

Advertising standards and practices on non-discrimination

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1. Introduction

The current report is based on a survey completed in 2019 and thus precedes the abhorrent killing of George Floyd which has sparked massive demonstrations and protests against racism and police brutality all over the US, as well as around the globe.

While self-regulatory rules in the majority of markets include the principle of non-discrimination in advertising – as outlined in the following sections of this report – Self-Regulatory Organizations (SROs) are increasingly looking at the issue of racial stereotyping in advertising, some with the view to reassess their rules.

ICAS is planning to conduct a second survey later in 2020 in order to update the current report and to provide an additional in-depth view on how the rules are enforced and what SROs and the Advertising Industry are doing to fight racism and intolerance in advertising.

2. Scope of the survey

This report presents the results of a survey carried out among ICAS Self-Regulatory Organization members in December 2019 to have a better understanding of standards and practices around discrimination issues in advertising.

The survey was sent to the 24 SROs and **21 answers were received**. The list of markets covered by this report can be found in the Annex.

3. Self-regulatory standards on non-discrimination in advertising

A. Basic principle

Article 2 of the [ICC Marketing Code](#) states that :

“Marketing communications should respect **human dignity** and should not incite or condone any form of **discrimination**, including that based upon **ethnic or national origin, religion, gender, age, disability or sexual orientation**.”

In the vast majority of ICAS markets, self-regulatory advertising standards include the principle of non-discrimination. The US market is the only market surveyed where there are no self-regulatory standards addressing gender representations and/or non-discrimination in advertising.¹

¹ For marketing and public imaging, there are strong incentives for US advertisers to avoid any form of discrimination. The US Association of National Advertisers has a program that provides scoring for gender stereotyping and offers advertisers some objective criteria to evaluate their ads against.

B. The role of SROs

Self-Regulatory Organizations (SROs) are responsible for implementing the principle of non-discrimination in advertising, either because they apply the ICC Marketing Code directly (e.g. Sweden, Belgium), or because the local self-regulatory advertising standards include a similar principle. In other words, the SRO is the **primary body in charge of implementing self-regulatory standards on non-discrimination**.

Unlike self-regulatory standards, legal provisions on non-discrimination are typically applied by public bodies such as the Equality and Human Rights Commission in the UK.

C. Different forms of discrimination

In addition to the general principle of non-discrimination, **a large majority of SROs (3/4 of respondents) have specific standards in place to address particular forms of discrimination**.

Here are some examples:

Country	Standards	Forms of discrimination addressed
Australia	AANA Code of Ethics (art 2.1)	Race/ethnicity/nationality, gender, age, sexual orientation, religion, disability, mental illness, political views
Belgium	JEP Rules on the depiction of persons	Race/nationality, gender, age, religion, stereotyping & objectivization
Brazil	Brazilian Advertising Self-Regulatory Code	Race/nationality, gender, age, religion, political views, social status, stereotyping & objectivization
Canada	Canadian Code of Advertising Standards (art. 14) and Gender Portrayal Guidelines	Race/ethnicity/nationality, gender, age, sexual orientation religion, disability
Chile	Code of Ethics	Race/ethnicity/nationality, gender, age, sexual orientation, religion, disability, stereotyping & objectivization
Spain	Code of Advertising Practice	Race/ethnicity/nationality, gender, age, sexual orientation, religion, disability, stereotyping & objectivization
France	Portrayal and respect of the human being Code	Race/ethnicity/nationality, gender, age, sexual orientation, religion, disability
Ireland	ASAI Code (section 3)	Race/ethnicity/nationality, gender, age, sexual orientation, religion, disability
India	Code for self-regulation of advertising	Race/ethnicity, gender, sexual orientation, religion & beliefs, cast

Netherlands	Advertising Code (art.2)	Race/ethnicity/nationality, gender, age, sexual orientation, religion & beliefs, disability
New Zealand	Advertising Standards Code (especially Rule 1c)	Race/ethnicity, gender, age, disability, religion & beliefs, sexual orientation, marital/family/employment status
Peru	Code of Ethics (art. 12)	Race/nationality, gender, age, religion, sexual orientation, social/economic/cultural status
Philippines	ASC Guidebook (art. 4)	Race/ethnicity/nationality, gender, age, religions, social/economic status
Portugal	Code of Conduct (art. 8, No. 1)	Race/ethnicity/nationality, religion, gender, age, disability, sexual orientation
Romania	Code of Advertising Practice (art. 7)	Race/ethnicity/nationality, age, religion, sexual orientation, disability, political views, social status
UK	Broadcast Code and Non-broadcast Code (Rule 4 on harm and offence)	Race/ethnicity/nationality, gender, age, sexual orientation, religion, disability, stereotyping & objectivization
South Africa	Section II of the Code of Advertising Practice	Gender, stereotyping

4. Consumer complaints on discrimination in ads

A. Types of complaints received by SROs

Out of the 20 respondent SROs which are responsible for applying self-regulatory standards on non-discrimination, **all are competent to handle consumer complaints in ads as regards matters of discrimination.**

The proportion of complaints addressing discrimination issues, as opposed to other issues (e.g. misleading claims) varies considerably from market to market. **In several markets, most complaints about discrimination in ads are linked to gender portrayal.** In France and Sweden for example, more than ¼ of the total complaints handled by the SRO are estimated to relate to such issues. In both markets, gender equality and concerns around human dignity have been high on the political agenda over the past few years. This may explain why they also count among consumers' primary concerns.

Complaints around racial discrimination tend to come in second place, before other forms of discrimination (age, handicap etc.). In a couple of markets, Brazil and South Africa, the number of complaints about racial discrimination tends to be higher than the number of complaints on gender portrayal.

B. Current and future trends

There is no overall trend in terms of the importance of complaints on discrimination in ads across ICAS markets. In half of the markets surveyed, the number of consumer complaints on discrimination issues has decreased over the past two years, whereas it has increased in the other half. In those

markets where consumers tend to increasingly complain about discrimination in advertising, concerns around gender portrayal tend to be a driving force.

Looking at complaints around gender portrayal more specifically, **most complaints relate to the objectification** of women’s (and, more rarely, men’s) bodies, i.e. the depiction of someone in a way that focuses on their body or body parts, **and to nudity and sexualization**, i.e. the tendency to portray individuals in a highly sexualized manner. Concerns about stereotyped roles also seem to be increasing in several markets, e.g. when certain occupations or behaviors always tend to be associated with a specific gender, including mocking people for not conforming to a stereotype.

Asked whether complaints around discrimination issues raise any specific challenges compared to other types of complaints, most SROs responded that this is not the case. Although a few controversial cases may generate difficult discussions, most complaints on discrimination in ads do not pose any particular difficulty and the body handling consumer complaints is often able to reach a unanimous decision.

Among the 21 markets surveyed and at the time the data was gathered, **5 SROs were working on new standards or on updating existing standards in relation to non-discrimination**. In Peru, for example, they are looking to develop new guidelines based on existing industry initiatives such as the [World Federation of Advertisers’ Guide to progressive gender portrayals in advertising](#) (2018) and the UN-sponsored [#UnStereotype Alliance](#).

5. The regulatory framework around discrimination

A. The scope of existing anti-discrimination laws

Among the 21 markets surveyed:

- **9 markets (43%) have anti-discrimination legislation which specifically refers to advertising** (Australia, Belgium, Spain, France, India, Italy, Portugal, New Zealand, Romania);
- 13 markets (62%) have anti-discrimination legislation which is phrased in general terms and does not specifically refer to advertising.

Here are some examples of the applicable regulatory framework:

Country	Legislation	Forms of discrimination addressed
Australia	<ul style="list-style-type: none"> • Section 51 of the Anti-Discrimination Act 1977 (NSW) • Section 16 of the Racial Discrimination Act 1975 • Section 44 of the Disability Discrimination Act 1992 • Section 86 of the Sex Discrimination Act 1984 • Section 50 of the Age Discrimination Act 2004 	Race/ethnicity, gender, age, sexual orientation, disability
Belgium	<ul style="list-style-type: none"> • Article 11 of the Wallonian Decree on audiovisual services • Article 55 of the Flemish Decree on audiovisual services • 2007 Federal law against discrimination between women and men • 2007 Federal law against certain forms of discrimination 	Race/ethnicity/nationality, gender

	<ul style="list-style-type: none"> • 1981 Federal law against racism and xenophobia (amended in 2007) • 2014 Federal anti-sexism law 	
Brazil	<ul style="list-style-type: none"> • Article 5 of the Federal Constitution • Article 140 Penal Code and article 20 - Law n° 7.716/89 	Race/ethnicity, gender, age, religion
Canada	<ul style="list-style-type: none"> • https://www.canlii.org/en/ca/laws/stat/schedule-b-to-the-canada-act-1982-uk-1982-c-11/latest/schedule-b-to-the-canada-act-1982-uk-1982-c-11.html# 	Race/ethnicity/color, nationality, gender, religion, mental or physical disability
Spain	<ul style="list-style-type: none"> • Art. 3 of General Advertising Law 34/1988 • Organic Law 1/2004 of 28 December 2004 on comprehensive protection measures against gender-based violence • Law 7/2010 on General on Audiovisual Communication (art. 4.2, 18.1) • There are also several regional laws containing provisions for discrimination. 	Race/ethnicity, gender, age, religion, disability, sexual orientation, any other personal or social circumstance
France	<ul style="list-style-type: none"> • Loi relative aux redevances radio et télévision • Decree n°92-280 of 27 March 1992 on advertising • Article 225-1 of the penal code regarding discrimination 	Race/ethnicity, gender, age, disability, sexual orientation
India	<ul style="list-style-type: none"> • Cable Television Networks Regulation by the Ministry of Information and Broadcasting 	Gender
Italy	<ul style="list-style-type: none"> • Consolidated Law on Radio and Audiovisual Media Services - known as the AVMS Code or LD 177/2005 • Consumer Code regarding telesales provision 	Race/nationality, gender, religion, political views
New Zealand	<ul style="list-style-type: none"> • Human Rights Act 1993 	Race/ethnicity, gender, age, disability, religion, sexual orientation
Peru	<ul style="list-style-type: none"> • Legislative Decree n°1044 • Consumer Protection Code, Law n°29571 	Race/ethnicity, gender, age, sexual orientation
Philippines	<ul style="list-style-type: none"> • Republic Act 9710 	Race/ethnicity, gender, age, religion, sexual orientation
Portugal	<ul style="list-style-type: none"> • Chapter II of the Code of Advertising (art. 7, No. 2, d)) 	Race/nationality, gender, religion, language
Romania	<ul style="list-style-type: none"> • Audiovisual Law no 504/2002 	Race/nationality, gender, religion, sexual orientation
UK	<ul style="list-style-type: none"> • Equality Act 2010 (Section 4) 	Race/ethnicity, gender, age, religion & beliefs, disability, sexual orientation, gender reassignment, marital status, pregnancy and maternity
US	<ul style="list-style-type: none"> • In the US, Federal law and the law of many States consider discrimination in housing decisions as 	Race/ethnicity, gender, age, religion, disability,

	illegal. Therefore, advertising that promotes or assists such discrimination is also illegal.	sexual orientation, marital status
South Africa	<ul style="list-style-type: none"> • Section 9 of the Constitution of South Africa 	Race/ethnicity, gender, age, religion, disability, sexual orientation, and “any analogous ground”

New legislation on discrimination is expected to be adopted in the coming 2-3 years in four ICAS markets (Australia, Chile, Spain and Mexico).

B. SROs and regulatory provisions on non-discrimination

43% of the SROs surveyed are competent to assess the compliance of individual ads with applicable laws and regulations on non-discrimination. The remaining SROs (57%) only assess compliance with self-regulatory standards.

Asked about the next big challenges for advertising self-regulation in relation to discrimination issues, respondent SROs mentioned the following issues:

- **addressing “unconscious bias”** within the advertising industry, including ad agencies;
- **changing community views on gender, race and religion**, with some advertisers wanting to be able to use representations that reflect social reality without systematically be accused of perpetuating stereotypes;
- **raising awareness about discrimination issues among smaller advertisers**, and enforcing decisions on formats that are typically more difficult to control such as ads on vehicles or ads on social media;
- ensuring that companies do not only do away with stereotypes in their ads, but also promote diversity within **all aspects of their business.**²

² The World Federation of Advertisers (WFA) released in April 2020 a new guide on [diversity and inclusion in marketing](#), offering practical advice on marketer’s can channel diversity both across their creative and in their company more generally.

Annex: Self-Regulatory Organizations (SROs) per country

<i>Country code</i>	<i>Country</i>	<i>Short name of the SRO</i>	<i>Long name of the SRO</i>
AE	United Arab Emirates	ABG	Advertising Business Group*
AU	Australia	Ad Standards	Ad Standards Australia
BE	Belgium	JEP	Jury d'Ethique publicitaire / Jury voor Ethische Praktijken inzake reclame
BR	Brazil	CONAR	Conselho Nacional de Autorregulamentação Publicitária
CA	Canada	Ad Standards	Ad Standards
CL	Chile	CONAR	Consejo de Autorregulación y Ética Publicitaria
CO	Colombia	Autocontrol	Autocontrol Colombia*
ES	Spain	AUTOCONTROL	AUTOCONTROL
FR	France	ARPP	Autorité de régulation professionnelle de la publicité
IE	Ireland	ASAI	The Advertising Standards Authority of Ireland
IN	India	ASCI	The Advertising Standards Council of India
IT	Italy	IAP	Istituto dell'Autodisciplina Pubblicitaria
MX	Mexico	CONAR	Consejo de Autorregulación y Ética Publicitaria
NL	The Netherlands	SRC	Stichting Reclame Code
NZ	New Zealand	ASA	Advertising Standards Authority
PE	Peru	CONAR	Consejo Nacional de Autorregulación Publicitaria
PH	The Philippines	ASC	Advertising Standards Council
PT	Portugal	ARP	Auto Regulação Publicitária
RO	Romania	RAC	Romanian Advertising Council
SE	Sweden	RO	Reklamombudsmannen
SV	El Salvador	CNP	Consejo Nacional de la Publicidad*
UK	United Kingdom	ASA	The Advertising Standards Authority
US	USA	BBB NP	BBB National Programs
ZA	South Africa	ASA	The Advertising Standards Authority of South Africa

* These SROs did not take part in the survey and are therefore not included in the findings of this report.

About ICAS

ICAS, the International Council for Advertising Self-Regulation, is a global platform which promotes effective advertising self-regulation. It brings together a network of Self-Regulatory Organizations (SROs) from North & South America, Australia, Asia, Africa, and Europe as well as global associations representing the advertising industry (WFA, IAA, EPC, WOO) and experts on global advertising and marketing laws (GALA).

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