relevant industry bodies.

Members were concerned that the principle of self-regulation should be retained in the Advertising Code and that the powers of the Advertising Board should be clarified. The term ‘primarily’ covers the situation where a complaint from a consumer can be dealt with by the central complaints process.

7.3.6 Key Principles

These are to be incorporated as amended.

A cross reference to Guidelines 1 – 4 is to be incorporated into Principle 1 in the Advertising Code.

7.3.7 Advertising Rules (AR)

Members agreed to retain the name “Advertising Rules”.

As generic advertising and information is incorporated in the definition of ‘advertisement’, all reference to generic information was removed from the Advertising Rules.

AR 1

The TGA representative is to discuss with the ACCC concerns raised by them as to jurisdiction.

AR 2

Amended as per Attachment 3 to these minutes.

AR 3

Amended as per Attachment 3 to these minutes.

AR 4

It was noted that as a result of the consultation meetings and devices workshops, additional subclauses were proposed. The additional clauses were accepted with amendments. The discussion on AR 4(c) resulted in agreement that advertising exempt goods must comply with the Code.

AR 5 and 6

Reformatting was accepted as per Attachment 3 to these minutes.

AR 7

The outcome of the discussion was that, provided there is full disclosure, including prior consent, name of the entity giving the endorsement, authentication and acknowledgment of any valuable consideration, it would be permissible for advertisements to contain an endorsement of therapeutic products by government agencies, hospitals and healthcare practitioners.

AR 8

Members agreed that the prominent presentation of an exceptional case in an advertisement was inappropriate and that only typical cases should be represented.

AR 9 – agreed.

AR 10

There was some discussion as to which body should carry out the role of approval of restricted representations. The Chairman put forward the view that this is an approval issue and could be undertaken by the central approvals office, if it had the appropriate delegated powers. Some members were of the view that the application of the public interest criteria should be the role of the Advertising Board.

It was agreed that the Advertising Board’s role should include review from time to time of representations made in relation to classes of products.

7.3.8 Prohibitions

This item was accepted as per the document at Attachment 3 to these minutes.

The revised version of the Advertising Code is to be found at Attachment 3 to these minutes.

7.4 Advertising Guidelines

The Executive Secretary of the Support Group suggested that the Advertising Guidelines should be restructured to incorporate proposals from the consultation meetings and from the devices workshops to make them more user-friendly. The restructure would include creating additional sections relevant to advertising to and by healthcare practitioners and to medical devices advertising.

The ASA representative advocated the inclusion in the Advertising Guidelines of a reference to the need to include in advertising reference to adverse effects of products as well as potential benefits, as undertakings on this issue have been given to government.

8 Reminder advertisements

The Chairman tabled a note on reminder advertisements.

In the discussion, the following points were agreed:

- A 15 second radio advertisement is not a reminder advertisement;
- Reminder advertisements in a campaign must not straddle media; and
- Any reminder advertisement making a therapeutic claim would require approval and need to meet the minimum requirements.

The meeting accepted in principle that reminder advertisements be permitted which do not include the minimum requirements provided that they do not make any therapeutic claim and that they are linked to “full advertisements” within:

- **the same publication (written advertisement); or**
- **the same program/announcer (spoken advertisement)**

as part of a broader campaign.

9 Agenda Paper 5 TGACC minutes

The paper was noted.

The Chairman reported the following as items in the minutes of particular interest to this meeting:

- The discussion on clause 4.4.1(a) government agency;
- The amendments to the Therapeutic Goods Act to enable the TGA to declare goods at the food-medicines interface to be therapeutic goods, based on presentation (not proclaimed yet);
- The increased power of the Complaints Resolution Panel enabling a request to made for cessation of a claim;
- Proposed mandatory statements with respect to weight loss advertising; and
- Flexibility of the CRP to request retraction statements in any media, not just the medium in which the advertisement appeared

10 Agenda Paper 6 – Scan of legislation

This paper was noted and the recommendation for the need for consultation accepted.

11 Agenda Paper 7 - Governance

The Executive Secretary of the Support Group explained the origin of the paper as having been prepared by legal consultants employed by Medsafe to explore governance issues.

Following discussion, the meeting agreed to the recommendation refined as follows:

RECOMMENDATION

That the IAC:

- **NOTE** that there are issues raised in this paper that need to be addressed and further tested ; and (in this regard)
- **AGREE** to the governance arrangements outlined in the Advertising Review Report with the following additional checks and balances, in particular noting the role of the Advertising Board as:
 - to advise the Ministerial Council
 - to review and provide a report to the Ministerial Council on the performance of the system; and
- a) the Managing Director of the Agency to give legal effect to any changes to the Advertising Guidelines, on the basis of advice from the Advertising Board;
- b) the members of the Complaints Panel to be appointed by the Managing Director of the Agency on the basis of advice from the Advertising Board; and
- c) the Managing Director of the Agency to delegate powers directly to the Central Complaints Panel on the basis of advice from the Advertising Board.

12 Agenda Paper 8 – ensuring compliance

The Chairman noted that this agenda paper notes issues that have been dealt with already.

The suggestions made on page 5 of the paper with respect to sanctions were of interest.

It was noted that part 3 does not pick up the voluntary NZ system and the impact of this set of propositions set out in the paper on the NZ system.

The meeting agreed to support the general direction of points 1 – 3 on page 5 (below), for further development, noting that the impact of these suggestions on the NZ system needs consideration.

1. That the drafting instructions impose the following statutory conditions on product licences (ie through the Rules):
 - compliance with the Advertising Code;
 - compliance with any orders issued by the Agency or the Panel; and
 - that sponsors stipulate in contracts with distributors that products are promoted in accordance with the advertising code.
2. Acknowledging that there is a risk that the Office of Parliamentary Counsel (on the advice of Attorney-General's) may not draft a power to delegate orders to the Panel, particularly if non-compliance with these orders is legally enforceable, there are two options as to who exercises the relevant powers:
 - Give the panel the powers delegated from the Regulator but do not associate them with an enforcement penalty; or
 - Give the powers only to the Regulator (who must take into consideration the recommendation of the Panel) and make non-compliance subject to a penalty (which would require court action to enforce).
3. Taking into consideration point 2 (above) it is recommended:
 - That the drafting instructions be written to give the Managing Director of the Agency the following powers:
 - to make public statements for the purpose of protecting public health and safety.
 - to issue an order requiring temporary withdrawal of advertisement or claim, destruction of the advertisement, recovery of any advertisement in circulation or corrective advertising for breaches of the Advertising Code[#]. (Penalty for non-compliance - cancellation of licence by Agency)
 - to issue enforceable undertakings[#]. (Penalty for non-compliance – application for court order)
 - to issue a notice to any person to prevent an advertisement from being published (or being caused to be published), if a representation in the advertisement is false or misleading. (Penalty for non-compliance - enforcement through the courts.)
 - to impose strict liability infringement notices (which are generally in the order of 10 -20 penalty points) where it is clear that an offence has been committed, for example:
 - *a false or expired pre-approval number had been given; or*
 - *a certification that the advertisement did not require approval was false; or*
 - *the advertisement had appeared without either an approval number or certification*(Penalty for non-compliance – court prosecution)
 - to apply for a temporary or permanent court injunction to withdraw an advertisement.

- To give the Managing Director the power to delegate those powers so flagged (#) to the panel.

13 Agenda Paper 9 – A risk-based dividing line for advertising pre-approvals

This matter is to be considered at the next meeting.

14 Date of the next meeting

Members agreed that the next meeting should take place over two days.

The next meeting is to be held in Australia, on 22nd and the morning of the 23rd October 2003, at a location to be advised.