RULES OF THE ADVERTISING STANDARDS AUTHORITY INC.

THE AUTHORITY

1. Name

The name of the society is the Advertising Standards Authority Incorporated ("Authority").

2. Registered Office

The Registered Office of the Authority is 79 Boulcott Street, Wellington, New Zealand.

3. Purpose of the Authority

The purpose of the Authority is:

3.1. To seek to maintain at all times proper and generally acceptable standards in advertising and any other activity regulated by the Codes of Practice.

3.2. To establish and promote an effective system of voluntary self-regulation.

3.3. To encourage the media, communications agencies, advertisers and others to voluntarily co-operate in the process of self-regulation.

3.4. To develop and promulgate Advertising Codes of Practice ("the Codes") which the Members undertake to uphold.

3.5. To establish (in accordance with Rules and Procedures set out in the First and Second Schedules of these Rules), and fund the Advertising Standards Complaints Board ("ASCB") to determine complaints received about advertising which may be in breach of the Codes.

3.6. To establish (in accordance with Rules and Procedures set out in the Third and Fourth Schedules of these Rules) and fund the Advertising Standards Complaints Appeal Board ("ASCAB") to determine appeals from decisions of the ASCB.

3.7. In general to do all such things relating to the particular purposes mentioned above which may be necessary or expedient for the benefit of Members so far as the same are permitted by the laws of New Zealand to corporations organised under The Incorporated Societies Act.

4. Powers of the Authority

4.1. To raise money by membership fees, levies or otherwise.

4.2. To purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or other privileges.

4.3. To borrow or raise or secure the payment of money in such manner as the Authority may think fit and to mortgage, pledge and/or charge in any manner all or any of its property, rights, interests and assets.

4.4. To make, amend or rescind the Rules, Codes, or standing orders not inconsistent with those Rules pertaining to the carrying out of all or any of the purpose of the Authority.

4.5. To enter into any contracts, agreements or arrangement with any person, syndicate or company which the Authority may deem conducive to its purpose.

4.6. To invest, lend or deal with the moneys of the Authority not immediately required for carrying out its purpose.

4.7. To do all such lawful acts and things as are incidental or conductive to the purpose of the Authority.

MANAGEMENT OF THE AUTHORITY

5. Officers of the Authority

5.1. The Officer of the Authority shall be a Chairperson. The Chairperson shall be appointed in accordance with Rule 7.

5.2. The Authority shall have a Chief Executive Officer and Secretary. One person shall hold both positions. The Chief Executive Officer and Secretary shall be appointed by the Governance Board**.**

6. Governance Board

6.1. The Authority shall have a Governance Board comprising of five persons made up of the following:

a) The Chairperson of the Authority
b) one Representative nominated by advertiser Members under Rule 8
c) one Representative nominated by communication agency Members under Rule 8
d) one Representative nominated by media Members under Rule 8
e) a Treasurer, appointed under Rule 9

6.2. The Secretary to the Governance Board shall be the Authority's Chief Executive Officer.

6.3. All members of the Governance Board, other than the Chairperson, are appointed for a period of two years unless otherwise agreed. If a Members' Representative is unable to complete a two year term, the sector the Representative represents will nominate a replacement.

6.4. All Powers of the Authority as set out in Rule 4 are vested with the Governance Board.

6.5. The Governance Board shall delegate to the Chief Executive Officer the powers it deems necessary to ensure the affairs of the Authority are properly managed and appropriate financial controls are implemented.

7. Appointment of the Chairperson of the Authority

7.1. A five member Chairperson appointment panel shall be established to appoint the Chairperson of the Authority. This panel will be made up of the following:

a) the three Members' Representatives of the Governance Board
b) the Chairperson of either the ASCB or the ASCAB
c) and an independent person with governance experience appointed by the Members' Representatives on the Governance Board

7.2. The Chairperson will be appointed for a period of three years with a further period of three years by mutual agreement.

7.3. Before making the appointment, the appointment panel shall confer with the Minister of Broadcasting, the Minister of Consumer Affairs and any other person the appointment panel considers appropriate.

8. Appointment of the Members' Representatives of the Governance Board

8.1. The Members of the Authority shall appoint three persons to the Governance Board; one representing advertiser Members, one representing communications agency Members and one representing media Members.

8.2. The appointment of Members' Representatives will be made at a General Meeting.

8.3 If a casual vacancy occurs in Governance Board membership, a recommendation will be sought from the relevant industry sector and that replacement representative will be appointed to the Governance Board. Any representative appointed in this manner shall hold office only until the next General Meeting at which the appointment process for Governance Board representatives takes place.

8.4 If an election is required, the Members may only vote for the nominees in their respective industry sectors. Confirmation of the appointment will be by simple majority.

9. Appointment of the Treasurer

9.1. The Treasurer position is a rotating role and the appointee will be nominated by advertiser, agency and media Member sectors in turn.

9.2. To be eligible for the Treasurer position, the appointee must hold a financial role equivalent to a Chief Financial Officer within the sector they represent.

9.3. The appointee to the Treasurer role is subject to the unanimous approval of the three Members' Representatives on the Governance Board.

9.4. If a casual vacancy occurs in the Treasurer role, a recommendation will be sought from member representatives on the Board and that replacement Treasurer will be appointed to the Governance Board. A Treasurer appointed in this manner shall hold office only until the next General Meeting at which the appointment process for the Treasurer role takes place.

10. Governance Board Meetings

10.1. The Committee shall hold a minimum of five meetings in each year.

10.2. At least five business days' written notice of a meeting of the Committee must be given to all the Committee members. The notice must be accompanied by an agenda of the matters to be raised at the meeting.

10.3. The quorum necessary for meetings of the Committee is three, except where a unanimous resolution is required in which case a quorum is five. No business may be transacted by the Governance Board unless a quorum is present.

11. Powers of Decision

11.1. The matters set out in Schedule A can only be undertaken by the passing of a unanimous resolution by the Governance Board.

11.2. The matters set out in Schedule B can only be undertaken by the passing of a unanimous resolution by the Governance Board and by the ratification of this resolution by the Authority's Members at a General Meeting.

11.3. All other decisions and resolutions must be passed by a majority by those members of the Governance Board present at the meeting.

MEMBERSHIP OF THE AUTHORITY

12. Membership Eligibility and Classes

12.1. Subject to the qualifications set out in Rule 12.2, the following shall be eligible for membership of the Authority:

a) Any media owner or organisation representing media owners
b) Any communications agency or organisation representing communication agencies
c) Any advertiser or organisation representing advertisers

12.2. There shall be two classes of Members:

a) Full Members and Membership shall be determined by the Authority
b) Associate Members are individual Members. Associate Members do not have voting or representation rights

12.3. The Authority shall determine the membership classification and industry sector of each applicant. Where an organisation representing media owners, communications agencies or advertisers is an existing Member, and an applicant is eligible for membership of that organisation, such applicant shall only be eligible for Associate Membership.

12.4. The Authority shall be entitled to decline any application for membership if, in the opinion of the Authority, that applicant is unable to fulfil the purpose of the Authority as set out in Rule 3 of these Rules

12.5. Full Members shall have the right to vote at a General Meeting solely on those matters outlined in Schedule B.

13. Register of Members

13.1. The Authority shall keep a Register of its Members containing the names and addresses of the Members and the dates at which they became Members.

13.2. When required by the Registrar of Incorporated Societies to do so under Section 22 of the said Act, the Authority shall provide a list of the names and addresses of Members accompanied by a statutory declaration made by the Chairperson and Secretary of the Authority.

14. Cessation of Membership

14.1. Any Member may resign by giving six months' written notice to the Secretary. Any Member so resigning shall have no claim upon any of the funds or assets of the Authority, and shall not be entitled to any refund of any monies paid.

14.2. The Authority shall be entitled to terminate membership by giving 3 months' written notice to the Member including where:

a) In the opinion of the Authority, the Member concerned is unable or unwilling to fulfil the purpose of the Authority as set out in Rule 3
b) The Member concerned is six months in arrears of any subscription or other moneys due to the Authority
c) The Member concerned becomes bankrupt, passes into liquidation or otherwise ceases to exist

15. Membership fees, placement levies and special levies

15.1. The annual membership fees to be paid by Members shall be related to the class of Membership and formula as notified by the Authority to each Member prior to the Annual General Meeting.

15.2. Membership fees shall be payable quarterly or such other way as may be determined by the Authority.

15.3. Advertisers may be asked to pay an amount to be determined by the Authority as a levy charged against media placement costs. Any such levy will be determined by the Authority following meaningful consultation with its Members.

15.4. The Authority may from time to time determine to make a special levy. Any such levy will be determined by the Authority following meaningful consultation with its Members.

15.5. In the event of the Authority determining such a special levy, Members shall be advised by a notice in writing of the amount of the levy payable by each Member and shall be given at least thirty days within which to make payment of the same.

GENERAL MEETINGS OF THE AUTHORITY

16. Timing of General Meetings

16.1. The Authority shall hold an Annual General Meeting each year.

16.2. General Meetings will be called by the Secretary who will give Members at least 21 days' notice in writing of each General Meeting (unless it is a General Meeting called pursuant to Rule 16.3 below).

16.3. In addition, each of the Governance Board or the Chairperson of the Authority may direct the calling of an Extraordinary General Meeting by a request in writing to the Secretary. In such circumstances the Secretary will give each Member at least seven (7) days' notice in writing.

16.4. A resolution in writing signed by all Members shall be as effective as if it had been passed at a duly convened General Meeting.

16.5. Prior to a General Meetings the Members will receive:

a) The agenda of the matters to be raised at the meeting
b) The Chief Executive Officer's report on the management of the Authority and administration of its funds
c) The Governance Board's report on the governance matters of the Authority

17. Procedures of General Meetings

17.1. The quorum for a General Meeting shall be not less than 60% of all Full Members. No business shall be transacted at a General Meeting of the Authority unless a quorum is present.

17.2. The Chairperson of the Authority shall be the Chairperson at all General Meetings of the Authority. In the absence of the Chairperson, and provided a quorum is present, the Members present shall elect one of their number as meeting Chairperson.

17.3. Voting at General Meetings shall be on the basis of one vote per Full Member. The Chairperson of the Authority does not have a vote at General Meetings.

17.4. Only the matters set out in Schedule B can be voted on at a General Meeting.

17.5. To be carried, all resolutions require a majority of the votes cast.

17.6. Voting shall be held at such times as the Chairperson may determine and voting papers shall be supplied to Members when a ballot is held.

17.7. Any Member may appoint another Member as a proxy to exercise that Member's rights, including the right to vote at any General Meeting; the instrument appointing a proxy shall be in writing by the appointer and shall be in the hands of the Secretary before the meeting at which it is to be used.

17.8. Unless a ballot is required as aforesaid, a declaration by the Chairperson of the Authority that a resolution on a show of hands has been carried or carried unanimously or by a certain majority or lost and an entry to that effect in the Authority's minute book shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour or against the resolution.

MONEY, ASSETS AND RECORD KEEPING

18. Property and Use of the Authority's Funds

18.1. The property and funds of the Authority shall be applied solely towards the promotion of the purpose of the Authority and in such manner and such amounts as the Authority shall from time to time resolve.

18.2. All moneys received by or on behalf of the Authority shall be paid into a bank account with such bank as the Authority shall appoint. All cheques or payments shall be signed by two persons appointed by the Governance Board for that purpose.

19. Books and Financial Statements

19.1. The Authority shall keep full and complete accounts of the affairs, assets and transactions of the Authority.

19.2. At the close of each financial year and at such other times as the Authority may elect, an income and expenditure account and a statement of assets and liabilities of the Authority shall be prepared and shall be examined and the correctness thereof ascertained by the auditor of the Authority if one is appointed.

19.3. The Authority shall deliver annually to the Registrar of Incorporated Societies (pursuant to Section 23 of the said Act), in such form and at such times as the Registrar requires a statement containing the following transactions:

a) The income and expenditure of the Authority during the Authority's last financial year;
b) The assets and liabilities of the Authority at the close of the said year;
c) All mortgages, charges and securities of any description affecting any of the property of the Authority at the close of the said year

19.4. The statement required by the Registrar shall be accompanied by a certificate signed by the Secretary or in his/her absence some other officer of the Authority to the effect that the statement has been submitted to and approved by the Representatives of the Members of the Authority at a General Meeting.

20. Auditor

20.1. If the Authority shall appoint an auditor then the remuneration of the auditor shall be fixed by the Authority and the appointment shall be governed by this Rule.

20.2. If any casual vacancy occurs in the office of any auditor appointed by the Authority, the Authority shall appoint an auditor to carry on the duties of the auditor until the next Annual General Meeting.

20.3. Every auditor shall be supplied with a copy of the accounts and statements aforesaid and it shall be his/her duty thoroughly to examine the same in detail with the books, accounts and vouchers relating thereto.

20.4. Every auditor shall have a list delivered to him/her of all books kept by the Authority and shall at all reasonable times have access to the books and documents of the Authority and may in investigating such accounts examine the Authority or any other officers of the Authority who shall at all times render assistance to such auditor.

20.5. The auditor shall make a report to the Members of the Authority upon the accounts and statements aforesaid and in every such report he/she shall state whether in his/her opinion the same is or are full and fair accounts and statements containing the particulars required by the Rules of the Authority and properly drawn up so as to exhibit a true and fair view of the Authority's affairs and such report shall be read together with the report of the Authority at the Annual General Meeting.

ALTERATIONS, INDEMNITY AND OTHER MATTERS

21. Alterations to the Authority's Rules

21.1. These Rules and the Schedules to the Rules may be altered, added to or rescinded by the Authority subject to the following conditions:

a) Meaningful consultation with Members prior to the vote to make such changes, during which Members can respond to the proposal
b) No alteration shall be inconsistent with the purpose of the Authority.

22. Indemnity of Officers

No Officer, Representative, or Member of the Authority, or person appointed to the Governance Board or any sub-committee shall be liable for the acts, receipts, neglects or defaults of any other person authorised to act on behalf of the Authority or for any loss occasioned by any error of the judgement or oversight on his/her part, or for any other loss, damage or misfortune whatever which shall happen in the execution of duties on the authority of the Authority unless the same happens through his/her own wilful default or dishonesty.

23. Common Seal

The Secretary shall have custody of the Common Seal of the Authority and such Seal shall not be affixed to any instrument except by authority of the Authority and in the presence of the Chairperson or other member of the Governance Board.

24. The Secretary

The Secretary shall:

24.1. Notify Members of the Authority of each General Meeting of the Authority and give all such notices as may be required by these Rules.

24.2. Maintain the register of Members

24.3. Keep a record of all proceedings of all Governance Board meetings and General Meetings and of the attendance of Officers and Members of the Authority at such meetings.

24.4. Do other acts in relation to the affairs of the Authority as from time to time may be directed by the Authority.

25. Notices

Any notice or communication to be given to a Members under these rules is only given if it is in writing and delivered, posted or emailed to that Members at its address and marked for the attention of the relevant department or officer (if any) as set out in the Register of Members.

26. Winding Up

26.1. The Authority may be wound up voluntarily if the Authority at a General Meeting of Members passes a resolution requiring the Authority so to be wound up and the

resolution is confirmed at a subsequent General Meeting called for that purpose and held not earlier than thirty (30) days after the date on which the resolution so to be confirmed was passed.

26.2. If upon the winding up or the dissolution of the Authority there remains after the satisfaction of all costs and its debts and liabilities any property or assets whatsoever the same shall be paid or distributed in New Zealand to some other institution or institutions having objects similar to the Authority. Such distribution must be approved at the meeting called for the purpose of winding up the Authority.

26.3. Failing such determination, the distribution of assets will be determined by the Registrar of Incorporated Societies of New Zealand.

27. Interpretation

A substantial compliance with these rules whether as to form, time, number or as to any other matter shall in all cases be good and sufficient and no rule, resolution, decision, election, appointment, notice of other matter or thing shall be invalidated by reason only of a failure to comply exactly with these Rules.

DEFINITIONS

“ASCB” means the Advertising Standards Complaints Board, as further described in the First Schedule.

“ASCAB” means the Advertising Standards Complaints Appeal Board, as further described in the Third Schedule.

"Act" means "The Incorporated Societies Act 1908" including its amendments and any successor legislation.

“Meaningful consultation” is defined as providing at least 21 days’ written notice detailing the proposed resolution and providing Members with the opportunity to make written or oral submissions on the resolution prior to the Governance Board’s vote on the resolution.

"Codes" means the Codes of Advertising Practice as promulgated by the Governance Board.

"Member" means a member organisation of the Authority, being either a Full Member or an Associate Member.

“Full Member” has the meaning as set out in Rule 12.2.a.

“Associate Member” has the meaning set out at Rule 12.2.b

“Representative” means an individual who acts as a representative of a Member.

“Governance Board” means the Governance Board of the Authority as set out in Rule 6.

“Rules” means these Rules of the Authority, including all Schedules attached hereto.

SCHEDULE A

Governance Board Unanimous Resolution Matters

The Authority must not do any of the things listed in this Schedule without a prior unanimous resolution of the Governance Board passed in accordance with Rule 11.1:

1. Appoint or remove the Chief Executive Officer, the Authority's Accountants or Auditors.

2. Change in any material way the terms of employment of the Chief Executive Officer or senior employee or engage any senior employee.

3. Enter into a contract or agreement that would involve a total outlay over the term of the contract in excess of $150,000.

4. Amend or rescind the Rules of the Authority.

5. Amend, add to or rescind the Advertising Codes of Practice.

6. Enter into a contract or commitment with a Member, Officer or with a Related Person of a Member or Officer.

7. Make or vary a loan to or from a Member, officer or employee or any Related Person of any of them.

8. Make a political donation.

SCHEDULE B

Governance Board Resolutions that Require Ratification by Members

The Authority must not do any of the things listed in this Schedule without a prior unanimous resolution of the Governance Board and ratification by the Authority's Members at a General Meeting in accordance with Rule 11.2:

1. Amend the formula used to calculate membership fees as per Rule 15.1

2. Amend the levy charged against media placement costs as per Rule 15.3.

3. Wind up or dissolve the Authority.

FIRST SCHEDULE

RULES OF THE ADVERTISING STANDARDS COMPLAINTS BOARD

1. Purpose of the Advertising Standards Complaints Board ("ASCB")

1.1. To determine complaints received about advertising which may be in breach of the Advertising Codes of Practice ("the Codes").

1.2. To advise the Authority on interpretation of the Codes and possible improvements to the Codes or on any other relevant matters of concern.

2. The Powers of the ASCB

Subject to approval by the Authority, the ASCB is empowered to do such things and to take such action for the furtherance and attainment of the purpose of the ASCB. These include, but are not limited to, the following specific powers:

2.1. To receive complaints about possible breaches of the Codes.

2.2. To adjudicate on complaints received by it, either with the attendance of parties or without the attendance of parties.

2.3. To determine in its sole discretion which method of complaint determination shall be used in a particular case.

2.4. To accept in its sole discretion appointment to act as arbitrator or mediator in relation to disputes referred to it by parties involved.

2.5. To determine procedures for the conduct of particular adjudications, arbitrations or mediations subject to the provisions of clause 2.4 of these Rules.

2.6. To appoint Panels consisting of members and/or non-members of the ASCB for the purpose of conducting adjudications with attendance of parties, arbitrations or mediations.

2.7. To make public statements reporting the outcome of the ASCB's consideration of any complaint, or where appropriate, arbitration or mediation.

2.8. To delegate to the Chairperson of the ASCB either generally or specifically in respect of a particular complaint or reference the powers referred to in Rules 2.1 to 2.7 above.

2.9. To delegate to the Chairperson of the ASCB such other powers of the ASCB as the Authority may approve.

3. Membership of the ASCB

The ASCB shall consist of nine (9) persons plus alternate members, consisting of a Chairperson, four independent public members and four members representing the Authority. The Authority shall appoint members, including any alternate members, in the following manner:

3.1. A four person appointments panel shall be established to recommend the Chairperson of the ASCB and public member appointees (including alternates) to the Authority.

3.2. The appointments panel will consist of the Chairperson of the Authority, a member of the Governance Board, the current Chairperson of the ASCB and an independent person appointed by the Authority.

3.3. The four members and any alternates representing the public will not be connected with the media or advertising industry.

3.4. The appointments panel will make unanimous recommendations to the Authority about the appointment or reappointment of the Chairperson and public members.

3.5. The Authority will appoint the Chairperson and public members following the recommendations of the appointments panel. Before making the appointments the Authority shall confer with the Minister of Broadcasting, the Minister of Consumer Affairs and any other person the Authority considers appropriate.

3.6. The four further members (and their alternates) will be comprised of Members of the Authority and will be appointed by the Governance Board.

4. Appointment of the Members of the ASCB

4.1. The appointment or re-appointment of a member may be made so as to take effect from a future date.

4.2. The nomination of a member shall be by notice in writing to the Secretary.

4.3. Notwithstanding Rule 3 of this Schedule, the Authority in consultation with the Chairperson of the ASCB shall have the power to fill casual vacancies.

5. Term of the ASCB members

5.1. A member of the ASCB, including the Chairperson, shall hold office for five years or any shorter period stated in the letter of appointment.

5.2. A member may be reappointed for a maximum of two additional terms of office.

5.3. A member continues in office despite the expiry or his or her term of office until the member is reappointed or the member's successor is appointed.

6. Cessation of ASCB membership

A member shall cease to be a member of the ASCB if:

6.1. They resign by notice in writing to the Chairperson of the ASCB.

6.2. Are absent from three consecutive meetings of the ASCB without a leave of absence.

6.3. Their membership is terminated by a resolution of the Authority.

6.4. If the member becomes bankrupt, or deceased.

7. The Chairperson of the ASCB

7.1. The Chairperson of the ASCB shall be a member representing the public and not be connected with the media or advertising industry.

7.2. The Authority may appoint a Deputy Chairperson of the ASCB, meeting the same qualifications as the Chairperson of the ASCB. The Deputy Chairman will perform all the functions of the Chairperson when the office of the Chairperson is vacant or when the Chairperson is for any reason prevented from performing their duties.

7.3. The Chairperson of the ASCB shall attend meetings of the Authority as and when notified by the Secretary of the Authority.

8. Procedures of the ASCB

8.1. The ASCB or any Panel appointed by or on behalf of the ASCB shall determine complaints in accordance with the procedures approved by the Authority and set out in the Second Schedule to the Rules of the Advertising Standards Authority Inc.

8.2. The Chairperson of the ASCB shall preside at all meetings of the ASCB or any of its committees.

8.3. The ASCB or any such Panel may meet for the discharge of business, adjourn and otherwise regulate its meetings as it thinks fit.

8.4. Questions arising at any meeting of the ASCB or any such Panel shall be decided by a majority of votes.

8.5. Members of the ASCB or any such Panel shall be entitled to cast one vote.

8.6. The Chairperson of the meeting shall have a casting vote.

8.7. ASCB meetings shall be convened as follows:

a) A full ASCB meeting in which all members of the ASCB have been given notice of meeting and are entitled to attend. Such meetings shall be called at the discretion of

the Chairperson of the ASCB provided that a minimum of four such meetings are called in any one calendar year.

b) The Chairperson of the ASCB may call other meetings to consist of members nominated by the Chairperson of the ASCB, provided that the provisions of Clause 8.8 are observed. All business dealt with under the provisions of this Clause shall be reported to all ASCB members at the next full ASCB meeting.

8.8. The quorum for any meeting of the ASCB shall be five (5) members, at least three (3) of whom shall be independent public members appointed pursuant to Clause 3.3.

8.9. A special meeting of the ASCB shall be convened by the Secretary on the requisition in writing of not less than four (4) members.

9. Notices

9.1. Written notice of meetings shall be sent to members of the ASCB at the correspondence address given by them to the Secretary.

9.2. Not less than seven (7) days notice shall be given, unless the members agree to accept shorter notice.

9.3. Accidental omission to notify persons entitled to receive notices of meeting, or non-receipt by any of them of such notices shall not invalidate the proceedings of the meeting to which the notice relates.

10. Observers at ASCB Meetings

10.1. The Chairperson of the Authority or his/her nominee plus one other nominee shall be entitled to attend as observers at any meeting of the ASCB or Panel appointed by or on behalf of the ASCB.

10.2. Further persons may be invited to attend any meeting of the ASCB or Panel as observers upon the invitation of the Chairperson of the ASCB and the approval of the Chairperson of the Authority.

10.3. Observers shall not be entitled to vote.

SECOND SCHEDULE

ADVERTISING STANDARDS COMPLAINTS BOARD COMPLAINTS PROCEDURES

1. Complaints

1.1. All complaints shall be in writing and shall bear the name and address of the complainant, and provide sufficient information to enable the ASCB to identify the advertisement subject to complaint.

1.2. The ASCB shall determine at its sole discretion whether the complaint shall be accepted or not.

1.3. If a complaint is accepted, the ASCB shall determine whether the complaint is to be determined by way of adjudication with attendance of parties, or without attendance of parties.

1.4. If a complaint is not accepted the complainant and the Authority shall be advised in writing of the Decision and the reasons for the Decision.

2. Complaint Resolution by Adjudication Without Attendance of Parties

Once a complaint has been accepted for determination by adjudication without the attendance of parties:

2.1. The complainant shall be advised in writing.

2.2. The complainant shall waive the right to take or continue proceedings against the parties to the complaint including the advertiser, publisher or broadcaster.

2.3. The Secretary shall write to all parties to the complaint seeking opinions and comments on the complaint or responses in justification of or opposition to the advertisement. A party to a complaint to the ASCB is any of the following, or anyone representing any of the following: the complainant, the advertiser, the advertising agency (if applicable), the publisher and/or broadcaster.

The Chairperson of the ASCB may also direct the Secretary to write to any other party or parties that the Chairperson may decide will assist the ASCB in its deliberations, seeking opinions and comments on the complaint or responses in justification of or opposition to the advertisement.

2.4. On receipt of comments and opinions, the Secretary shall place before the ASCB full details of the complaint, the matter subject to complaint, and the comments and opinions for determination by the ASCB in meeting.

2.5. No party to a complaint shall be entitled to attend the meeting.

3. Complaints Resolution by Adjudication with Attendance of Parties

Once a complaint has been accepted for determination by adjudication with the attendance of parties:

3.1. The procedures set out in Rules 2 of this Schedule shall apply. The parties referred to in Rule 2.3 shall be invited to attend the hearing and present submissions.

3.2. No party invited to attend the hearing shall have the right to appeal any determination by the ASCB or Panel whether or not that party has accepted the invitation to attend.

3.3. The ASCB may appoint a Panel (the "Panel") to hear and adjudicate on complaints accepted for determination by adjudication with the attendance of parties. The Panel should be made up of a minimum of three people and consist of:

a) A Panel Chairperson who is a current or former public member of either the ASCB or the ASCAB.
b) A person who is a current or former public member of either the ASCB or the ASCAB.
c) A person who is a current or former member representing the Authority from either the ASCB or the ASCAB.
d) If considered necessary by the ASCB, a fourth person with particular expertise relevant to the complaint being adjudicated upon.

4. Determination Procedures

4.1. In meeting the ASCB or Panel shall give due consideration to all material before it.

4.2. If the determination is not unanimous, the Chairperson of the ASCB or Panel shall call for a poll of members, the majority vote shall determine the complaint. Any decision of the ASCB or Panel shall be so determined.

4.3. If no majority is attained, the Chairperson of the ASCB shall have a casting vote. Any decision of the ASCB or Panel shall be so determined.

4.4. Proceedings before the ASCB or Panel shall not be open to the public.

5. Notification of Procedure

Once a complaint has been determined by adjudication whether with or without the attendance of parties then:

5.1. The Secretary shall notify all parties of the decision, but not the reasons for the decision, in accordance with the following timeframes:

a) Parties should be notified of ASCB decisions as soon as is practical and within 48 hours (two working days) of the ASCB's meeting.
b) Parties should be notified of Panel decisions as soon as is practical.

5.2. Written reasons for a decision by the ASCB or Panel shall be given as soon as is practical or at the discretion of the Chairperson of the ASCB.

5.3. No person shall give any information to the media or media representatives for publication or broadcast unless so directed by the Chairperson of the ASCB.

5.4. The Chairperson of the ASCB may give information on decisions of the ASCB or Panel to the media or media representatives for publication or broadcast provided that this information has first been conveyed to all parties to the complaint.

6. Appeal of an ASCB Decision

6.1. Any party to a complaint which has been adjudicated on without the attendance of parties may appeal the ASCB's decision.

6.2. A request for an appeal shall be made in writing to the Secretary within 14 days of receipt of the ASCB's written decision.

6.3. The Chairperson of the Advertising Standards Complaints Appeal Board ("ASCAB") shall decide whether or not to accept the appeal application.

6.4. The appeal application may be accepted on any of the following grounds:

a) The proper procedures have not been followed.
b) There is new evidence of sufficient substance to affect the decision.
c) Evidence provided to the ASCB has been misinterpreted to the extent that it has affected the decision.
d) The decision is against the weight of evidence.
e) It is in the interests of natural justice that the matter be reheard.

6.5. If an appeal application is accepted, the Chairperson of the ASCAB will order that the appeal be referred to the ASCAB or reheard by the ASCB.

6.6. Pending determination of the appeal or rehearing, the Chairperson of the ASCAB may suspend the previous decision.

7. Appeal of a Ruling of the Chairperson of the ASCB

7.1. Any party to a complaint may appeal any ruling, including a procedural ruling, of the Chairperson of the ASCB.

7.2. A request for an appeal shall be made in writing to the Secretary within 14 days of receipt of the written ruling of the Chairperson of the ASCB.

7.3. The Chairperson of the Advertising Standards Complaints Appeal Board ("ASCAB") shall decide whether or not to accept the appeal application.

7.4. The appeal application may be accepted on any of the following grounds:

a) The proper procedures have not been followed.
b) There is new evidence of sufficient substance to affect the decision.
c) Evidence provided to the Chairperson of the ASCB has been misinterpreted to the extent that it has affected the decision.
d) The decision is against the weight of evidence.
e) It is in the interests of natural justice that the matter be reheard.

7.5. If an appeal application is accepted, the Chairperson of the ASCAB will order that the appeal be referred to the ASCB for hearing or another outcome to be detailed in the ruling.

7.6. Pending determination of the hearing or another outcome, the Chairperson of the ASCAB may suspend the previous ruling.

THIRD SCHEDULE

RULES OF THE ADVERTISING STANDARDS COMPLAINTS APPEAL BOARD

1. Purpose of the Advertising Standards Complaints Appeal Board ("ASCAB")

1.1. To determine appeals from decisions of the Advertising Standards Complaints Board ("ASCB") arising from the adjudication of complaints without the attendance of parties.

1.2. To advise the Authority on interpretation of the Codes and possible improvements to the Codes or on any other relevant matters of concern.

2. The Powers of the ASCAB

2.1. To receive and adjudicate on appeals from decisions of the ASCB determined without the attendance of parties.

2.2. To receive and adjudicate on appeals from rulings of the Chairperson of the ASCB.

2.3. The Chairperson of the ASCAB may make public statements reporting the outcome of the ASCAB's consideration of any appeals.

3. Membership of the ASCAB

The ASCAB shall consist of three (3) persons plus alternate members, comprising a Chairperson, one independent public member and one member representing the Authority. The Authority shall appoint members, including any alternate members in the following manner:

3.1. A four person appointments panel shall be established to recommend the Chairperson of the ASCAB and the public member (including alternates) to the Authority.

3.2. The appointments panel shall consist of the Chairperson of the Authority, a member of the Governance Board, the Chairperson of the ASCB and an independent person appointed by the Authority.

3.3. The Chairperson of the ASCAB shall be a member representing the public who is not connected with the media or advertising industry.

3.4. The member representing the public and any alternate public member shall not be connected with the media or advertising industry.

3.5. The appointments panel will make unanimous recommendations to the Authority about the appointment or reappointment of public members.

3.6. The Authority will appoint the Chairperson of the ASCAB and the public member following the recommendations from the appointments panel. Before making the appointment the Authority shall confer with the Minister of Broadcasting, the Minister of Consumer Affairs and any other person the Authority considers appropriate.

3.7. The third member (and their alternate) shall be Members of the Authority or otherwise connected with the industry.

4. Appointment of the Members of the ASCAB

4.1. The appointment or re-appointment of a member may be made so as to take effect from a future date.

4.2. The nomination of a member shall be by notice in writing to the Secretary.

4.3. Notwithstanding Rule 3 of this Schedule, the Authority, in consultation of the Chairperson of the ASCAB, has the full power to fill casual vacancies.

5. Term of ASCAB Members

5.1. A member of the ASCAB, including the Chairperson, shall hold office for five years or any shorter period stated in the letter of appointment.

5.2. A member continues in office despite the expiry or his or her term of office until the member is reappointed or the member's successor is appointed.

6. Cessation of ASCB membership

A member shall cease to be a member of the ASCAB if:

6.1. They resign by notice in writing to the Chairperson of the ASCAB.

6.2. Are absent from two consecutive meetings of the ASCAB without a leave of absence.

6.3. Their membership is terminated by a resolution of the Authority.

6.4. If the member becomes bankrupt, or deceased.

7. The Chairperson of the ASCAB

7.1. The Chairperson of the ASCAB shall be a person who is not connected with the media or advertising industry.

7.2. Where the Chairperson is absent from New Zealand, or for any other reason prevented from performing their duties, or where the office of Chairperson is vacant, the Authority may appoint an Acting Chairperson, meeting the same qualifications as the Chairperson, who shall perform all the functions of the Chairperson of the ASCAB.

8. Procedures of the ASCAB

8.1. The ASCAB shall conduct appeals in accordance with procedures approved by the Authority and set out in the Fourth Schedule to the Rules of the Advertising Standards Authority Inc.

8.2. The ASCAB shall meet for the discharge of business, adjourn and otherwise regulate its meetings as it thinks fit.

8.3. The Chairperson of the ASCAB shall preside at all meetings of the ASCAB.

8.4. Questions arising at any meeting of the ASCAB shall be decided by a majority of votes.

8.5. Members shall be entitled to cast one vote.

8.6. The Chairperson of the ASCAB shall have a casting vote.

8.7. All meetings shall be convened as follows:

a) A full ASCAB meeting in which all members of the ASCAB have been given notice of meeting and are entitled to attend. Such meetings shall be called at the discretion of the Chairperson of the ASCAB.

8.8. The quorum for any meeting of the ASCAB shall be two members at least two of whom shall be appointed pursuant to Clauses 3.3 and 3.4.

9. Notices

9.1. Written notice of meetings shall be sent to members of the ASCAB at the correspondence address given by them to the Secretary.

9.2. Not less than seven (7) days notice shall be given, unless the members agree to accept shorter notice.

9.3. Accidental omission to notify persons entitled to receive notices of meeting, or non-receipt by any of them of such notices shall not invalidate the proceedings of the meeting to which the notice relates.

10. Observers at ASCB Meetings

10.1. The Chairperson of the Authority or his/her nominee plus one other nominee shall be entitled to attend as observers at any meeting of the ASCAB.

10.2. Further persons may be invited to attend any meeting of the ASCAB as observers upon the invitation of the Chairperson of the ASCAB and the approval of the Chairperson of the Authority.

10.3. Observers shall not be entitled to vote.

FOURTH SCHEDULE

ADVERTISING STANDARDS COMPLAINTS APPEAL BOARD APPEAL PROCEDURES

1. On Receipt of an Appeal

1.1. The Chairperson of the ASCAB shall determine if an appeal is to be heard by the ASCAB.

1.2. If an appeal is to be heard by the ASCAB, the Secretary shall notify all parties to the complaint of the Chairperson of the ASCAB's ruling and seek their opinions and comments on the appeal or responses in justification or opposition.

1.3. On receipt of comments and opinions, the Secretary shall place before the ASCAB the decision of the ASCB, full details of the complaint, the matter subject to complaint, the comments and opinions which were placed before the ASCB and further comments and opinions received from the parties to the complaint for determination by the ASCAB in meeting.

1.4. No party shall be entitled to attend the meeting.

1.5. Proceedings before the ASCAB are not open to the public.

2. Determination Procedures

2.1. In meeting the ASCAB should rehear the complaint and give due consideration to all material before it.

2.2. If the determination is not unanimous, the Chairperson of the ASCAB shall call for a poll of members, the majority vote shall determine the complaint. Any decision of the ASCAB shall be so determined.

2.3. If no majority is attained, the Chairperson of the ASCAB shall have a casting vote.

3. Notification Procedure

3.1. The Secretary shall notify all interested parties of the ASCAB’s decision either orally, or in writing as soon as is practical and within 48 hours (two working days) following the ASCAB's meeting.

3.2. Written reasons for a decision by the ASCAB shall be given as soon as is practical or at the discretion of the Chairperson of the ASCAB.

3.3. No person shall give any information to the media or media representatives for publication or broadcast unless so directed by the Chairperson of the ASCAB.

3.4. The Chairperson of the ASCAB may give information on decisions of the ASCAB to the media or media representatives for publication or broadcast provided that this information has first been conveyed to all parties to the complaint.