

ADVERTISING SELF REGULATION
A COMPARATIVE ANALYSIS OF THE AMERICAN AND BRITISH SYSTEMS

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The United States has been a world leader in the regulation of advertising by governmental agencies and through self regulatory mechanisms. American regulatory goals have focused largely on consumer protection from deceptive or false advertising, as well as guarding advertisers from such practices by their competitors. There has been a pronounced erosion recently in the role of government as the principal guardian of consumer interests, and as the watchdog of the business community. This provides new opportunities for self regulation by the industry. The thrust of this report is to contrast the operations of the principal mechanism for self regulation of advertising in the United States, the National Advertising Division of the Council of Better Business Bureaus, with that of the United Kingdom, the Advertising Standards Authority. This study provides the basis for recommendations to augment and improve American self regulatory policies and mechanisms.

The principal vehicle for self regulation of national advertising in the United States is the NAD (National Advertising Division)/NARB (National Advertising Review Board) mechanism. The NAD is the first tier of the self regulation process, while the NARB is positioned as the second tier or appeals level. The NAD functions through a professional staff in New York. In evaluating a questionable advertising claim, the NAD staff requests undigested data from an advertiser in order that it may replicate the reasoning process by which the advertiser concluded that its claims were truthful. The NAD relies primarily on the rule of reason and common sense in determining whether to make a challenge and in evaluating substantiating evidence. If the NAD determines that questioned advertising claims are adequately substantiated, the case is closed. If not, a need arises for the advertiser and the NAD to reach agreement on corrective action--to withdraw or modify the challenged claims. Failing agreement, the NAD and the advertiser have recourse to the second tier, the NARB. For each case heard by the NARB, a panel of five members is appointed consisting of three advertiser members, one agency representative, and one public member. The NAD and the NARB make public disclosure of challenged cases which have been substantiated, modified or discontinued. This system is financed through funds allocated by the Council of Better Business Bureaus plus monies provided by advertisers and agencies.

By contrast, the counterpart system in Great Britain, the Advertising Standards Authority, is financed by a surcharge of 0.1 per cent of all display advertising. The ASA engages also in a continuing monitoring program of print media in order to check conformity with the Code of Advertising Practice, a 72 page booklet containing 462 rules and guidelines of sound advertising practice. Radio and television commercials fall under separate statutory regulations and organizations that govern them.

In Great Britain, extensive advertising to the general public has increased awareness of the ASA. A recent headline said, "If you find an advertisement unacceptable, don't turn the page, turn to us." To enhance visibility in the United States, a pilot public awareness advertising campaign is recommended along with more widespread dissemination of published codes of acceptable advertising practice. Increased public representation on NARB boards would also be highly desirable. This is another feature of the British system.