

APEC AD REGULATION REPORT – CHALLENGE TO INDUSTRY

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Management Digest

The APEC Report on the state of advertising regulation in the 21 APEC economies/countries is a seminal document. It is likely to guide the reform of advertising regulation in the Asia-Pacific region. No country will be exempt. It is the first serious study assessing the quality of advertising regulation in the APEC economies/countries. The Report finds several serious shortcomings in best practice advertising regulation. If these are not addressed quickly then in our view the rapid economic growth in the region could be undermined by ad hoc bans, restrictions and taxes.

The Report can be accessed at this link http://publications.apec.org/publication-detail.php?pub_id=1523

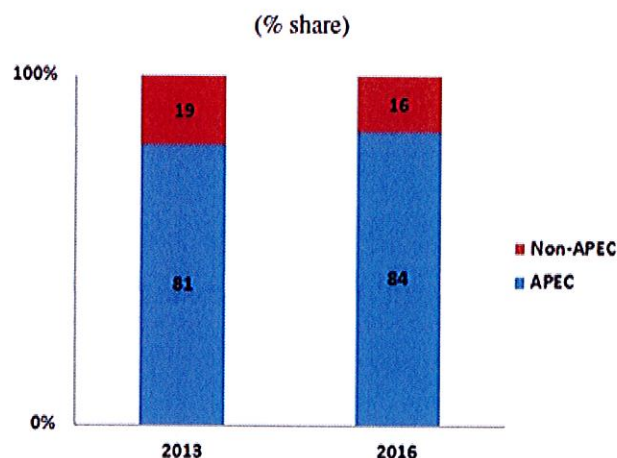
Important Findings

There are several important findings in the Report:

- It recognises the research that adspend is a driver of economic growth.
- It recognises that advertising regulation that is not best practice can be a barrier to trade and reduce competitiveness.
- There are shortcomings in many self-regulatory models
 - Consumers are excluded from code drafting
 - Solid analytical impact assessment for new codes is often lacking
 - Low levels of procedural transparency in many self-regulatory organisations (SROs)
 - Monitoring practices are underdeveloped so rely unduly on consumer complaints
 - No legally binding sanctions
 - Complaints juries seldom have a majority of independent non-industry members
 - Many digital/online owners are not fully committed to self-regulation.
- It acknowledges that 6 (USA, China, Indonesia, Japan, Korea and Russia) of the top 10 contributors to global adspend growth between 2013 and 2016 will be APEC economies.

- It predicts that the APEC economies' share of adspend in the top ten markets will increase from 81% in 2013 to 84% in 2016 – here is Fig 2 from the Report.

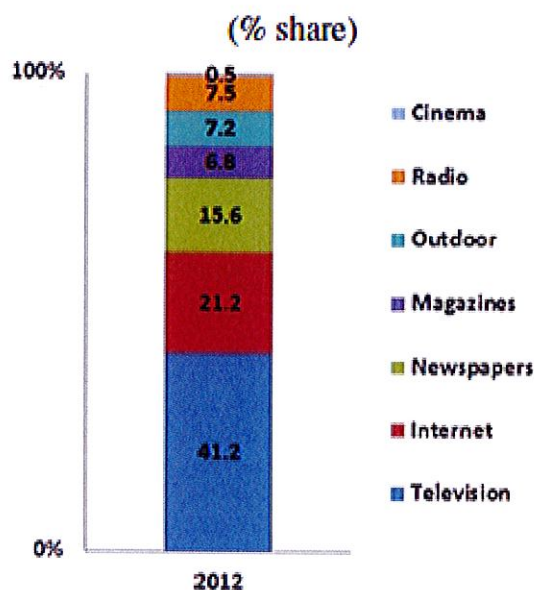
Figure 2. Share of top 10 advertising markets by APEC and non-APEC economies in 2013 and 2016



Source: Authors' own calculations based on available data in ZenithOptimedia (2013)

- In 2012 Internet had 21.2 % of media adspend share in APEC economies – behind TV 41.2% but ahead on newspapers at 15.6%. See following Fig 4. The market share of the Internet is predicted to increase.

Figure 4. Share of APEC advertising expenditure by medium in 2012



Source: Data obtained from ZenithOptimedia and WARC

- The International Chamber of Commerce (ICC) Code of Advertising and Marketing Communications Practice (ICC Code) is recognised as containing the most authoritative international advertising standards.
- The 10 Best Practice Principles developed by the European Advertising Standards Alliance (EASA) and adopted at the APEC Hanoi Dialogue of Government regulators and SROs in November 2012 are recognised as the model that sets operational standards for SROs.
- There is concern that not enough attention is paid to improving the regulation of Internet advertising. Its rapid growth and cross-border nature adds to the problem.

Assessment of Best Practice Regulation in APEC

The authors of the Report undertook surveys of the current state of advertising regulation in the APEC economies. The results are not surprising and reveal a wide disparity of standards ranging from countries with sophisticated self-regulatory regimes and others with none at all. What the survey does do is identify where resources should be allocated to raise the standards in the entire region.

The Hanoi Dialogue identified lack of capacity as a key failing and this is endorsed by the Report. Many countries wish to adopt self-regulation or develop their embryo regimes but lack the knowledge, skill and resources. There are people available to assist but it will require the support of industry and the cooperation of Governments to adopt a comprehensive program. Such support would be the long-term self-interest of industry as best practice advertising regulation is essential if advertising is to thrive.

The Report uses different benchmarking techniques to measure to what extent the 21 different economies meet best practice standards. The results are illuminating.

Government Regulation and Self-Regulation

Best practice advertising regulation requires a deft mix of both Government regulation and self-regulation. For instance, fair trading laws prohibit not only misleading advertising but also misleading conduct. Laws are needed to protect consumers against unethical traders. Self-regulatory codes also prohibit misleading advertising and augment the law. In practice self-regulatory regimes process consumer complaints within days with Government regulatory regimes taking months or years. In practice also the self-regulatory regimes tend to deal with the myriad of small complaints and the government regulator with important major complaints and issues.

16 of the 21 economies have both Government regulation and self-regulation of advertising. The five economies that have only Government regulation are Brunei Darussalam, China, Papua New Guinea, Russia and Vietnam.

ICC Advertising Code

The ICC Code has 16 different principles/provisions. The Report contains an analysis (page 15) of the 16 economies with both Government regulation and self-regulation. It measures, by media, whether the Government regulations and self-regulatory codes meet the 16 ICC

principles/provisions. In effect it is an assessment of the coverage of the 16 principles/provisions by both Government regulation and self-regulatory regimes.

The Table is reproduced below -

Table 5. Share of APEC economies whose regulations address specific principle/provision

No.	Principle/Provision	Public			Private		
		Broadcast	Print	Online	Broadcast	Print	Online
1	Decency	66.7%	47.6%	76.2%	81.3%	68.8%	68.8%
2	Honesty	47.6%	38.1%	42.9%	93.8%	81.3%	87.5%
3	Fear, superstition, violence, illegality	81.0%	61.9%	71.4%	93.8%	75.0%	81.3%
4	Truthfulness	100.0%	90.5%	95.2%	93.8%	93.8%	93.8%
5	Claims, testimonials, endorsements	100.0%	90.5%	95.2%	93.8%	87.5%	93.8%
6	Comparisons	47.6%	38.1%	38.1%	81.3%	75.0%	81.3%
7	Denigration	76.2%	57.1%	71.4%	87.5%	81.3%	81.3%
8	Exploitation of name or goodwill	52.4%	52.4%	52.4%	75.0%	62.5%	62.5%
9	National policy	71.4%	61.9%	66.7%	50.0%	37.5%	37.5%
10	Moral and social norms	90.5%	66.7%	71.4%	93.8%	87.5%	93.8%
11	Imitation, copyright	81.0%	71.4%	71.4%	68.8%	62.5%	68.8%
12	Safety	57.1%	42.9%	47.6%	81.3%	68.8%	75.0%
13	Guarantee, warranty	61.9%	52.4%	57.1%	68.8%	62.5%	68.8%
14	Sensitivities (religious, racial, etc.)	76.2%	42.9%	57.1%	93.8%	75.0%	81.3%
15	Identification of advertisements	76.2%	42.9%	57.1%	93.8%	87.5%	75.0%
16	Children or young people	95.2%	52.4%	76.2%	93.8%	81.3%	87.5%

Note: Share of APEC economies is no. of APEC economies whose regulations address the specific ICC principle/provision divided by the no. of APEC economies where regulations pertaining to the specific media could be found (i.e. 21 for public regulations and 16 for private regulations).

Source: Authors' analysis and information gathered by Dr. Ramanathan Sankaran and Dr. Chandini Sankaran from materials listed in Appendices B1-B6.

We have compiled the following table, using the information in the table above, to determine whether Government regulation or self-regulation provides greater coverage of each of the 16 principles/provisions.

SR = Self-regulation, G = Government regulation

Principle	Broadcast	Print	Online
1. Decency	SR	SR	G
2. Honesty	SR	SR	SR
3. Fear	SR	SR	SR
4. Truthfulness	G	SR	G
5. Claims	G	G	G

6. Comparisons	SR	SR	SR
7. Denigration	SR	SR	SR
8. Exploitation	SR	SR	SR
9. National Policy	G	G	G
10. Moral	SR	SR	SR
11. Imitation/copyright	G	G	G
12. Safety	SR	SR	SR
13. Guarantee	SR	SR	SR
14. Religion/Race	SR	SR	SR
15. Ad identification	SR	SR	SR
16. Children	G	SR	SR
TOTAL	11 SR / 5 G	13 SR / 3 G	11 SR / 5 G
GRAND TOTAL	35 SR / 13 G		

The results are not surprising – overall self-regulatory codes have greater coverage. Government regulation has greater coverage on provisions about misleading advertising but upon examination of the Report's table the coverage is extremely high by both Government regulation and self-regulation. However there is significant difference on National Policy provisions – overall 50% or less of self-regulatory codes include such provisions. However when it comes to matters of concern to consumers such as taste, decency, religion/race, safety and protection of children then self-regulatory codes have much greater coverage.

What the two tables do reveal is that best practice advertising regulation requires both Government regulation and self-regulation.

Standard of Self-Regulatory Organisations

As mentioned above the EASA developed 10 principles of best practice by SROs. The Hanoi Dialogue adopted the 10 principles. The Report has a survey of the performance of the 16 SROs measured against the 10 principles (page 25 onwards). The results are disappointing and reveal that there is much work to do to bring them all to an acceptable standard.

SROs in the following economies meet the requirements of all 10 principles –

Australia

Canada

Japan

Korea

Mexico

New Zealand

Peru

Singapore

SROs that meet 9 out of 10 principles

Chile

Philippines

USA

Economies that meet 8 out of 10 principles

Malaysia

SROs that meet 5 out of 10 principles

Taiwan

Thailand

SROs that meet 4 out of 10 principles

Indonesia

SROs that meet 3 out of 10 principles

Hong Kong

In addition are the following economies that have no self-regulatory regimes

Brunei Darussalam

China

Papua New Guinea

Russia

Vietnam

Report Recommendations

The Report notes that SROs meet the 10 best practice principles to varying extents and states “*substantial improvements could be made in the area of ensuring efficient compliance and monitoring; raising industry and consumer awareness; and improving the state of its administration.*”

It suggests, “APEC economies should consider using the findings presented in this issue paper to initiate more dialogues to discuss and formulate activities that they can do collectively to ensure the region’s competitiveness.”

Three recommendations are made

“- Sharing of best practices for both general and sectoral advertising regulations between economies. Special attention may be put on regulating the internet advertising considering its exponential use as an advertising medium. APEC’s position as a multilateral forum in the Asia-Pacific region may be a good platform to address the cross-border nature of internet advertising.

- Initiate dialogues on sectoral advertising regulations where there are common interests in regulating specific sectors to generate better understanding among member economies on the rationale behind the regulation. In particular, dialogues may also include discussions on how some restrictions are acting as technical barriers to trade. Specifically for advertising, the negative impact of such restrictions may actually be more severe because besides being an industry in its own right, advertising promotes growth of other sectors.

- Organize capacity-building workshops to assist economies in improving the capability of their SROs, particularly in the following area:

- 1) efficient compliance and monitoring;*
- 2) effective consumer and industry awareness; and*
- 3) efficient and resourced administration.”*

Discussion

The Report is timely and a stark wake-up call of the need for action. It is important to note that the Report is from APEC and not from any sector with a vested interest. It therefore has enhanced status. APEC is to be congratulated for its initiative.

The Report observes that the main beneficiaries of best practice regulation are both consumers and industry (page 9). If advertising is legal, decent, honest, truthful and socially responsible then consumers have greater trust in advertising and it becomes more effective. This in turn leads to greater sales, which benefits the economy in general – advertising is a driver of economic growth.

If the self-regulatory regime is not of high standard or non-existent then the Governments have no option but to regulate. By its very nature Government regulation tends to be a blunt instrument with emphasis on bans, restrictions and taxes.

The Report identifies that lack of capacity in SROs is hindering the development of best practice regulation and recommends capacity-building workshops and mentoring programs as a start. We can report that the ad hoc Steering Group is working on implementing this recommendation within a short time frame and that industry support has been sought. The early signs are very positive.

Long-term there is much to be done. Many of the APEC economies have very high economic growth, which are providing growing markets for advertisers, advertising agencies and media. But these three sectors will benefit even more if best practice regulation enhances economic growth and reduces the incidence of Government interventions such as bans, restrictions and taxes.

The APEC Report has clearly identified the problems – The challenge for industry is to provide the solutions.

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