

CODE OF ETHICS, PRACTICES, AND OBLIGATIONS OF COMMS COUNCIL MEMBERS

INTRODUCTION

- One of the marks of the maturity of an industry surely must be the extent to which its members feel the need to not only declare a belief in a code of ethical practices, but also to provide that some governing body be delegated the responsibility to both judge the extent that the code is followed, and that it has the power to apply sanctions against those who are found to be guilty of code infractions.
- Keen and vigorous competition, honestly conducted, is necessary to the growth and the health of New Zealand business and society. However, unethical competitive practices in the industry lead to financial waste, dilution of service, diversion of manpower, loss of prestige, and tend to weaken public confidence both in advertisements and in the institutions of advertising and communications.

ETHICS IN THE CONTEXT OF LAWS AND CODES

- The sector in which we operate is comprehensively covered by laws that prevent deception and protect consumers. These are supplemented by a range of national and sectoral codes of practice which together make up the self-regulation system, a system that is easily updated and able to react to new situations and technological developments faster than legislation.
- Both laws and codes are imposed on practitioners within our sector. Ethical standards, however, come from the people who practice and support the industry's legal and self-regulatory structures. Ethical codes additionally provide what laws cannot. They govern how we work with our clients, competitors, colleagues and society in general.

OBLIGATIONS

- When an agency joins the Commercial Communications Council (Comms Council), it agrees to abide by this Code.
- Comms Council members agree to promote this Code on a periodic basis to maintain awareness of its ethics, practices and obligations.

SUPPORT OF SOCIETY, CONSUMERS, SELF REGULATION & EMPLOYEES

- Comms Council members recognise an obligation to create communications that are consistent with the laws of New Zealand, and/or any international treaties and agreements undertaken by the Government of New Zealand, relating to the social, economic and environmental principles of sustainable development.
- Comms Council members recognise that consumers are entitled to rely on our member agencies to operate not only within the law and within the letter and spirit of global, national and sectoral codes of practice, but also within accepted ethical norms.
- The Comms Council supports the principle of self-regulation and a portion of members' fees are allocated each year to the Advertising Standards Authority, on behalf of all members. Members agree to support both the spirit and the letter of various codes and guidelines that are developed and administered by the ASA.
- Comms Council members are also expected to take their turn, when asked, to provide volunteer personnel to serve on the self-regulatory committees of the ASA.
- There is an expectation that Comms Council members will pay fair compensation for work done, particularly as it pertains to students and interns
- Individual and collective practices of Comms Council member agencies should demonstrate environmental sensitivity and responsibility.

INCLUSION, DIVERSITY AND EQUITY

- Comms Council members recognise the societal and commercial benefits of promoting diversity and equity, that the key to unlocking this benefit is through a culture of inclusion, and agree to actively reflect this in their business.
- Members agree to be committed to nurturing existing talent and to allow people of all diverse backgrounds to be able to thrive in their organisations.
- Members will commit to monitoring diversity within their organisations and championing inclusivity in the workplace. This includes
 - Actively working to increase a level of diversity in the workplace that it reflective of New Zealand's diverse population
 - Actively working to foster an inclusive workplace environment for all employees regardless of gender, ethnicity, religious belief, sexual orientation or disability
 - Actively working to ensure gender equity in their organisations, with particular focus on the areas of pay equity and creating flexible work practices that support women's career aspirations

- Ensuring that wherever possible the outputs of the industry (advertising) reflect the diverse nature of New Zealanders.

SUPPORT OF THE COMMS COUNCIL'S WORK

- While much of the Comms Council's work is undertaken by its full-time staff, it would not be possible to achieve full worth to the industry without both the counsel and support of members.
- While not a condition of membership, it is hoped that each member will be supportive of the Association in each of the following ways:
 - a) by agreeing to supply volunteer personnel to work on various committees which are from time to time formed by the Comms Council;
 - b) by agreeing to serve on the Executive Board when invited or elected to do so;
 - c) by attending the Annual Meeting, awards events and other member functions which are organised for the benefit of members; and
 - d) by agreeing to make available, as reasonably needed, agency staff with specific capabilities for Comms Council industry initiatives and events. It is expected that the number of hours an agency can provide will vary with the size of agency i.e. larger agencies being able to provide greater support than smaller agencies. Any actual requirement is to be determined on a case by case basis between the Comms Council and member agencies.
- Member agencies are invited and expected to input into the focus and initiatives undertaken by the Comms Council for the benefit of the industry and member agencies. Any feedback is to be raised with the CEO and/or President and/or Comms Council Board.

PUBLIC CRITICISM OF THE INDUSTRY

- While public dialogue regarding the state and/or direction of the advertising industry is healthy, there is a type of public statement that is harmful and unfair to the industry, and is to be regarded as unethical practice by members.
- It is not possible to define the differences to cover all cases, but generally, statements of the unethical kind are of the sort that tend to denigrate the work or business practice of other agencies or of the Comms Council itself. This section is not meant to apply to those agencies which have developed a particular kind of expertise, service or application of the art of advertising which they are attempting to fairly market.

RELATIONS WITH CLIENTS

- A member agency and its employees will hold in confidence all information they obtain on client affairs, unless specifically exempted by the client or by the order of a court.
- A member agency shall not bargain for or receive or otherwise acquire any compensation or benefit related to business for a client without that client's knowledge.
- A member agency buying on behalf of a client shall obtain what it believes to be the most efficient rates and prices consistent with the client's requirements.
- A member agency or its employees shall not form any business relationship with a third party that conflicts with a client's business interests, without the client's knowledge.
- Compensation arrangements are the sole concern of the agency and its clients.
- A member agency presenting its case to a prospective client shall avoid making any deceptive, misleading or disparaging statements or comparisons about another agency or its employees.
- A member agency shall not represent to a prospective client that any specific person currently employed by another agency will be hired specifically for this client's services.
- Where potential conflicts of interest exist, a member agency accepts the requirement to bring them to the attention of all parties.

RELATIONS WITH THE MEDIA, AND SUPPLIERS

- A member agency shall exert due diligence to ensure that the agency and/or its employees do not become obligated to media or suppliers as a result of substantive gifts or favours received.
- A member agency or its employees shall not solicit from media or suppliers confidential information about any company's advertising materials or plans.
- When asked for opinions by the media regarding another agency's work, and when such opinions are likely to become public, a member agency or any employee of a member agency shall not use disparaging language, imply a lack of professionalism or degrade the effectiveness or efficiency of another agency's work.

- No agency shall conduct business with suppliers or third parties on behalf of clients where the supplier or third party is known to be in financial difficulty or insolvent.

RELATIONS BETWEEN MEMBER AGENCIES

- A member agency and its employees shall avoid making any deceptive, misleading or disparaging statements or comparisons about another agency or group of agencies or their employees.
- No member agency or staff member will solicit confidential information from another agency's employees.
- A member agency shall not ask personnel hired from another agency to reveal information about the other agency's clients or confidential operations.
- No agency may present work (in presentations or online) that was created at another firm without posting clear attribution to that effect.
- Legally only the agency has a right to take credit for such work, and legally everything an employee produces during his/her employment belongs to the agency where they were employed. Individuals who in the past worked on certain campaigns are entitled to refer to their past experience and their contribution to that work, but only if their role in the work is stated unambiguously and publicly and the appropriate attribution to the agency that originally created the work is prominent.

Suggested wording: *“This creative was produced by XYZ agency for client ABC in 2005. At the time Mr. John Doe was employed at agency XYZ as co-creative director and worked on this campaign.”* As good practice, agencies should define, through a written contract or agreement, who is allowed to take future credit for work; the employee / freelancer, the agency or both.

CONFLICT OF INTEREST

- From time to time, clients may ask Agency personnel to participate on Agency Selection Panels (i.e. a Creative Agency leader may be asked to sit on a selection panel for a Media Agency).
- To avoid any potential for perceived conflict of interest, in such events, Agency Personnel are asked to complete the Comms Council Conflict of Interest Declaration (available via commscouncil.nz or from office@commscouncil.nz).

- It is permissible to assist clients through such participation, but in the event that there are any personal or professional connections between the individual and participating Agencies, these should be declared. If deemed significant, the Individual should declare the conflict and decline to participate.

ADMINISTRATION OF THIS CODE

- This Code shall be administered by the CEO of the Comms Council, who conducts appropriate investigations with all necessary care, diligence and confidentiality. At the CEO's discretion, the CEO may select up to five members of the Comms Council Board to assist with the investigation and the findings.
- It is not the intent of this section to require vigilance by the CEO of the Comms Council in determining whether Code infractions are taking place, but he or she may initiate investigations if an event becomes publicly known that suggests a possible infraction, and regarding which no member has made a formal complaint.
- While possible Code infractions may be discussed confidentially with the CEO of the Comms Council, before beginning a formal investigation, the complaint must be received from the Official Representative or other senior officers of a member agency in writing. The complaint must clearly state the details of the code violation and which of the published codes contained within this document have been violated.
- Upon receiving a written complaint, the CEO of the Comms Council shall:
 - a) Satisfy himself/herself that there is apparently a sound basis for the complaint.
 - b) Inform the alleged violator of the Code of the nature and source of the complaint.
 - c) Attempt to mediate the dispute between the parties to their mutual satisfaction. If mediation is successful, the CEO will report to the Executive Board that a complaint has been filed and satisfactorily dealt with, without naming the parties.
 - d) If mediation is unsuccessful, a formal hearing may be either requested by the complainant or ordered by the Executive Board, upon the advice of the CEO, to which will be disclosed:

- i. First, the facts of the case as set forth by investigations carried out by the CEO, without names of parties.
 - ii. The names of the parties if the Executive Board believes that a formal hearing is indicated.
 - e) The hearing panel shall consist of 5 persons, who shall be the President, CEO and legal counsel of the Comms Council, plus two Board members of other member agencies not involved in the dispute. At the hearing the complainant and the member shall, if they so request, be represented by counsel. The hearing panel may require that all evidence before it be given under oath and that there be shorthand notes of the evidence or that it be electronically recorded. The hearing panel shall determine its own rules of evidence and procedure, bearing in mind the rules of natural justice. After such hearing the committee shall determine whether, in its opinion, the member has been guilty of a violation.
 - f) The hearing panel will report its findings to the Executive Board of the Comms Council, along with its recommendations for sanctions. The Board will have the power to:
 - i. Privately or publicly censure a member; and/or
 - ii. Suspend the member from the association for a discretionary period of up to one year with no rebate of fees; and/or
 - iii. Expel the member from the association.
 - g) Any member having been found guilty of an infraction of this Code may apply to appeal the sanction that has been imposed by making a presentation to the Executive Board of the Comms Council.
- A Comms Council member who is aware of a criminal investigation of their firm must voluntarily disclose this to the Comms Council, and their status will be altered to a “special class” of suspended membership at that point, until the matter is resolved.

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AND OBLIGATIONS OF COMMS COUNCIL MEMBERS**

The undersigned Comms Council member agency hereby agrees to conduct itself in accordance with the practices and codes of conduct described herein and shall encourage adherence to the code by any third party with which the member may from time to time conduct business.

AGENCY: _____

NAME: _____

SIGNATURE: _____

DATE: _____