Controversial advertising in the UK : its regulation and practitioner ethical decision making

Thesis

Controversial Advertising in the UK: Its Regulation and Practitioner Ethical Decision Making

By

Thomas Anthony Farrell

BSc MA PGCE MSc

Thesis submitted in accordance with the requirements of

The Open University for the degree of Doctor of Philosophy

Marketing and Strategy Research Unit, The Open University Business School,

The Open University, Milton Keynes, MK7 6AA, United Kingdom

September 2012

APPENDECIES NOT DIGITISED AT THE
REQUEST OF THE AWARDING
UNIVERSITY

Abstract

Controversial Advertising in the UK –
Its Regulation and Practitioner Ethical Decision Making
Tom Farrell, the Open University, UK September 2012

This thesis explores the phenomena of controversial advertising, its regulation, and the ethical dimensions of its practice in a UK context. The £19bn advertising industry is a major contributor to the British economy, helping to stimulate consumer demand, market competition and employment (IPA, 2012). Despite these benefits, advertising is often criticised for its negative social consequences. Controversial advertisers utilise content or tactics that breach acceptable standards of society (Harker et al., 2005). Controversial advertising practices include: shocking, offensive or distressing content or tactics (Waller et al., 2005b); deceptive or misleading advertising claims (Preston, 1996); or harmful social consequences (Pollay, 1986). The UK advertising industry use self-regulation via voluntary codes of practice to maintain acceptable standards; address stakeholder complaints and forestall government intervention (CAP, 2012). Before advertising is placed, media clearance and pre-vetting procedures are also common. However, despite these controls, over 25,000 complaints are received by the Advertising Standards Authority (ASA) every year and on average 2,500 campaigns annually are found in breach of the code (ASA, 2012). This raises questions as to the ethics of controversial advertising practice and the effectiveness of its regulation. This research employs exploratory interpretive methods to makes sense of practitioner ethical decision making (EDM) involved in creating, pre-vetting and regulating controversial UK advertising. New findings highlight the importance of proactive clearance rather than post-complaint regulation. The code of advertising represents a fluctuating line to be pushed at, rather than acting as a moral brake on malpractice. Practitioner EDM is built from the collective interactions of actors, not the actions of individual decision makers or organisations, thus advertising practitioners become myopic to their stakeholder responsibilities. The thesis presents a new 360 degree model of the advertising process from creation through to regulation. The research has important implications for academic, marketing and advertising and regulatory practitioners.

KEY WORDS:
Marketing, Advertising, Controversial, Regulation, Clearance, Practitioner, Ethical, Decision-making, 360-Degree.

Table of Contents

List of Tables

List of Figures

List of Abbreviations

AA	Advertising Association
AAC	Advertising Advisory Committee
ACT	Association of Commercial Television
AIG	Advertising Information Group
ASA	Advertising Standards Authority
ASBOF	Advertising Standards Board of Finance
BACC	British Advertising Clearance Centre
BARB	British Audience Research Bureau
BASBOF	Broadcast Advertising Standards Board of Finance
BBC	British Broadcasting Corporation
BBFC	British Board of Film Classification
BCAP	Broadcasting Code of Advertising Practice
BMA	British Medical Association
CAA	Cinema Advertising Association
CAM	Communication Advertising and Marketing Foundation
CAP	Committee of Advertising Practice
CBA	Commercial Broadcasters Association
CE	The Concentration of Effect
Clearcast	TV Advertising Clearance Centre (Formerly BACC)
CMD	Cognitive Moral Development
CPTA	Cosmetic, Toiletry and Perfumery Association
DMA	Direct Marketing Association
EACA	European Association of Communications Agencies
EASA	European Advertising Standards Alliance
EDM	Ethical Decision Making
ERA	Electric Retailers Association UK
ESRC	Economic and Social Research Council
EX-KIDS	Time restriction on advertising being viewed by children

GDP	Gross Domestic Product
HSC	Health Select Committee
IAB	Internet Advertising Bureau
IPA	Institute of Practitioners in Advertising
IPM	Institute of Promotional Marketing
ISBA	Incorporated Society of British Advertisers
ISP	Institute for Sales Promotion
ITC	Independent Television Commission
MC	Magnitude of Consequences
MI	Moral Intensity
MMA	Mobile Marketing Association
NRS	National Readership Survey
NSPCA	National Society for the Prevention of Cruelty to Animals
NSPCC	National Society for the Prevention of Cruelty to Children
NVIVO	Qualitative Research Analysis Software
OFCOM	Office for Communication
OFT	Office for Fair Trading
OMC	Outdoor Media Centre
OTELO	Office of the Telecommunications Ombudsman
PAGB	Proprietary Association of Great Britain
PCC	Press Complaints Committee
PE	The Probability of Effect
PEGI	Pan European Game Information (Rating Classification)
RACC	Radio Advertising Clearance Centre
SC	The Social Consensus
TI	Temporal Immediacy
UKIE	Association for UK Interactive Entertainment's (Formerly ELSPA)
WARC	World Advertising Research Centre

Acknowledgements

Preface

> ## MEN WANTED
>
> for hazardous journey, small wages, bitter cold, long months of complete darkness, constant danger, safe return doubtful, honour and recognition in case of success.
>
> Ernest Shackleton
> 4 Burlington Street, London

The famous polar explorer Ernest Shackleton a hundred years ago wrote and placed the above advertisement in the London Times. He was recruiting sailors and crew for his famous trans-Antarctic expedition in 1914. It is often anecdotally depicted as the 'most truthful advertisement of all time', given the veracity of the advertising claim, its realistic and prophetic summation of the proposed polar expedition. The crew did indeed find themselves in the perilous situation depicted: icebound, and later marooned for twenty months. But against all the odds Shackleton made a safe return and heroically rescued all of his men.

Indeed the content of Shackleton's advertisement echoes the journey taken by this researcher in conducting this at times difficult PhD journey. Locating, negotiating access to and engaging with the purveyors and regulators of advertising proved very challenging, given the aim to explore the murkier, less chartered waters of controversial practice. There were many months of doldrums, wrong turns and access blockages. However, inspired by Shackleton to keep calm and carry on, with resolve and endurance the author has made a safe return. The realisation of my journey's output is in your hands.

Chapter 1

Introduction

I think that I shall never see,
A billboard lovely as a tree.
Perhaps, unless the billboards fall,
I'll never see a tree at all.

~ Ogden Nash ~

Song of the Open Road

1933

Chapter 1

Introduction

1.1 Research Rationale

This research investigates the nature and magnitude of the problem of controversial advertising and its regulation in the UK. It aims to make sense of the ethical decision making (EDM) that emerges from the interplay between practitioners engaged in the creation, clearance and regulation of controversial advertising campaigns. The problem of controversial advertising differs according to diverse stakeholder perspectives. Parents are concerned about, the use of violent or highly sexualized images to which their children are exposed. Minority and ethnics groups are offended by sexual, racial stereotyping. Health professionals are concerned by the promotion of problematic products like alcohol and fast food. Both consumers and organisations can fall victim to denigration, deceptive or misleading advertising claims. Whilst there is a broad and on-going debate about the controversies and ethics of advertising, current understanding of the problem is not sufficient and needs more research.

In terms of the literature this research is set within the crossover of the fields of business ethics, ethical decision making (EDM), controversial advertising and advertising regulation. There is very little research looking in depth at advertising practitioners' engagement with advertising ethics. Using a qualitative approach, this research explores how practitioners understand the process of creating and regulating advertising, the nature of controversy and of EDM in advertising. The thesis develops a holistic view of advertising regulation, taking account of all stages of the process from the inception of the advertisement through clearance and broadcasting to – in some cases – complaints and adjudication. The nature of controversy is considered from the perspective of different

actors in this process, including marketers, advertising agencies and regulators, as is the nature of EDM. This practitioner perspective examines how that decision making presents itself to actors involved in real advertising campaigns. Interactions between actors at different stages of the process and feedback loops are considered throughout.

This research is important because of the consequences of advertising for the environment, culture and every member of society. Advertising is one of the most powerful, ubiquitous and persuasive phenomena in the modern world. It has wide-ranging social, economic, ethical impacts on culture, lifestyles, consumption and choice. The creation of artificial needs, conflation of advertising and education, targeting of vulnerable consumer groups, and emulation of dangerous behaviours are just some of the criticisms that have been directed at the industry. In light of the industry's importance, and given these widespread debates, more research into the practice and regulation of advertising and into its societal and stakeholder consequences is necessary.

1.2 Background to the Research

The UK advertising industry is a major contributor to the British economy in terms of stimulating demand, competition and employment. In 2011 a total of £42 billion was spent in the UK on advertising including traditional advertising, marketing communications and search engine optimisation (IPA, 2012). The British advertising industry employs approximately 300,000 people (AA, 2012) and accounts for 7% of national GDP (Zenith Opti-Media, 2009). The nature of advertising in the UK has changed from twenty years ago, when there were only four television channels, whereas now there are over 400. Furthermore the last decade has witnessed a revolution in the new digital-media age, with the growth of social networking and mobile channels, which all carry advertising. Figure 1.1 illustrates this significant growth in the share of Internet advertising expenditure.

Figure 1.1: UK Advertising Expenditure by Media 2005-10

Advertising expenditure (£000)	Internet share of total advertising expenditure							CAGR	
	8%	12%	16%	20%	24%	26%		1yr	5yr
	16,207	16,333	17,081	16,589	14,503	15,675	Total	8%	-1%
15,000							Cinema	2%	3%
	1,892	1,828	1,758	1,584	1,141	1,074	Radio	4%	-4%
	2,371	2,322	2,171	2,040	1,686	1,712	Outdoor	12%	0%
10,000	4,906	4,695	4,680	4,129	3,244	3,227	Magazine	-6%	-11%
							Direct Mail	2%	-6%
5,000	4,097	3,905	4,016	3,922	3,525	4,083	Newspaper	-1%	-8%
							Television	16%	0%
0	1,367	2,016	2,813	3,350	3,541	4,097	Internet	16%	25%
	2005	2006	2007	2008	2009	2010			

Source: AA/Warc Expenditure Report
Notes: All figures are nominal; CAGR = compound annual growth

Source: OfCom 2011

These recent trends in advertising consumption highlight significant challenges to advertisers from fragmenting media, audiences and revenue. The advertising industry has needed to consolidate and restructure to meet these changes, particularly in light of the 2008-9 recession and ever increasing global competition. Such environmental forces have also led some advertising practitioners to adopt the kind of questionable tactics mentioned above to make their advertising messages stand out in a saturated media landscape.

As a consequence of increased perceptions of controversial advertising, complaints about advertising have been rising. The Chairman of the Advertising Standards Authority (ASA)[1] describes a 'sheer deluge of complaints' (ASA, 2012a) as a result of the extension of their remit to regulate on-line advertising in March 2011. The regulatory industry has to

---

[1] Note: The reader is provided with a glossary of key terms and acronyms in the List of Abbreviations.

cope with ever increasing volumes of advertising across a greater range of new media platforms. These trends have implications for the effectiveness of advertising regulation and important ramifications for marketers and consumers. Yet, the impacts of controversial advertising practice and its regulation have not been studied in depth in the UK, which is particularly pertinent in light of the recent and rapid developments in new advertising media. These factors point to the timely nature of this research and its potential to contribute to important contemporary industry and policy debates.

Modern marketing communications pervade every aspect of our lives with consumers the target of around a thousand of commercial communication each day (IPA, 2010). Beyond advertising's economic and socio-cultural impacts, of further concern are the ethical repercussions of advertising practice. Advertising can be controversial in the creation of artificial needs (Galbraith, 1976) particularly if some consumers find it difficult to identify when they are being advertised to. Commercial brands can be difficult for vulnerable groups of society to resist if using controversial tactics, sub-conscious appeals that normalise materialism or behaviours with negative social consequences (Alexander et al. 2011; Bailey, 2011). The advertising industry, despite its influential role in society, is a relatively under-researched field, particularly regarding the ethical debates around its societal and stakeholder consequences. Controversial advertising in the UK takes many forms and its social consequences are criticised by a wide range of stakeholders including charities, consumer groups, parents, teachers, religious groups, academics and parliamentarians.

Recent criticism in the UK relates to the advertisers' role in the over commercialisation and sexualisation of childhood (Bailey, 2011), the use of brand ambassadors (Nairn, 2008) and stealth tactics such as adver-gaming or surreptitious use of commercial social media

(Hastings et al., 2010). The promotion of brands, goods and services that are unhealthy; the glamorisation of anti-social behaviour (ASA, 2011); or the promulgation of a greed culture having a role in youth rioting and looting of London retail outlets in the summer of 2011 (Bauman, 2011; Boffey, 2012). Other controversies around advertising include false claims about sustainability as well as actual environment damage. Similarly advertising can create emotional dissonance, associations with body image dismorphia (YMCA, 2012) and a loss of psychological wellbeing particularly when advertisers make deceptive claims or use shock or offensive tactics (Waller and Fam. 2003; Christy, 2006). Such controversial advertising content and techniques also often are in breach of acceptable standards (Rotfeld et al, 1990b; 2007). Stakeholders are increasing vocal in their complaints about irresponsible advertising, particularly if societal norms are being cynically manipulated; or that consumers are unable to avoid controversial advertising, as in the case of outdoor advertising (ASA, 2012b). Some examples of these different controversial advertising campaigns are provided in Appendix I and II.

There is a blurring of what constitutes advertising in contrast to Kotler et al.'s (2006: 71) definition of advertising as 'any paid form of non-personal presentation and promotion of ideas, goods, or services by an identified sponsor'. Traditionally advertisers have used mass media television, print, radio, cinema and outdoor posters to communicate with their target audiences. Modern advertising utilises many digital forms of marketing communication including web, banner ads, search engine optimisation, mobile apps and social media. Modern marketing communication are not always transparent or easy to identify particularly if viral, sponsorship, product placement, PR and social networking tools are added to the mix (Smit et al. 2009). Whilst the findings of this research are primarily related to traditional advertising, the thesis uncovers and considers controversial advertising across all channels.

Controversies about advertising are manifested when advertisers utilise methods and techniques that breach acceptable standards of society (Harker et al., 2005). Many authors describe how advertising can harm, shock, offend or distress (Waller and Fam, 2003); deceive or mislead (Preston, 1996) and so forth. Stakeholder criticism and complaints about advertising malpractice invariably attract tighter government legislation. To counter this, the UK advertising industry developed a self-regulatory system to maintain standards through their codes of advertising practice (CAP, 2012). Furthermore, the media owners set up clearance and pre-vetting procedures which advertising must pass in order to protect their audiences and media from disrepute. However, despite these self-regulatory controls, the UK industry watchdog, the Advertising Standards Authority (ASA) in 2011 received over 30,000 complaints and over 4,500 advertising campaigns were found in breach of the CAP codes (ASA, 2012c). This evidence raises questions as to the ethics of advertising practice and the effectiveness of the self-regulatory system itself.

1.3 Academic Positioning of the Research

The literature will be discussed in more detail in chapters two and three. However, a summary of the key gaps identified in this research is presented here. The literature that examines controversial advertising (Pollay, 1986; Boddewyn and Kunz, 1991) is eclectic and often descriptive (Mittal, 1994; Waller et al., 2003; 2012). Much of it attempts to identify the problematic types of advertising that cause offense or achieve notoriety (Christy and Haley, 2008). Other authors consider the demography of those who are offended or complain about advertising (Volkov et al., 2006). Numerous studies examine advertising regulation and codes of practice in single countries or through comparative studies, often involving generally normative judgements about their effectiveness (e.g. Nevett, 1982; Boddewyn, 1989; Rotfeld et al., 1990a; Harker et al., 2005). Related

research has considered the ethics and consequences of controversial business practices (Bartels, 1967; Carroll, 1991; Pollay, 1986) and the nature of ethical decision making (Kohlberg, 1984; Rest, 1986; Trevino, 1986; Jones, 1991), although such research has tended not to focus specifically on advertising ethics. Some of the key gaps in the literature on advertising ethics, controversial advertising and advertising regulation are as follows:

- Most research on controversial advertising, advertising ethics and advertising regulation has been carried out in the United States or Australia, with little consideration of the UK context.

- Whilst consideration has been given to the stakeholder perspective, very few studies (none in the UK) look at the problem from the perspective of industry practitioners.

- Studies of advertising regulation tend to focus on the technical and structural aspects of the regulatory industry or on the consequences of complaints and controversies for various stakeholders. Very few (none in the UK) look in depth at the way in which practitioners themselves construct the nature of controversy, EDM, the regulatory process or their individual or collective roles within it.

- There is a dearth of studies in or outside of the UK that include at all of the key players in the regulatory process (marketers, advertising agencies, media clearance and regulators).

- Empirical research examining business and advertising ethics have predominantly conducted quantitative studies yielding little in depth understanding of what the phenomena mean to practitioners themselves.

Some of these gaps have been recognised with calls for more research into the process of regulation and its effectiveness (Harker, 2004, 2008; Rotfeld and Taylor 2009); the role and mechanisms of clearance (Zanot, 1985; Bian et al. 2011); in-depth qualitative studies

into advertising and its ethics (Drumwright and Murphy; 2004, 2009); and generally for more research into ethics as practice (Tenbrunsel and Smith-Crowe; 2008) and particularly EDM from the viewpoint of practitioners (McMahon and Harvey, 2007).

This thesis therefore aims to gain grounded empirical evidence on how marketing, advertising agency and regulatory actors interact in the advertising creation and regulation process; perceive and resolve problems of practice that can lead to controversy; and individually and/or collectively make decisions with ethical implications. An important contribution to the understanding of advertising practice is made as no previous studies have considered all three advertising stages: creation, clearance and regulation. The analysis in this thesis focuses on controversial advertising campaigns that have been the subject of ASA complaints as a means to engage with industry practitioners. Taking into consideration the gaps in the literature, there are three research aims:

1) To build a holistic view of the UK advertising and regulation process, including the various upstream and downstream stages and the multiple players involved;

2) To examine and analyse the nature of controversial advertising in the UK from the industry practitioner's perspective;

3) To make sense of players' interactions in the process of creating and implementing advertising in order to better understand how EDM takes place in practice.

A comprehensive guide to the research design and methodology is provided in Chapter 4. An in-depth, qualitative research approach was adopted to address the gaps identified in the literature and the research aims identified above. Expert interviews with 33 practitioners from 23 key marketing, advertising and regulatory organisations were

supplemented with an analysis of ASA documentation and attendance at an ASA stakeholder consultation event. This mixed methodological approach is designed to reflect the multifaceted, multiplayer nature of UK advertising practice.

1.4 Contributions of the Research

This thesis makes contributions to existing theory on advertising ethics and regulation by providing an insider, practitioners' perspective on advertising controversy, regulation and the interactions between all of those involved in advertising creation and regulation. A further contribution will be the insights into practitioners' views on the characteristics and consequences of controversial advertising. The role of strategies to avoid controversy and creating responsible advertising will be explored. The types of controversy arising at different stages of the advertising creation, clearance and execution stages will be considered. The third specific theoretical contribution concerns the examination of ethical decision making in relation to advertising practice. The research will explore EDM by considering the inter-organisational interactions of the actors across the process, rather than focusing on individual decision makers, formalised institutionalised ethics or normative codes, as tends to be the emphasis elsewhere.

1.5 Organisation of the Thesis

The thesis is organised in five sections and eight chapters, as shown in Figure 1.2. Additional supporting evidence and documents are included in the appendices.

Figure 1.2 Organisation of the Thesis
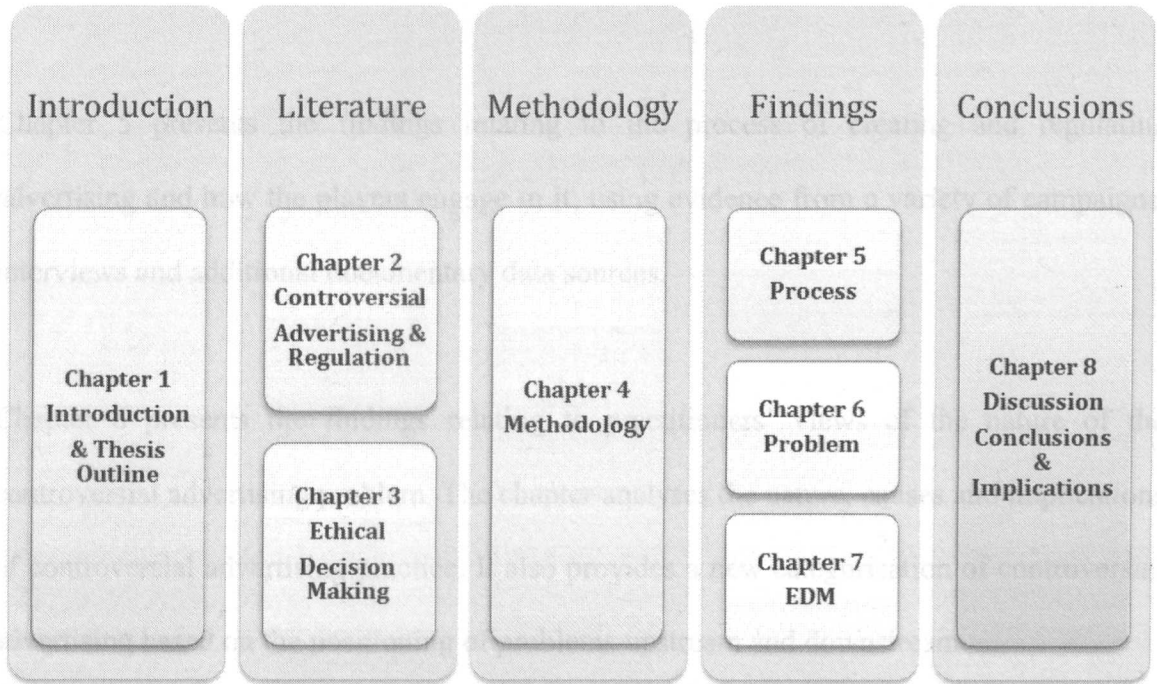
Chapter 2 provides the reader with a contextual background to the research. It presents an overview of advertising controversy and regulation, and a review of relevant literature. It also identifies key gaps in the literature addressed by the thesis.

Chapter 3 presents the literature on ethical decision making, and examines the underlying factors that may influence business practitioners. It contains a critical review of relevant ethical theory and models used to make sense of practitioners' decision making in ethically sensitive contexts. This chapter also identifies gaps in the literature that are later addressed in this research.

Chapter 4 describes the research methodology used in this study. The chapter clarifies the research questions and theoretical framework, and declares the researcher's ontological, epistemological and methodological stance. Details cover the secondary and primary data

collection, ethical considerations, sampling, data analysis, and steps taken to enhance the reliability and validity of the study.

Chapter 5 presents the findings relating to the process of creating and regulating advertising and how the players engage in it; using evidence from a variety of campaigns, interviews and additional documentary data sources.

Chapter 6 presents the findings relating to practitioners' views of the nature of the controversial advertising problem. The chapter analyses the nature, causes and implications of controversial advertising practice. It also provides a new categorisation of controversial advertising based on the positioning of problems upstream and downstream.

Chapter 7 presents the findings relating to ethical decision making in advertising as understood by practitioners. Intra-organisational and issue contexts and decision framing are discussed to explain the ethics embedded in advertising practice.

Chapter 8 summarises the main findings of the research and discusses the main contributions to knowledge and practice. Limitations of the thesis are discussed along with implications for future research.

Chapter 2

Controversial Advertising and its Regulation:
A Literature Review

*Advertising is the rattling of a stick
inside a swill bucket.*

~ George Orwell ~

Keep the Aspidistra Flying

1933

Chapter 2

Controversial Advertising and its Regulation: A Literature Review

2.1 Introduction

This chapter reviews the existing literature relating to controversial advertising and its regulation. Waller (2005: 7) describes 'controversial advertising' as being able to 'elicit reactions of embarrassment, distaste, disgust, offence or outrage from a segment of the community'. Appendix I and II provide some examples of controversial advertising campaigns from the last 50 years. The 2011 ASA annual report states that there were 31,458 complaints to the regulator about the legality, decency, honesty or truthfulness of 22,397 advertising campaigns. Of these, 4,951 were found to be in breach of the advertising code and had to be changed or withdrawn. The ASA adjudications illustrate a wide spectrum of controversial themes that make UK advertising potentially misleading, offensive and harmful. These include cruelty to animals, sexualisation of children, abortion services, gender stereotypes and also false claims around CO_2 emissions. For example, a children's clothing company was sanctioned for depicting children in provocative poses and having plastic bags on their head (ASA, 2010). Such, tactics involving the marketing to children raise important ethical questions of practitioners (Haefner,1991). Similarly, academic literature has linked advertising controversy to product deficiencies, inappropriate targeting, stereotyping, shocking imagery, or intrusive tactics (Blakeney, 1986; Wyckham, 1987; Mittal, 1994).

This chapter examines the nature of advertising regulation, controversial advertising and the types of advertising campaigns that generate complaints. In the first part of the chapter, the evolution of advertising regulation as a means to control advertising malpractice is presented. This provides a detailed account of the key advertising organisations and the

processes used to maintain advertising standards and deal with advertising complaints in the UK. The chapter examines the advertising clearance and regulatory mechanisms in place to pre-empt malpractice and to control complaints. It highlights how the code of advertising standards is used to arbitrate in controversial campaigns. The second part of the chapter looks at the nature of controversial advertising, what causes controversy, how people respond to controversy and the nature of recent complaints about advertising in the UK. The chapter concludes by presenting important gaps in the literature addressed in this research.

2.2 Regulating Controversial Advertising

All forms of controversial advertising incur the risk of regulatory sanctions (Boddewyn, 1989; Borrie, 2005; Harker and Harker, 2008). The literature on advertising regulation shows how malpractice is addressed by the industry codes and how government intervention is used to raise professional standards (Miracle and Nevett, 1988; Preston, 1998). Self-regulation represents the desire of the industry to respond to government pressure to keep its house in order and avoid increasing external regulation (Blakeney, 1986; Levin, 1958). The development and content of advertising legislation reflects the range of controversial issues and unacceptable practices that have been criticised in the past. Regulation of marketing activity involves political and legal environmental forces exerting social control on industry players in order to protect consumers in the marketing exchange process (Harris and Carman, 1983).

There is a dynamic tension between stakeholders and industry interests. Self-regulation and government regulation need to balance socially desirable ends and the restriction of commercial malpractice. Advertising regulations operate at the local, regional, national and international level, to control the informational and commercial exchanges between

organisations and consumers. There are over 150 UK Acts of Parliament and 50 other regulations governing advertisers, their agents and the advertising media. These include the Broadcasting Act (1990), Trade Descriptions Act (1968), The Consumer Protection Act (1987), Food Labelling Regulations (1996), The Medicines Act (1968), as well as EU directives and communications acts. However, the UK advertising industry has mostly opted for voluntary self-regulation. Proponents of advertising self-regulation (Wiggs, 1992; Miracle and Nevett, 1988; Armstrong and Ozanne, 1983) see this as an effective way to achieve acceptable advertising through self-policing that is complementary to existing legal requirements (Hacker, 1998, 2001; Boddewyn, 1982, 1983, 1985, 1989). Self-regulation is generally preferred by businesses, who see it as an efficient, effective control mechanism (LaBarbera, 1980; Zanot, 1985), reflecting the view that government regulation is a blunt and costly instrument (Moyer and Banks, 1977). Significantly, the advertising industry retains more control over the regulatory process through its ownership and funding of the self-regulation organisation (Neelanlavil and Stridsberg, 1980; LaBarbera, 1980).

Studies of advertising self-regulation in the last 40 years have focused on descriptive comparisons of the advertising regulation schemes used around the world (Nevett, 1985, 1992; Boddewyn, 1981, 1983, 1989, 1991; Preston, 1989; Miracle and Nevett, 1987, Vale and Boddewyn, 1992, Sinclair, 1993). The necessary components for effective self-regulation of advertising include: adequate industry funding (Boddewyn, 1985); code creation (Moyer and Banks, 1977; LaBarbera, 1983); complaint handling (Armstrong and Ozanne, 1983); code enforcement, auditing, public reporting and stakeholder education (Wiggs, 1992; Harker and Harker, 2000; Harker et al., 2005).

An effective advertising self-regulatory system is commonly operated by a central complaint handling body that establishes a professional code of practice and operates an appropriate compliance mechanism on behalf of its membership. Industry regulators use the complaint handling process to gauge what Harker (2008: 910) calls 'prevailing community standards of acceptability' and ensure that advertising practitioners do not fall foul of required legal or self-regulatory standards. Advertising self-regulation is not without critics. Some consider the advertising and media industry regulators to be self-serving, fearing that powerful industry organisations act in their own interests rather than those of the public or consumer (Hastings et al., 2010; Babor et al., 2010); and possibly even colluding to benefit the industry's 'enlightened self interest' (Grabosky and Braithwaite, 1986). Others see the aim of self-regulation as being to maintain the industry players' balance of power in the exchange process (Harris and Carman, 1984). Ducret (1991: 76) describes advertising self-regulation as 'the lunatics running the asylum'. The next section examines in detail the operations of the UK advertising self-regulation bodies.

2.2.1 The UK Advertising Self-regulation System

The history of advertising documents how malpractices such as 'quackery', (Sampson 1872), 'puffery' (Presbrey, 1929), and 'propaganda' (Bishop, 1949: 4) have been used since Roman times. To counter the burgeoning criticism of the advertising practice, industry players acted to public concern and calls for increased government intervention. Marketing and advertising practitioners came together to address these stakeholder concerns through the adoption of self-regulation and the pursuance of professional standards of advertising practice in Britain. The extract below in Figure 2.2 from the earliest version of the advertising industry code of ethics and standards of practice in 1924 illustrates the move towards greater collective responsibility.

Figure 2.1 Extract from the Original UK Advertising Code (1924)

> *WE PLEDGE OURSELVES TO:*
>
> *1. Dedicate our efforts to the cause of better business and social service.*
>
> *2. Seek the truth and live it.*
>
> *3. Tell the advertising story simply and without exaggeration, and to avoid the tendency to mislead.*
>
> *4. Refrain from unfair competitive criticism.*
>
> *5. Promote a better international understanding, based upon a recognition of our mutual responsibilities and our interdependence*
>
> *6. Conserve ourselves and for posterity ideals of conduct and standards of advertising practice born of the belief that truthful advertising builds both character and good business.*

Source: Bishop (1949: 107)

This collective statement was a forward-thinking call to raise standards in advertising practice, eventually leading to the establishment of the UK Advertising Association (AA) in 1926. For the first time the AA set out in writing an 'ethical' code, stating the rules of advertising practice governing advertisers, newspapers and advertising agencies. Formal investigations were run to eliminate the worst abuses of advertising around misleadingness and fraud, particularly in relation to medicines. These processes are still in place under the system operated by the UK Committee of Advertising Practice (CAP).

Formed in 1961, CAP drew up the codes of advertising, governing UK advertisers, agencies and media owners. The advertising codes define and clarify undesirable practices and set the standards expected by all organisations subscribing to it. The ASA, formed in 1962, acts as the 'independent' arbiter that adjudicates on complaints about advertisements that appear to breach the standards set by the code. The British code of advertising practice (CAP, 2011), aims to protect the industry's good name, provide a level playing field for

advertisers and protect consumers. It requires that all advertising is legal, decent, honest, and truthful and furthermore that advertisers bear the burden of proof to substantiate and hold proof of their claims.

In addition to the self-regulatory bodies, several quasi-governmental bodies have been set up with delegated powers to regulate competition and efficient market operation in the public interest. The main bodies controlling UK advertising and the media are the Office for Communication (OfCom) and Office for Fair Trade (OfT). However, much of the advertising industry practice remains self-regulatory, operated through non-statutory trade associations such as the Institute of Practitioners in Advertising (IPA), the AA, and the Institute for Sales Promotion (ISP). UK advertisers are also bound by Europe-wide standards set out by the European Advertising Standards Alliance (EASA, 2012).

The ASA is recognised as the largest, most sophisticated and well-funded advertising regulator in the world (Boddewyn, 1992; Harker, 1989). The UK system has been emulated in Ireland (Boddewyn, 1985), Italy, Belgium and Switzerland (Maxeiner and Schothofer, 1992). Unlike the American model, which is less transparent (Richards and Petty, 2007), the ASA handles the vast majority of advertising complaints without recourse to private lawsuits (Dommering, 1992; Schricker, 1990). The ASA administers rather than writes the rules, but is also involved in monitoring compliance and adjudicating on complaints. The code rules are agreed between the advertisers, agencies and media representation through CAP. In the self-regulatory advertising model, the regulators predominantly take soundings of prevailing community standards through the complaints mechanism (Harker and Cassim, 2002; Moyer and Banks, 1977).

The ASA uses the complaints system to monitor society's expectations as well as conducting attitude research and customer satisfaction surveys (Borrie, 2005). The whole system is funded by a 0.1% levy on the advertising organisations collected by the Advertising Standards Board of Finance (ASBOF). The industry thus makes an estimated £10 million a year financial commitment to run its own self-regulatory mechanism, rather than relying on funding from the taxpayer. This is over 50% of the total spend on advertising self-regulation across the member states of the EU, and the highest per capita spend in the world (Brown, 2006).

The ASA investigates complaints and the ASA Council acts as arbiter in the public interest; there is also an independent chairperson who oversees adjudication appeals. The ASA council membership, which has been described as 'the great and the good' (LaBarbera, 1980: p.33), includes public and non-industry representation such as academics, poets, religious ministers and members of the House of Lords. Some criticise its inherent industry bias (Ducret, 1991); others see advertising councils as more effective when their membership has expertise drawing on product, trade and technical knowledge and experience (Harker, 2002).

The ASA Council will adjudicate on an advertising complaint after assessing the evidence put forward by the complainants and the advertiser. If the complaint is upheld, the advertiser may have to amend or withdraw the advertisement. Serial offenders, described as 'intransigents and rogue advertisers' (Borrie, 2005), can also be referred to OfT and prosecuted under the Control of Misleading Advertisements 1998 regulations. In practice, the OfT or OfCom would be unable to cope with the volume of cases handled by the ASA, hence the 'burden of proof' lies with all advertisers to hold the evidence to later prove that their claims are true. OfCom can fine and impose legally binding assurances. Regular

offenders may be named and shamed on the ASA/CAP website, need pre-clearance on all future work or be denied media space altogether. In the main, the ASA system is much faster (approximately 27 days) and cheaper than a court-based resolution system, which could take up to two years. Similarly, such a court-based system might also deter consumer complaints.

In the last few years, the ASA has undergone some significant changes, including a recent review and revision of their advertising codes. The non-broadcast remit has been expanded to include advertising on corporate websites and non-paid for space under their control (e.g. Facebook and Twitter), as well as advertising in video on demand media services (ASA, 2010). Since September 2010 there are now only two UK advertising codes, one for Non-broadcast Advertising, Sales Promotion and Direct Marketing (the CAP code) and one for Broadcast advertising (the BCAP code) for TV and Radio, replacing the four existing codes. This reflects the growth of digital media space and ever-evolving non-traditional advertising vehicles. It also reflects that around two-thirds of received complaints relate to on-line marketing, an area that previously was largely beyond the regulator's remit. This also represents a challenge to the current regulatory system, in terms of the sheer volume of advertising sources and the pace of technological change. However, the 50-year-old ASA principles, that UK advertising be 'legal, decent, honest and truthful', have now an additional overarching rule of 'social responsibility' that 'requires advertisers to think carefully about the impact of their ads on consumers and society' (ASA, 2010: 11). This shows a shift of focus from within the industry to its external stakeholders. Clearly to date the literature has largely focused on downstream regulation. However, a key aspect of the regulation of advertising is under-researched in the UK context, and that is the upstream clearance process. The following section examines the existing literature concerning the pre-vetting and clearance organisations.

2.3 Advertising Clearance and Player Roles

Regulation after an advertisement is published or broadcast aims to boost the credibility of advertising (Abernathy and Franke, 1989), yet this is a corrective rather than a preventive mechanism. Clearance is under-researched, yet, as suggested by Le Blanc et al. (2001: 52), 'a clear understanding of how the clearance process works in a variety of situations and settings is fundamental to establishing effective and meaningful self-regulation and regulation'. As Abernathy (1990) suggests, 'since the advertising media can reject any advertising submission, the clearance process is one of the most potentially effective and powerful advertising self- regulatory tools' (p. 15). The advertising clearance process had been described as having a 'unique power over advertisers, in that an advertiser wishing to reach a particular vehicles audience, must 'meet the vehicle's advertising standards' (Rotfeld and Parsons, 1990: 24). These copy clearance organisations use the advertising codes to exert control over advertisers to protect consumers, competitors and the media itself. In the absence of a generally accepted definition, advertising clearance is defined here as:

> A process of pre-vetting advertising content (copy scripts, media strategy, visuals) prior to its being broadcast or published, against the advertising code of practice in order to protect consumer and trade interests, as well the media from disrepute.

Advertising clearance is a proactive approach to self-regulation, the main benefit of which is to save costs of amending advertisements, or pulling advertisements at a later date due to complaints. The literature on advertising regulation largely presents post-hoc views, focusing on how marketers, advertising agencies and regulators handle complaints after advertising campaigns have appeared in the media. However, this post-complaint perspective is the tip of the iceberg, given the considerable amount of creative, production

and media planning activity occurring before an advertisement is run in the media. Previous attempts to model advertising self-regulation (Borrie, 2005; Boddewyn, 1992; Harker, 1998) generally omit the clearance or pre-vetting stages, a gap in the literature, which is addressed by this research.

Clearance is an important aspect of advertising regulation with significant potential to improve advertising practice that warrants further research attention in its own right (Bian et al., 2011). With the exception of studies by Rotfeld and Abernethy (1983, 1990,1992) and Zanot (1985), who consider clearance as vitally important in addressing problematic issues in advertising, this area has received scant attention in the literature. There is no published research on the advertising clearance process in the UK.

Clearance has been studied in the US context (Kaplan and Houlbeg, 1988; Sewell and Jennerjahn, 1982; Zanot, 1985; Abernathy, 1993; Wicks, 1991; Hill and Beaver, 1991; Abernethy and Wicks, 2001) and generally uses single campaign case studies and generic surveys of media owners. These may well understate the roles and interests of the players and the decision making involved. Rotfeld and Parsons (1989) describe three stages of the US advertising clearance process as: (1) initial screening review; (2) possible requests for alterations due to concerns of taste, fit for audience or substantiation of claims; and (3) rejection or acceptance of submission. This is the same for both broadcast and non-broadcast media in the US. Media owners hope to 'persuade advertisers to change unacceptable advertisements rather than forgo revenues' by not running the advertising at all (Rotfeld et al., 1985: 20).

Zanot (1985) describes the different clearance players and their 'concerns' about the process of pre-vetting advertising, albeit not in any great depth (see Table 2.1). Thus

agency creative teams were found to often put commercial and sales requirements above moral or legal concerns; while legalities were more pressing for the advertiser, legal staff and media, particularly in terms of substantiating claims.

Table 2.1 Primary Concerns of Players in the Clearance Process

Practitioner Type	Primary Concern
Agency Creative	• Creativity and sales potential primary • Matters of taste and law secondary
Agency Legal Staff	• Standards of the media primary • Matters of the law primary • Pragmatic approach to the process
Advertiser	• Sales potential primary • Matters of the law primary • Generally conservative attitude
Media	• Substantiation of facts primary • Matters of taste primary • Matters of law primary • Creativity and sales potential irrelevant

Source: Zanot (1985)

There is little existing literature regarding the players involved in clearance or that considers the interactions between them. Consequently existing research has little to say about the impacts of the formal and informal processes of clearance, which Zanot describes as 'grounded in pragmatics' (Zanot, 1985: 47), or on party interests involved in the clearance process.

The advertising clearance process is a complex area of investigation, particularly given issues of commercial confidentiality among the multiple players involved. As clearance currently only relates to traditional broadcast media and digital media increasingly take over from broadcast media there is a danger that UK regulation is falling behind current

advertising practice. These trends make the issue of advertising clearance more salient than ever. As Zanot (1985:44) suggests,

> an effective process is rooted in the pragmatics of avoiding regulatory problems, but since the work of these regulatory bodies is subsequent to the clearance process…this behind the scenes process is the most critical and effective of all the different methods of regulating false and deceptive advertising.

Historically, the media owners in the UK took responsibility for the clearance of advertising. They set up special clearance staff to vet advertisers' copy prior to its publication or broadcast. Over the years the different media owners established specialist industry clearance bodies, such as Clearcast, which pre-vets all TV advertising, and the Radio Advertising Clearance Centre (RACC), which handles radio broadcasting.

It is important to note that in the UK pre-clearance is only mandatory for TV advertising. Clearing copy for internet or print advertising is not compulsory, although newspaper and magazine publishers usually vet advertising in order to protect their own reputations. Both the CAP and ASA organisations offer advice to advertisers who are unsure about whether their advertisement is likely to breach the code. The clearance process involves the client and advertising agency presenting draft versions of intended advertisements to the clearance organisations, which then vet the content in line with the CAP Code. There is an expectation that advertisers will substantiate any claims they make; this may involve the use of scientific experts or market research. The advertising will be approved for dissemination in the media if the claims made and the content meet the requirements of the code. Specific products such as pharmaceuticals or financial services may face additional levels of industry clearance.

All UK television advertising scripts must be submitted for vetting before airing to ensure their content is legal, honest and decent. Clearcast receive between 25,000 and 30,000 pre-production scripts and over 50,000 commercial television scripts a year (Clearcast, 2010). They work with over 1,400 agencies across 130 commercial television channels (Clearcast, 2010). The clearance pre-vetting service is confidential and free, but is purely advisory, and it does not automatically protect advertisers from later complaints to the ASA.

Given these gaps in the literature, this research aims to explore UK advertising clearance and regulation in a more holistic way and to bridge the upstream and downstream elements of the advertising process, mapping the entire advertising creation, clearance and regulatory process as seen from the perspective of the players involved in it.

2.4 The Nature of Controversial Advertising

The literature concerning controversial advertising is diverse and eclectic, spanning the fields of marketing, economics, ethics, sociology and psychology (Chakotin, 1940; Packard, 1959; Colstone, 1962; Galbraith, 1976; Pollay, 1986). Advertising practice has also been central to debates in the fields of macro-marketing, critical marketing, social marketing and public policy (Moyer and Hutt, 1978; Preston, 1998, Andreasen, 2006; Saren, 2007). At the macro-level, research on controversial advertising looks at the societal impacts, beyond simple exchanges between buyers and sellers, recognising the interconnectedness of market and stakeholder relations (Dixon, 2002). This enables the consequences of advertising for both society and the environment to be considered. Other researchers examine the micro-level impacts of advertising on individual citizens' and consumers' health, well-being, attitudes and behaviour.

2.4.1 Defining and Categorising Controversial Advertising

Existing definitions of 'controversial advertising' are often limited in scope. Thus Waller, (2005: 7) suggests that reactions of 'embarrassment, distaste, disgust, offence or outrage from a segment of the community' are a sign of controversial advertising. The emphasis is on 'offensiveness', which Beard (2003, 2008) sees as resulting from campaigns that utilise messages or tactics that shock, offend or harm. It is arguable, however, that any definition of controversial advertising should also refer to tactics of deception, where advertisers use false or unsubstantiated claims. This reflects Harker and Cassim's (2002) view that advertising is controversial when it breaches acceptable standards' of society. According to the UK ASA (ASA, 2002), controversial advertising copy or content is that which uses strong, vulgar language, graphic, upsetting or offensive images that stereotype, over-sexualise, are demeaning, or glamorise harmful behaviours. Based on other different existing definitions, the author proposes a more comprehensive definition of controversial advertising for this thesis as:

> Any form of paid for advertising that is contentious and generates stakeholder complaints, where the advertiser has used ethically questionable content or tactics or where the consequences of advertising have the potential to mislead, offend, denigrate or harm the well-being and rights of any individual, competitor, stakeholder or society at large.

Controversy in advertising manifests itself in many ways, including product deficiencies, inappropriate targeting, stereotyping, mis-selling, mischievousness, and intrusive tactics (Mittal, 1994; Blakeney, 1986; Wyckham; 1987). To stand out in the sheer volume of advertisements targeting consumers, advertisers sometimes use shock tactics to 'cut through the clutter' (Creamer and Klaassen, 2007; Lyons, 1996; Boddewyn, 1991). However, such practices habitually evoke complaints from wider stakeholders (Spence and

van Heekeren, 2005). Boddewyn and Kunz (1991) distinguish between 'hard' and 'soft' causes of controversy in advertising. The former relate to advertising that is deceptive, makes misleading and takes advantage of individuals' inability to make rational choices (Ken and Andrew, 2005; Davis, 1994; Carson et al., 1985). 'Soft' causes of controversy are related to issues of decency, taste, public standards, and social responsibility. Soft issues can be more difficult to define and regulate because they involve subjective opinions which are likely to be influenced by dynamic cultural values (Boddewyn, 1991). Various studies have endeavoured to classify controversy or offence in advertising (Prendergast et al., 2008; Christy, 2006; Waller, 2005; Fam and Waller, 2003). These classifications can be categorised under four main characteristics, namely relating to the 'product' itself, the 'message' content, its 'targeting', and the 'social consequences'.

First, controversial advertising often relates to the inherent nature of the product itself. Examples include 'lost cause' products (Mathews, 1997), such as alcohol, tobacco, pornography, violent videogames or weapons. Other products and services can also be inherently offensive (Barnes and Dotson, 1990; Rehman and Brooks, 1987) to some sections of society on the basis of taste, decency or religious grounds. These 'sensitive products' (Fahy et al., 1995) sometimes termed 'unmentionables'(Wilson and West, 1995; Salter, 1982), include contraception, sanitary protection or abortion services. In many countries advertising for certain products, such as cigarettes, meat, guns, sex toys, pornography or violent video games, is highly regulated, media restricted or even banned outright.

The second category of controversial advertising relates to the nature of the advertising message itself, in terms of the words and imagery used. The following advertising themes have been described in the literature as having the potential for controversy: sex or

irrelevant sexual innuendo (Reichert, 2003; Rotfeld, 1999; Boddewyn and Kunz, 1991); violence (Bushman and Bonacci, 2002); shock tactics (Dahl et al., 2003) or fear appeals (Hastings et al. 2004); deception and mischievousness (Mittal, 1994); racism, stereotyping and objectification (Spence and van Heekeren, 2005). The ethics involved in using such creative treatments are complicated. They involve subjective matters of taste, decency and offence that differ between individuals and groups in society. However, advertisers choosing to use controversial messages risk public criticism and complaint, regulatory scrutiny and possible amendments or total pulling of the campaign, which can have considerable financial implications for the client, agency and media owners (Borrie, 2005).

The third category of controversial advertising relates to targeting and the media choice involved in the execution itself (Barnes and Dotson, 1990). This often links to the criticism that advertising is pervasive and intrusive in peoples' lives (Beard 2008; Li et al., 2002; Harker and Harker, 2000). Such intrusion can range from interruptions to television programmes or sports coverage, annoying popup or viral web advertising and junk mail. Similarly intrusive is audience overspill, where unintended audiences can view advertisements, causing them offence, distress or harm (Hastings et al., 1994; Crosier et al. 1999). This is particularly problematic where inappropriate advertising content is viewed by vulnerable groups, such as children (Nairn and Monkgol, 2007); the elderly (Carrigan and Szmigin, 2000); or religious audiences (Markowitz and Grossman, 1998). Further, the deliberate targeting of groups such as children and vulnerable consumers is also controversial. Examples include attempts to create pestering of parents or to trigger consumption of harmful goods like fast food, alcohol or cigarettes. Any media tactics that deliberately circumvent extant regulation would also be included in this category. Thus, antisocial or unhealthy behaviours, such as racism, violence, sexism, consumption of harmful goods, may appear more acceptable in society because of their ubiquity and

normalisation. A recent example of attempts to reduce such practice is a call for limits in the UK on alcohol advertising and promotion by the British Medical Association (BMA) in light of the rising social and health costs of binge drinking (Hastings et al., 2010; HSC, 2010).

The final category of controversial advertising relates to its unanticipated or unintended consequences (Pollay, 1986). Here the criticism relates to the role advertising can play in encouraging or influencing harmful consumption or behaviour. Such criticism has been levied at campaigns depicting unconventional sexual practices, prejudice and terrorism, or anti-social themes (Fam et al., 2009; Waller, 2005; Wilson and West, 1995); or at those where harm may result from the emulation of dangerous behaviour, violence, sexual stereotyping or objectification (Wyckham, 1987). A less commonly discussed area of controversy is the volume of advertising, particularly for less healthy products. Perhaps the greatest consequence of controversial advertising is when it causes harmful consequence to the well-being of society as a whole. Critical marketing theorists (Saren, 2007) argue that advertisers must take responsibility for the social consequences of all marketing activity, even if unanticipated or unintended. Regulatory or voluntary codes will not, however, stem malpractice on their own; in some instances stricter compliance checks may be needed in the form of non-industry bodies and independent experts from NGOs, academe and civil society to monitor marketing practices and the effectiveness of the regulatory processes.

2.4.2 Controversial Advertising and Complaint Activity in the UK

In order to cut through the advertising clutter (Creamer, 2007; Lyons, 1996; Lasn, 2000) many marketers deliberately choose hard-hitting advertising campaigns. Examples include fashion markers such as Benetton depicting world leaders kissing; Dolce & Gabanna glamorising weapons; or Abercombie & Fitch depicting homosexuality. Provocative,

sexual, shock or fear appeals are often short-term tactics, but they can negatively affect brands and corporate reputations in the longer term (Birley, 1999). The costs of deliberately offending the audience include advertisements being banned and products being boycotted by consumers (Crosier and Erdogan, 2001). Beard (2008) found that negative attitudes towards advertising can lead to a decrease in advertising effectiveness. There has long been a myth among advertisers that 'all publicity is good publicity', a statement attributed to the controversial showman PT Barnum (1810-91). However, this can lead to notoriety, particularly when controversial campaigns spread beyond a narrow target audience into the mainstream. Such 'collateral damage' (Crosier et al., 1999) can be costly for the client organisation, the brand and even their agency. Negative media coverage and public opinion, and complaints from pressure groups, can trigger government and the advertising watchdogs to make regulation changes, leading to media exclusion or outright bans. However, some UK brands have successfully used controversy (e.g. the Alco-pop WKD use of laddish stereotyping, or Ryanair's sexualisation of its airline hostesses) to generate free publicity from relatively low spend media campaigns, with the added benefit that the media often re-print the offenders' ad in full (Myers 1999). An indicator of the scale of controversial advertising in the UK is the volume of complaints that are received and upheld by the ASA. The number of advertising campaigns investigated and the proportion of complaints upheld between 1994 and 2010 are shown for the UK[2] in Figure 2.3.

The latest ASA annual report, for 2011, has the highest ever recorded level of complaints in the ASA's 50-year history. The ASA received 31,458 complaints in 2011 about 22,397 advertising campaigns. Of the cases investigated, 4,591 campaigns were changed or

---

[2] Up until 2004 the ASA was not responsible for TV advertising, which was handled by the Independent Television Commission (ITC). Post 2004, the ASA became a one-stop shop for complaints involving all media.

withdrawn (ASA, 2011). The UK complaints statistics in Figure 2.3 illustrate an interesting phenomenon in that despite rising complaints in the last 13 years, the number upheld remains stable at around 2,000. Furthermore there has been a higher level of public complaining, rising to 94% of all complaints.

Figure 2.2 UK Advertising Complaints Statistics 1979-2011*
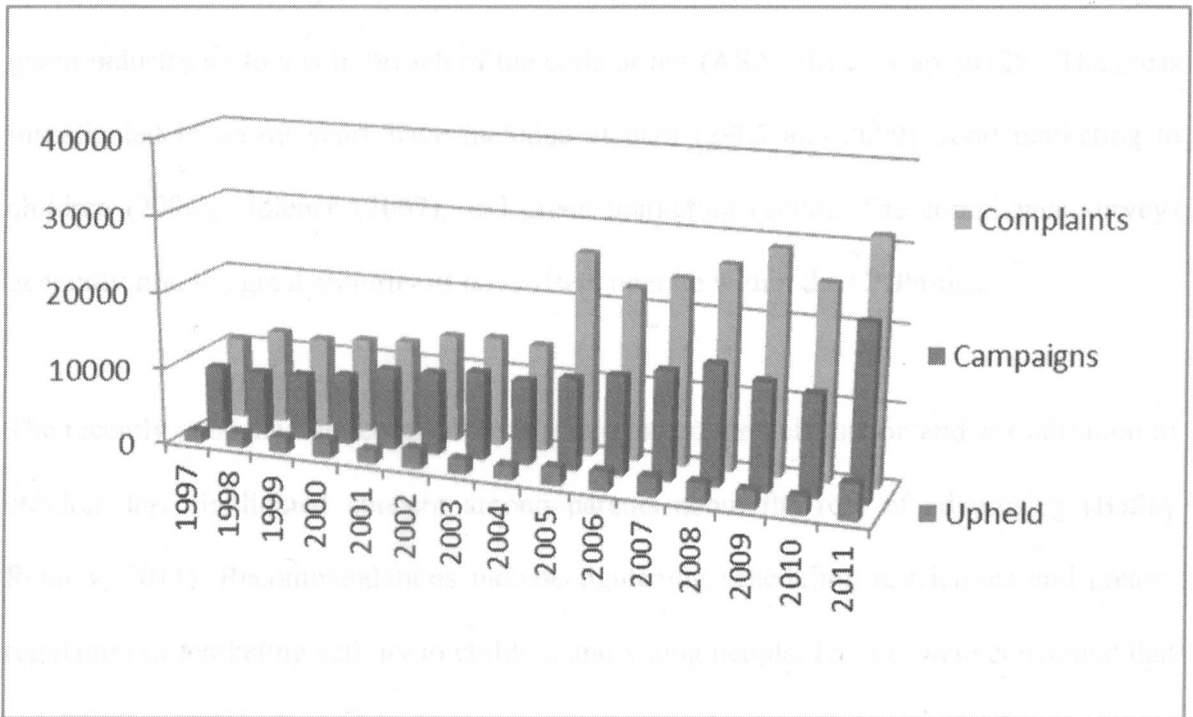
[Note: * The ASA remit changed in 2005 to include TV & Print and again in 2011 to include Online advertising.]
Source: Compiled by Author from ASA Annual Reports

Around 90% of UK advertising complaints come from consumers, most relating to misleadingness.[3] Approximately 10% come from companies, challenging their rivals' advertising claims, mis-selling or denigration by their competitors. While the level of complaints is relatively small in relation to the overall volume of advertising, these figures suggest on-going issues relating to controversy. While the ASA publicise complaint statistics in their annual report, they do not always break these down according to whether they relate to violence, harm or distress. Occasional statistical spikes can be seen, such as

---

[3] 'Misleadingness' is the term used by practitioners interviewed in this study, as opposed to deceptiveness or 'puffery' – the tendency in advertising to accentuate the positive by showing brands in the best light.

in 2007, when complaints about violent advertising doubled year on year, (approximately 2,000 complaints related to 500 advertisements). These complaints reflect a periodic shift in public mood, in this case because complainants felt advertisers were using offensive tactics and glamorising anti-social behaviour.

The ASA and CAP carry out independent compliance monitoring to check if advertising in given industry sectors is in breach of the code or not (ASA, 2012c; Cap 2012b). The areas investigated in recent years have included alcohol (2005 and 2009), food marketing to children (2006), violence (2007), and green marketing (2008). The compliance surveys generally find the great majority of advertisers operate within the CAP rules.

The recently published government review into the commercialisation and sexualisation of children has highlighted concern among parents about the role of advertising (Bailey Review, 2011). Recommendations include tightening scheduling restrictions and greater regulation of marketing activity to children and young people. Parents were concerned that previous regulations were not strict enough and that advertisers were using phones, games and social networking routes to reach young consumers. In relation to the use of sexual images in advertising, the ASA chairman stated that 'we [ASA] did not always draw the line in the right place' (ASA, 2011: 4).

2.4.3 Nature of Complaints and Complainants

Research has attempted to identify who is offended by controversial advertising (Alwitt, and Prabhaker, (1994). These surveys, compare the degree of offence by different demographic groups to diverse types of products and advertising content. For example, Fahy et al. (1995) found that women over 50 years of age were most offended by advertising that targets children, and by campaigns for alcohol, health and sex products.

Similarly, Waller (1992) found that men are less offended by advertising than women. However, the findings from these studies are inconclusive and difficult to generalise, as they often use convenience, student samples and 'mocked up' commercials. Issues of taste, decency and offence are subjective in nature, with different individuals exhibiting varying thresholds of acceptability. The level of offence is also issue and context specific. Christy and Haley (2008) measured the combined influence of product type, execution style, media channel and audience make-up, finding that offence is subject to a range of such contextual issues. For example, advertising reflecting religious or political values evoked the highest levels of offence. The ASA complaints archives provide evidence of cases illustrating to whom, why and how specific advertising campaigns have been judged offensive, distasteful or untruthful. For example, in 2009, a record 28,978 complaints were received, of which 36% had caused offence and 62% were considered misleading to stakeholders. In terms of volume, this indicates that concerns about the deceptiveness or truthfulness of advertising claims prevail over issues of taste and decency.

The UK advertising industry commissioned its own research exploring consumer attitudes towards advertising, focusing on what causes offence and predispositions towards complaining. National surveys conducted by the AA and ASA in the 1980s found that only 1% of respondents had 'ever made a complaint', whilst almost 70% felt offended enough to consider complaining. Such a large latent pool of complainants suggests that a high degree of motivation is needed to make consumers complain to the regulator. Later survey evidence showed that approximately one in five recollected being misled or offended by advertising (AA Report, 1998). Even so, there is little available research on the demographics of complainants and on what influences complaining behaviour.

2.4.4 Controversial Themes and Tactics in UK Advertising

The increasingly competitive nature of brand marketing and the fragmentation of commercial media mean that consumers are the targets of more advertising messages than ever before. Accenture Media Management estimates that the UK public is exposed to approximately 1,000 advertisements per day (ASA, 2010). This media clutter (Wicks, 1991) makes it harder for advertisers' messages to cut through (Creamer and Klaassen, 2007; Lyons, 1996). One option for advertisers is to use controversial advertising, fear appeals or shock tactics to get attention and 'surprise audiences by deliberately violating social norms or social values and personal ideals' (Lasn, 2000: 269). Controversial advertisers run the risk of breaching the industry code. The CAP code states that marketers 'bear the principal responsibility for the marketing communications' and that 'they produce and must be able to prove the truth of their claims to the ASA and have a duty to make their claims fair and honest and to avoid causing serious or widespread offence (CAP, 2009, 2012).

The onus also falls on the advertising agencies to create advertising for their clients that is accurate, ethical and will neither mislead nor cause serious or widespread offence (CAP, 2005, 2012). Similarly, publishers or media owners are required to disseminate only marketing communications that conform to the codes, and to refuse to re-run any advertisement that has been found in breach after ASA Council adjudication. By signing up to the CAP code, the industry has a shared responsibility not to offend or mislead consumers. The code determines the line that the industry players should not cross. Doing so runs the risk of sanctions, in the form of costly advertising amendments, audience restrictions, restricted media timings, compulsory pre-vetting, and even complete withdrawal of the campaign. Advertisers crossing the line also risk costly damage to their

corporate reputation or brand image, as well as lost sales revenue and lower share price values (Borrie, 2005).

The findings of a 2002 ASA survey showed that 96% of respondents were sensitive to the portrayal of sex, degrading women, images and words unsuitable for kids, violence, men in degrading positions, bad language, mental illness and stereotyping (ASA, 2002). Three-quarters of those surveyed agreed that 'government or charities' use of shock tactics' was acceptable in cases where the issue itself was important. However, this fell to 34% for commercial advertising, suggesting that the public may be more tolerant of hard-hitting messages for a worthy social cause, such as Aids awareness advertising (Dahl et al. 2003). More recent research in the social marketing domain, however, is critical of the ethics and effectiveness of shock tactics and fear appeals in charity and health campaigns (Hastings et al., 2004). The ASA annual statistics (2005-11) suggest that complaints on the grounds of offence are predominantly from the public and pressure groups and that these controversial campaigns attract high levels of media publicity. There is rarely any reference as to who is complaining, other than a simple split of consumer and competitor.

No specific studies of trade complaints made about competitors have been conducted in the UK. However, in Australia, Harker and Harker (2000) found that competitor complaints took resources away from investigating consumer complaints. Another type of complainant can be the unintended recipient of the advertisement. Crosier and Erdogan (2001) indicate that those who are not in the intended target audience are more likely to take offence. In other words, misplaced media selection can lead to unintended audiences being offended by controversial material.

The degree of offence caused by controversial advertising campaigns varies. Table 2.2, which shows the ten most complained about advertisements in the UK since 2000, indicates the nature of complaints causing most controversy and offence. The most controversial campaigns provoke widespread offence and can attract high volumes of publicity.

Table 2.2 evidences the wide spectrum of controversy, relating to the use of bad manners, sexual innuendo, stereotyping, nudity, religion and violence. Although the public seem to show greater tolerance of controversial tactics if used for a good cause, charities can attract complaints, particularly when using fear appeals or shock tactics to gain attention. For example, the 2010 Barnardos' Charity campaign showing a young girl being slapped repeatedly and being shouted at by an adult. The fact that only half of public complaints are upheld highlights the differences in perception between the public and industry practitioners' sensibilities. However, this means that half of the complainants will remain offended after adjudication if the campaigns continue to be aired. As (Waller, 2005: p.4) suggests, controversial advertisers 'tread the fine line between successful communication to the marketplace and offending some people'.

Table 2.2 Top 10 Controversial UK Adverts since 2000

Rank	Advert	Issue	Complaints	Verdict
1	Kentucky Fried Chicken (2005). Food advertisement showing people singing with their mouths full	Taste	1671	Not upheld
2	Paddy Power (2010). Gambling advertisement depicting blind footballers accidently kicking a cat.	Harm and offence	1313	Not upheld
3	The Christian Party (2009). Advertisement on bus stating 'There definitely is a God'	Offence	1204	Political ads are off ASA remit.
4	Marie Stopes International (2010). Advertising for sexual and reproductive health advice	Offence Ethical responsibility Harmful or negative stereotypes	1088	Not upheld
5	Volkswagen (2009). Car advertisement shows man fighting a clone of himself	Violence	1070	Upheld
6	Department of Energy (2010). Advertisement raising awareness of climate change	Misleading Scaremongering	939	Upheld in part
7	Wrigleys (2003). Chewing gum advertisement depicts bad breath by man vomiting a dog	Offence Taste Distress	860	Upheld
8	Barnardos (2008). Charity advertisement depicting domestic child and drug abuse	Offence Distress Violence	840	Not upheld
9	Homepride (2009.) TV advertisement for oven cleaner, so easy even a man could do it.	Offensive	804	Not upheld
10	Mr Kipling (2004). Cakes advertisement showing a Christmas Nativity Play.	Religious offence and Degrading to women	797	Upheld

Source: Compiled by the Author from ASA Annual Reports (2004-11)

As shown in Table 2.3, misleading advertising is the cause of two-thirds of non-broadcast complaints. Broadcast advertising, however, tends to be more likely to cause complaints relating to both offence and harm. Television is the medium that attracts the most complaints: around 14,000 per annum. However, there is evidence to show that complaints have been increasing year on year in non-broadcast media, particularly in relation to advertising in video on demand, mailings, text messages, brochures and magazines.

Table 2.3 Controversial UK Advertising by Complaint Type (2010)

Complaints	Misleading	Offensive	Harm	Total
Non-broadcast	7,047 (69%)	2,694 (27%)	413 (4%)	10,153 (100%)
Broadcast	5,130 (36%)	8,032 (56%)	1,090 (8%)	14,251 (100%)
Total	12,175.95 (50%)	10,725.17 (44%)	1,502.88 (6%)	24,403 (100%)

Source: ASA (2010)

Since the ASA/CAP on-line remit change in March 2011, the statistics show that 7,195 complaints [only 10 month's data] related to on-line advertising with evidences of a 71% increase in web related cases. These figures highlight how there was indeed a regulatory gap with regard to digital advertising, and corroborate the public stakeholders' prior calls for the extension of the regulations covering on-line advertising. The themes of the complaints were mostly related to misleadingness, relating to advertising from small- and medium-sized enterprises on-line. Digital advertising investigations represented a 36% increase in the caseload of investigations. New sanctions were applied including the removal of paid search ads from search engines and 'enhanced name and shame' methods (ASA, 2011: 11).

2.5 Summary

This chapter has described the regulatory system that has evolved to control misleading and offensive advertising and has outlined the nature of controversial advertising, its forms and its effects. Advertising regulation research has tended to focus on downstream, reactive processes, and on post-hoc complaint handling. It is therefore important to examine the upstream part of the process to see how industry practitioners and their organisations construct and discharge their social responsibility for advertising and its inherent ethical implications. No previous research in the UK has examined the clearance element of the advertising regulation process. In addition, important questions around the nature of how players engage with each other through this process have not been explored in any depth.

Two important research aims emerge from the gaps found in this literature review. These are:

1) To build a holistic view of the UK advertising and regulation process, including the various upstream and downstream stages and the multiple players involved;

2) To examine and analyse the nature of controversial advertising in the UK from the industry practitioner's perspective;

Before showing how these research aims will be addressed in the Methodology chapter (Chapter 4), the next chapter (Chapter 3) provides a literature review on the ethical decision making undertaken in the context of advertising.

Chapter 3

Practitioner Ethical Decision Making:

A Literature Review

Don't tell my mother I work in an advertising agency.
- She thinks I play piano in a whorehouse.

~ Jacques Seguela ~

1979

Chapter 3

Practitioner Ethical Decision Making: A Literature Review

3.1 Introduction

The literature on ethical decision making (EDM) in the fields of business, marketing and advertising ethics is now examined, considering how EDM is modelled and measured. Decisions about the content of advertising messages, targeting and media tactics often have a moral dimension. Advertising regulators state that 'all marketing communications should be legal, decent, honest and truthful ... prepared with a sense of responsibility to consumers and to society' (Borrie, 2005: p.64). Yet there is only limited research on the way in which marketers and advertising practitioners deal with the ethical questions and consequences of their practice.

The study of EDM in marketing can be traced back to Bartels (1967) but more frequently ethical decision making has been considered in a general business ethics context. Recent reviews by O'Fallon and Butterfield (2005), Trevino et al. (2006) and Tenbrunsel and Smith-Crowe (2008) provide a comprehensive synthesis of the current state of knowledge in the field. Ethical theory can shed light on how practitioners balance personal, organisational and social demands. EDM is a complex, multifaceted phenomenon, incorporating personal factors, life experience, education, religion and so forth, embedded in a tangled web of organisational, societal and cultural obligations. In this chapter, various models and measures of EDM are discussed and key gaps in the literature are identified.

3.2 Ethical Decision Making in Business

The Oxford English Dictionary defines ethics as 'the moral principles governing or influencing conduct'. Ethical theories date back to ancient Greek philosophers such as Aristotle, Socrates and Plato, who studied morals, reason and the principles of establishing right from wrong. Morality relates to human values, norms and beliefs (Parker, 1998) and is embedded in 'social processes, which define right and wrong for an individual or community' (Crane, 2000, 2007: 8). Ethics in a business context involves the study of 'business situations, activities, and decisions where issues of right and wrong are addressed' (Crane and Matten (2007: 5). In the context of controversial advertising, moral dilemmas are an issue for individual practitioners, their organisations, clients and the profession as a whole. Ethical theory can provide a lens with which to analyse how organisational values, processes and norms might lead to good and bad practice, and to explore the implications.

It is beyond the scope of this chapter to present a full history of ethical theories and philosophical traditions. Only focal philosophies relating to the business ethics context are presented. As Table 3.1 shows, the ethical philosophies most applicable to business decision making according to Ferrell et al (2011:156) include: teleology (Plato, 428-324BC); egoism (Adam Smith, 1723-90); utilitarianism (Jeremy Bentham, 1748-1832; John Stuart Mill, 1806-73); deontology (Immanuel Kant, 1724-1804); relativism (Herodotus, 484-420BC), virtue (Aristotle, 384-372BC) and justice ethics (John Rawls, 1921-2002). Later in the chapter, it can be seen that various statistical measures of EDM have been developed applying such ethical theories, particularly deontology and utilitarianism.

Table 3.1 Ethical Philosophies Used in Business Decisions

Ethical Philosophy	Description
Teleology	Stipulates that acts are morally right or acceptable if they produce some desired result such as realisation of self-interest or utility
Egoism	Defines right or acceptable actions that maximise a particular person's self-interest as defined by the individual
Utilitarianism	Defines right or acceptable actions that maximise total utility, or the greatest good for the greatest number of people
Deontology	Focuses on the preservation of individual rights and on the intentions associated with particular behaviour rather than on its consequences
Relativism	Evaluates ethics subjectively on the basis of individual and group experiences
Virtue ethics	Assumes that what is moral in a given situation is not only what is conventional morality, but also what the mature person with a 'good' moral character would deem appropriate
Justice	Evaluates ethics on the basis of fairness: distributive, procedural and interactional.

Source: Ferrell et al. (2011)

Moral judgements can lead to actions that have either ethical or unethical outcomes. Decisions made by practitioners therefore have consequences, which, depending on the ethical philosophy applied, might be termed 'consequentialist' if they maximise self-interest, and non-consequentialist if they maximise the greater good (Ferrell et al., 2011). More recent ethical theories include: Virtue, Feminist, Discourse and Postmodern Ethics (Crane and Matten, 2007). These focus less on the rights and wrongs of individual actions and their consequences, instead considering the virtues and character of the decision maker (Nielsen, 2006). Similarly, Gilligan (1982) argues for the importance of a feminised 'ethics of care', based on emotion, intuition and care to avoid harm and to build harmonious social relationships.

Postmodern ethicists (Leotard, 1984; Bauman, 1993) question the rationality of traditional ethical theories that reduce complex ethical decision making into simple rules or organisational codes. They champion the role of emotions, gut feeling and intuition in moral deliberations and suggest that ethical practitioners should follow their inner moral instincts or moral compass to judge what is 'right' for them to do, by considering how their actions might affect themselves and others. Gustafson (2000) adopts a holistic view of business ethics, suggesting that personal and professional are inseparable, and that practitioners should question and learn from practice rather than from abstract rules or principles. He suggests that practitioner discourse and virtues are critical. In this sense, EDM is a learning process that can adapt to changing issues, actors and circumstances.

Many of the aforementioned ethical theories and principles have been applied to the marketing and advertising domain (Rotzoll and Christians, 1980; Hunt and Chonko, 1987; Pratt and James, 1993, 1994). Most studies utilise descriptive and predictive research to determine what ethical philosophies practitioners invoke. Such research tends to offer normative and prescriptive results, telling practitioners what they ought to be doing, rather than what they can actually do in practice (Trevino, 1986; Murphy, 1998). Tenbrunsel and Smith-Crowe (2008) are critical of the extant business ethics literature, particularly its lack of critical evaluation, stakeholder engagement, and relevance to practitioners. After decades of research into business ethics, these authors are calling for less philosophical research, and a more grounded, inductive, qualitative analysis that 'identifies key relationships and factors in the ethical decision making process' (Tenbrunsel and Smith-Crowe, 2008: 547). This is the direction followed in this thesis.

Chapter 2 showed how ethical questions can arise from the unanticipated and unintended consequences of advertising practice. In opinion surveys, advertising practitioners are

perceived by the public as lacking professional honesty and ethical standards (Stevens, 2004). Murphy described advertisers, agencies and media as an 'unholy trinity' (1998: 316) with lower ethical standards than other business professionals, who often abdicate their ethical obligations to others. Ethics in advertising is an important topic because management intentions and decisions can significantly impact on consumer and competitor stakeholders, society at large and even the environment. Rather than viewing advertising ethics as the ultimate oxymoron (Cunningham, 1999), advertising can be seen as a two-sided coin, one side bringing social and many economic benefits, the other having damaging consequences if used unethically.

However, rather than focusing on broad ethical philosophies, we now concentrate on theory and concepts specifically pertinent to the business and advertising context. The following sections critically review the most cited EDM studies, key theoretical models and measures in use within the business ethics domain.

3.3 Modelling Individual Ethical Decision Making

The significant authors who attempt to model the stages through which an individual goes when making ethical decisions are Rest (1984), Hunt and Vitell (1986), Ferrell and Gresham (1985). Trevino (1986) and Jones (1991). The key models of EDM predominantly emanated from the United States in the 1990s, setting out to determine the responsibility for ethical behaviour in business. Researchers began to focus on individual decision making and attempted to model what influences the EDM process and its consequences. They used descriptive statistics to examine how a practitioner's ethical or moral reasoning could be modelled and measured.

EDM models developed by Rest (1986), Trevino (1986) and Jones (1991) apply traditional ethical theory to explain the stages that individuals go through when facing ethical

dilemmas in business and the factors affecting their choices. Rest theorised that the 'individual determines right and wrong' (Rest, 1994: 2), rather than EDM being socially determined. He saw moral judgements and behaviour as a four-component process used to 'understand and predict actual moral behaviour and decision making' (Rest 1986: 21). To explain why good people make bad decisions, Rest hypothesised that individuals justify their decisions when facing an ethical dilemma involving moral sensitivity, moral judgement, moral motivation and moral courage. According to Rest (1986) any individual making an ethical decision will move through four steps (see Figure 3.1). His model suggests that the individual must first recognise that an issue or dilemma has an ethical dimension and it therefore assumes that an ethical dilemma triggers the decision-making process. At stage two, the individual weighs up moral issues in terms of right or wrong and makes a judgment. The third step describes the establishment of moral intent, with individuals deciding which direction to take regarding the moral issue. The last stage shows the individual acting on their decision in relation to the dilemma. The consequence may be either an ethical or unethical decision.

Figure 3.1: Rest's (1986) Ethical Decision-making Model
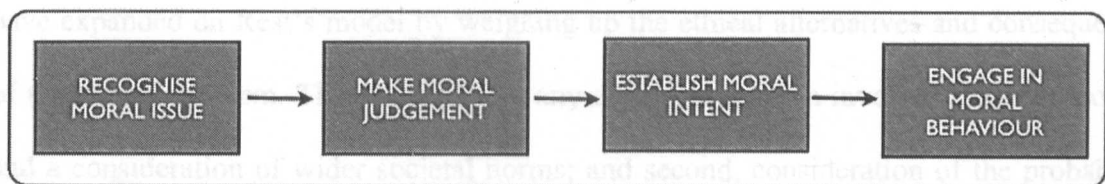
Source: Adapted from Rest (1986: p.4)

A key question is whether the individual can make judgements in isolation from the outside factors at play. This question is made more pertinent by the fact that advertising decisions often involve discussion with clients, peers, teams and management.

Furthermore, advertising codes of practice and internal rule systems may be used by these parties to weigh up the potential costs and benefits of a particular course of action. While Rest's model focuses only on the individual decision-making process, later EDM models include consideration of the individual and situational factors that may influence an individual's EDM. Among the individual factors considered by these models are age, sex, education, experience, beliefs, and attitudes; while the situational factors relate to contextual issues such as job role, organisational factors, rewards and culture (Ford and Richardson, 1994). Other authors have subsequently modified Rest's model to include these environmental factors (Trevino, 1986, 2006; Hunt and Vitell, 1986; Dubinski and Loken, 1989; Ferrell et al., 1989). An even wider range of situational factors that can affect moral sensitivity has been considered by Jones (1991).

Hunt and Vitell's *Theory of Marketing Ethics* model (1986, 1993) considers the impact of situational effects and the consequences for behaviour. These authors applied two ethical philosophies, namely deontology (duty/norms) and teleology (consequences/greater good) to the moral evaluation process. They argue that individual EDM is a personal experience that is influenced by organisational, industrial and cultural environments. Other authors have expanded on Rest's model by weighing up the ethical alternatives and consequences of the ethical problem. They suggest that any ethical evaluation involves first, deontology and a consideration of wider societal norms; and second, consideration of the probability and importance of any teleological consequences for stakeholders. Hunt and Vitell (1993) also underlined the value of cultural influences and showed how evaluative norms impact upon EDM.

Work by Ferrell and Gresham (1985) shares Hunt and Vitell's multifaceted view of individual EDM. Their *'Contingency Model of EDM'* (1985, 1989) factors in a distinction between cognitive factors such as 'knowledge, values, attitudes and intentions' and

sociological factors such as 'significant others' and 'organisational codes and policies'. Two hitherto underestimated situational factors, namely the *opportunity* for rewards and punishment and the recognition that EDM outcomes can be both ethical and unethical, were also included.

Trevino's (1986) *Personal-Situation Interactionist* model borrowed from the psychology literature, adding 'cognitive moral development' (Kohlberg, 1958) and 'ego strength, field dependence and locus of control' variables. Ego strength relates to an individual's self-regulatory skills and strength of conviction, whereby those with high strength in this dimension are more likely to do what they think is right (Grim et al., 1968; Rest, 1984). Field dependence (Witkin and Goodenough, 1977) reflects how an individual uses external social references, such as consultants or experts, to guide their behaviour or reduce ambiguity. Locus of control (Rotter, 1966) is the amount of control exerted by the individual, compared with that exerted by external forces. Trevino highlights two key situational factors, namely job context and organisational culture, recognising that unethical and ethical practice may result from the person's interaction with the situation, not just from their individual characteristics (Higgins et al., 1984). The organisational context provides common values and collective norms that can shape the decisions that individuals make, an issue which is discussed in a later section of this chapter.

Another important model of individual EDM is Thomas Jones's *Issue Contingent Model of Ethical Decision Making* (1991) which attempted to consolidate the extant EDM models into one (see Figure 3.3), while adding the effect of 'moral intensity' characteristics around the moral issue itself. Jones saw the intensity of the moral issue and its salience as critical influences on individual EDM. For example, the moral intensity of a practitioner's decision to steal work stationery might differ compared with that associated with raiding a firm's

pension fund or advertising a product that causes cancer. Jones theorised that six factors explain the intensity of any ethical situation: the 'magnitude of the consequences' or sum of harms; the 'social consensus' on the issue's ethicality; its 'probability of effect'; 'temporal immediacy'; 'proximity' or closeness to the victim or beneficiary; and the 'concentration of effect' in terms of scale or value (see Table 3.2).

Figure 3.2: Jones's (1991) Issue Contingent Model of EDM
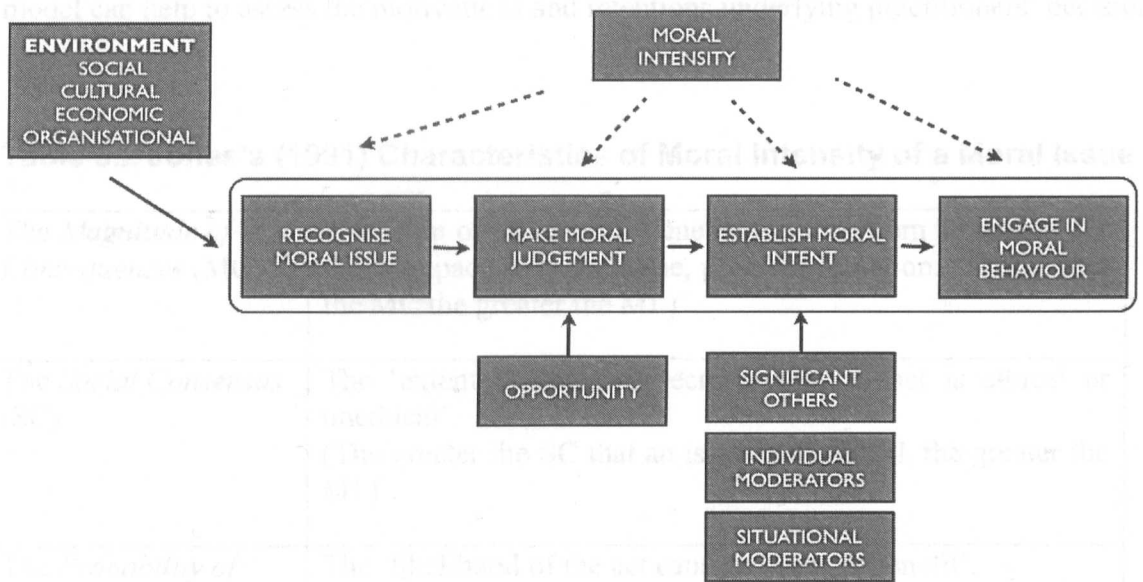
Source: Jones (1991, p390)

Figure 3.3 illustrates how Jones (1991) builds on Rest's (1986) four components of the individual EDM, while supplementing the organisational factors in the other models (Hunt and Vitell, 1986; Trevino, 1986; Ferrell et al., 1989), by adding the notion of 'moral intensity'. While awareness and judgement are largely cognitive and individually determined, intention and behaviour are seen as largely organisational and situationally determined. Jones defines 'Moral intensity' (MI) as 'the extent of issue-related moral imperative in a situation' (Jones 1991: 372). He suggests that higher levels of these moral intensity characteristics would invoke more moral awareness and therefore lead the

decision maker to use ethical or moral reasoning. Jones argues that 'moral issue intensity' (MI) is made up of six components: the 'magnitude of consequences' (MC), 'concentration of effect' (CE), 'probability of effect' (PE), 'temporal immediacy' (TI), 'social consensus' (SC) and 'proximity' (PX) (Jones 1991: 374–8).

Jones's (1991) synthesis model has potential for examining the EDM of practitioners in relation to controversial advertising. For example, in assessing advertising complaints, the model can help to assess the motivations and intentions underlying practitioners' decisions.

Table 3.2 Jones's (1991) Characteristics of Moral Intensity of a Moral Issue

The *Magnitude of Consequences* (MC)	The 'sum of all harm or benefit resulting from an action' for those impacted by the issue, problem or action. (The greater the MC the greater the MI.)
The *Social Consensus* (SC)	The 'extent of social agreement that an act is ethical or unethical'. (The greater the SC that an issue is unethical, the greater the MI.)
The *Probability of Effect* (PE)	The 'likelihood of the act causing harm or benefit'. (The greater the PE the greater the MI.)
The *Temporal Immediacy* (TI)	The 'time between the act taking place and the onset of consequences', long-term or short term. (The shorter the TI, the greater the MI.)
The *Proximity* (PX)	The 'cultural, psychological social closeness of the moral agent to the victim or beneficiary'. (The greater the PX the greater the MI.)
The *Concentration of Effect* (CE)	The 'impact of harm or benefit related to the number of people affected'.(The greater the CE the greater the MI.)

Source: Jones (1991)

It may be revealing to analyse practitioners' moral awareness, particularly during the campaign creation and clearance phases; or to consider the extent to which moral intensity factors shape the decision making following public complaints or regulatory interventions. These issues are considered in detail in the methodology chapter.

The following section provides a systematic review of applied ethics studies measuring EDM and the role individual, situational and issue related factors play in business practitioner EDM.

3.4 Measuring Practitioner Ethical Decision Making

The various EDM models and their constituent factors have been subjected to a range of statistical testing and validation by other researchers, using statistical measures such as those of Robin and Reidenbach (1993) or Rest's Defining Issues Test (Rest, 1986; Goolsby and Hunt, 1992). Such descriptive EDM research attempted to answer Trevino and Youngblood's (1990) question about whether unethical business practice is a result of 'bad apples or bad barrels' (1990: 378). In other words, to what extent does the individual practitioner or the organisation that they serve determine the practice of ethics and the decision making that surrounds it. Empirical testing has taken place of the *individual* characteristics that influence EDM, including: gender, nationality, culture, values, education, and moral development. Studies researching the *situational* characteristics influencing EDM include organisational factors, ethical infrastructure, climate, codes, and leadership. Looking across the results of hundreds of empirical studies of individual EDM, mixed, and in some cases, contradictory results emphasise the complexity of EDM.

3.4.1 Individual Characteristics Influencing Practitioner EDM

Many business ethics researchers have focused on the influence of demographic factors on individual EDM. The results of key studies are grouped below according to gender, nationality, culture, values, education and cognitive moral development.

Overall, *gender* has been found to make little or no difference to EDM (Fleishman and Valentine, 2003; Valentine and Rittenburg, 2007), although some contradictions emerge when reviewing the detail of studies in this area (Hegarty and Sims, 1978; Loe et al., 2000; Read and Scarborough, 2003; O'Fallon and Butterfield, 2005). Some studies have found women to be more likely to make ethical decisions than men (Chonko and Hunt, 1985; Bebaue and Brabek, 1987; Ameen et al., 1996; Singhapakdi et al., 1996). At the moral judgement stages of Rest's EDM process, several studies found women more likely to engage in moral reasoning than men (Cole et al., 1996; Eynion et al., 1997; Reiss and Mitra, 1998), while others found the reverse (McKinney and Longenecker, 1999). Chung and Trivedi (2003) found women behave more ethically during the final stage of Rest's model, a finding that concurs with Gilligan's (1982) ethical theory, with differences accounted for by socialisation and moral development. Feminist ethicists are critical of traditional ethics theory because they see it as dominated by male moral reasoning, which is based on rules, universal rights and impartiality. This, they argue, does not reflect female moral reasoning, which focuses on relationships, partiality and caring (Gilligan, 1982; Jaggar, 1992).

National and cultural studies of EDM, including those that examine nationality and business ethics (e.g. Jackson, 2001; Lyonski and Gaidsi, 1991; Becker and Fritzsche, 1987) also contain mixed results. Researchers have compared how those of different nationalities, religious beliefs and cultural factors progress through the EDM stages. These studies echo Hofstede's (1994, 1980) work on culture and belief systems in different countries. These were largely comparative measures of EDM in different nations and the US, such as Cherry et al. (2003), who found US students to have less moral awareness than Taiwanese students.

Studies measuring the influence of *values and the individual's ethical orientation* test people's tendencies to apply particular ethical philosophies, principles or theories when making decisions. This body of research also reports mixed findings. For example, Reynolds (2006) suggests that utilitarians who judge on the consequences of actions are less ethically sensitive than 'formalists' who use 'deontology' or principle-based ethics. Similarly, professional values or level of educational experience were positively correlated with EDM. For example, Singhapakdi et al. (1996) found older professionals had more moral awareness, particularly those who had attended ethics training programmes. Trevino and Nelson (2007) also found ethics training and education could enhance respondents' ability to recognise and act on ethical issues in the workplace.

Another significant area of research on individual EDM considers *psychological factors*. As the EDM models (Jones, 1991; Trevino, 1986) suggest, EDM can be influenced by an individual's cognitive moral development and their locus of control. High credence in the literature and empirical testing is given to Kohlberg's (1969, 1976) concept of cognitive moral development (CMD), which built upon Piaget's (1932) work into the psychology of ethical reasoning. Kohlberg theorised a staged sequential development of moral reasoning in individuals whereby they learn and move to higher stages of ethical reasoning as they mature, learning to abide by rules, fulfil expectations, duties and obligations and ethical principles. Trevino's (1986) model of EDM was the first to adapt CMD specifically for business practitioners.

Researchers attempted to measure ethics using special survey tests, such as Rest's (1986) Defining Issues Test. This widely used test involves a series of ethical dilemma scenarios, which are rated by respondents using Likert-type scales. Business managers were found to be conventional (Stage 2) in their cognitive moral development (Weber, 1990), in that their

ethical perceptions tend to be based on what others expect from them. Trevino and Nelson (2007) also found that practitioners were likely to look to others, managers and peers for behavioural cues rather than utilising any 'internal moral compass' (2007: 129).

Overall, CMD has been shown to influence EDM (Goolsby and Hunt, 1992; Trevino and Youngblood, 1990), and has been most widely used in empirical studies. However, it has also been criticised because its roots are in child psychology and it may therefore not be easily transferable to adult cognition. In addition, some studies have only found weak correlations with EDM and subsequent behaviour (Bartlett, 2003; Marnberg, 2001; Blasi, 1980).

Rest's four stage EDM model (1986) and Jones's (1991) synthesised EDM model, as well as Kohlberg's (1969) CMD theory, all assume that individuals pass sequentially through different stages of a process. While CMD measures and categorises individuals along a moral continuum, this says little about what decisions they will actually make. Managers' moral judgements are not necessarily fixed and tend to change in different situations and time frames, such as when they are at work and at home (Fraedrich and Ferrell, 1992; Weber, 1990). These issues are considered in detail later in this chapter.

The other significant psychological factor in the literature affecting individual EDM is the locus of control; that is, the extent to which the individual believes they have control over events in their life. An individual may have high internal or self-driven beliefs, or may feel they have an external locus where control is down to others, perhaps even driven by fate. However, when tested, Trevino and Youngblood (1990) found locus of control to have a limited impact on EDM, while Singhapakdi and Vitell (1990) found no significance.

Crane and Matten (2007) suggest three further influencers of EDM, namely: personal values, personal integrity and moral imagination. Personal values are expressed as the moral principles or standards that guide an individual. These are enduring, personally or socially preferable beliefs that influence the conduct of that individual, such as being truthful, having respect, or being responsible (Rokeach, 1973). Values have been positively related to EDM; however, they can be difficult to measure accurately or use to predict behaviours. Similar to the organisational values that are enshrined in mission statements or the tenets of the advertising code (truth, honesty, decency), such values are complex issues to measure in practice. Ethical decisions can be problematic when individual and organisational values conflict. Personal integrity relates to the consistency of an individual's beliefs, actions or their 'adherence to moral principles or values' (Crane and Matten, 2007: 145).

The business practitioners with high personal integrity are those who 'walk the talk', in that their words and actions align (Brown, 2005). Similarly, studies (Trevino and Nelson, 2007) of whistle-blowing activity in organisations evidence individuals with high personal integrity, who feel that when organisational actions or demands are unethical and, despite personal risk, are compelled to act responsibly and expose malpractice. The literature shows that organisational cultures sometimes use rewards and incentives for staff to keep things quiet (Trevino and Nelson, 2010; Jackall, 1988) as in the Enron or WorldCom scandals. Little research has been conducted into the role these characteristics play in EDM.

The concept of moral imagination (Werhane, 1998: 76) is one where the individual takes time to reflect and imagine the moral consequences of their decisions and creates moral solutions. Here the practitioner does not just follow orders but considers the wider stakeholder perspectives. These characteristics have not been tested statistically, but

qualitative work in the advertising domain by Murphy and Drumwright (2004) provided evidence that moral imagination has a role to play in agencies' likelihood to generate ethical advertising campaigns.

In summary, studies of individual EDM show mixed results. Extant studies often conceptualise ethics as a cognitive and rational process that individuals must navigate. This is manifested in researchers preferring positivist, quantitative approaches to data gathering. Such approaches may underplay potent emotional, situational and issue-contingent influences on individual decision making. More recently EDM researchers like McMahon and Harvey (2007) are calling for more interpretive methods to address these issues in more depth. The literature covering situational influences on EDM is further explored in the following sections.

3.4.2 Situational Influences on Practitioner Ethical Decision-making

Business decisions are complicated by a range of actors' demands and by the power relationships between them. Unpicking the ethical dimensions of these decisions is a considerable challenge for researchers. Pruden (1971) posits three ethical frames of reference for marketers, namely: individual/self, organisational/employer and professional/industry. EDM is shaped by individual actors in a shared social context, where group norms, role expectations, the organisational culture and climate, codes of practice, bureaucracy and authority, and the rewards and punishment systems are at work (Trevino and Nelson, 2010; Stevens, 2007; Jackall, 1988).

Tsalikis and Fritzsche (1989) believe that power, rewards and punishments shape individual as well as collective organisational decision making. The individual practitioner may use their internal morals to guide their decisions, but they also internalise situational or organisational circumstances when they make moral choices. The organisational

structures of *authority, bureaucracy and cultural norms* can dictate how individual practitioners weigh up ethical choices in business situations. Crane and Matten (2007) see the organisational situation as key to improving individual EDM behaviour through implementing a more active management of business ethics. Some organisations tend to be perceived as more ethical in their business objectives than others; for example, hospitals and fair trade organisations compared to the mafia or tobacco corporations. Yet moral dilemmas reside in all types of organisations and in the way they balance issues of profitability, legality and morality.

The literature includes classification schemes of the ethicality of organisations, in a similar vein to Kohlberg's cognitive moral development theory for an individual. Reidenbach and Robin's *Corporate Moral Development Model* (1988, 1990, 1991) portrays organisations going through evolutionary stages determined by the extent to which they balance concerns for profit over ethics. At stage one; 'amoral' organisations are typified by short-term profiteering, as economic goals override legal or moral concerns. In these organisations damage control is post-hoc, and their employees are rewarded for obedience. Here, bad behaviour is justified by platitudes such as 'everybody does it', 'we won't get caught' or 'greed is good'. At the second level of corporate moral development are 'legalistic' organisations that operate within the letter rather than spirit of the law; if 'it's legal, it must be okay'. Here post-hoc rationalisation of bad behaviour is common and if codes of conduct exist, they focus more on protecting the organisation itself. The next development stage is the 'responsive' organisation, that operates legally, balancing profits and ethics by doing what is right. Although still reactive, they declare ethical values and consider their duties to external stakeholders.

The fourth stage is the 'emergent ethical' organisation with a proactive ethical culture, doing the right thing, whose values are enshrined in codes or mission statements and

recognise the ethical consequences of their actions and social contracts. Reidenbach and Robins's fifth and final stage is the 'ethical' organisation, whose ethics and values are enshrined in everything they do. They have a proven ethical performance and their moral reputation is recognised both internally and externally. As well as profitability, ethical concepts of justice and fairness are bound into their culture, with ethical behaviour being actively encouraged and rewarded.

In 1991, Reidenbach and Robin found evidence only of companies operating at stages one to four. The attainment of stage five, 'ethical' status, requiring the management of the organisation's economic, legal, ethical and philanthropic commitments, remains a difficult challenge. Organisations exhibiting such a moral or ethical corporate culture tend to be led by ethical management, whose ethical values and beliefs are shared by all organisational members (Webley and Werner, 2008; Sathe, 1985, Deal and Kennedy, 1982).

There are parallels in this literature to the corporate social responsibility field, particularly Carroll (1991) who describes a pyramidal hierarchy of corporate responsibilities. At the foundation is the 'economic' responsibility, which is essential to survival and profitability. Organisations must meet their higher 'legal' responsibilities, which involves achieving prevailing societal and political standards. The organisation's 'ethical' responsibilities are that its actions are moral and avoid harm to others.

'Philanthropic' responsibilities concern the higher calling for the organisation to contribute actively back to its community of stakeholders. Carroll's model suggests that organisations can evolve from purely achieving economic or legal obligations to meeting higher levels of ethical responsibility. Some organisations, such as fair-trade or charitable organisations, are founded on ethical and philanthropic foundations. Even so, at the practical level even

the most ethical firms have the potential to make ethically questionable decisions. For example despite their ethical ethos, charitable organisations such as Barnardos or the National Society for Prevention of Cruelty to Children (NSPCC) have run ethically questionable advertising campaigns using shock tactics. Paradoxically, some of these tactics have actually upset children.

While these models of organisational ethics can be useful aspirational guides, they have been criticised by some for frequently having only a slim empirical basis and being of limited use as an analytical framework (Schaefer and Harvey, 1998). For example, it is possible that organisations or their subsidiaries simultaneously inhabit or exhibit characteristics in between these stages of corporate moral development. Attempts to classify organisations along an ethical continuum may well under-represent the complexity of ethical decision making in practice and the difficulty in extracting or differentiating the ethics of the organisation from those of individual managers or staff. This research therefore aims to study in detail the real life ethical dilemmas and decisions faced by actors, as well as the organisational and inter-organisational dynamics in which they occur. The research investigates how individual practitioners balance agency and client commercial goals and fiduciary demands; how they achieve expected standards of productivity and creativity, while simultaneously having to maintain social responsibility demanded by regulators and the industry codes of practice.

3.4.3 Measuring Organisational Influences on Practitioner EDM

This section reviews the literature relating to the organisational context factors impacting on EDM. The sociocultural and organisational context in which business takes place can frame the ethical nature of business practices (Trevino and Nelson, 2007). This is described as the 'ethical infrastructure' by Tenbrunsel et al. (2003), incorporating the

organisational culture or climate, its formal processes and ethical codes, informal culture and communications systems (Weaver and Trevino, 1999). EDM decisions can be seen to take place within formal and informal contexts, and an organisation's norms and culture are a powerful influence on EDM (Harrick et al., 1998; Rockwell and Baldwin, 2007). Contextual influences on EDM can be divided into formal and informal systems.

The formal forces include bureaucracy and authority, predefined work roles, rules, regulation and codes of practice. These are control and compliance mechanisms often based on formalised, written standards. Weber (1981) coined the term 'institutionalised ethics' to describe how corporations formally integrate EDM into daily practice through codes of ethics, ethics committees and management development. However, codes of ethics have been criticised for their limited impact on conduct due to their aspirational nature and limited ability to specifically guide practitioners' day-to-day work (Trevino, 2004; Posner and Schmidt, 1987).

3.4.3.1 Formal Systems' Influences on Practitioner EDM

Taking firstly the formal systems into account, the literature shows how organisations evolve bureaucratic systems of authority based on reward and controls. Formal systems can have a negative impact on EDM and moral reasoning (Bauman, 1993; Jackall, 1988) in the sense that an individual may surrender their own moral instincts to blindly follow orders, or work to rules and procedures without engaging their own moral awareness. This unquestioning following of orders is akin to the 'moral myopia' described by Drumwright and Murphy (2004), involving a failure of an individual to see their own involvement in unethical organisational practice, hiding behind rules or blaming others. The bureaucracy often strives to meet economic or profit goals and can override EDM, thus the right strategy may be good for corporate shareholders at the expense of societal stakeholders.

Formal structures and systems can distance practitioners from the impacts of their actions (Crane and Matten, 2007; Jones, 1991). Managers who only deal in targets, paperwork and costs see staff or suppliers as resources and may not see their role in upstream malpractices, such as the exploitation of workers, or environmental damage caused overseas. They are also at risk of just looking downstream, seeing their consumers as sales targets, rather than as sentient moral beings. This can impact negatively on EDM and diminish staff empathy, leading to harmful attitudes, and unethical practices and consequences, such as those of tobacco marketers (Hastings and MacFadeyan, 2000). The extent to which advertising practitioners and marketers consider the influence of these formal systems and evidence moral awareness in practice are important issues in this research.

Job roles are created to embed work practices and describe what is expected of individual staff members within functional and hierarchical organisation structures. These roles specify how each person is expected to act and behave, and to what or whom they are answerable. The acculturation of individual practitioners in organisations is largely achieved through role expectation, training and indoctrination of values and beliefs in the work context. Many professional roles, such as doctors, teachers and lawyers, have predetermined social identities and embedded role expectations, even ethical codes of practice attached to them. These role expectations prescribe how players are supposed to act, which can have implications for EDM. The power of job roles is evident in the Stanford Prison Experiment (Zimbardo, 1971), where participants were randomly assigned roles as prisoners or guards. The experiment radically changed their normal behaviour, resulting in cruelty, which led to the research being prematurely stopped.

Roles appear to vary according to an individual's personal traits, with people taking on different roles in different social and work contexts. Barrett (1984) describes 'multiple selves' and Trevino and Nelson (2004) refer to the 'multi-contextual self' to illustrate how individuals adopt different roles that shape how they might 'accept different [ethical] rules for different contexts' (Trevino and Nelson, 2010: 418). Job roles have a strong contextual influence on both EDM and behaviour.

Whistle-blowing cases provide evidence of how organisational roles can require staff to act dishonourably and unethically, and sometimes against their own personal judgment. 'Many of us will adopt different roles in different contexts, reinforcing this idea of people having multiple ethical selves' (Crane and Matten, 2007 p.159).

In an advertising context, there are many different job roles with formalised and often conflicting functional and hierarchical power issues. The marketing client has economic power over the advertising agency, clearance and media players dictate what types of advertising will be carried, while advertising regulators exercise moral authority to protect consumers over and above their industry interest (Boddewyn, 1992). Codes of ethics such as the British advertising code represent the formal system and process by which industry standards are defined and adjudicated. The codes express the desired value systems in the workplace and reflect the extant and expected culture in which advertising is practised. Hosmer's (1986) analysis of business codes of ethics found norms to be expressed too generally and often framed negatively, rather than clarifying or guiding the practitioner in what they should actually do (Webley and Werner, 2008).

Empirical research into the use of formal codes shows that they can have an impact on behaviour (Greenberg, 2002; Trevino and Butterfield, 1996). The presence of formal

ethical codes was found to have the strongest impact on the moral judgements and intention stages of EDM (Peterson, 2002; Weaver and Trevino, 1999).These issues are worthy of consideration in this research in terms of the factors impacting on practitioners working with controversial advertising campaigns and the role of the advertising codes in guiding practitioners in practice.

3.4.3.2 Informal Systems influence on Practitioner EDM

This section looks at the influence of informal systems on organisational EDM. Informal forces, such as *norms, climate and culture,* may be a stronger influence than the formal systems and codes described above (Babin et al., 2000; Flannery and May, 2000; Fritzsche, 2000). Organisational culture is a powerful determinant of EDM, being reflected in the values and beliefs shared by members of an organisation. Culture is thus a collective description of the group norms, common beliefs and behaviours of practitioners. These may be informal, casual or even off the record ways of working. Studies indicate that organisational culture has strong links to EDM (O'Fallon and Butterfield, 2000; Starkey, 1998; Sinclair, 1993). These informally shared value systems were found to exert a strong influence on ethical outcomes, as they may be more easily understood and internalised by staff than in written rules (Weaver and Trevino, 1999).

Many studies suggest that an organisation's climate and informal systems may also be more influential on EDM than formal systems or codes (McKendall et al., 2002; Paolillo and Vitell, 2002; Douglas et al., 2001; Cleek and Leonard, 1998; Nwachuku and Vitell, 1997). Practitioners learn the ethical expectations of the organisation from seeing and hearing how their peers and managers actually think and behave. This is how the 'ethical culture' (Trevino and Nelson, 2007; Ferrell et al., 2011) is manifested as a socially constructed perception of what is ethical or unethical practice. Pressure to do wrong and/or

systems that incentivise practitioners to be unethical (Tenbrunsel et al., 1998; Hegarty and Sims, 1978) have been shown to account for unethical practices. For example, high pressure selling can become a normalised part of the daily routine in some organisations, such as when commission-only sales people aggressively sell time-share holidays to the elderly or sub-prime mortgages to those who are poorly educated or on low incomes (Ferrell et al.; 2011).

There is a need therefore to understand what steps might be taken to promote both EDM and an ethical culture within an organisation. Trevino and Youngblood (1990) argue that management should adopt ethical leadership and foster a declared commitment to responsible behaviour. This, they suggest, ought to be formally implemented through clear and consistent policies, reinforced by relevant training, as well as through use of informal means by management who are seen to walk the talk. The underlying assumption is that exemplar leadership can build the organisation's ethical culture. The response of authority figures, and the ethical standards that they set, should also determine responsibility for the consequences' of actions taken by management and staff (Schwartz, 2004).

An ethical climate according to Victor and Cullen (1988: 102) reflects the 'prevailing perceptions of typical organisational practices and procedures that have ethical content'. Moral awareness was found to be positively correlated with the presence of both formal and informal systems and benevolent, principled, ethical organisational climates (Victor and Cullen, 1988). Tenbrunsel and Smith-Crowe (2008) suggest that situational factors have a greater impact on moral sensitivity than individual factors, with both moral intensity (Jones, 1991) and ethical infrastructure (Trevino and Nelson, 2010) being the strongest predictors of EDM.

Overall, the evidence suggests that having an ethical culture positively influences ethical behaviour (Schepers, 2003). Such a culture also impacts job satisfaction and organisational commitment (Decorninck, 2009). Empirical research into how the formal and informal systems interact is limited, particularly in the context of the advertising industry. In exploring the nature of the EDM associated with controversial advertising, this researcher seeks to address this gap. In the following section a closer look is taken at how 'issue' related factors affect practitioner EDM.

3.4.4 Measuring the influence of issue-related factors on practitioner EDM

In this section, the influence of the ethical issue on EDM is considered. Weber (1996) advocates using the 'ethical issue' as a unit of analysis in EDM research. Institutionalised ethics may be better understood not just through individual characteristics or organisational characteristics, but by looking at the nature of the situation itself. Jones (1991) theorised that any ethical dilemma in business will vary in its perceived moral intensity. This 'moral intensity' reflects how important the issue is to the decision maker or their organisation. Recalling Rest's (1984) EDM model, the issue or ethical dilemma is often the trigger of moral awareness and how it will be subsequently handled.

Individual and situational factors are unlikely to influence decision making for issues considered by the individual to be minor. Thus focusing on the moral intensity of the issues in question might help to explain the EDM used and suggest possible outcomes. The more serious the consequences, the higher might be the moral intensity. Thus, a practitioner might weigh up the moral intensity of a business decision based upon what would happen as a result of making the wrong choice. This might involve considering how many people might be affected; whether that effect would be short or long term; if their family, peers or

society would be negative about the decision; or how close or far away they are to any potential victims.

According to Jones (1991), such situational factors increase the moral intensity of an ethical or moral dilemma (see Figure 3.3). Thus, considering the magnitude of consequences (MC) component, inflicting harm upon 10,000 victims would be seen as more intense than causing harm to ten. Similarly, the higher the moral intensity, the more likely it is to be recognised as a moral issue.

Jones's 'moral intensity' construct has been subjected to statistical testing; for example Singhapakdi et al.'s (1996) study of market research practitioners found all six components to be correlated with the recognition of ethical problems. Other studies, however, have different findings. Dukerich et al. (2000) found only four of the constructs to be significantly related to the recognition of ethical problems (MC, SC, PX, and CE); Marshall and Dew (1997) found that two were supported (SC and MC); Butterfield et al. (2000) found only two (MC and PE) to be significant; Davis et al. (1998) could support just one factor (SC); whereas May and Pauli (2002) suggest MC significant but not SC. The foregoing studies evidence strong support for some elements of Jones's moral intensity theory. Overall, the evidence suggests that the magnitude of consequences (MC) and social consensus (SC) have the strongest impact on EDM (O'Fallon and Butterfield, 2005).

A key issue around EDM theory is whether the individual practitioner or the institution is sensitive to ethical or moral concerns in the first place. Jones (1991) stated that 'for the moral decision making process to begin an individual must first recognise the moral issues' (1991: 380). To what extent do practitioners follow the steps that the Rest model suggests?

Who, how and what triggers their EDM? What is more likely to lead to ethical or unethical outcomes? Does such sensitivity promote or guarantee an ethical outcome? Studies by Singhapakdi et al. (1996, 1999, 2000) found that moral awareness is correlated with moral judgements and ethical intentions but not with unethical intentions. This means that decision makers can be aware of the moral implications of a given situation, but may not act consistently in relation to their concerns. The moral intensity concept is a useful means of analysing decision making where the moral implications and consequences are high or where the social consensus suggests that an issue is unethical.

Crane and Matten (2007: 153) argue that moral intensity is subjective, so it is important to consider how a given issue and its intensity are 'understood and made meaningful within the organisation'. This relates to the concept of 'moral framing' (Butterfield et al., 2000), which explains how people in different organisational contexts have differing perceptions of the intensity of a moral issue. In the controversial advertising context, such differences might be observed in the way the client views moral intensity compared with their agencies and the regulators. Moral framing in EDM is most likely to be inferred from how people rationalise or explain their understanding of the issue and the language they use to do so. Trevino and Nelson (2007: 123) suggest that practitioners' 'moral language' can reflect and even trigger moral thinking. Therefore, closely monitoring the nature of the words they actually use, whether positive – such as 'integrity, honesty, fairness'; or negative – such as 'lying, cheating, stealing', may suggest the moral meanings held by practitioners.

However, business people often prefer not to vocalise the moral issues around their job, choosing instead to reframe their actions and motives. Hence, 'moral muteness' (Bird and Waters, 1989) is seen where managers prefer to talk about economic and commercial rationales rather than the moral framing of their behaviour. Birds and Waters (1989)

suggest that managers are reluctant to raise moral concerns in order to avoid confrontation or recrimination, save time or avoid being seen as too idealistic. This is similar to what Crane (2001) terms 'amoralization', whereby managers distance themselves and their work from ethical considerations, and instead focus on corporate and rational justifications. Moral framing can be used to explore controversial advertising campaigns and to determine the extent to which ethics are seen by practitioners as being business or moral issues. Research examining moral framing could help to unpick how practitioners justify their actions to themselves and to others. In the following sections a more critical look is taken at the findings in the EDM field and new potential avenues of research identified. The EDM models and measures described in section 3.5 and 3.6 can be criticised for their failure to predict and explain practitioner decisions. It is this knowledge gap which is addressed in this thesis.

3.5 Critiques of EDM Models, Measures and Methods

Existing EDM models have their limitations. In particular, these approaches to EDM all seem to conceptualise EDM as a rational 'stepwise' process to describe the stages which individuals may go through when deciding ethical issues. In practice, it may be difficult to find evidence for such a rational, staged decision-making process. It is conceivable that some decisions with ethical consequences are made when stages in the process are bypassed altogether. The way in which the reviewed models simplify the complex and multifaceted nature of EDM must therefore be recognised. Furthermore, Crane and Matten (2007) allude to a potential cultural bias in these American models: a greater focus on individual behaviour and choice within constraints. Different cultures, such as European or Asian, may be more influenced by collectivism and institutional determinants on EDM. Research in the alcohol marketing and advertising context suggests that many practitioners often fail to recognise ethical dimensions in their practice (Farrell and Gordon, 2012;

Hastings et al., 2010), basing their decisions solely on commercial framing. This raises questions as to whether many practitioners even reach stage one of the EDM process models, i.e. moral awareness. It might also be important in the context of controversial advertising campaigns to examine how the advertising codes, process of compliance influence players' perception of ethical issues.

Past studies have predominantly taken a positivist perspective based on the assumption that reason and rationality drive EDM (Tenbrunsel and Smith-Crowe, 2008; O'Fallon and Butterfield, 2005; Ferrell et al., 2011). The EDM models have been less concerned with what lies in the spaces between each of the process stages. For example, when do moral awareness and moral judgement begin or end? What accounts for the movement between stages? They also seem to have been less concerned with interplay between the multiple players, principles and processes that often are involved in EDM in practice. The extant literature tends to focus on the individual, with less emphasis on inter-personal or inter-organisational dynamics.

EDM modelling also tends to rely mostly on one or two moral philosophies, such as deontology and utilitarianism, to explain EDM (Reidenbach and Robin, 1987; Hunt and Vitell, 1986; Ferrell and Gresham, 1985). However, many other ethical or moral philosophies such as 'care' (Gilligan, 1986) or 'virtue' ethics (Rawls, 1971) might also be relevant in explaining EDM. Individual EDM is perhaps most likely to be a hybrid of many factors and principles that fluctuates according to the moral intensity of the decision and the organisational or social context (McMahon and Harvey, 2007; Trevino and Nelson, 2007; Crane and Matten, 2007; Jones, 1991).

O'Fallon and Butterfield's (2005) extensive review of 174 empirical EDM studies between 1996 and 2003 highlighted some weaknesses in terms of poor study design or

inappropriate sampling. The authors argued that the inherent complexity of operationalising moral reasoning can result in unwieldy measurement instruments which business practitioners find hard to complete. Constructs such as moral awareness or ethical sensitivity are assumed to be critical to the EDM process, yet they have often not been found to be good predictors of ethical or unethical outcomes, particularly where researchers relied on artificial scenarios to gauge moral or amoral decision making (McMahon and Harvey, 2007; Tenbrunsel and Smith-Crowe, 2008). In addition, social desirability bias (Easterby Smith et al., 1991) can lead participants to give answers that will be viewed favourably by others, which may lead to the over-reporting of good rather than bad behaviour.

The problem is, this (EDM) research does not really tell us much about the actual process of moral decision making, rather the bulk of these studies have focused on associations between variables and not on the fundamental mechanisms linking them together.

Tenbrunsel and Smith-Crowe (2008: 571)

Contemporary ethics researchers (Carter et al., 2007) highlight the need for EDM research to engage more with practitioners, specifically around unethical and ethical issues of practice. The need for more qualitative research to move the field forward has been specifically highlighted (McMahon and Harvey, 2007; Drumwright and Murphy, 2004). Overall, less than 5% of EDM studies have used personal interviews as the primary method of investigation (Tenbrunsel and Smith-Crowe, 2008). In addition, McMahon and Harvey (2007) are critical of the wide reliance on student-based and convenience samples in business ethics research and suggest that:' a more meaningful study of the EDM process than surveys and unengaged undergraduates might be to conduct in-depth interviews with individuals engaged in the EDM process, some who have behaved ethically and some who have behaved unethically'.(McMahon and Harvey , 2007:355)

Jackall (1983), in his seminal book, *Moral Mazes*, describes managers' propensity to blame others, often through subordinates who are set up as 'fall guys' for bad decisions. Such unethical behaviour evidences a tendency for post-hoc, pseudo-rational justification, whereas in reality, biases and emotion are the real influence on decision making. Jackall's (1983) research highlights the importance of capriciousness, intuition and emotions, and even biases as potential explanations of EDM outcomes.

Messick and Bazerman (1996) believe that cognitive biases can impede a rational approach to EDM and that unethical decisions often result from psychological tendencies that weaken how individuals process information and make decisions. Unconscious influences can create unsound or masked moral reasoning and unintentional consequences. Such biases can come from preconceptions about the 'world' (such as, how things work), about 'other people' (how we are different from them) and 'ourselves' (unrealistic beliefs about ourselves). Therefore, a decision maker's world view might bias perceptions of the negative consequences of their behaviour through denial, myopia, the misjudgement of risks, inaccurate reading of facts, and judgements or lack of proximity. Messick and Bazerman (1996: 10) state that 'When there is a tendency to restrict the analysis of a policy's consequences to one or two groups of visible stakeholders, the decisions may be blindsided by unanticipated consequences to an altogether different group'. This suggests that it would be useful to adopt a wider stakeholder view in the analysis of EDM.

It is therefore important to consider both practitioners' world view and biases. As Jones (1991) suggests, researchers should consider practitioners' perspective on the ethical issue, and whether it is a low probability event for them, or whether they are perhaps discounting the future or undervaluing potentially risky public outcomes for themselves or others.

Bandura (1990: 27) describes the concept of 'dehumanization', where people morally disengage from the ethical aspects of decisions, reframing their actions, their role within them and their effects on others. Such cognitive biases highlight the potential impact of moral myopia or muteness on both the moral awareness and intention phases of EDM (Detert et al., 2008). Bias can arguably interrupt the self-regulation that promotes ethical behaviour (Moore, 2007). On the whole, existent EDM models have not really taken account of how intuition relates to emotion when making moral judgements. Damasio (1994) therefore questions an arbitrary distinction between the cognitive and the emotional elements in EDM, suggesting that dual processing may occur where feelings and emotions serve as evident and tangible internal guides to decision making.

Modern brain-scanning research provides evidence that when making moral judgements, emotions can function in tandem with reason (Salmela and Mayer; 2009). Emotions such as 'empathy' or 'shame' serve to draw attention to moral issues and highlight the moral imperative or issue intensity in situations (Jones, 1991). There can often be an instantaneous, innate emotional response distinguishing the moral intensity of an issue. This is evident in people's emotional reaction to the controversial use of violence or sex in advertising; many complainants intuitively feel advertisements are offensive and unethical (Reichert, 2008). In the following section the manner in which practitioners make decisions in practice is considered along with new theories underpinning ethics as practice.

3.6 New Directions in EDM Research

A number of gaps and shortcomings can be identified in the EDM literature review. Extant empirical research of business and advertising ethics is predominantly quantitative and there has been a failure to consider in depth what practitioners actually do when facing ethical dilemmas. Consequently, there have been calls for more research that examines

ethics as practice (Tenbrunsel and Smith-Crowe; 2008), particularly focusing on EDM from the practitioner viewpoint (McMahon and Harvey, 2007); and the need for interpretive studies of advertising ethics has also been recognized (Drumwright and Murphy; 2004, 2009). There is a dearth of UK-based research, particularly involving marketing, advertising and regulatory practitioners, with most existing EDM studies considering the US setting. To address this gap, new directions for EDM research are now reviewed.

Messick (1990) describes how when decisions are made they often take place within specific situational contexts that determine a dominant type of frame or processing mode. These 'decision frames' (Tenbrunsel and Messick, 1999) are a descriptive way to represent the dominating characteristics of a situation as perceived by the decision maker. In other words, the frame is the type of decision that individuals believe that they are making. Therefore, a decision may be deemed to be within a business, legal or ethical decision frame. Tenbrunsel and Messick (1999) espouse that decision frames strongly influence the ethicality of resultant behaviour.

The type of decision frame in which individuals perceive themselves to be operating is critical to interpreting and understanding their EDM (Sonenshein, 2007). The frame in use can affect the ethical outcomes; if it is an ethically framed decision, ethics become integral to the decision process in use. Conversely, if framed as a business or legal decision, then issues of profitability or compliance may be more central to the decision-making process (Tenbrunsel and Messick, 2004).

In examining ethical business dilemmas, such as creating a controversial advertising campaign or dealing with advertising complaint adjudications, exploring the frames used

might help to make sense of whether and how ethics were invoked in practitioners' decision making. While legal or regulatory sanctions may be in place to guide moral decision making, they may not guarantee that decision are made ethically. As Tenbrunsel and Smith-Crowe (2008) argue, failure to use an ethical frame does not mean that ethics are unimportant or irrelevant; rather that a consideration of ethics does not dominate perception. Echoing the earlier work of Schwartz (2004), they suggest that:

> *In order for a relationship to exist between what people think is right and what they do, they must feel responsible for the consequences of their actions; therefore, the sense of personal responsibility is a prerequisite for moral action.*

> Tenbrunsel and Smith-Crowe (2008: 181)

This suggests that a research approach taking a holistic view of individual and organisational EDM will be useful. Such an approach would involve examining how practitioners consider their organisational stakeholders and the degree to which moral awareness supports ethical actions and outcomes. As the methodology chapter will explain, the decision frames used by practitioners may be most effectively ascertained through qualitative analysis and in-depth interviews with the different stakeholders. Such a strategy could explore what practitioners think is the right thing to do and who should bear the consequences for their decision making. This would enable a grounded and deeper level understanding of EDM in action than could be achieved through quantitative surveys and the sorts of measures that have so far dominated. It is also clear that the nature of organisational culture and practitioner relationships merit investigation as part of such research.

Ethical culture can be described as 'strong' when it is a normative, collective understanding of what is acceptable behaviour in a given context or organisation. Here

group members share clear values and goals of the organisation (Higgins and Gordon, 1985). However, in 'weaker' ethical cultures, beliefs and values may be less clear and subgroups and reference groups more powerful (Schein, 1984). Questions remain as to what causes the gap between the two; who or what might be responsible for a stronger ethical climate: senior managers, powerful clients, codes of practice, corporate leadership or ethos. Clearly, both formal and informal systems, training, and peer communication work together to build the ethos at work (Trevino and Youngblood, 1990). Practitioners learn consistent behaviours based on what they believe organisational culture expects of them. Infrastructural or institutionalised professional ethics are also embedded in the working definitions of what are considered 'ethical' or 'unethical' issues in everyday practice, and serve to create the ethical culture and ethos.

Organisational culture legitimatises or authorises what is questioned and unquestioned (Trevino et al., 1999). Strong hierarchical structures that enable managers to avoid blame or use lower ranks as scapegoats (Jackall, 1988) can yield unethical cultures and practices. Fragmentation of EDM can occur when job roles are subdivided, resulting in players not seeing the full picture, creating a 'dispersal of blame' (Kellman and Hamilton, 1990: 387). This underlines the complex nature of multi-party negotiations such as those which typically accompany major advertising campaigns, and that may account for the ethical implications of the decisions made. As Chapter 2 showed, organisations may develop ethical codes to address weaknesses in organisational ethics. However, formalised codes may be too abstract for practitioners, creating cynicism if they are viewed as nebulous (Seglin, 2000). While ethical codes were found in 78% of Fortune 500 companies in 1999 (Weaver et al., 1999), their présence did not guarantee that practitioners believed in or would act on them. A more current review by Kaptein and Schwartz (2007) found that only 35% of studies suggest that business codes are effective in deterring unethical behaviour

In practice, codes are weak devices, being too generalised as 'statements of obligation' (Hosmer, 1987), and lacking in specific content to guide behaviour (Hoffman, 2001). Critics such as Schlegelmilch and Houston (1989) and Cleek and Leonard (1998) suggest that formal written codes may be the industry's attempt to be seen as being ethically committed, rather than guaranteeing that ethical behaviour will take place. Few studies have investigated why codes of ethics fail to correct behaviour (Cassell et al., 1997), even though there is evidence to suggest that this is the case. It is therefore appropriate in analysing controversial advertising to go beyond formal regulatory processes to consider the informal systems, attitudes and behaviours that practitioners display.

Newton (1992), Trevino et al. (1999) and Webley (2001) suggest that in order for formal codes to be effective, practitioners must 'buy in' to them when they are developed and witness the sanctions in play when they are breached. Although practitioners who breach the advertising standards code may have their advertisement amended or banned outright, the question remains as to why so many of them continue to cross the line. There is a suggestion that paradoxically codes may disengage practitioners' moral instincts of emotion or empathy in favour of bureaucratic conformity and consistency (Crane and Matten, 2007; Schwartz, 2000). This reinforces the need to consider the organisational and ethical climate surrounding UK advertising.

To make sense of EDM in practice, it is therefore important to consider both the formal systems (leadership, structure, selection, training, codes, rules, rewards, adjudication process) and the informal systems (norms, values, heroes, rituals, stories, language) that are in place (Trevino and Youngblood, 1990; Ferrell et al., 1989). The next section

evaluates the few EDM research studies involving practitioners within the advertising industry.

Ethics in advertising tends to be cloaked within a legal, professional corporate discourse, According to Wells et al (1989: 39) 'advertising related ethical issues are left to the discretion of the advertiser'. The onus for EDM is on the individual's 'own value system' with somewhat bland normative missives that practitioners 'should establish their own ethical parameters and personal standards'. Jugenheimer and White (1980) suggest leaving ethics to the individual practitioner as 'ethical constraints are more difficult to analyse than economic, social and regulatory constraints, because in the ethics domain, they are a personal matter for each person to decide' (1980: 74).

Murphy (1989) showed that advertisers are well aware of the socially and ethically controversial aspects of their trade, and later Drumwright and Murphy (2004) found that advertising practitioners often tended to ignore the social consequences of their decisions or the ethical dilemmas they generated. Rather than openly discussing ethics, practitioners blamed others or used denial as defence mechanisms; and subsequent research by Drumwright and Murphy in 2009 shows little change – 'the temptation, risk and rewards of unethical behaviour in the business of advertising are greater than ever (Drumwright and Murphy, 2009: 830).

Responsibility for unethical advertising practices is considered to be shared equally by the advertising agencies and the media organisations (Murphy, 1998). Defining the lines of responsibility and who takes the blame for complaints and negative consequences of advertising is rarely addressed in the existing literature.

In a business context an ethical trade-off involving weighing up harm (such as upsetting a minority group) against potential benefits (such as building market share) is acknowledged (Schechter, 1998). However, as 'business interests and consumer interests are inextricably commingled' (Richards and Petty, 2007: 395) it is argued that the advertising industry needs to adapt its self-regulatory system to reflect the ever-changing environment: globalisation and new technologies (Drumwright and Murphy, 2009) or corporate social responsibility (Borrie, 2005). Public policy reflects different constituency interests over time. Richards and Petty argue (2007: 395) that if there is over-regulation, consumer protection can reduce competition and organisations' commercial rights to advertise legal products, while on the other hand, deregulation may further erode consumers' rights. At the macro level, optimal regulation is one that serves the best interests of society as a whole (Richards and Petty, 2007).

Organisational self-regulation also plays a key role in setting guides to ethical advertising practice and ensuring adherence to professional codes. However, Drumwright and Murphy (2009) found that advertising industry leaders were sceptical of the usefulness of advertising ethics and viability of any collaboration with academic researchers in this area. Despite reliance and ubiquity of codes of ethics to curb malpractice, the evidence suggests that corporate culture to implement them is the problem (Webley and Werner, 2008: 405). Webley and Warner (2008) argue that there is a gap between explicit corporate ethical values and the attitudes and behaviour of organisations. This is a problem that requires practical ethical programmes and processes to embed ethics culture at all levels of the organisation through sustained and strategic ethical leadership (2008: 423). This echoes Stevens's (2007), Trevino and Weaver's (2003), and Schwartz's (2004) views that corporate ethics codes are ineffective when used as control and legal compliance tools,

because they are outside the 'climate and culture boundaries where employees feel ownership' (Trevino and Weaver, 2003: 194).

The literature on controversial advertising and regulation and the EDM debate is somewhat polarised. At one extreme there is the individual practitioner's role and at the other the societal effects. Advertising ethics and EDM research has so far devoted less attention to the middle ground wherein organisational and situational relationships would be seen to bear the fundamental responsibility for the sponsorship, creation and regulation of advertising practice. This further suggests need for a holistic research approach looking at the collaborative and collective aspects of EDM in an advertising industry context.

Clegg et al. (2007) advocate that ethics researchers examine more closely the relations between practitioners, particularly rule followers and rule violators. This means that future researchers should emphasise the context and the embeddedness of ethics and 'to refrain from generalizing judgements; but focus on local meaning and sense making practices that constitute ethics' (Clegg et al., 2007: 119). This will require a more grounded immersion in the context and culture in which the EDM takes place. This is the direction taken in this thesis. Based on the literature review, there is a need for grounded empirical evidence on how practitioners perceive and resolve the ethical problems associated with advertising practice. A much richer understanding is needed of how practitioner EDM is influenced by individual and organizational interaction, ethics codes and the regulatory process. The following chapter provides a detailed account of the research methods employed to address these knowledge gaps.

3.7 Chapter Summary

This chapter has critically examined the literature in the field of EDM. Scholars have endeavoured to develop theoretical models that capture this process. These studies have applied classical ethical theories such as teleology and deontology to help explain practitioners' moral reasoning. There is to date a lack of in-depth context-rich studies of practitioners, which examines their ethical reasoning and actions. Refocusing on more experiential methods (Crane, 1999) may offer a more contextualised and in-depth view of how practitioners understand and account for their decision making and also may help unpack the espoused and enacted ethics, values or strategies seen in the workplace. Gaps in the literature to be addressed by this research represent a move away from viewing the individual as the fundamental determinant of EDM consequences, towards widening the scope of investigation to include the nature of the decision framing and the interplay between practitioners in the different roles and organisations involved in the advertising process. The following research aim emerges from the gaps identified in this literature review of EDM.

3) To make sense of players' interactions in the process of creating and implementing advertising in order to better understand how EDM takes place in practice.

This meso-level of analysis can reveal and make sense of the inter-organisational decision making, which takes place as a consequence of the 'process' of advertising creation and regulation. The next chapter describes the methodology and research strategy used to address these issues.

Chapter 4

Methodology

History will see advertising as one of
the real evil things of our time.
It is stimulating people constantly to
want things, want this, want that.

~Malcolm Muggeridge ~

Quoted in Eric Clark,
The Want Makers: Inside the World of Advertising

1988

Chapter 4

Methodology

4.1 Introduction

This research examines the phenomenon of controversial advertising and aims to make sense of practitioner ethical decision making (EDM) in the process of advertising creation, clearance and regulation. The literature review highlighted that the complex, multifaceted nature of EDM in practice is not always fully reflected in existent research. This research therefore adopts a holistic focus on the practitioner and organisational roles involved across the advertising process. This chapter sets out the research methodology, beginning with a discussion of the research paradigm and of the epistemological considerations. The multi-layered interpretive research strategy that is adopted is explained and the qualitative methodology is reviewed This is a departure from the majority of previous advertising ethics research which is generally characterised by positivist approaches and an emphasis on individual decision makers, as shown in the previous chapter.

Unlike much previous research on this topic, which has often not engaged with practitioners in an in-depth manner (McMahon and Harvey, 2007; Bowie, 2000), the present research is grounded in real, contemporary controversies in UK advertising. In order to unpack practitioner's EDM and the formal and informal processes inherent in advertising practice, a mix of archival data and elite practitioner interviews is used (Yin, 2003; Eisenhardt, 1989). Data sources are triangulated across multiple practitioner types, organisational sites and stages of advertising creation and the regulation process. The planning, sampling, data collection and data analysis processes are described in detail. The limitations of the methods are identified and the practicalities, validity, reliability and

ethical issues associated with the research are discussed. The next section considers the research paradigm that underpins the study.

4.2 Research Paradigms

Guba and Lincoln (1994) suggest that a researcher's world view guides the research process itself. The research paradigm reflects the view of the world that underlies the theories or methodology underpinning any given research study. 'Questions of method are secondary to questions of paradigm, which we define as the basic belief system or worldview that guides the investigator, not only in choices of method but in ontologically and epistemologically fundamental ways' (Guba and Lincoln, 1994: 105). Easterby Smith et al. (2002) propose an early examination of one's 'research paradigm' and its potential effect on the research. This entails consideration of ontology – one's view on the nature and form of reality; epistemology – the relationship between the researcher and reality and methodology – the means by which the researcher discovers reality.

Epistemology questions what is considered 'acceptable knowledge' in any given discipline (Bryman, 2001) and the way in which this underlying theory of knowledge guides the choice of both research method and subsequent analysis. Ontology refers to the logic of enquiry utilised by the researcher when looking at the nature of the world, how it operates, what the researcher can study and make knowledge claims about. The researcher must be aware of their own values and world view, in order to understand their potential influence on the chosen research approach. While there is arguably only one reality, there are many possible alternative perceptions of it. This researcher's position is a pragmatic world view, that the world is socially constructed, created by and perceived by individuals, bounded both by interactions with others and environmental constraints.

There are two dominant research paradigms in the literature that help us to understand 'how we know what we know', namely 'positivism and constructionism' (Crotty, 2006: 3). Positivists believe that there is a real world, existing outside of us, that can be explained through data collection (Guba and Lincoln, 1985) and from which we can generalise and explain human behaviour using theory (May, 2001). Positivism is associated with objectivism and methods borrowed from the natural sciences, particularly quantification and a value-free detachment from the 'subjects' being studied. The merits of this epistemological stance are the ability to conceptualise, explain and predict behaviour. Data are therefore used to test theory or hypotheses, through population sampling and statistical analysis. However, some interpretive scholars (Delanty, 2000) challenge any assumption of a solely rational, objective reality. For example, Hammersley and Atkinson (2003: 21) advocate that as researchers 'we are part of the social world we study, there is no escape from reliance on common sense knowledge', and that such knowledge is always value-laden.

Constructivist researchers dispute the idea of an absolute reality, believing that knowledge or meaningful reality is 'contingent upon human practices, being constructed in and out of interaction between human beings and their world, and developed and transmitted within an essentially social context' (Crotty 2006: 420). This research paradigm is manifested in a preference for methodologies that are interpretive and qualitative and which assess multiple contextual and situational realities (Denzin and Lincoln, 1994).

In researching business practitioners, a positivist might conduct an independent survey and then use multivariate statistics to identify the factors influencing behaviour and decision making. However, a constructivist might construct meaning by using ethnographic means, actively engaging with practitioners, using case studies (Stake, 2005) and in-depth

interviews to understand practitioners' perceptions, processes and principles based on the actual decisions and experiences through which they have worked. In this study, the researcher has adopted the constructivist paradigm. The research design outlined in the following sections shows the researcher becoming socially immersed with practitioners, and then collecting qualitative data in an interactive and flexible way. The researcher sought to develop meaningful knowledge with the participation of the advertising community, rather than through testing predetermined hypotheses. In the next section, the methodological alternatives are discussed.

4.3 Rationale for Methodological Choices

The research paradigm adopted also included the researcher's preferences in terms of quantitative or qualitative methods and the specific tools used to operationalise the methodology. Many authors (Potter et al., 2006; Silverman 2006, Merriam, 1991; Yin, 1984) provide comprehensive descriptions of the differences between quantitative and qualitative methods; these can be summarised as follows. Quantitative research can be described as being positivistic and scientific. It often involves hypothesis testing, deductive searches for objective facts and statistical proof. Quantitative researchers attempt to distance themselves from their research 'subjects', using experiments, validated instruments and measures. There is a methodological preference for randomised, representative samples to enable generalisations about the larger population. Typical quantitative methods include: surveys, experiments, census, simulation, psychometrics (Proctor, 2000).

The previous literature review chapters revealed the dominance of quantitative studies in the advertising ethics field, for example Hunt and Chonko (1987); Reidenbach et al. (1991); James et al. (1994); Moon and Franke (2000). These studies attempt to quantify

and assess statistically the nature of EDM among different practitioner groups. They apply ethical theories in relation to demographic variables such as age, gender, education, profession and geography.

Qualitative research, on the other hand, utilises naturalistic and less deductive approaches, focusing rather on how research 'participants' make sense of their world or the issue under study. The social reality perspective is subjective and inductive, rather than deductive and objective (Lincoln and Guba, 1975). It focuses on reality enacted in everyday routines, with the researcher describing nuances in narratives and behaviour, decoding deeper, richer meanings rather than focusing on the frequency of phenomena (Van Maanen, 1979). Researchers are interpreters of reality as a social construction, deriving meaning from socially constructed worlds. They gather and analyse participants' views based on their own interpretation and perspective. Miles and Huberman (1984) suggest that the data are viewed from the social context of their creation and are prioritised by the researcher's experience. Qualitative enquiry is often exploratory and can provide insights into phenomena that are difficult to measure and not easily deconstructed into variables or that do not lend themselves to artificial experimentation. The ultimate aim is to present a more inductive, holistic synthesis of the lived experience.

With just a few exceptions (Drumwright and Murphy, 2004; Krueger, 1998) there is a dearth of qualitative research examining advertising ethics. These few qualitative studies provide a richer picture of how ethics in advertising are practised. Krueger's (1998) research within two US advertising agencies found that moral guidelines and perceptions were mostly determined by forces external to the agency itself, with the final ethical judgement on advertising messages residing with the client. Drumwright and Murphy

(2004) studied 29 agencies, finding that US practitioners were reluctant to debate ethical issues and tended to blame other parties for the negative impacts of advertising.

Business ethics research in general has been criticised for its limited theory development, lack of hypotheses, and overemphasis on construct development (Randall and Gibson, 1990). Reductive statistical techniques may not be best suited to uncovering the complexities of EDM in day-to-day marketing or advertising practice. Extant quantitative ethics studies tend to rely on theory drawn from social psychology, such as Kohlberg's Cognitive Moral Development (1969, 1981), Azjen's Theory of Planned Behaviour (1985, 1989) or Hunt and Vitell's Theory of Marketing Ethics (1986), and tend to emphasis the importance of individual factors in EDM. There has also been a tendency to rely on Rest's (1990) stage model, whereby moral reasoning is viewed as a rational step-by-step process.

Recently some authors (Tenbrunsel and Smith-Crowe, 2008; Messick, 1999; March, 1995) have called for a greater focus on the decision maker, within the situations and issues they face. Few studies explore the roles that the organisational context and the intensity of the moral issue itself play in the EDM process. In reality, individual practitioners do not make decisions in a vacuum and must make sense of a wide range of personal, organisational and environmental influences and constraints (Milliken, 1990; Weick, 1979). Thus EDM is a multifaceted, complex, dynamic construct, involving a web of influences and moderating factors situated within a network of individual and organisational roles and relationships. As described below, these issues have been addressed when designing this research.

As shown in Chapter 3, previous attempts to measure practitioner ethics and operationalise the EDM models (Jones, 1991; Rest, 1990) have yielded somewhat inconclusive results, which has been partly attributed to design issues and a reliance on convenience sampling

(McMahon and Harvey, 2006, 2007). Some of these problems arose because of the difficulty in using multi-item measurement scales to assess something as complex as practitioners' ethical sensitivity (Reidenbach and Robin, 1990; Kerlinger, 1986). Ethics scales were also sometimes used in conjunction with artificial ethical scenarios relating to bribery, fraud, deception or stealing. This approach can lead to 'social desirability bias', with respondents giving answers that they believe will be viewed more positively, rather than exposing what they actually do in practice.

Among the problems associated with convenience sampling was a frequent reliance on student samples. Although EDM surveys are considered statistically robust, they therefore tend not to give an in-depth understanding of EDM from the perspective of practitioners. Consequently by opting for qualitative methods and selecting research participants who are involved in real-life advertising campaigns, this research responds to McMahon and Harvey's (2007) call for EDM research to be more grounded and embedded in practitioners' experience of the process in practice.

> *A more meaningful study of EDM process than surveys and unengaged undergraduates might be to conduct in-depth interviews with individuals engaged in the EDM process, some who have behaved ethically and some who have behaved unethically.* (McMahon and Harvey, 2007: 355)

Quantitative measures of ethics or cognitive moral development can be unwieldy to use with business practitioners due to the time and effort required to fill in the survey instruments. There can also be problems in how different respondents interpret such ethical constructs as justice, fairness, care, duty. Further difficulties can arise in relation to the intervals or degrees used in ethics-based rating scale. Respondents may also exhibit

'central tendency bias' that avoids extreme responses and opting for middle positions on the scales (Crotty, 2006).

Given the sensitivities around being questioned about ethics, social desirability and acquiescence bias might arise if respondents feel pressured to provide socially or organisationally expected answers. An individual's true feelings may therefore be masked. Qualitative methods, such as face-to-face interviewing, can help to address such problems, because they enable in-depth probing of complex issues.

Although a key objective of ethics research is to explain, predict and guide ethical behaviour, verifying whether respondents' stated intentions are consistent with their behaviour, is difficult. Making sense of ethical dilemmas in business requires asking practitioners 'how' and 'why' they make judgments in practice. Qualitative methods have some advantages over quantitative approaches in this respect because they enable greater practitioner engagement and deeper probing of actual and intended ethical choices. This research therefore sets out to examine specific incidents of controversial advertising, engaging with key practitioners involved in actual campaigns generating complaints to the advertising regulators. These instances may provide deeper and richer evidence and insights over a longer time frame than the use of a generic or ad hoc survey (Yin, 2003).

Previous research has often not considered contextual and organisational factors in any great depth or reflected on decisions that have been made in practice by the individuals involved. There is a plethora of plausible formal and informal factors that can shape a practitioner's decision making. These might include the role and influences of competitors, external regulation, negative publicity, ethical training, client agency relations, stakeholders or account history. Such issues are evident in the UK Advertising Standards

Authority (ASA) adjudication documents dealing with complaints against controversial advertising campaigns. Reviewing archival documents can help to make sense of both the espoused and enacted EDM from the practitioners' perspective.

Such adjudication cases can reveal how practitioners' interact with other players and organisations, how they theorise their world and what impacts upon their decisions in practice. In subsequent interviews insights from this archival evidence base can provide the researcher with the opportunity to ask 'how?' and 'why?' questions about real-life campaigns and to probe the dilemmas practitioners actually face. This is the rationale behind the choice of qualitative methods of data collection used in this research.

4.4 Justification for the Use of Qualitative Methodologies in this Research

To recap, having identified key gaps in the literature, three distinct research aims are addressed in this thesis:

1) To build a holistic view of the UK advertising and regulation process, including the various upstream and downstream stages and the multiple players involved;

2) To examine and analyse the nature of controversial advertising in the UK from the industry practitioner's perspective;

3) To make sense of players' interactions in the process of creating and implementing advertising in order to better understand how EDM takes place in practice.

To achieve these research aims and to address the weaknesses of extant advertising and ethics related studies, an interpretive approach was used. Qualitative researchers seek a

holistic understanding of the nature and workings of the social world. They endeavour to get close to their research participants, observing and interacting to discover 'what fits and works' (Glaser and Strauss, 1967). Using subjective interpretation they unpick the characteristics, processes, internal logic and influences at work. Qualitative research methods include: case study, participant observation, non-participant observation, anthropology, phenomenology, field study, ethnography, oral history, natural history and investigative journalism (Wolcott, 1999).

Qualitative research is effective in providing a focus on meaning and explanation (Van Maanen, 1979). It is a proven and flexible research methodology to study complex phenomena, and concepts, particularly in times of change and across social settings (Hammersley, 2003). Being immersed and up close enables the researcher to uncover the participants' points of view, their unique interpretation and 'lived' experiences. Qualitative in-depth interviews give the researcher the opportunity to probe more deeply, ask follow-up questions and infer across cases (Bryman, 1984).

The analysis of qualitative data is facilitated by the use of multiple methods and data sources to triangulate the findings. Inductive analysis via grounded theory, moving from the data to emerging themes and theory also facilitates broader theory building (Denzin, 1989). More engaged and ethnographic methods are particularly relevant when exploring new territories of research. This helps to better understand both process and experience, while often yielding intensive and extensive interpretation of hitherto unstructured data (Kinnear and Taylor, 1996). Interpretive designs can identify relationships, data categories or propositions to ground further quantitative analysis (Silverman, 2006).

All research methods have inherent limitations. Some of the drawbacks of qualitative research include that it is often more time consuming to conduct, which limits the number of participating organisations and players. Small samples or case studies may be less generalisable to the whole population (Miles and Huberman, 1984). Qualitative data may be more representative of subjective experience. However, given that the researcher acts as a filter in the data analysis (Patton, 1990), their findings may also be intuitive and individualistic. Interpretive analysts tend not to measure relationships and variables or attempt to provide statistical significance (Bryman and Bell, 2003).

Despite these concerns there are many contexts in which the particular features of qualitative methods lead to sound and rigorous findings. Lincoln and Guba (1985) propose that the following four criteria be used to guide and evaluate the quality of qualitative research. Qualitative research is likely to be robust when the researcher can demonstrate characteristics of believability, transferability, dependability, confirmability. *Believability* or credibility concerns whether the interpretations made are valid and aided by full- and long-term access to knowledgeable participants. Hussey and Hussey (1997) suggest that triangulating different data sources and testing or verifying with co-researchers or participant feedback can further enhance credibility. *Transferability* is demonstrated by the researcher providing others with full accounts of their theoretical framework, settings, methodology and analysis. This can also aid generalisability and replication when the findings can be applied to other situations. *Dependability* is achieved by ensuring that the research process is clear, systematic and well documented. *Confirmability* relates to the adequacy of the data collected and how thoroughly the analysis underpins the findings, such as provision of coding frames, inter-rater reliability checks, and detailed participant accounts. The effectiveness of the research methodology used in this study will be evaluated in the final chapter, using Lincoln and Guba's (1985) criteria.

Qualitative researchers are able to make use of theoretical sampling (Silverman, 2006) to ensure that the participants or cases they use provide a sufficient spread to represent the population studied. Therefore this researcher sought exemplar controversial advertising campaigns and interviews with experienced advertising and marketing practitioners in key roles, to examine their attitudes and behaviour in relation to the problem being studied (Miles and Huberman, 1984). Through triangulation, dissemination and discussion with peers and other practitioners, the value of the interventions could be checked to enhance the validity and reliability of the research (Yin, 2003; Kinnear and Taylor, 1991). Similarly, by being reflexive, the researcher is more aware of possible personal bias, which may arise from their prior knowledge or personal value systems (Hammersley and Atkinson, 2003).

An important benefit of using qualitative research to explore EDM in practice is the opportunity that it provides for respondents to contribute fresh ideas to the research agenda, and to give their own accounts of their experience, events and feelings in a less prescriptive way than would be possible with a quantitative research instrument. Recording interviews and referencing case files, memos and so forth provides a reliable evidence base in qualitative research.

Qualitative methods have been classified into four main traditions namely 'grounded theory, case study, ethnography and phenomenology' (Cresswell, 1989: 65). 'Grounded theory' evolved from sociology and develops hypotheses and models, grounded in field data usually from around 20–30 interviews; the data are analysed using 'open and axial coding' (Glaser and Strauss, 1967). 'Case study', which evolved from political science, uses in-depth analysis of cases using multiple sources, documents and observation, yielding thick thematic description (Yin, 2003). 'Ethnography', developed from

anthropology, describes and interprets culture and social groups, through observation and interviews (Hammersley and Atkinson, 2003). 'Phenomenology', developed from philosophy and socio-psychology, uses interviews to find meaning in statements and themes within participants' experience (Thompson, 2001).

Patton (2002) suggests that no one method is better than another and the choice of approach should depend on the research questions being asked. It is also feasible that mixed methods may yield optimal results. This researcher considered that in view of this study's focus on controversial advertising and its regulation, a mixed methods approach involving archival data and in-depth interviews would be most suitable to observe and explore the nature of the problem. Furthermore, interviews, based on the ideas behind phenomenology and grounded theory, would be appropriate means to probe practitioners' experiences and to make sense of how their work culture might shape their decisions. Thus ideas from all of Cresswell's (1989) traditions of qualitative inquiry are included in the research strategy and fieldwork for this thesis.

In selecting appropriate units of analysis, the researcher used purposive sampling (Patton, 2002) to locate specific examples of controversial advertising, which would become the focus for insights into practitioner EDM; rather than empirically generalising from a randomised sample. The ASA complaints archive provided a pool of potential organisations whose advertising had been in some way controversial. The process also enabled specific practitioners to then be targeted as potential interviewees. It was important to procure access to practitioners with direct experience of the creation and regulation of the controversial advertising campaigns in question. The researcher's prior experience in the marketing industry was declared and actively used to promote empathy, sensitivity and to show respect to potential participants. Reassurances about commercial confidentiality

were also provided. Given the study's complexity and the sensitivity of controversial and ethical issues being covered, and the researcher's aim to include multiple players in the advertising process, gaining access to controversial advertising cases was a real challenge. The research strategy taken to gain access, collect and analyse the data are described in the following sections.

4.5 Research Methods and Process

The following sections explain the research design that was implemented to fulfil the three central research aims; namely to build a holistic view of the advertising and regulation process; determine the nature of controversial advertising from the industry practitioners' perspective and make sense of practitioner EDM in practice. The various stages of the research process are described below.

4.5.1. Secondary Research – Exploring the Field

This section describes the problem definition stage of the research. Secondary data were crucial to scoping and making sense of the controversial advertising phenomena. This involved locating and evaluating existing data. A broad mix of academic, practitioner, professional and media sources provided background information about the nature of controversial advertising in the UK. Institutional data were accessed from library and online archives and included: government sources such as the Office of Communication (OfCom) and regulatory bodies such as the ASA. Additional commercial data were found in industry directories, institutional reports from professional bodies and trade associations, as well as from specifically targeted corporations including marketing clients, advertising agencies and regulatory bodies. Table 4.1 provides the key secondary sources and their web links, however, due to commercial confidentiality; websites of participating organisations have not been included.

When using secondary data, it is important to consider validity and reliability issues around the authority of the sources and the recency of the data (Sapsford, 2004). While government, professional associations and market research companies are generally considered to be more reliable sources of information, some corporate, journalistic or internet sources can be anecdotal and less rigorous (Kozinets, 2002; Potter et al., 2006). Even so, these trade sources did provide useful and rich contextual data that helped to shape the research questions and identify potential organisations, advertising campaigns and interviewees for the study.

A critical secondary data source was the ASA complaint adjudications archives; these contain over a hundred thousand controversial advertising campaigns dating back to 2004 (www.asa.org.uk). The ASA investigates advertising complaints and adjudicates over whether an advertisement is in breach of the UK advertising code. The adjudication reports, which are published on-line each week, provide both a historical and contemporary data pool.

Given the research objectives of this study it was essential to gain access to a wide range of participants. Therefore, a number of marketing, advertising and regulatory organisations were identified as potential data sources for studying controversial advertising. The criteria used to define controversy were as suggested by Boddewyn (1991), Waller (2003) and Beard (2008): that the organisations' advertising campaigns were ethically questionable, in terms of distress, offence, violence, misrepresentation or deception; and further that the advertising may have had harmful consequences (Pollay, 1986) and breaches accepted standards of society (Harker, 2006).

Table 4.1 Secondary Data Sources

Organisation	Website
Advertising Standards Authority	www.asa.org.uk
Complaints and Adjudication Archives	http://www.asa.org.uk/asa/adjudications/public/
Annual Reports and Complaint Statistics	http://www.asa.org.uk/asa/annual_report/
Compliance Surveys	http://www.asa.org.uk/asa/research/
Committee of Advertising Practice	www.cap.org.uk
Guidance Notes	http://www.cap.org.uk/resource-centre/
CAP Advertising Codes	http://www.cap.org.uk/The-Codes.aspx
CAP Annual Reports	http://www.cap.org.uk/Compliance.aspx
Clearcast/BACC	www.clearcast.co.uk
Clearance Reports	www.clearcast.co.uk/reports
Clearcast Internal Process Documents	Miscellaneous
Client Marketing Corporate Websites (Confidential)	
Internal Memos, Briefing Documents Advertising Copy, Scripts, Digital Media, Company Reports	Miscellaneous
Advertising Agency Corporate Websites (Confidential)	
Internal Memos, Briefing Documents, Advertising Copy, Scripts, Digital Media, Company Reports, Correspondence	Miscellaneous
Advertising Digital Archives	
History of Advertising Trust YouTube Advertising Archives	http://www.hatads.org.uk/ www.youtube.com http://www.advertisingarchives.co.uk/
Government Bodies	
Office of Communications	www.ofcom.org.uk
Office of Fair Trading	www.oft.gov.uk
Industry Reports	
Mintel	www.mintel.co.uk
Keynote	www.keynote.co.uk
WARC	www.warc.com
A.C. Nielsen	http://uk.nielsen.com
Digital World – The Byron Review	www.dcsf.gov.uk/byronreview
Trade Press	
Admap	www.admapmagazine.com
Media Week	www.mediaweek.co.uk
Marketing	www.marketingmagazine.co.uk
Advertising Age	www.adage.co.uk
Professional Associations	
Incorporated Society of British Advertisers	www.isba.org.uk
UKIE (formerly Elspa)	www.ukie.com
The Advertising Association	www.adassoc.org.uk
Institute of Practitioners in Advertising	www.ipa.co.uk
EASA	www.easa.org

Source: Author (2012)

A systematic review of the advertising complaints archive was undertaken to identify advertisers having breached specific sections of the CAP advertising code, such as the one shown below in Table 4.2 relating to advertising campaigns that cause offence or condone violence. The ASA archives are indexed according to the advertiser responsible for the advertising and the date of complaint adjudication. Having set up an email alert, the researcher received approximately 15 new complaint reports each Wednesday. These were then assessed to gain a better understanding of the themes of complaints and to develop a deeper understanding of the adjudication process and its outcomes. The adjudications provided powerful insight into the nature of controversial advertising phenomena and served as real life exemplars of the advertising regulation and complaint resolution process. The researcher examined each new complaint against the controversy criteria, collating details of the organisations involved into a case file for subsequent analysis. The adjudications could then be used to identify organisations and practitioners to approach for interview.

While researchers (Boddewyn, 1992; Harker, 1995, 2009) have analysed the workings of advertising regulatory systems worldwide, none has explored the complaints handling process by triangulating the perspectives of the advertiser, the agency and the regulators. This is a gap to be addressed in this thesis by including key industry stakeholders in the clearance approval and complaints handling process. This methodological focus on the 'process' rather than just the product or outcomes of regulation, is a key benefit of qualitative analysis (Creswell, 2008). The archival immersion helped to ground the interview questions, as well as to make sense of how players perceive the controversial advertising phenomenon and its effects.

Many other secondary sources were used to provide a holistic view of the advertising creation, clearance and regulatory process. The researcher used annual reports from various marketing, advertising, government and media organisations to provide background information and statistics for the controversial advertising campaigns.

Table 4.2: Excerpts from the British Code of Advertising.

2.3.1 All claims made must be unambiguous, accurate and substantiated

3.1 Advertisements must not materially mislead or be likely to do so.

3.2 Advertisements must not mislead consumers by omitting material information. They must not mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner.

3.3 Obvious exaggerations (puffery)[4] and claims that the average consumer who sees the advertisement is unlikely to take literally are allowed provided they do not materially mislead.

5.1 Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation or disability. Compliance with the Code will be judged on the context, medium, audience, product and prevailing standards of decency.

11.1 Marketing communications should contain nothing that condones or is likely to provoke violence or anti-social behaviour.

Source: CAP (2012a)

On-line advertising archives enable media from television and cinema campaigns to be viewed and analysed, including advertisements that were subsequently banned. This helped to bring the issue of controversial advertising to life. Further sources of information included the web blogs of advertising industry practitioners expressing views about advertising practice, and consumer discussion boards and on-line forums about controversial advertising campaigns.

---

[4] Puffery is defined as exaggeration in advertising or use of promotional statements that no reasonable person would take as factual. (See Preston, 1994, 1996)

Secondary data was also provided by organisations that participated later on in the primary data collection, including privileged access to confidential campaign documentation. These sources supplemented the academic literature by providing useful insights into the actual day-to-day processes and discourse around the creation and regulation of advertising. These commercially sensitive data included: industry reports, company reports and internal documents, market research reports, campaign planning documentation, client briefings, presentations and correspondence. However, dissemination of these materials has had to be restricted to protect the practitioners and their clients. Before describing the sampling and access stage of the research process, important ethical issues associated with conducting the data collection are now discussed.

4.5.2. Gaining Ethics Approval for the Primary Research

There is an onus on all researchers to carefully consider the ethics of their research interventions, the rights and responsibilities of different parties involved and any potential for harm (Hammersley and Atkinson, 2003). Issues of power, politics of access, health and safety of both the researcher and the researched (Potter, 2006) must also be considered. The researcher needed to adopt high standards of ethics and professionalism in relation to design and conduct of the research. Full ethical approval was sought and obtained from the Open University Ethics Committee (see Appendix III). The research adhered to the ethical guidelines of the Economic and Social Research Council (ESRC, 2005) and the Open University Code of Good Practice in Research. Both codes declare required standards of conduct and academic integrity. Navigating the ethical issues required considering potential risks, and having policies on confidentiality, professional indemnity, complaints handling, informed consent and the use of the research data. As the research participants were experienced business professionals, who are familiar with marketing research and the topics being discussed, the ethics approval process was relatively straightforward. In

business research the issue of commercial confidentiality is particularly important. Thus, supporting documentation was provided to participants promoting the value of the research, the credibility of the Open University and assuring their individual, corporate and client confidentiality (see Appendix IV).

Pseudonyms were used and details were anonymised to protect both individual and organisational privacy. Participants were assured that they could withdraw from involvement in the research at any time, and that sensitive issues or data could readily be erased from the record should they request it. Permission to audiotape interviews was given by interviewees in nearly all instances. Adherence to the Data Privacy and Protection Act 1984 meant that all data would be kept secure, ensuring the protection of all personal information. Written consent documentation (see Appendix V) was provided in order to clarify how the research would be conducted and the data used in order to try and pre-empt future dissemination problems or veto (Lincoln and Gua, 1989). 'Informed consent' forms ensured the rights of respondents to privacy and confirmed the intentions of the author regarding publication. No financial incentives were used to recruit participants; however, in recognition of their assistance they were granted complimentary access to the findings of the study.

4.5.3. Sampling and Selection of Participants

Appropriate sample selection is crucial to successfully answering research questions and theory building (Yin, 2003; Eisenhardt, 1989). The concept of 'theoretical sampling' (Bryman and Bell, 2003; Silverman, 1993) is fundamental to the development of good qualitative studies. Glaser and Strauss (1967) describe finding rich exemplars of the theoretical issue that is central to the research study. A variety of strategies is available to achieve this level of detailed understanding. Miles and Huberman (1994) suggest the

pursuit of 'maximum variation' to give a broad heterogeneous spectrum of research situations. Hence in this study a variety of organisations, individuals, and types of advertising campaigns were targeted. Pettigrew (1988) advocates studying extremes or polar opposites to provide a deep understanding of 'transferable observable phenomena of interest'. Such an approach can be particularly useful when the numbers of data sources are limited. Eisenhardt (1989) describes the need for comparative data selection to provide 'theoretical replication'. While single location studies can yield deep insights, multiple locations have the advantage of providing additional sites of comparison, enabling both contrasting and corroboration of evidence. The logic of replication (Yin, 1984) can then be used to test one's generalisations. If the theory generated from one case is found to hold true in others, faith in the theory is increased. Limited resources and time led to the use of 'purposive sampling' (Silverman, 2006: 141) in this research. Thus the sampling criteria used were both purposive and theoretical in the selection of experienced experts and practitioners from right across the advertising industry and representing the key functional role levels in the marketing, creative, clearance and regulatory process. In addition it was desirable to recruit practitioners with working knowledge of the advertising codes and dealing with a broad spectrum of controversial advertising themes.

Organisations that had attracted controversy and complaints to the ASA in the past were specifically targeted. In-depth interviews were then sought with practitioners who had played a significant role in the campaign decisions or who had been involved in the complaint adjudications process itself.

The need to collect data about EDM as practised was considered paramount. By focusing on actual campaigns and analysing multiple player organisations across multiple stages of the advertising creation and regulation process, the data collection strategy aimed to

consider the role of both group and firm-level variables (Tenbrunsel and Smith-Crowe, 2008). This meant that the examined issues could be considered at the individual, situational, organisational and industry levels. As Tenbrunsel and Smith-Crowe (2008: 591) explain: 'Within the field of management, a connection needs to be made between ethical decision making and organisational ethics. The micro and the macro could produce significant new insights'. They go on to explain the need to concentrate (Tenbrunsel and Smith-Crowe 2008: 588) 'less [on] investigating simple correlations between independent variables and EDM and instead focusing on investigating the processes that underlie EDM … simply demonstrating correlations is unlikely to provide much insight into the problem of behavioural ethics'.

Previous advertising industry studies utilise dyadic or single case study designs (Grant and Gilmore, 2003, 2007; Drumwright and Murphy, 2004; Waller, 1992; Krueger, 1998), focusing solely on the advertising agency or on the agency–client relationship. In this research the aim was to triangulate the views of all the key players and organisations across the advertising creation, clearance and regulation process. This provided a more holistic understanding of the process of advertising creation, clearance and regulation, from organisational and practitioner perspectives.

This resulted in the views of a wider range of players being considered, including: marketing managers, agency directors, account planners, copywriters, creative directors, media and production specialists and regulators, copy clearance teams, complaints handling and adjudicators. Hence the study collected data from different organisations from right across the advertising process. Further levels of analysis were also built into the sample design including: a wide range of advertising complaints (taste, offence, decency, misrepresentation, violence, etc.); different types of advertising campaign (charity,

cosmetics, finance, gaming, health promotion); and a wide spectrum of agencies (international, national and regional; large, medium and small; full service and specialist agencies) were contacted.

4.5.4. Negotiating Access to Marketing, Advertising and Regulatory Organisations

The UK advertising industry is difficult to access, perhaps explaining the relatively low number of studies in the sector. Researchers focusing on the controversial aspects of marketing and advertising may be perceived as potential whistle blowers. It was apparent from the project's outset that access would be difficult, and that getting client marketers involved would be problematic because of the sensitivity of the subject matter and client confidentiality issues. Advertising clients are understandably protective of their brand reputations, and their advertising agencies are contractually obligated to protect them and present them in the best light. These contracts normally contain strict secrecy and confidentiality clauses. Schor (2004) was unable to publish significant findings from her research into marketing to children due to client confidentiality. Regulators were found to be equally guarded and were more prepared to discuss general issues than specific cases.

Using the ASA archives, the Institute of Practitioners in Advertising (IPA) website, on-line directories and corporate websites, suitable case organisations and potential interview targets fitting the above purposive sampling criteria were selected and approached. The first phase of the recruitment process involved sending personalised letters to potential interviewees in the targeted organisations and agencies (see Appendix IV). These were then followed up by emails and phone calls to arrange in-depth interviews. These requests included assurances of confidentiality and details of the ethical approval processes from the university. Three preliminary pilot interviews were secured with experienced advertising industry practitioners to discuss the project's feasibility. These interviews

suggested that creativity, persistent networking and serendipity would be required to gain access.

ASA adjudications were used to identify the brand and the agency that created each controversial campaign. The trade press and other online sources provided additional avenues to find named senior advertising practitioners who worked on the identified campaigns. However, despite over a hundred approaches by mail, including letters explaining the study's aims, the researcher's academic credentials, and providing guarantees of anonymity, most access requests were completely ignored. The fieldwork suffered serious 'doldrums' over the holiday season and took over six months longer than originally planned. It became clear that these formal attempts to gain access to both the advertising regulatory bodies and the companies involved in controversial campaigns were failing. The data collection was also taking place during a period of economic downturn; with advertising spends globally being severely cut. This gloomy backdrop, along with practitioners' busy workloads and commercial pressures, helps to explain why participation in an academic study was a low priority; as the following responses illustrate:

> *Oh dear...you picked a tricky subject. No personal knowledge of this area and doubt anyone in the agency would. Will keep on thinking and if I come up with anything, will let you know. Sorry I can't be more helpful.*
>
> (Advertising Agency Planner)

> *As far as the agency–client interface is concerned, I think you might have trouble getting agency people to discuss what actually went on internally. Most will be very reticent about saying the client pushed them into it, which is often the case. Clients can often adopt very different attitudes internally from externally.*
>
> (Advertising Agency Director)

There was also a concern among some practitioners to engage in discussions of controversial practices, and some agencies pulled out in the end, even if the client was happy to take part. This impeded some of the triangulation aims of the study.

Unfortunately my agency contact is away for two weeks so there's not much I can do, and previously she was nervous to ask for any more help.

(Marketing Manager)

After numerous ignored reminder letters, follow-up phone calls and multiple emails it was clear that a more direct and informal social networking approach was needed if access was to be achieved. The second phase of the recruitment plan was therefore to actively engage in industry events, and networking with peers and their contacts to gain access to senior management and elite specialists or regulators who might be prepared to act as advocates. After many more weeks, persistence began to pay off. A pivotal moment came with the opportunity to attend a stakeholder engagement event hosted by the ASA in Nottingham. It seemed serendipitous that this public workshop was to address the recent rise in UK complaints about violent advertisements. The event provided ready access to ASA senior management, their investigations team, delegates from advertising, industry, media, government bodies and pressure groups; all of these were important stakeholders specifically interested in this controversial advertising 'hot topic'.

As a participant observer, the researcher declared the research agenda and collected data from the formal sessions, and had informal discussions with regulators and industry groups. Despite the many previous failed attempts to access the ASA, informally engaging with the regulator's staff enabled the researcher to discuss the PhD project in greater depth and even to arrange a subsequent visit to the ASA and CAP headquarters in London. This was a vital breakthrough in gaining leads for further interviews.

Another seminar delegate, a board member of an industry trade association, passed on names of useful client side contacts and helped broker access to them. Thus a 'snowballing' technique (Moriarty, 1983) became the main access strategy. At the end of each successful interview, the researcher asked the participant to recommend other useful contacts who might be interested in participating in the research.

Another senior advertising director introduced a recently retired regulator to the research. This informal introduction led to three lengthy interviews with this regulator and was the catalyst that opened the doors to a number of the UK's most highly experienced marketers, advertising agency directors and regulators. This contact was most helpful in achieving the research aim to involve a broad representation of elite players in the key stages of advertising creation, clearance and regulation process. The final data set covered over 100 campaign adjudications, and included 33 elite in-depth interviews in 23 participating organisations. This number exceeds the norm of 20–30 interviews recommended for qualitative studies or when using grounded theory (Cresswell, 1994). A good spread of interviewees from across the advertising process was achieved, representative of all functional roles, levels and specialist organisations involved in UK advertising campaigns (see Tables 4.3 and 4.4).Table 4.3 provides a summary of the practitioners from marketing, advertising and regulatory organisations that took part in the research. Table 4.4 provides a breakdown of the different job roles of the various participants. These include senior board members, directors, departmental managers and specialist professional staff, altogether representing hundreds of years of combined advertising experience. The next section describes the nature of the data collection phase and the interviews.

Table 4.2 Summary of Primary Sources – Participating Organisations

Total Participating Organisations (anonymised)	**23**
Total Advertising Agencies	**15**
International Advertising Agency	3
National Advertising Agency	5
Regional & Specialist Advertising Agency	6
Media Buying Agency	1
Total Regulatory Organisations	**3**
National TV Clearance	1
National Advertising Regulatory Body	1
National Advertising Codes Advisory	1
Total Marketing Organisations	**5**
National UK Charity	1
Multinational Electronic Gaming Organisation	1
Multinational Cosmetics Organisation	1
Regional Transport Executive	1
Government Information Organisation	1

Table 4.3 Summary of Primary Sources – Participants and Their Roles

Total Participants	**33**
Advertising Agency Practitioners	17
Advertising Regulation Practitioners	7
Clearance Practitioners	4
Marketing Practitioners	5
Advertising Practitioner Role Levels	**17**
Chief Executive, Directors	7
Senior Planners	3
Account Executives	4
Creative and Production	3
Regulator Practitioner Role Levels	**7**
Chief Executive, Directors	3
Managers	1
Operations Investigations	3
Clearance Practitioner Role Levels	**4**
Former Executive	1
Specialist Managers	3
Marketing Practitioner Role Levels	**5**
Directors	2
Manager	1
Specialist	2
Total Participants	**33**

Source: Author (2012)

4.5.5. Data Collection Interviews

A key consideration in planning the data collection interviews was gaining a thorough understanding of each organisation's background, the participants' roles in the advertising process, and the previous campaigns in which they had been involved. Preparation for each interview involved becoming immersed in the local context of each organisation and their advertising campaigns, and, if pertinent, any complaint adjudications against them. This information helped to maximise the chances of a successful interview. An aim of interpretive enquiry is to discover the meanings and understanding that practitioners apply to their experiences (Guba and Lincoln, 1994). This meant that having background information about the organisation and its activities helped to keep the conversations grounded in practice rather than too abstract. For example, preparing for a marketing client interview involved compiling a preparatory dossier of relevant evidence including corporate reports, previous ASA cases and archived examples of their advertising campaign materials. Each interview schedule was therefore closely tailored to the interviewee's specific organisational context and the practitioners' role in the advertising process (See Appendix VI).

The researcher began the interviews by declaring their previous industry experience and explaining their desire to have an open discussion about the nature of advertising and regulatory practice by drawing on the practitioner's experience and perspective. The interviews were mostly conducted at the commercial head offices of each organisation, with some carried out in respondents' homes or over the telephone. Email correspondence was used in certain cases to follow up on issues raised or to provide clarification. Use of respondents' natural environments as the interview setting helped to ease the conversation flow (Mick and Fournier, 1998). Rather than using a rigid set of interview questions, an informal conversational style was adopted to enable participants' narratives and stories to

emerge as naturally as possible. Hammersley (1992) suggest this enables 'detailed accounts of concrete experiences' to flow and be recorded that better describe the inside track of the practitioners' world. This was important, as much previous research in this area has focused much less on practitioner engagement and real-campaign contexts.

The in-depth semi-structured interviews were arranged as open exploratory discussions (Kinnear and Taylor, 1996). This enabled respondents to thoroughly explain their beliefs and feelings in a conversational and relaxed setting. Examples of the interview schedule and semi-structured prompts are provided in Appendix VI. Three pilot interviews helped to pre-test questions and develop appropriate strategies for addressing sensitive issues and any respondent concerns. The goal was to create an open discussion giving participants the latitude to talk freely about topics they felt were important. The piloting phase revealed that directly mentioning ethics was problematic, as was the use of academic terminology, such as Jones's 'moral intensity factors' (1991), 'probability of effect' and 'magnitude of consequences'. A decision was therefore taken to use the practitioners' vernacular. The researcher adopted a non-judgemental stance, by using only an ethical lens in the later analysis.

The interviews themselves began with a clarification of the research aims and of the issues relating to client confidentiality, anonymity, informed consent, recording permission, transcription and ethics approval. Interview approaches such as the 'critical incident technique' (Flanagan, 1954) and Hertzberg's (1987) recall of 'good and bad' work experiences and 'difficult decisions' were used to help open discussions involving ethical dilemmas. It was seen as desirable to probe players' stories and to corroborate the events and decisions that led to different ASA adjudication outcomes. Any potential 'social desirability bias' (Sapsford, 2004) and 'trust/honesty' issues (Murphy, 1998) were

addressed by grounding discussions whenever possible in specific, published ASA complaint adjudications, and by tracking and analysing the choices made by practitioners at the various stages of the process.

As mapping the advertising process itself was an important objective in this research, early in the interviews respondents were invited to describe the advertising process itself, tracing the steps taken from initial client briefing right through to advertising complaint resolution. This captured the process from their specific job role and unique organisational perspective. This enabled the research to build up a model to conceptualize and explain the different practitioners' daily practices. The researcher was then able to build a more holistic, interlinked and evolving picture of the process of advertising creation, clearance and regulation across the other interviews (see Appendix XI). Further triangulation of data was achieved using evidence from actual client–agency account handling correspondence, as participants often brought to the interview examples of case files, adjudication correspondence and the regulators even displayed the advertisements on screen. These provided temporal and procedural insights into regulatory practice and suggested how 'the decisions' are made within a network of relationships. Examining what had actually taken place and the reasoning behind real decisions meant that sensitive ethical issues could be inferred from the interviews.

Rapport with the practitioners was also enhanced by talking about familiar advertising campaigns and competitors' activities in relation to different aspects of the advertising codes. The semi-structured interviews lasted an average of two hours, although some of the visits, including those with the regulators, lasted over six hours. The interviews were digitally recorded for later transcription, with field notes also being taken. Participants also supplied the researcher with supporting grey materials including: creative briefs,

PowerPoint presentations, company reports and brochures, internal memos, sample materials, client briefs, media coverage and confidential complaint handling documents. Subsequently these proved to be important data sources, albeit with the inherent disadvantage that dissemination was restricted due to client confidentiality. The data analysis and coding phases of the research are described in the following section.

4.5.6. Data Analysis (Coding and Pattern Matching)

A considerable corpus of qualitative data was collected from the ASA archives, organisations' campaign materials and the transcripts of practitioner interviews. This represented hundreds of thousands of words. The interpretive goal was to explore, describe, theorise, compare, and find meaning within the data, transforming it into a coherent grounded story on the nature of the controversial advertising phenomena. The data collected represented the entire advertising creation and regulation process and was analysed to find themes and patterns and emergent theoretical concepts using proven coding methods (Glaser and Strauss, 1967; Strauss, 1987; Miles and Huberman, 1994).

The NVivo qualitative analysis software package was used to help process and interrogate the data (see Appendices X-XI). The computer package helped to sort the data, link all textual sources, model and manage ideas and run data queries. Qualitative analysis software packages have been criticised by some for distancing the researcher from the data, even evoking 'coding and retrieval fetishism' (Bazeley, 2007: 8); however, the tool was useful in the early development of a coding framework. The coding method used to explore and identify patterns in data was as follows. First, the researcher used 'free codes' to conduct a classic line-by-line unstructured coding of the data, with no assumed relationships, but simply looking at what was included in the texts and assigning labels to themes as they occurred (Bazeley, 2007; Emerson et al., 1995). This free or open coding

process yielded around 470 codes, for example categorising themes such as 'client power', 'controversy', and 'collaboration'. Occasionally 'in-vivo' or 'indigenous codes' (Strauss, 1987: 33) were derived direct from the data, using verbatim text to label the code for added richness and internal validity e.g. 'crossing the line'. A further technique used was 'template analysis' (King, 2004), to sift through and organise the data (See Appendix XI). After many iterations, broader categories emerged which could be linked together in a hierarchical axial structure e.g. 'stakeholder engagement', 'praxis', 'process'. The coding process took place over many months, with repeated re-indexing, recoding, naming and classifying of the data, to enable more analytical thinking (Dey, 1993; Strauss and Corbin, 1998). Eventually a point of theoretical saturation (Glaser and Strauss, 1967) was reached where the same codes emerged repeatedly and no new insights emerged. After iterative reading and reflection, the list of open codes began to be de-duplicated, categorised and later organised hierarchically into tree codes. This process logically and theoretically linked the codes to relevant themes, events, actions, locale, processes and roles (see Appendix X).

After importing all the source documents into NVivo, additional logical group profiles were set up, such as organisation type, interviewee role and seniority to interrogate the data. For example, a series of codes were found to be relating to the particular stages of the advertising process itself. Thus, 'clearance' could be linked to practitioner decisions, activities and materials – such as 'code checks', 'creative briefs', 'consultation', etc. Further codes were found that linked to more theoretical concepts, such as EDM and 'moral myopia' being related to themes of 'blame others', 'scapegoat', 'proximity'. This helped to build a bridge to the 'core coding' that makes up the central theoretical observations (Bazeley, 2007). Thus 'causes of complaint' might yield sub-codes that include 'process length', 'client conflict', or 'unclear regulations'.

There are numerous ways to cut the data by asking of them different theoretical questions (Miles and Huberman, 1994). By mapping the process of advertising creation and regulation, it was possible to compare and contrast different players' perspectives across different stages of the campaign planning process. For example, a series of codes emerged that were sequenced to reflect the advertising process itself from campaign creation to complaint handling. In some cases, the branching of codes went to more than one level.

A further pass through the analysis was conducted which applied an ethical lens to the practitioner's EDM using theoretical coding of concepts from the EDM literature. This involved coding data according to Rest's (1990) stages of 'moral awareness, judgment, evaluation, and behaviour'; Jones's (1991) 'moral intensity' factors; and Drumwright and Murphy's (2004) typology of 'moral myopia, muteness, and imagination'. Examples of the core themes and coding schema emerging from the data are illustrated in Appendices VIII to X. Following Strauss's (1987) coding paradigm, these illustrate the questions that the researcher asked of the text to generate the codes. The coding summaries also illustrate the emergent structure of the advertising process, the decisions practitioners made, the order of events and actions occurring, alternative strategies applied, under what conditions and with what consequences.

In total over 180,000 words of verbatim practitioner text were specifically coded in this study. The systematic data analysis was a combination of intuition and insight backed up by mechanical queries of the transcripts and source materials. The researcher's reflections acted as a filter for the interpretation of the data, assigning meaning and building theory from it. The following sections consider reliability and validity issues and the researcher's reflexivity.

4.6 Validity and Reliability of the Research Process

Validity in the positivist tradition relates to how closely the measures used by the researcher correspond to reality. In the constructionist paradigm the validity question concerns how the study gains access to the experiences of those within the research setting (Easterby Smith et al., 2004). Validity is therefore in essence the extent to which the methods and data analysis used produce robust answers to the research questions. Research may be categorised as 'internally valid' if its findings show causality, and 'externally valid' if they are generalisable to other groups or contexts. In this research, the main validity question was about 'ecological validity', that is if the findings capture everyday reality and are relevant and transferable to practice (Sapsford, 2004; Bell, 2003; Bryman, 1988).

'Reliability' refers to the extent to which findings are dependably documented and can be replicated by another researcher (Robson, 1993). This often yields practical implications for policymakers and may help to solve practitioner problems (Patton, 2002). Thus, drawing on the expertise of senior marketing and advertising professionals helps to ensure the 'face validity' of the sampling and data quality. Furthermore, the research sampled particular experts who were best placed to make sense of the rules, codes and nuances operating both upstream and downstream within the UK advertising process. The study achieved what Miles and Huberman describe as 'increased generalisability' by:

> *Reassuring oneself that the events and processes in one well described setting are not wholly idiosyncratic. At a deeper level the aim is to see **processes and outcomes** [emphasis added] across many cases to understand how they are qualified by local conditions and thus to develop more sophisticated descriptions and more powerful explanations.*

> Miles and Huberman (1994: 172)

Triangulation was deliberately chosen as a strategy to increase the validity and reliability of the research. Triangulated methods combine a range of sources, techniques and data findings to give 'more complete insight to a situation' and to complex research questions involving 'multifaceted constructs' (De Chernatony et al., 2005). Data triangulation uses a wide variety of data sources to compare evidence (Patton, 1987). Denzin (1989) provides a triangulation typology utilising data, multiple investigator, theory and methodological techniques (see Table 4.5); these were evident in the research design of this study.

Table 4.5 Triangulation methods used in this research using Denzin's Typology (1989)

Data Triangulation	Involved using the interview transcripts, ASA archives and campaign documentation to corroborate and verify the empirical evidence.
Investigator Triangulation	Was provided as a result of input from the supervisors, communication with other active researchers in the field, and additional coding checks conducted by two fellow PhD students. The coding checks involved asking the two colleagues to independently sort small cards with individual codes into broader themes. This process helped to validate and corroborate the key central themes and phases of the advertising process that underpin the structure of the findings chapter.
Theory Triangulation	Involves the research question being explored from more than one theoretical perspective. This can be seen in the range of focal theories examined in the literature review, particularly with reference to the application and development of more enhanced models of EDM and theories to holistically map the processes of advertising creation and its regulation.
Methodological Triangulation	Evident in the range of methods used, including the in-depth practitioner interviews, participant observation, archival documents and case studies.

Source: Denzin (1989)

The significant benefit of triangulation is that the inherent limitations of each research methodology are complemented by the strengths (Brewer and Hunter, 1989) and through corroboration provided by other methods (Scandura and Williams, 2000). It was also a powerful means to identify inconsistencies in what players say and do, by comparing the players' formal and informal accounts in comparison to the official documentation.

In social science research, it is possible to combine methods, study groups, locations and temporal settings (Flick, 1998). Given that advertising and ethics are multifaceted in nature, it made sense for the researcher to consider these topics from a variety of angles. Hence, the holistic research strategy, which purposely involved multiple players, at multiple sites and across multiples stages of the advertising campaign development. However, this methodological meta-mix (beyond a single method), significantly added to the time and resources needed for access, data collection and subsequent analysis.

Findings in the following chapters are evidenced with verbatim quotes to boost the plausibility of the data and more accurately reflect the common realities of practice in the advertising context. As well as presenting data and findings back to participants, the researcher asked both peers and academic colleagues to corroborate the interpretations. Adam and Schvaneveldt (1988) call this approach 'social validity'. It is worth noting that Silverman (2006) is critical of returning data back to participants for validation, suggesting that it may lose authenticity or its relevance to that particular situation or time situation, particularly if changes are made later. There is also the risk that participants may withdraw their consent or refuse to agree to the findings being published. These issues were addressed in this research through confidentiality agreements and by securing informed consent. All qualitative inquiry is subject to the subjective interpretations and background biases of the researcher; these are discussed in the following section.

4.7 Researcher Reflections and Reflexivity

Hammersley and Atkinson (2003) stress the vital importance of 'reflexivity', that is, for the researcher to self-reflect on their position in the research itself, echoing the ontological and epistemological discussion at the beginning of the chapter. This requires a questioning of who one is as a researcher, what one believes in or stands for, what is driving one's

research interests and questions or what one wants to find out. Researchers inevitably bring prior assumptions and experience to the research process, shaping what the research aims to achieve. According to Hammersley (2002) ethnographic researchers are all affected by socio-historical locations, values and interests, and thus involved in, not detached from, society. Equally, each researcher's personal biography can affect and be impacted by the research process itself. It is therefore important to be reflexive and aware of one's role in the research and any potential conflicts that might arise.

Having worked within the marketing and advertising field for 30 years as a practitioner, the researcher is intimately aware of the industry as an insider. However, having entered academe, he may now be seen as an outsider. This raises challenges in working out the ethics of one's 'impression management' (Goffman, 1959: 208); that is, how to present oneself and the research to participants. Having openly declared his previous career history, the researcher could be seen by the interviewees in different ways: as a peer practitioner; as a well-informed consultant, a friendly guest; or as a threatening outsider; potential whistle blower, critic or even spy. These role boundaries and preconceptions were reflected in the researcher's and the participants' cultural expectations whether as client, regulator or agent. These concerns invariably had an impact on negotiating access and on the interviews themselves. There were also hierarchical issues to be considered: having meetings with chief executives and titled Lords one day, and grassroots staff the next. To be successful, interpretive research requires consideration of how the researcher is acting as a filter in the analysis; being aware of 'insiderliness or outsiderliness' (Hammersley and Atkinson, 2003), and any status issues or politics at work.

Given the sensitivities around ethics, controversial advertising and the constraints of commercial confidentiality, numerous agencies and clients refused to participate. The

difficulty in securing access did not necessarily mean that discussions with academic researchers were boycotted. It is understandable that practitioners may have had more pressing demands, particularly in a major economic downturn. However, when interviews were negotiated, the secret to successful data gathering was transparency, empathy and building a rapport based on trust.

A reflexive researcher should therefore avoid a relationship with participants that are too one-sided or parasitic, rather utilising an 'ethics of care' (Gilligan, 1982), by endeavouring to arrest any concerns about the study and offering practitioners something in return. There is an onus to represent the data accurately, not to compromise any participant's personal or commercial integrity, and to re-balance the power relations between the researcher and the researched (Gille, 2001), in order to gain a co-constructed version of their lives (Geertz, 1973).

Problems and setbacks in terms of access and personal stress are common obstacles for most researchers. Perseverance in the negotiation and fieldwork paid off with a comprehensive data set eventually secured. The ethnographic 'multisite immersion' (Amit, 2000) provided the opportunity to experience UK advertising in practice. This included watching a creative team filming a smoking cessation TV advertisement; regulators engaging with lobby groups; and clearance operators negotiating with clients on the phone. Sitting waiting for interviews in impressive corporate head office receptions and open plan offices provided the chance to observe practitioners at work and meeting and greeting, and to overhear advertising people and client conversations and get a flavour of both industry and organisational culture.

4.8 Summary

This chapter has provided a detailed explanation of the research strategy used to gather the empirical data in this thesis. It has described the research paradigm underpinning the research, the rationale behind the study aims, data collection and the analytical framework. The appropriateness of using qualitative enquiry to examine the roles, relationships and decision making around the phenomenon of controversial advertising have also been considered. To help to make sense of practitioners' perceptions, the study focuses on real advertising campaigns, accessing and engaging with multiple expert participants and sourcing relevant campaign materials. The importance of validity and reliability, and the need to triangulate the data have been explained. The ethnographic mix of methods has been shown to be empirically valid and justifiable, given the complexity of the phenomena and the multiple stakeholders involved. The applied purposive sampling (Eisenhardt, 1989) as well as the theoretical sampling (Yin, 2003) has been explained and justified.

The data analysis process has been fully described, showing how NVivo helped to sift through the data to identify key themes, and to make sense of what is happening and why, within the advertising process. The findings chapters that follow show how controversial advertising issues arise and are resolved. It most significantly provides the practitioners' voices through their stories and narratives, and portrays the nature of their ethical decision making. The methods used can be seen as the cords that bind the research questions and answers. In the following three findings chapters the key theoretical concepts from the literature are revisited to make sense of and review the implications and consequences of the research findings.

Chapter 5

Findings: The Process of Advertising Creation, Clearance and Regulation

Never write an advertisement which you wouldn't
want your family to read.
You wouldn't tell lies to your own wife.
Don't tell them to mine.

~ David Ogilvy ~

Confessions of an Advertising Man.

1963

Chapter 5

Findings: The Process of Advertising Creation, Clearance and Regulation

5.1 Introduction

A central research question for this thesis is how ethical decision making (EDM) is constructed by marketing and advertising industry practitioners involved in the creation, clearance and regulation of controversial advertising. Before establishing the EDM involved it is important to consider the nature of the advertising creation, clearance and regulation process itself as seen by advertising practitioners, regulators and marketers. The aim is to make sense of the practitioners' 'insider view' of the processes that give rise to controversy in advertising and to describe the process as completely as possible from creation of the campaign to the resolution of any later complaints. The 'campaign process' represents a channel through which the advertisement passes from initial ideas to final production and dissemination in the media. It provides a logical structure to investigate how practitioners interact and make decisions that can result in controversial advertising. In-depth analysis of interviews and additional documentary data sources were used to construct a new holistic process model, mapping discrete stages from creation and clearance phases through to dissemination and complaint adjudication. In all, six stages were identified, namely 'creation, clearance, communication, complaint, compliance and control', or the 6Cs for short.

The findings in this chapter highlight the increasing importance of the pre-advertising clearance stage as a potential means to foster more responsible ethical advertising practice and to counter the costly consequences of controversial campaigns. In order to understand how and why controversies arise in advertising it was critical to look back at earlier stages

that preceded the complaint. Verbatim extracts from interviews with practitioners along with evidence extracted from exemplar advertising campaigns are used to provide evidence for and to illustrate key phases in the advertising and regulation process. In the subsequent chapters we see how practitioners engage within the advertising process and how they make sense of it in practice from an EDM perspective.

5.2 Mapping the Advertising Production and Regulation Process

As discussed in the literature review, extant models of the advertising process range from general communication flowcharts (Pickton and Broderick, 2007; Lancaster and Massingham, 2001) to organisational diagrams (Borrie, 2005; Harker, 2002;) and from simple teaching aids to complex network systems that can be challenging to interpret. Much research on advertising regulation has focused on the post-complaint end of the process, often looking at single, problematic campaigns. Such approaches tend to underplay the role played by key intermediary players and organisations involved in real world practice such as external consultants and industry advisory bodies like CAP and Clearcast.

Grant and Gilmore (2003, 2007) explored the emergence of network relationships in the ever-fragmenting UK advertising industry. Their qualitative work focuses on themes of collective purpose, chemistry and mutual trust. They recommend going beyond the dominant dyadic relationship of agency and client. This concurs with this study's objectives to build a more holistic and comprehensive view incorporating other key parties, media, creative teams and dominant stakeholders. The modern advertising creation and control process involves multiple players and relationships across both internal departments and external organisations.

Table 5.1: Advertising Decision-making Players

Organisation	Practitioner Roles
Client Marketing	CEO, Marketing Director, Brand Management, Sales, Finance, Production, Communications Team, Market Research, Research and Development, Legal, External Relations.
Advertising Agency	CEO, Account Director, Managers and Planners, Creative Team, Art Directors, Copy Writers, Production, Media Planners and Buyers. Media Research and Insight Teams.
Specialist External Services	Senior Management, Marketing Researchers, Expert Consultants, TV, Print, Outdoor, Film, Digital, Production, PR, Direct Mail, Promotions Specialists.
Advertising Standards Regulators	Regulators, Clearance Officers, Copy Committees, Complaint Investigation, Advertising Council, Committee for Advertising Practice.
Media	Media Owners (Television, Print, Radio, Cinema, Outdoor, Web), Media Clearance, Production, Media Editorial, Advertising Sales Staff.
Stakeholders	Competitors, Pressure Groups, Lobbyists, Journalists, Consumers, Trade Associations, Government, EU, OfCom, OfT.

Source: Author (2011)

The advertising industry has changed radically in the last 25 years, with the rise of specialist and independent agencies and digital and new media specialists, rather than the traditional one-stop shop or full service agency model. Table 5.1 below shows the different players and networks of relationships involved in the modern advertising campaign creation, clearance and regulation process. It shows the complexity of the context and the multitude of specialised functional interactions that occur among the various actors and organisations in UK advertising. The next section describes the different stages of the campaign decision-making process in which these players engage based on the empirical evidence. Appendix VII provides a matrix of the participants to aid interpretation of the interview data.

5.3 The Stages of the Advertising Process

Grounded and empirical evidence was collected through in-depth interviews with a broad spectrum of relevant participants from the key industry organisations identified in Table 5.1. Marketers, advertising agents, and clearance and regulatory experts were the primary groups interviewed. It is important to note that the media, pressure groups and consumer stakeholders were not directly targeted for detailed analysis. The stakeholder voice was embedded in the archival data and ASA complaint adjudications. Evidence regarding secondary stakeholders was drawn from the archives, which provide details of advertising complaints in differing media. The emphasis was on primary industry experts and stakeholders involved in the advertising production and regulation, rather than on the consumption side of the process. Interviews with marketing, advertising and regulatory practitioners enabled an 'insider' view to be constructed by exploration of their understanding of the advertising and regulatory, as opposed to imposing an 'outsider' view.

During interviews, participants were specifically asked about the advertising campaign process and invited to draw their own freehand map of the process. One marketing manager mentioned that although they did the job all the time they had never tried to visualise it before, but found it an enlightening activity (M1). The process maps produced at this point were invaluable in probing and reiterating points that arose later in the interviews. Deeper insights into the process were gained from those parts of the interviews that focused on examples of practices and decisions across different roles and different organisational perspectives. Talking to the client and then to their agency and the regulator about the same campaign enabled the researcher not only to ground and validate their narratives but also to understand the process from multiple perspectives.

Taking on board all the various participants' perspectives of the process, a composite view was then synthesised into a simplified model, which is presented in Figure 5.1. This basic version of the model was sent to the research participants for further comment and validation. A more comprehensive flow diagram of the model was then prepared incorporating their feedback and amendments (see Figure 5.3). The author also showed the model to other practitioners working in other sectors of advertising, including alcohol and government advertising sectors, to check coherence and transferability of the model and its concepts. They concurred that the model fitted their view and perception of how the advertising and regulatory process operates. The model and its six stages are described in more detail later in this chapter.

At the interviews, it became clear that the various players had different perceptions as to the nature of controversial advertising and roles and priorities of the different actors involved. What emerged were differences in interpretation of the line of acceptability, and how effectively the regulations assist in resolving conflict and problems. These findings are discussed at the length in the next chapter. The author compared the separate phases as described by the different marketers, advertising and regulatory groups. It was clear that across any given advertising campaign the interaction of various specialist job roles is determined by the discrete phases and processes unique to each one. Although different parties were central to specific stages, the sum of these interactions and decisions generates a collective, collaborative and iterative decision-making process, rather than resting with one individual actor.

What makes the regulation complex is that the responsibility for controversy in any given campaign does not neatly rest with one party, particularly in cases where there are disputes over the subjectivity in interpretation of both advertising claims. This was exacerbated

where the issues were not clarified by the advertising codes. It was often voiced that the regulations are too general a guide as to what the practitioner ought to do rather than specifically telling them what practitioners can or cannot do. As we shall see in Chapter 7, the formal and informal systems interact so that the outcomes of the EDM tend to be negotiated positions across the process, rather than clear-cut by the codes themselves. The following sections therefore set out to show the nature of the processes and interactions that occur based on the work experiences and critical incidents and insights from key practitioners, organisations and specific cases of campaigns that proved controversial both downstream and upstream.

Synthesis of data across the interviews and cases enabled the identification of six core elements common across the various types of campaigns and organisations studied, called the '6Cs', shown in Figure 5.1. Later in the text the various phases are described using the following key:

[C1] = Creation
[C2] = Clearance
[C3] = Communication
[C4] = Complaint
[C5] = Compliance
[C6] = Control

Upstream Stage — Communication

Creation | Clearance | Communication

Creation:
- Client Marketer
- Advertising Agency
- Expert Consultants
- Creative Producers

Clearance:
- CAP Committee of Advertising Practice
- CLEARCAST TV Clearance Centre
- OTHER Radio, Cinema, Outdoor, Internet

Communication:
- MEDIA OWNERS TV, Print, Cinema, Outdoor, Internet
- COMPLAINANT STAKEHOLDERS

Downstream Stage — Control

Complaint | Compliance | Control

Complaint:
- COMPLAINANT STAKEHOLDERS

Compliance:
- ASA INVESTIGATORS
- ASA COUNCIL
- OTHER INDUSTRY EXPERTS

Control:
- ASA COUNCIL
- MEDIA OWNERS
- OFCOM
- OFT

Figure 5.1: Players in the Process of Advertising Production and Control

Source: Author (2011)

The 6Cs advertising and regulatory process is now first presented to identify and distinguish the many players and the position they hold at each phase. The clients initiate advertising campaigns and formulate specific brand communications objectives in line with overall corporate objectives. They will then prepare campaign briefing documents for their advertising agencies. The first phase in Figure 5.1, *Creation* [C1] is therefore when the client formulates the campaign aims and message content, specifying the target audience, and when the agency creates the actual advertisement. This phase exhibits different levels of complexity, depending on the scale of the campaign, available brand resources, timings, target audiences and range of media to be used. The agency departments liaise with the client's brand management to formulate and produce the campaign materials and media schedules.

The second discrete phase is *Clearance* [C2]. The proposed advertisement is screened by internal staff in the client organisation and the agency and by external experts associated with the clearance organisation to ensure it is appropriate for the target audience and media selected and that the proposed copy and claims are compliant with current industry regulations. Expert advice and consultation is the essence of the clearance phase, which varies in complexity according to the nature of the advertising content and medium used. For example, TV clearance is more complicated and time consuming than clearance for press advertising. In most cases, internal experts at the client organisation and advertising agency will consider whether the advertising claims being made can be substantiated by evidence. For television advertising, compulsory pre-vetting by external clearance and sector experts is then required. Voluntary external advice can be sought at this stage from various industry bodies, such as CAP and Clearcast, who provide help and guidance to ascertain if the proposed advertising is likely to contravene the advertising code.

Once the advertising is cleared, the agency undertakes the production of the agreed advertising materials and then delivers the final version to the media owners who will disseminate it. This third phase can be described as the *Communication* phase [C3]. If the advertisement is subsequently considered to be controversial, one or more stakeholders may complain to the client, media owner or more often the ASA, the industry watchdog. This is the *Complaint* phase, [C4] which typically involves additional players such as consumers, competitors or pressure groups in the role of the complainant. The complaint will usually instigate an assessment of the campaign by the regulator.

During this next step, the *Compliance* phase [C5], typically the ASA acting on behalf of the complainant, investigates the nature of the complaint and checks with the client, agency and relevant media clearance body to check for compliance with the appropriate advertising codes. If it looks like a serious breach of the code, the complaint investigation may require escalation to the ASA Council, who will adjudicate on evidence provided by the client, advertising agency, media clearance and sector experts. If the council finds that the campaign is in breach of the rules, the process enters the *Control* phase [C6]. Here, the ASA Council may find no fault; or if the complaint is upheld they can order the advertiser to amend the campaign content or restrict the advertisement schedule in terms of the audience, media or timings at which it can be shown. In extremely controversial cases the campaign can be pulled by the advertiser and even banned outright by the regulator. The ASA liaise with the media owners to ensure that corrective action is taken. If the advertisers do not comply, further controls can be initiated by referring the advertiser to the government Office of Communication (OfCom) or the Office of Fair Trade (OfT) for further sanctions.

It is valuable to conceptualise the advertising process as a flow through these six discrete stages from production, through consumption, to regulation. The metaphor of a river is

useful to classify two further distinct phases of the process: namely 'upstream' and 'downstream'. The midpoint is where the advertisement is broadcast to the public and the media or regulator receives a complaint. This can also be the seen as the 'controversy catalyst' that triggers the official formal regulatory phase. The 'upstream' stage therefore consists of the creation, clearance and communication phases (C1 to C3). The 'downstream' stage consists of the complaint, compliance and control phases (C4 to C6).

Whether or not the process enters the downstream stage depends on whether a complaint is made to the ASA. When this happens, the complaint acts as a regulatory trigger for the additional activity undertaken by all of the appropriate players. In-depth analysis of ASA adjudications provides evidence of controversial advertising campaigns that are likely to be in breach of the CAP advertising code in terms of deception, offence and so forth, and will go through all these six decision-making stages. The fact that a given advertising campaign receives complaints instigates the subsequent phases of the process that constitute the campaign as being controversial. Thus we only know 'officially' post-hoc that a campaign is controversial because a stakeholder has complained and therefore the compliance and control phases have been activated. Interviewees generally felt that the degree of controversy would be reflected in the volume of complaints and vehemence of the complainants.

Interviewees from the marketing, advertising and regulatory groups all agreed that *Upstream* decision making involves creative and clearance decisions that take place before broadcast; this is the earliest point where individuals in the various organisations evaluate the message and its likely impacts. *Downstream* decisions that occur after broadcast, whether involving investigation, adjudication and complaint resolution negotiations, only tend to arise when a campaign is deemed to be controversial in some way. To date, the advertising regulation literature and predominant regulatory discourse have however

focused on the downstream stage of the process. The 6Cs' model presented here therefore serves to provide a more comprehensive view by including the upstream aspects. As will be shown in Chapter 7, understanding the clearance phase decisions is vitally important to the success of the regulatory interventions and potential ethicality of advertising.

The six distinct stages of the 6Cs are summarised again in Table 5.2, this time focusing on practitioners' descriptions of what actually happens at each stage. This is further elaborated in later sections of this chapter to reveal different players' perceptions in different phases. The focus here is on what practitioners actually 'do' in terms of the advertising process, while subsequent chapters will use the 6Cs stages to provide a deeper understanding of how players interact with each other in their respective roles. It will also provide a means to explore their EDM and indicate from where controversy in advertising emanates and how it manifests itself at different stages.

Table 5.2: Defining the 6Cs Process Stages

C1	Creation	The client and advertising agency plan and create the advertising content for the campaign after the client briefs the agency about the communication objectives. In this phase the agency creates ideas, scripts, storyboards or film for the client. It can involve consumers in focus groups or seek expert advice on the code. The main players involved are the client advertiser and the agency creative and account planning teams.
C2	Clearance	The advertising agency seeks advice from specialist advisors or media owner organisations to check that the advertising content meets prevailing advertising standards. Depending on the media, this may be compulsory, requiring external permission to broadcast. For example, all UK television advertising must be pre-vetted by Clearcast. Some organisations operate voluntary in-house codes of practice and may involve internal experts and legal departments to ensure the advertising claims are substantiated and meet the terms of the codes. They may also seek advice directly from CAP or the ASA. Once permission to broadcast is given, the final version of the advertisement is produced, media space is booked, and the advertisement is sent to the media owners. The main players include the advertising agency account handlers, the clearance regulators, and industry sector experts.
C3	Communication	The final, approved advertisement is sent to the broadcast media. The main players are the advertising agency production team and media owners. After checking the clearance documentation records, the advertising is then placed in the medium vehicle at the agreed time.
C4	Complaint	After airing the advertising, consumers, competitors or other stakeholders are entitled to formally complain to the ASA or the medium owner about concerns over the content or tactics of an advertisement. Many players may be involved, including consumers or trade complainants, the client, advertising agency, sector experts, media owners and the clearance and ASA complaints investigators.
C5	Compliance	At this stage the complaints handling organisation (ASA) will gather the necessary evidence to assess whether the advertiser is compliant with or in breach of the advertising code. This may require an ASA Council review, with the adjudication resulting in the complaint being upheld or rejected. All players may be involved, including the client, advertising agency, sector experts, media owners and the clearance and ASA complaints investigators.
C6	Control	The advertising regulatory council, having made their adjudication decision, can impose sanctions which include withdrawal, amendment, or rescheduling of the advert to ensure future compliance. The regulator will also publish its ruling. This stage provides a feedback loop and can be seen as a learning opportunity for the client and/or other advertisers. If this is the case, the judgement can act as an exemplar or precedential case. Key players involved include regulatory experts, media owners and occasionally government offices OfCom or OfT.

Source: Author (2011)

5.4 The 6Cs Process of UK Advertising Regulation in Detail

In this section, a more detailed description and analysis of the six phases of the advertising creation, clearance and regulation process is presented. This draws on a more in-depth analysis garnered from three representative organisations, using both interview and supporting supplementary secondary data. The first organisation (pseudonym: Beauty) is a global, household consumer brand. The second (pseudonym: Gamer) relates to a global electronic entertainment organisation. The third organisation (pseudonym: Donate) is a national charity. These were selected for the following reasons: each represented different advertising sectors and industry types; each had more than five cases of controversial advertising put to the advertising watchdog; and the researcher was able to gain access to one or more of representatives upstream and downstream. A short summary of each of the exemplar campaign organisations is provided in Table 5.3.

Table 5.3: Background Data for in-depth Case organisations used to illustrate the 6Cs Model

Case 1: **'Beauty'** Health and Cosmetics	This US organisation is a global household name, whose worldwide beauty division sales are $19 billion with profits of over $2.5m (2009). It is regularly among the top 10 advertising spenders worldwide and in the UK spends almost £180m per annum. This organisation exemplifies cases of controversial advertising with complex technical and scientific claims.
Case 2: **'Gamer'** Electronic Entertainment	This global electronics entertainment organisation is a household name with sales of almost $17 billion (2008) from its game consoles and related video game brands. It is also regularly in the top 50 advertising spenders worldwide and in the UK spends annually over £27m. This organisation exemplifies cases of controversial advertising with regard to health and safety, offence and violent imagery.
Case 3: **'Donate'** UK Charity	A leading UK charity organisation that aims to protect children from cruelty, support vulnerable families, and campaign for changes to the law. The charity's award winning advertising is hard hitting and while at times controversial, has been very successful in raising public awareness. Fund raising reached an income of over £147m in 2008. This organisation exemplifies the complexity of advertising creation in sensitive and controversial areas. This organisation exemplifies cases of controversial advertising with sensitive social issues around taste, offence, decency and children.

Source: Author (2011); Nielsen Media Research (2009).

In the following sections, verbatim quotes from the interviewees are presented in italics, and with the particular practitioner interview quoted indicated in brackets, e.g. (M1). The following key can be used identify the different participants: M=Marketer, A=Advertising, C=Clearance, R=Regulator. Please note that occasionally references are to specific ASA complaint adjudications made against the three case organisations used in this chapter; however, to maintain the confidentiality promised to the respondents, the author has not provided any references to their exact locations within the ASA archives.

5.4.1 The Creation Phase [C1]

For most marketing organisations the creative process is a covert one and involves many specialists including brand managers, researchers and external subcontracted creative teams. Campaign planning can begin up to a year or two ahead of the launch of any new advertising for a brand, product or service. Marketing practitioners, at head office, will develop a marketing and advertising strategy, which is then presented to the relevant business units. These units liaise with product development and market research teams to build communication strategies to introduce and promote new product, service, brand concepts to their chosen target audiences. These marketing objectives are then presented to the advertising agencies in order to develop and pitch 'ideas' in a series of briefing meetings. The clients provide relevant market and product information plus technical evidence to support or substantiate the potential advertising message and its claims. Campaign planning often involves weekly meetings to address claims approval issues, with representatives from the product development, external relations, marketing and legal departments (M1).

For example, for the Beauty organisation, a product such as an anti-wrinkle cream requires the compilation of scientific information to substantiate any advertising claims. The code of advertising requires that all advertisers hold evidence to prove the truth of their

commercial claims. After briefing their advertising agency, the creative teams will produce some initial ideas in the form of outline scripts or storyboards. The account planners and insight teams will provide additional input regarding audience targeting and media plans. This creative process can take up to six weeks, and often involves consumer testing to research the advertisement concepts' 'feasibility, legality and appeal' (M5).

The potential ideas and agency propositions are gradually 'tweaked' (M5) with the best ideas being presented to the client. The creative concepts will then be discussed in minute detail and often filtered as 'ok', 'iffy' or 'no go' (M5), based on the sensitivity of the creative content, veracity of claims or consumer appeal. After modifications, the 'preferred option' (A5) version is selected to go forward for full media clearance or pre-vetting. Here, scripts, films and rough-cut storyboards are prepared along with 'claim support documents' (A5) to pass on to the relevant advertising clearance organisations.

As Table 5.2 shows, the creation phase [C1] involves a range of specialist personnel and extensive consultation with internal and external legal and technical experts. For example, the Gamer organisation regularly brings new, innovative and technically enhanced models to the market. Their video games, particularly those with potentially controversial violent or sexual content, often generate protracted discussions during the creative phase. Gamer also need to consider their industry Association for UK Interactive Entertainment's (UKIE [formerly ELSPA]) voluntary code of practice, as well as the CAP codes of advertising. Video Games are PEGI (Pan European Game Information) rated to restrict the age of users, so that children are protected. These age restrictions often predetermine the creative 'ideas' chosen for the advertising campaigns. Thus a campaign for a children's arcade type console racing game such as 'Super Mario', rated 'Universal', would be inherently different in content, visuals and tone used, compared to an 'over 18' violent fantasy game like 'Grand Theft Auto'.

Marketing clients provide agencies with additional product information and technical evidence to support their advertising message as well as full details about the nature of the game play and intended target audience. Therefore, if a client wants to claim that a game console or game has health benefits, such as leading to improved fitness or brain training, additional scientific information is required to substantiate these claims. Consumer market testing and focus groups are a valuable method to determine if a game's advertising is controversial and likely to cause offence or distress (M1).

Similarly, social marketing or charity campaigns such as Donate, while undoubtedly for a good cause, are often inherently challenging to get through the initial creative phase. During initial briefings for Donate, the child protection charity often uses specialist staff to educate and counsel all those involved in creating the campaign, so that they are able to cope with what can be extremely upsetting abuse cases. Particular attention is given when using child actors in the advertising (M4). After developing campaign strategies and briefing the advertising agency to produce initial ideas in the form of storyboards or draft layouts, concepts are then tested by focus groups to ensure that the advertisement's message, themes and visual portrayal do not push too far. Based on this feedback, the creative treatments are honed with detailed supporting arguments, and then used as the basis of a strongly evidenced case to the relevant advertising clearance bodies.

Creativity is central to the success of all advertising campaigns. After receiving a communications brief from the client, agency creatives and project team first work internally to build up initial ideas in the form of a script and early visuals. At this 'creation' stage, particularly if there are likely to be controversial issues, the advertising agency teams use 'self policing', usually with the account planners acting as 'the clients' eyes and ears' (A8).

Before the best ideas are short-listed for presentation to the client, they are often reworked a number of times to get to an acceptable version. The production teams and planners liaise to get the scripts, rough cuts and any substantiation for technical claims ready for presentation to the relevant clearance bodies. Large agencies cope with the volume of advertisements they are managing by having dedicated 'traffic' control teams who supervise and liaise with the different internal and external agency teams (A5). Players involved in the creative stage tend to have specialist knowledge and experience to enable them to fulfil their link in the process chain. Experienced practitioners within the agency and client organisation will aim to flag up when an advertising creative concept is 'too strong' (M3) or is likely to breach the advertising code based on their hindsight and knowledge of previous campaigns and adjudications (A17, C1). Invariably, controversial scripts take more time to gain approval. Occasionally some agencies will adopt a deliberate initial strategy of pushing both the client and clearance bodies harder (A5, A6) in the knowledge that they can 'cut the creative treatment back' (M2) to what one participant called the 'safe version' that will definitely get through (A14, R4). In some instances, they 'get away with the more edgy version' (A7, A3). The creative phase is a series of negotiations, with clients and agency teams balancing the advertising content in terms of how far to push the claims about the product, how it is portrayed or the creative or visual tactics used.

One notable point to make here is that advertising regulation – in the sense of its being a self-regulatory activity of the individual practitioner, client or organisation – is most likely to be effective in this upstream phase of the 6Cs process. This reflects a different picture from the conventional industry view of advertising regulation. Self-regulation can therefore seem to be activated at the micro-individual level, but which ultimately builds up to and is the vital determinant of macro-institutional and industry self-regulation in

practice. These ideas are further explored in Chapter 8. The clearance (C2) stage, however, is vital in assessing whether the upstream players have got the balance right.

5.4.2 The Clearance Stage [C2]

The literature review revealed that the role of clearance in determining the effectiveness and ethicality of advertising has received little research attention (Zanot, 1985; Rotfeld et al., 1990b). Yet, in this research the clearance stage has emerged as crucial to effective advertising self-regulation. Many practitioners regard the clearance stage as a challenging, time consuming and largely hidden, administrative and somewhat bureaucratic aspect of the advertising process. It is seen as a 'necessary evil' (A6), not commonly discussed until there are complaints leading to investigation by the ASA. The clearance phase does vary according to the media being used to carry the advertising. All UK television advertising must go to Clearcast for compulsory pre-production and post-production clearance. The initial advertising concepts and scripts can now be sent on-line to the TV clearance teams who then provide feedback on-line or by phone.

Most clients, particularly those advertising products that are technically complicated or socially sensitive (such as pharmaceuticals, cosmetics or alcohol) must hold 'proof' (R4) and be able to provide all the scientific evidence to substantiate the claims made in their advertising in the event of complaints (M1, M2, M5). Advertisers and agencies have to deal with different clearance protocols in different media. For example, Radio Advertising Clearance Centre (RACC) for radio campaigns, or the individual magazine publishers, is involved in the clearance process for print advertisements. Other bodies may also be involved. For example, the Gamer organisation also had to ensure that the British Board of Film Classification (BBFC) approved the appropriate film classification for their cinema advertising.

The media clearance organisations consult their own sector experts to verify content and claims against the appropriate code based on evidence submitted by the agencies and clients (C1, C4). If the clearance advisor takes issue with claims in the scripts and storyboards, they may ask for supplementary evidence to be provided or for the content be amended. If the copy is approved, the advertising agency can then produce a more developed version of the advertisement. The advertising agency and client can also seek advice direct from CAP for clarification of the relevant sections of the advertising code. The clearance stage will often include discussion of likely timing restrictions if the product or advertising is controversial (M3, A17). For example, if an advertisement contains violent imagery or nudity, it may have to be broadcast after the 9pm watershed to avoid being seen by children. Upon resubmission of the modified or 'rough' cut to the clearance agency or media owners, the advertising may be approved, amended again or rejected outright.

This process can continue until the advertisement is approved and the relevant media clearance teams are satisfied. Typically, for TV clearance, the substantiation process can take from two days to three months depending on the scale and complexity of the campaign. For the Beauty organisation, for example, delays can arise if the clearance organisations and the client's scientific experts have disagreed on the veracity of a scientific claim (M5).

With any controversial advertising such as for video games or alcohol, it is the norm for the broadcast clearance teams to apply appropriate media and tighter timing restrictions. For Gamer, violent games advertising invariably have imposed an EX-KIDS, post 9pm or even post 11pm restriction, largely dependent on the advertising content and the game's PEGI rating. Timing restrictions have also been common clearance outcomes for the Donate charity's campaigns, leading to heated debates and therefore delays in getting the

sensitive campaigns on air (M3, A17). The clearance organisations must also have administrative processes in place to ensure that the advertising agency and client resubmit the correct advertisement, editing out any problem scenes and adding on-screen text warnings called 'supers' (A5) if needed. These are particularly common with cosmetic, pharmaceutical and financial advertising. When all of the required changes are made, final approval is given to the advertising agency to broadcast their campaign.

The nature of Donate's child protection advertising means that all of its television campaigns are subject to heightened scrutiny by Clearcast and other clearance bodies (M4, M3, A4, C1, R4). A major issue for the charity and its agency arose because their clearance advisor seemingly automatically imposed timing restrictions on their campaigns. Given that people often find this organisation's advertising upsetting, a 'default position' (M3), was therefore to impose an EX-KIDS advertising slot (A17). This clearly has ramifications for the size of audience reached by the advertising and thus its cost effectiveness. Furthermore, Donate's advertising agency account handlers argued that children are a key target of the charity's campaigns, particularly in relation to telephone support lines (A17). In other words, the regulators were stopping them achieving their clients' aims and wasting donors' funds (A17). The charity and agency needed to work closely at the clearance stage to present stronger arguments to anticipate and overcome disputes with the clearance organisations and to avert media restrictions.

Over time, the account handling teams build up a better understanding of the mechanics and deliberations involved in the clearance stage. For a typical television advertisement, players can expect to spend up to five days negotiating with the clearance body to ensure that the advertising is compliant with CAP broadcasting rules (M1). Some advertisements, however, will take one or two extra weeks to go through this stage, particularly if they need to engage technical or scientific expert consultants, as often occurs with advertising

concerning pharmaceuticals, nutrition, vehicle emissions or more recently sustainability and carbon offsetting (C2, R4, M5).

Often the advertising accounts team will meet, and gather all necessary evidence to argue their case and overcome the clearance hold-ups. Where major disagreements arise, the clearance executive may pass the advertising case over to the 'copy committee' to make a final independent and binding judgement (C1, R4, R6). If they are happy that the copy claims are substantiated and timing restrictions appropriate, the advertisement will be approved and the final version can be produced. The television administration team at the agency ensure that the final agreed version of the advertisement is accompanied by all of the right documentation and certification (A5, A14).

All advertisements broadcast in the UK will be 'clocked' final versions with a unique code assigned to them, identifying the agency, client, product and length of the commercial (A5). This ensures that the correct version is used by the broadcaster, and enables any version of an advertisement that has had an ASA ruling against it to be readily identified.

The clearance phase is characterised by judgement calls and negotiations as to the appropriateness of the advertising. Some of the practitioners described the process as going through the wringer (M2) or mangle (M5), painful but necessary. The client and agency account team consult and negotiate with the clearance bodies, media owners and industry experts to vet the advertising content in terms of specific claim substantiation, detailed product description, allowable image portrayal or responsible media tactics to be used and to ensure it adheres to the relevant industry code of standards (C1, C2, C3, R3). This means that many potentially controversial advertisements are filtered out or amended early in the process (C4). This arguably substantially reduces the number of cases of complaints and adjudications at later stages of the process. However, despite these clearance actions

many campaigns still manage to attract complaints. These issues are explained more fully in the following chapter. Consequently much advertising self-regulation happens at the 'clearance' stage [C2] or even during the 'creation' stage [C1] of the process. The goal of the clearance stage is to get the client's advertising message successfully into the media; (C1, C4) while maintaining industry standards and protecting the public (R4).

5.4.3 The Communication Stage [C3]

The third stage in the 6Cs process is the 'communication' phase, when the final advertisement is delivered by the advertising agency for broadcast and dissemination in the relevant media. This normally represents the end of the upstream process. The media owners will vet and double check the advertisement at this stage, taking note of any special caveats or scheduling restrictions imposed by the clearance bodies, e.g. if the advertisement needs to be broadcast after 9pm, or not in conjunction with children's programmes (A5, A17). The media owners then broadcast or publish the advertising campaign as booked and organised by the agencies' media planners and buyers. The vast majority of advertisements go through this communication phase without a problem.

Depending on the type of campaign or medium being used, organisations such as Donate may be subject to further vetting by media owners or television stations seeking not to upset their readers or viewers (M3). The charity has found that the media are generally supportive, given the need to spread their child protection message (M4). Media owners are licensed by the government through OfCom and are responsible for upholding the reputation of television, cinema and radio advertising. Media owners are bound to enforce any scheduling restrictions from Clearcast and may have their licence revoked if they fail to protect consumers from deceptive or controversial commercial practices (C1, C4).

Thus, in the case of outdoor poster campaigns, media owners may ensure certain poster sites around schools may not be used (C4). Specific industries offer additional voluntary vetting advice (M5, A11, A15), which supplements the CAP code and helps to move the advertising through the upstream stages [C1-C3]. Examples of such organisations are UKIE (formerly ELSPA) in the gaming industry (M1), or the Portman Group who represent alcohol advertisers (A2, A4). The agency media department will track that the advertisement has been actually broadcast. They will also receive media audience data such as National Readership Survey (NRS) or British Audience Research Bureau (BARB), to show the client how effective the media schedule has been at reaching its target audience. (A3)

Most responsible advertising campaigns only go through stages [C1–C3] and these are concluded once broadcast and received by the audience. Only if complaints or controversy arise are stages [C4–C6] instigated. However, occasionally the incorrect version of an advertisement is broadcast, leading to complaints (R3, M5). 'The broadcasters will do what we advise, always, I think – I mean very occasionally an ad is scheduled for the wrong time – that's usually human error before anything else' (C3). Human error is usually the explanation; in this case the ASA will informally resolve the complaints without having to carry out a full investigation or involving the ASA Council. Some advertisements, however, do turn out to be controversial despite the upstream vetting and clearing process and thus enter fully into the downstream stages of the process [C4–C6] that follow. The next stage, 'Complaint' [C4] of the process is activated only after the advertising appears in the media.

5.4.4 The Complaint Stage [C4]

Complaints from stakeholders signal that an advertising campaign may be controversial. Most participants indicated they had encountered some form of criticism about advertising

content at some time from consumers, competitors, regulators and pressure groups. The causes and degree of controversy varied but the majority saw the complaint phase as starting when notification is received from the ASA that a campaign is potentially in breach of the code. Many of the types of complaints identified in the literature and discussed in Chapter 2 came up in the interviews. The Beauty organisation often makes health or beauty claims about their products (M5), for example, 'skin ten years younger', 'hair six times stronger'. Complainants often question the veracity of such statements or express concern when advertisements quote survey results, such as '84% of women voted [Brand X] best in the UK', without stating the sample size. Complaints are sometimes related to more technical aspects of the advertising itself rather than to the product or its advertising message (M5). For example, one viewer, who suffered from photosensitive epilepsy, said the ad had caused her to experience a seizure, challenging whether it was harmful and inappropriate for broadcast (R3). In another ASA case, viewers complained that Beauty advertising was misleading because of the use of soft-focus lighting and the fact that airbrushing techniques were used on the 'after' shots to exaggerate the effect of the foundation (A6, R2).

Competitor organisations often counter claims on the grounds that they are misleading or lack scientific proof (M5). For example, a rival company challenged Beauty over their claim that their anti-wrinkle cream could 'reduce the appearance of wrinkles within 30 seconds' and that another product could 'remove seven times more short hairs than wax'. The complaint was that such claims were misleading and denigratory, because the advertising implied that waxing would leave prickly hair behind. The rival argued that their wax strips were '95% effective on hairs as short as 2 mm'. These examples demonstrate the minutiae and technical nature of the complaint resolution discourse that can take place in the beauty marketing sector, with each party utilising independent scientists and consultants in a 'battle of the experts' (M5) to win their case at the ASA.

The ASA archives contain evidence of a series of advertising code breaches by the Gamer organisation. This is despite the existence of extensive clearance procedures in that industry, with voluntary standards and industry rating systems. These complaints have come from both consumers and competitors (M1). The ASA forwards the complaint to the company, describing its nature and volume and requesting that the client and agency respond. Examples of complaints in the gaming sector have included 'misleadingness' relating to health, such as brain training (M1), or instances where scenes in the advertisement were not part of the game (R4). In one ASA case, complaints related to the social consequences of Gamer's advertising. For example, a poster was seen to condone and be likely to encourage violence, dangerous driving and anti-social behaviour, such as vandalism (R3). In another example eight of the nine complainants believed the Gamer advertising glamorised, encouraged and condoned gun and knife use, and two out of the nine complainants found the portrayal of violence in the advertising offensive and tasteless (R4).

Other common complaints concern discrepancies around promotions, pricing or product unavailability (C4), as well as 'offence' caused by shocking advertising content (R2, R3), the 'glamorisation' of violence (R1) or racial or sexual 'stereotyping' (C1). Another area of complaint is 'inappropriate media targeting', for example, parents objected to violent games advertising appearing in children's comics (R2). One parent complained to the ASA that Gamer's advertising was inappropriate for an advertisement featuring guns and promoting a game unsuitable for under seven-year-olds (R4).

Campaigns for Donate, the child protection charity, or other UK government's health campaigns, provide evidence of controversial advertisements addressing sensitive and taboo themes, particularly where graphic shock tactics can generate widespread offence and higher levels of complaints from consumers (R1, M3, C3). Examples of ASA

complaints relating to the Donate organisation have included cases where the advertising images of a man entering a room in a sinister way were considered frightening to children, particularly within children's television programming (R4), or even brought back distressful memories to victims of child abuse (A4, M4). Some of the charity's direct mail materials have also attracted complaints by recipients who were abused as children (M3, A17). While campaigns using 'fear appeals' often are inherently upsetting or distressing for viewers, some have also been criticised for being misleading (R4). For example, a campaign using an anonymous mail shot was disguised as personal correspondence related to the sensitive topic of child abuse (M3). A more recent adjudication concerned complaints questioning the veracity of the statistics quoted by the Donate charity about the frequency of sexual abuse in the UK.

Once a complaint is received by the ASA, its investigation team will follow it up and seek clarification or substantiation from the client and the agency and often also from the media and clearance organisations (R4, R6, R7). Trivial matters can be resolved informally by the ASA complaint handling team (R3). However, more serious complaints mean that the ASA will need to prepare a detailed case document, with the client and relevant parties outlining how the advertisement was created, and whether appropriate research, substantiation and clearance steps were taken (R4). This is then sent to by the investigations team to the ASA Council for assessment so that checks for code compliance can follow.

5.4.5 The Compliance Stage [C5]

When complaints are received by the ASA they are checked for compliance against the relevant section of the CAP code with increasing levels of scrutiny as they pass from the complaints handling and investigations teams through to the ASA Council itself (R3). If there appears to be a case to answer the regulator will require the advertiser to provide supporting evidence to bolster their claims and to show that proper steps were taken to

follow clearance advice on the content and scheduling. It is standard practice for the client and agency to back up their submissions with clarification of their communication objectives, evidence from their consumer research and from expert advisors (M1, A2, M3). The ASA investigations team will present the submitted documents from the agency/client to the ASA Council along with a draft recommendation. It is up to the ASA Council to weigh up the case and judge if the advertisement is in breach or not (R4).

The complaints described for the Beauty organisation fall mainly under CAP Code clauses 3.1 (Substantiation), 6.1 (Honesty), 7.1 (Truthfulness) and more specifically 50.24 (Cosmetics 50.1 – Health and beauty products and therapies). For each investigation the client and advertising agency compile a dossier detailing their arguments along with supporting materials from their legal, scientific or market research experts (M5). They will tackle the specific issues in the complaint and attempt to justify their claims and tactics used in the campaign. For example:

> *We understood that the product had an immediate cosmetic effect and had conducted a study, the results of which indicated that it took ten women an average of 26 seconds to apply the product. We considered it was reasonable to suggest that a cosmetic product could be effective at reducing the appearance of wrinkles immediately on application and that such a product could be applied in 30 seconds.*
> (M5)

In another Beauty case, the client and regulator experts are seen to disagree over the minutiae of their product claims (M1). The ASA report indicated:

> *Their advertising voice-over stated 'up to seven times', but the caption stated 'removes 7 times more short hairs'. We considered that viewers would be likely to think of hair 2 mm or longer as still being relatively 'short' hair, and, since it was the very shortest recommended length for waxing, might still consider it an 'in-*

between' length and we noted the '7x' claim did not apply to hair of that length. Because the quoted efficacy figure applied only to the very shortest hairs and exaggerated the difference that would be achieved, we concluded that the claim was likely to mislead).

These comments illustrate the finer points of on-going negotiations and detailed arguments involved in assessing whether claims are compliant with the codes. The ASA also checks back on the clearance advice given by organisations such as Clearcast. Once all of the evidence has been collected, the case will either be resolved quickly or referred for a formal ASA Council adjudication (R1, C2). If the advertisement is not in breach and the complaints are not upheld, broadcasting can continue as before. The ASA assessment declares on the basis of the Council's decision of whether to uphold the complaints or not.

The Beauty example above illustrates the compliance stage with regard to complaints about 'misleadingness' and the 'substantiation of claims' under the CAP code. Advertising complaints about the Gamer organisation shed light on the compliance stage in regard to CAP Code clauses 6.1 (Offence) and 6.2 (Violence and Cruelty). When answering complaints from consumers or competitors, the gaming organisation and their agency provided the ASA with evidence to support their advertising claims and explaining the rationale for the tactics and targeting used. They stated that they took the issue of violence in video games very seriously and always ensured that their products were marketed appropriately and to a suitable audience (M1). They further argued that they followed Clearcast's recommendations to broadcast after 9pm, as well as advertising their game as appropriate to the PEGI and BBFC.

In another adjudication case, the advertiser described their game as 'set in a fantasy environment; the story line involved villagers being possessed by parasites, which turned them into monsters'. Thus, it was argued that the advertising was carefully edited to

mimic the suspense and action from the game without showing any of its more horrifying moments (M1). Despite such pre-clearance measures, the violent imagery in the game still attracted consumer complaints. In such cases involving taste, offence or decency, the compliance decisions were largely subjective (M1). The Gamer organisation argued that 'the ad was typical for a computer game of this nature'. They pointed out that 'the weapons in the ad were being used against zombies, rather than in a real-life context'. They also believed that 'a scheduling restriction to direct the advertising away from children's programming was appropriate in view of its violent nature'. They also said that late night scheduling was commonplace for advertisements for violent computer games and horror films (M1). Gamer appreciated that the product would not appeal to all viewers but said, by allowing it to be broadcast only on late-night television; they had taken steps to try to target it appropriately. The actual ASA Council adjudication did not uphold the complaints, stating that:

> *We did not dismiss that concern lightly, we considered that it was clear from the game extracts in the ad that the weaponry was being demonstrated only in the context of a fantasy scenario; we considered that viewers of the ad would recognise that to be the case ... We understood that a post 9pm restriction was a recognised benchmark, after which time viewers realised that they could expect to see more adult material in advertisements and programmes that might be unsuitable for children.*

Here the underlying logic is that an entertainment product advertisement will 'not appeal to all' but showing extracts from the game and how a player could interact with it was 'unlikely to be seen as glamorising weapon use' or to 'encourage or condone violence' (M1).

According to ASA practitioners (R2, R4), those who complain about advertising for violent video games or movies often express concern in the light of prevailing news events, such as gang culture or gun and knife crime. However, the ASA tends to consider solely the degree of offence, tastelessness or gratuitousness within the context of the single advertisement in question, and not the cumulative effects of such violent portrayal. The Gaming organisation won its case because it argued that violence was contextualised as fantasy. The ASA justified the decision, saying that the advertising was 'not graphic and contained no blood or violence that could be misconstrued as being realistic, they had taken the necessary scheduling advice and had a storyline that involved killing monsters, the ad was unlikely to cause serious or widespread offence' (R6).

As in the Beauty case study, the client marketers' defence was dependent on having documented that the rules were followed. On the more subjective matter of taste, decency or offence, it is largely left to the ASA Council to make a judgement call (M5). Compliance with PEGI, BBFC and Clearcast guidelines also helped to bolster the Gamer advertiser's case (M1). As the advertisements were not deemed in breach of the ASA codes and the complaints were not upheld, the advertisements could continue to be broadcast and no further action was required.

A further important aspect of the compliance phase is evidenced in the range of complaints about the Donate charity's campaigns, specifically relating to CAP code clauses 2.2 (Social Responsibility), 3.1 (Substantiation), 6.1 (Honesty), 7.1 (Truthfulness), 9.1 (Fear and Distress) and 22.1 (Recognisable as Marketing Material). A significant and recurring issue was that there were complaints about the use of fear appeals, distressing imagery and references to child abuse. Donate's communication objectives were clearly to motivate people to support the organisation's mission (A17), to engage at an emotional level, that their action and support can make a difference (M3), and not just to raise awareness and

funds. Evidence from the organisation's pre-launch consumer research is also used to support their use of hard-hitting content and to argue that the tone of portrayal of child abuse was reasonable and appropriate in terms of causing stress or harm to children or adult viewers (M4). Once again, in checking for compliance the ASA liaised with the clearance organisation to ensure that appropriate actions had been taken in regard to broadcast or timing restrictions. The charity's response was then scrutinised by the ASA Council, which on this occasion decided not to uphold the complaints, reasoning that such a sensitive subject would always be upsetting to some people (R4). The ASA, being party to the details of the complainant's background, often considers issues of age, for example whether it was a grandparent, parent or a child that was upset (R3). The EX-KIDS timing restriction is generally viewed as a sufficient measure to keep an unsuitable advertisement out of sight of young children (R3, C2).

The CAP advertising code has many specific clauses, which are particularly relevant to the Donate charity's advertising; these include for example, 7.3.1 (Mental Harm – Children), 7.3.6 (Children – Distress), 7.3.7 (Use of Scheduling Restrictions), 11.3.4 (Charities – Ethical Responsibility) and the Scheduling of Advertisements 4.2.3 (Treatments unsuitable for children). When the ASA considers compliance in relation to charity, social marketing or health issues, it tends to allow leeway based on its own research findings that the British public are more tolerant of hard-hitting messages for good causes (R3, R4, C2). However, the Donate charity has not fared so well in cases of misleadingness. For example, a newspaper advertisement in 2009 claimed 'one in six children is sexually abused'. This was based on research conducted for the charity in 2000 showing that 16% of children aged 12 or under have been abused. The ASA found against the charity on the basis that its definition of abuse was unclear and that the use of the present tense in the advertising copy implied that the data related to the present, when the research was actually almost ten years old.

The [C5] compliance phase is therefore characterised by detailed investigations by the advertising regulators and complex negotiations between the advertiser and agency clarifying and justifying their actions. Compliance negotiations involve clients, the agency account team, clearance bodies, media owners and industry experts answering the specific issues that have been raised. The regulators adjudicate on the evidence presented in line with the spirit and letter of the advertising code (R1, C2). The next stage, 'Control [C6]', is activated once the complaint adjudication verdict has been made.

5.4.6 The Control Stage [C6]

The final stage of the 6Cs process involves the regulators taking action to ensure that controversial advertising is dealt with. When complaints are not upheld by an ASA investigation, the advertiser is free to re-broadcast the advertisement. However, if the complaint is upheld by the ASA Council's adjudication and an advertisement is found in breach of the code, specific recommendations will be made about necessary remedial actions to be taken by the advertiser and relevant media. For instance, the Beauty organisation has had the opportunity to amend, withdraw completely or reschedule some of its advertisements (M5). Typical control stage actions stated in ASA Council adjudications include 'The ad must not appear again in its current form. We told [Beauty Company] to ensure they made clear the basis on which future claims were made' (R6). Also when Gamer's advertisements were found in breach of the code, the ASA resolution documents requested them to amend, withdraw or reschedule their campaigns. The ASA also instructs the media not to accept or run the offending version of the advert again (M1, R2).

Under the tenets of their industry code of practice, advertisers and agencies are expected to respond immediately to the ASA ruling. This might necessitate costly re-filming or editing out offending scenes from an advertisement, overlaying new onscreen, audio or text warnings called 'supers', or even rescheduling the media bookings (A4, A14). The new 'clocked version' of the advertisement must then go back through the clearance process.

Once the necessary amendments are made the media can run the new advertisement. The clock number ensures that offending advertising is not shown again (C4).

If an advertiser disagrees with the verdict, they can appeal to the ASA for reassessment by the independent ombudsman. If the advertiser refuses to comply with the control measures, extra sanctions may be imposed by the regulators; for example compulsory pre-vetting of all future advertising (R3). Serial offenders may be referred to OfCom or the OfT, which have the power to impose fines and legal proceedings (C2, R2). For overseas advertisers the verdict may be passed over to the European Advertising Standards Alliance (EASA) to arbitrate and enforce compliance (R4). Interviews with advertising agency and client marketers particularly highlighted the importance of the lessons learned, which from one campaign tend to feed into future campaigns (M1, M3, M4, M5, A17). Thus, the model contains a feedback loop from [C6] 'Control' to [C1] 'Creation' (added in response to practitioners' comments when shown an earlier version of the model). Players do learn from their mistakes and each encounter with the regulatory and adjudication process, regardless of the outcome, helps to build a knowledge base that can be used to guide future decisions (A3, A15, A17). Thus expertise in dealing with controversial advertising campaigns can be developed and passed on. If shortcomings in the existing regulations are revealed as a result of the latest complaint adjudications, new clauses and amendments to the advertising codes may be generated. This may also trigger CAP and the ASA to carry out independent compliance monitoring surveys (R2, C4, R4). There are, therefore, several potential feedback loops throughout the 6Cs process.

The control phase embodies the principle of industry self-regulation with the onus on all industry members to abide by the prevailing standards and codes of practice. Acting on behalf of the complainants, the advertising regulators ensure that advertisers and agencies rectify malpractice, inappropriate content or irresponsible tactics. Relevant actions are

taken by client and agency, clearance bodies, media owners and industry experts to address the specific issues raised by ASA Council adjudication. If there is evidence that the advertising code is lacking, the regulators will liaise with the relevant industry and other stakeholders, including the government, to review it (C3, M1, R4). Control [C6] is the end of the downstream process, although decisions made at this stage will have implications for all other stages. This evidences a cyclical process accruing in terms of the 6Cs model, which is considered more fully in the following section.

5.5 The Concept of 360-degree Advertising Production, Regulation and Control

A key finding from this research is the cyclical nature of the advertising creation and regulation process described by the 6Cs process. A significant issue, corroborated with practitioners involved in the study and triangulated with other practitioners and industry experts, was the important feedback loop from the Control stage C6 back to Creation C1. This underscores the importance of learning from current practice and in particular the latest controversies that have arisen and been successfully resolved. In this way, clearance regulators can better advise advertisers and the agencies on current thinking, rulings, changes to the code and most importantly proactively addressing stakeholder concerns. As Figure 5.2 shows, the 6Cs model can be represented as a 360-degree feedback loop, reflecting that all parties upstream and downstream are interlinked and can improve advertising practice through collaboration and stakeholder engagement.

Figure 5.2: The 6Cs 360-degree Model of UK Advertising Regulation

Upstream

Downstream

Control C6

Creation C1

Compliance C5

Clearance C2

Complaint C4

Communication C3
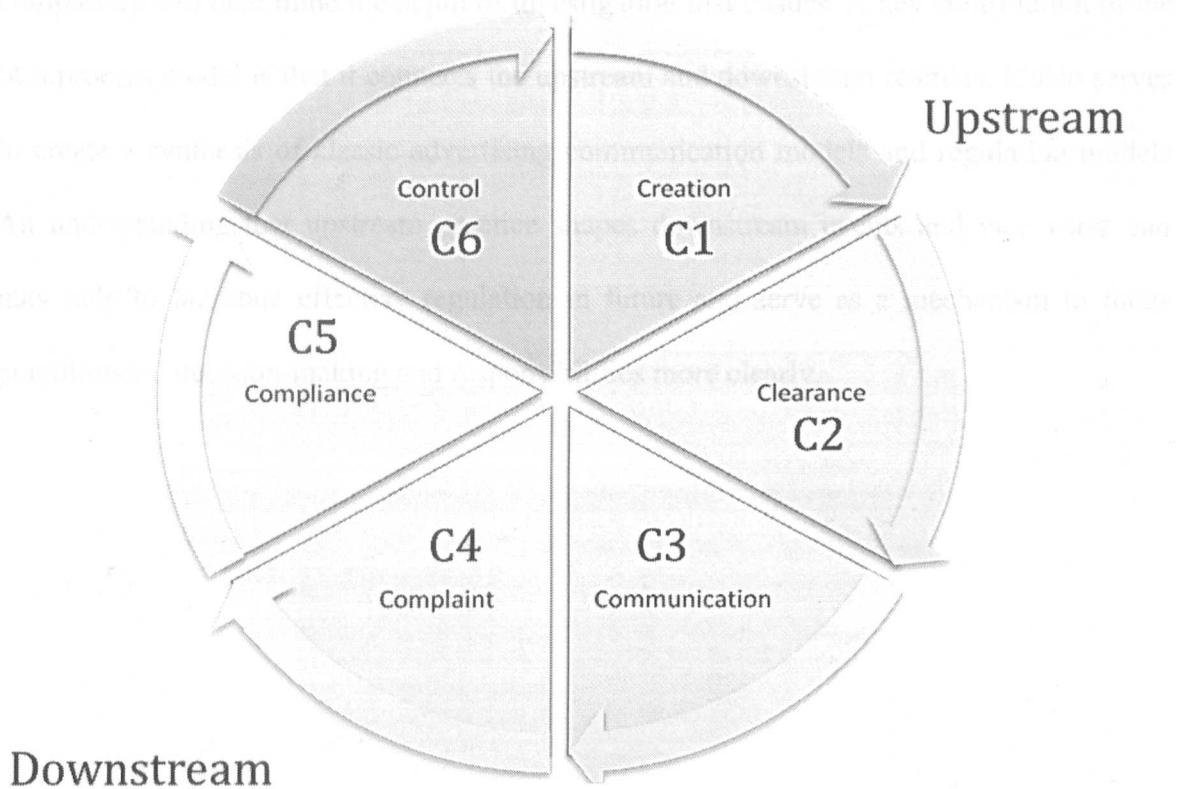
Source: Author (2011)

The evidence suggests that those who cut corners at the clearance stages often encounter costly problems downstream. For example, failure to substantiate claims, pre-vet advertisements, document evidence and properly undertake clearing procedures also lessens the chance of getting through any subsequent ASA adjudication. In essence, the upstream activities are proactive and voluntary whilst the post-complaint activities are reactive and involuntary. Viewing the 6Cs model as a 360-degree feedback loop enables parties to embed learning from previous campaigns and precedent cases in a preventive way to avert controversy.

Arguably, higher engagement during the pre-clearance stages increases the likelihood of successfully navigating the process and reduces the likelihood of complaints. In practice,

the majority of advertisements will go through the first upstream 3Cs and no further. For controversial campaigns that are subject to the complaint resolution phase, the level of complexity will determine the depth of investigation that ensues. A key contribution of the 6Cs process model is that it connects the upstream and downstream realities. It also serves to create a synthesis of classic advertising communication models and regulation models An understanding that upstream practice shapes downstream events and vice versa can may help to facilitate effective regulation in future and serve as a mechanism to focus practitioners' decision-making and responsibilities more clearly.

Figure 5.3: The 6Cs Process of Advertising Regulation in the UK {Detailed}
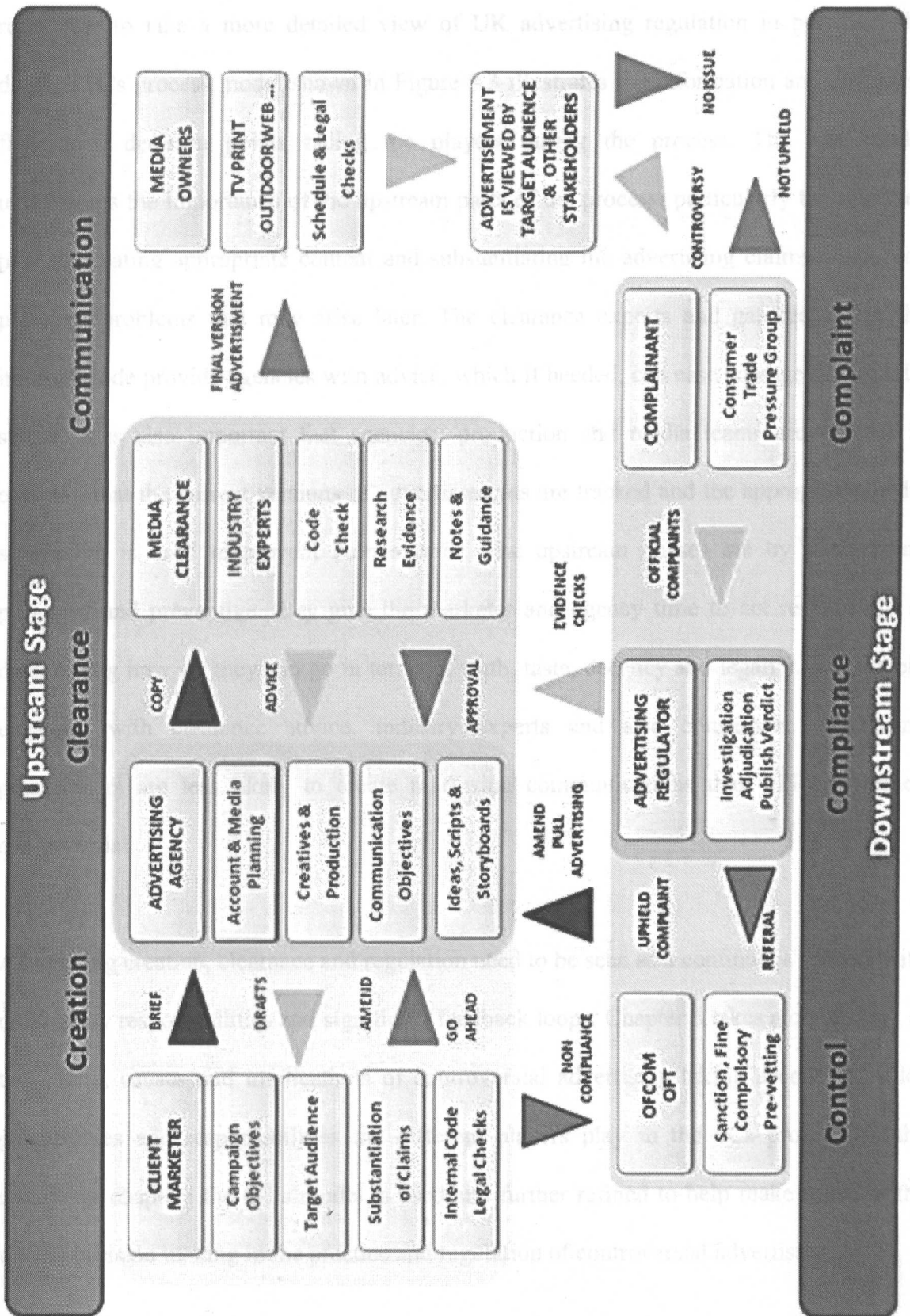
Source: Author (2011)

5.6 SUMMARY

Comparing the evidence from a diverse range of organisations and brands enabled the researcher to take a more detailed view of UK advertising regulation in practice. The detailed 6Cs process model shown in Figure 5.3 illustrates the information and document flows and decision points facing the players during the process. The new model underscores the importance of the upstream parts of the process; particularly the role they play in creating appropriate content and substantiating the advertising claims which can pre-empt problems that may arise later. The clearance experts and gatekeepers of the industry code provide agencies with advice, which if heeded, can ease passage through the stages. It is also important that agencies' production and media teams are vigilant in ensuring that the correct versions of advertisements are tracked and the appropriate media scheduling is used to prevent human error. The upstream phases are by their nature proactive and preventive, they give the marketer and agency time to act responsibly in determining how far they can go in terms of truth, taste, decency and legality. By actively engaging with clearance advice, industry experts and also consumers, advertising practitioners are less likely to create marketing communications that will be deemed controversial.

Advertising creation, clearance and regulation need to be seen as a continuous process with multi-party responsibilities and significant feedback loops. Chapter 6 takes a closer look at the nature, causes and implications of controversial advertising taking account of roles perspectives and responsibilities the different players play in the 6Cs process. In the remaining chapters the 6C's model is used and further refined to help make sense of the ethical decision making in the practice and regulation of controversial advertising.

Chapter 6

Findings: The Problem of Controversial Advertising – A Practitioner Perspective

Many a small thing has been made large
by the right kind of advertising.

~ Mark Twain ~

A Connecticut Yankee in King Arthur's Court

1889

Chapter 6

Findings: The Problem of Controversial Advertising – A Practitioner Perspective

6.1 Introduction

This chapter addresses the second research objective, to determine the nature, causes and implications of controversial advertising from the industry practitioners' perspective. Articulating the 'insider view', which is often absent from the literature, the findings report on the views and experiences of industry practitioners drawn from the across the 23 marketing, advertising and regulatory organisations. By utilising the 6Cs model a richer, more holistic perspective of the problems practitioners face emerges than hitherto implied in the literature. The data highlight the causes of controversial advertising at the macro-societal and micro-campaign levels. Evidence shows how perceptions of controversial advertising problems differ depending on the role of the practitioner and where they sit in the advertising production/regulation process. An overarching concept that emerges from the practitioner discourse is that controversial advertising is 'crossing a line', whether in truth, honesty, decency or offence; and there are many implications of so doing. Practitioners' interpretations of the acceptability of advertising practices and of prevailing stakeholder expectations is complex, multifaceted and constantly changing. Analysing these interpretations highlights important practical implications arising from the use of controversial advertising messages and tactics.

The literature suggests that controversial advertising can 'elicit reactions of embarrassment, distaste, disgust, offence or outrage from a segment of the community' (Waller, 2005: p. 7); or that it offends the 'acceptable standards of society' (Harker; 1998 p. 102). These authors stress the key role of external stakeholders in defining when controversy occurs. This research highlights the crucial role both practitioners and industry

stakeholders play in the creation and control of controversial advertising. Marketers, advertising agents and regulators were fully aware of the potential for advertising to mislead and offend, and accepted their industry's collective responsibility for all advertising to be legal, honest and truthful. However, they often found it more difficult to see their roles as individuals in problematic campaigns. All interviewees had views regarding the potential causes of controversial advertising. These included: inappropriate targeting, the use of shocking imagery, stereotyping, intrusive tactics and possible harmful consequences arising from advertising messages. Before looking at how practitioners perceive drawing such lines, the nature of controversial advertising is more fully examined.

6.2 Understanding Controversial Advertising: Macro and Micro- issues

This section provides new insights into practitioners' views on the nature of controversy in advertising. Two levels of analysing the problem are described below: (i) at the macro-societal level relating to the behavioural consequences of advertising; and (ii) at the micro-campaign level concerning more specific or technical concerns of individual consumers or competitors.

6.2.1 Macro-social issues: Causes and scale of the problem and its regulation

Taking a macro perspective involves looking broadly at the cumulative effects of advertising rather than focusing on individual campaigns. Early in the interviews, participants often voluntarily accentuated the positives of advertising; speaking of its use in bolstering the economy and to provide jobs; champion good causes; boost consumer choice, to educate and entertain; and their efforts to be responsible and compliant with industry codes of practice. However, there was also recognition that given the volume of advertising produced it is inevitable that someone, somewhere will be upset, take offence or misunderstand aspects of these communications. There was also the risk that naïve practitioners occasionally misjudge events and act irresponsibly.

When probed about advertising campaigns that breached the codes, practitioners tended to rationalise the causes as due to misinterpretation, differences in personal taste, human error or technical issues of the codes, rather than deliberate mal-intent.

Most interviewees believed that the pressures of the economy and ever-increasing market competitiveness pushed some practitioners to consider more controversial content, risqué tactics and provocative appeals. Ever-tighter budgets might make 'edgy' campaigns help to cut through (A5), as clients want 'more bangs for their buck' (R4). Hence, some campaigns might cross the line of taste or decency by reflecting a darker side of society, such as violence, gang culture, religious or sexual taboos(A5, C3, M4, R2). Other practitioners might be economical with the truth, perhaps exaggerating claims to persuade vulnerable consumers or to denigrate the competition, but claimed that this was an accepted aspect of advertising; to be persuasive, accentuate the positive to make sales. Practitioners and regulators mentioned spontaneously past *causes celebres* campaigns like Tango, NSPCC, Benetton; or more recent controversial campaigns for violent video games, music and film advertising featuring torture, guns and knives that were being discussed in the media at the time. Advertisers and regulators showed some recognition that these themes had macro or societal consequences. They were sensitive to stakeholders' concerns and rising criticism about trends where advertising might be seen to condone irresponsible or anti-social behaviour.

> *We thought the term 'light the fuse' for a campaign for an alcohol brand is not advisable. It is our view that the line not only implies get something started, which would be a problem for associating alcohol with social success, i.e. the success of a situation depends and relies on the presence of alcohol, but also because it could imply that something really big or explosive is about to happen, this could be problematic for the associations with hedonism, thus associating a brand with immoderate and irresponsible consumption (A1).*

Increased public complaint activity at the time of the fieldwork prompted the Advertising Standards Authority (ASA) to undertake a stakeholder consultation to 'check the public pulse' (R1) in regard to violent advertising. Data collected at this ASA event evidenced how some practitioners suggested that although advertising is used as a scapegoat for society's ills, it reflects society rather than is a cause of these problems. For example, youthful, edgy, challenging brands reflect the zeitgeist of urban youth culture (C4, R3,A5, R5, M4). Practitioners also defended their commercial and legal right to reflect the needs, aspirations and lifestyles of specific target audiences (M1, A14, C4). However, others recognised the potential of advertising to create new behaviour rather than simply 'play back' (C4) existing values. A senior clearance regulator reflected on the complexity of macro-social issues in regard to advertising:

I think that there are traits of unpleasantness, competitiveness, getting one over on somebody, that maybe do influence advertising, if we live in a cruel spiteful world, it would be odd if we didn't have cruel spiteful advertising. So at that level, my own guess would be that advertising does playback what society delivers to the advertising creatives. I don't think it goes any further than that though. (C4)

On the other hand, the paradox is that advertising can also create new behaviours and influence society positively and negatively through the emulation of advertising themes.

You know a way of being compelling in your message is if it really catches on, you actually create whole new behaviour which hasn't been done before. Take the Wassup campaign for Budweiser [Beer] I bet the people were not saying Wassup until Budweiser started doing it. Take the Tango [Soft Drink] 'you've been tangoed', kids were not in the playground going up and going whack to surprise people, but did from the moment the Tango advertising campaign started. So I am sort of coming to the idea that advertising creates as much behaviour as it reflects

underneath, the general umbrella of keeping with the sort of general groundswell

or the mood of the times. (C4)

In this sense, views of practitioners reflect some of the debates found in the literature on controversial advertising holding up a mirror to society (Fox, 1984; Pollay, 1986). The regulation of such macro-controversy and consequences was seen as a difficult challenge for both the industry and policymakers. A senior ASA executive explained that strategically, the regulator wanted to be more 'open, transparent and rigorous' in their public consultation but did not want to become 'social engineers' (R2). Another senior regulator described the dilemma between protecting macro-societal rights while simultaneously maintaining their industry's legal rights of 'free commercial speech' and a 'level competitive playing field' (R1). The regulators suggested critics have to be aware that 'grey areas exist' and that any controversy can often be more about the 'product and themes being advertised, and not the advertisements per se' (R1). This rationale, which might be described as 'don't shoot the messenger', was common where practitioners were defensive of their position and therefore potentially abdicating responsibility elsewhere.

A dichotomy exists between public stakeholders' concerns about the cumulative macro-societal consequences of certain types of controversial advertising and the views of regulators and practitioners. For example, advertising featuring violence that makes 'guns appear cool' (R3) may be primarily concerns for politicians or the public at the macro level, whereas regulators and practitioners tend to prefer to focus on micro-campaign issues around content, targeting and timing of individual advertisements. The ASA acknowledged a rise in complaints about violent advertising and that this probably represented 'widespread offence' (R3, R4) suggesting an acceptable line had been crossed in how violence is portrayed by some advertisers. However, the advertising codes often allowed these campaigns through, as ASA adjudications largely resolve complaints that

focus on technicalities relating to single advertisements (content, tactics and targeting) rather than assessing the cumulative effect of many campaigns; or scientifically proving contributory links between advertising and harmful societal consequences.

As the code predominantly focuses on individual campaigns, it takes prolonged stakeholder criticism, lobbying and government intervention to effect advertising reform, which anyway requires government legislation. For example, the ban on tobacco advertising came into force in 1986 after over 25 years of campaigning by powerful pressure groups, including the Royal College of Physicians. Practitioners were conscious of coercive lobbyists gaining more political capital from a culture of blame critical of business or an anti-capitalist agenda. Others suggested a domino effect from these developments whereby tighter regulation and even bans would move from cigarettes to alcohol or other advertising sectors, such as for high fat sugary food, motor cars, airlines (C1, R3).

Judging the volume of complaints necessary to merit enough 'widespread offence' to instigate a change to the advertising code is unclear (R3). There were significant differences in interpretation across the practitioner groups interviewed. For example, marketing practitioners interpreted widespread offence rather differently from regulators: 'Now, to me, widespread means you can really upset thousands of people' (M5). The official ASA line was that over '25 complaints go to council for formal investigation' (R3). Another regulator captured the subjectivity of the grey area around quantifying macro-controversy:

> *There isn't a magic number because when you get say, 770 odd complaints about the NHS Ad,* [Smoking cessation Hook Advertisement] *there's going to be a proportion, when you analyse them, that say the person has found it tasteless – would just prefer not to see it on TV. Well that's not offence that kind of needs to*

get passed. But then you have other people who will bring to it experiences from
their own life and you've got to act. Because this goes out to an audience and
unless you time it and target it very carefully there are going to be people who will
see it and object to it or be harmed by it. (R4)

The question was asked if one complaint is enough for the regulator to act. One regulator suggested that to pull a campaign a 'serious' offence was needed such as 'portraying someone in an ad without their permission ... something very, very personal' (R4). They recalled a British Telecom [BT] advertisement offering free calls that portrayed customers spending so long on the phone that their heads became locked in the position of holding the phone between their ear and shoulder. This led to a complaint from a disabled person who had people making fun of her saying 'You've been on BT':

The woman articulated beautifully how it was miserable for her; because that ad
was a BT ad, so it was everywhere. At all times of the day and night, and she had
no release from it. Whenever she went out people were poking fun at her, it's very
difficult to say she had not been offended. (R4)

Occasionally one complaint can be enough to have an advertising campaign pulled, however, this is more likely to relate to provable false claims in an advertisement rather than matters of taste, offence or decency.

Regulating macro-social issues was seen to be somewhat different from the regulation of micro-campaign issues, due to the need to reflect on cumulative advertising effects and the fact that there can be prevailing political overtones if, for example, an issue is currently high on the governmental radar due to media or public concerns. Most agency and clearance practitioners felt that the sheer volume of individual commercials to be vetted gave them a limited scope in which to reflect on the cumulative effects of the campaigns on society. They also saw this as a political issue and not part of their commercial remit.

There is a big political structure – the whole Byron report [Government Review of children's usage of Internet, Social Media and Gaming 2008] *– all that kind of business – we are aware, we make sure we are politically aware about what's going on in the wider mainstream environment but it can still, nonetheless be really difficult for us to know what's going to be right or wrong, and so that is quite a difficult one.* (C2)

As already mentioned, some interviewees thought that the danger of advertising harming society was not as great as is often portrayed by wider stakeholders, parents and consumers, and argued that they had personal volition and choice to avoid advertising. The view was that consumers were savvy enough to know how advertising operates (A10) and the positive role it plays in educating and informing consumer choices (A13, 14, A15). Some of the advertising clients and agency-based interviewees expressed frustration about members of the public who they perceived as exaggerating the degree of impact and offence caused by advertising (M1, A15).

I think regulation and clearance are actually behind the times. That level of audience fragmentation means in the area of taste and decency, em the audience is much more tightly self-selecting than it's ever been before. If I choose to watch Eurotrash [Risqué TV Show] *I am not going to be offended by a great deal of stuff that a watcher of Country Fact File* [Family TV Show] *is going to be offended by ... so I think there is a very good argument for saying, if I've got a TV station where my audience is predominantly going to be young urban irreligious, you know ... liberated, I can afford to play a bit faster and looser with the kind of material I show that audience.* (C4)

In the view of most regulatory interviewees, those who choose to watch late night TV or provocative programming should not be upset by the advertisements which are shown at

these times. This senior clearance expert suggested that the burgeoning fragmentation of the media acted as a regulatory mechanism.

> *In the past there were only terrestrial channels with mixed audiences, now with digital and I-player technology viewers can better select what they want to view. Timing restriction, age certification and programme listings, even subscriptions and parental control technology can help reduce inadvertent viewing of offensive advertising.* (C4)

Most of the industry representatives interviewed believed that state intervention overplayed the naiveté of the public. The industry considered modern consumers, including children and seniors, to be media savvy and smart enough to decode advertising. There was also a sense that some government policy was nannying and too reactive to public and media opinion, especially in the area of food and alcohol marketing (A5, A10, A11).

> *I'm constantly amazed that people in government purport to believe that advertising is so powerful that people are left virtually powerless. You know, I am told that it is fun to drive a car fast, I had no choice but to go out and drive fast. I'm told that Heineken tastes nice. I have got no choice but to go and have 100 pints tonight. I mean this is clearly crazy ... it does seem to inform some thinking that advertising is so powerful that it has to be the subject of special controls.* (C4)

Another prevailing view was a 'ying and yang' rationale whereby the positives of advertising counterbalance the negative consequences (A14). Advertising agency practitioners were most vocal in highlighting the positive economic and social impacts of advertising: creating jobs; stimulating demand; enhancing competition; providing choice; and supporting the media and arts. Many agency practitioners also emphasised advertising's vital role in charity work, sustainability, corporate social responsibility, and pro bono initiatives (A5, A4, A6, A15).

The industry's preventive measures and educational role was also stressed, such as warnings of responsible consumption. For example, *media-smart*[5] initiatives claim to better inform consumers, particularly schoolchildren, about advertising messages and parents of their rights. One agency director extolled this social role in 'educating' consumers to make better informed financial decisions, by providing objective, substantiated evidence about available products and services.

> *What we have actually been are practitioners in educating the populace and if you start looking at the UK market ... we have done a great job, the advertising industry and certainly bringing it back to financial services sector, has done a fantastic job in educating people as to what their worth is and what we can get and can't get. You as an individual know that if you need a credit card or a loan ... the sort of business that will want you, you wouldn't go to them because they are expensive; those types of people are not for you. So we have educated a lot of people as to what their level of expectation should be in the marketplace, so you can't afford not to be honest and objective* (A15).

This pre-supposes that an underlying contract of understanding is present whereby consumers are savvy and rational and fully informed; however evidence from the recent credit crisis might suggest that this sector was found wanting in the mis-selling of financial products. There was also a strong sense that both advertising and advertisers were 'scapegoats' for society's ills and must defend their position (A13). Thus tightening regulations and calls for advertising bans, particularly around marketing to vulnerable groups or food and alcohol promotion might be the 'thin end of the wedge' (A13).

---

[5] Media Smart also refers to a non profit media literacy programme for school children aged 6 to 11 years old, focused on advertising. Visit http://www.mediasmart.org.uk/

It was ministerial action that took cigarette advertising off television. We have seen the same sort of thing happening with, for example, advertising food to children. The big thing in the last couple of years was as a direct result of government saying to television, there is a problem here and you are part of that problem, you now need to cooperate to produce answers. So government gets on to television [Stations], *through the regulator to do that ... same thing with binge drinking. It's made noises in the past over the speed of cars. I have been at meetings where it has become known that the government has been concerned about the portrayal of driving in television advertising; which always cracked me up because ... em ... the government never ever, ever, as far as I'm aware made any noises at all about Jeremy Clarkson and the way that you drive in TV programmes or films or in anything like that. But if you happen to see a Citroen being driven too quickly in an advert then clearly everybody is going to start driving Citroens too quickly. That's the flow of the thinking.* (C4)

Practitioners also saw their industry as being under siege from powerful pressure groups and government critics, and there being an anti-advertising agenda in relation to issues like over-consumption of unhealthy food, binge-drinking, sexualisation of children, global warming and sustainability. Client marketers and advertising agencies are increasingly cognisant of wider macro forces including threats from European and overseas legislation (M5, A5, A10). To counteract these threats, the industry trade bodies were actively setting up specialist committees to address such groups at an institutional level both nationally and internationally e.g. EASA; Cross Sector Responsibility Agenda (M5, C1, C4). Marketers and agency interviewees expressed the growing need for professional external relations strategies to offset ever-tightening regulation in sectors such as food, alcohol, pharmaceuticals and cosmetics (M5. A4). The need to be proactive in assessing consumer and stakeholder sensitivity to particular issues or 'hot buttons' (R4) such as genetically

modified food, abortion, the sanctity of marriage, human and animal rights or crime was also acknowledged in a number of cases (A5, A9, A10, A12).

Practitioners believe that when advertising is seen to be linked to such broad social issues, that consumers will complain, irrespective of the content, creative treatment or delivery of the advertising material (C2, M3). This is evidenced in cases where benign examples of humour are used and misinterpreted. For example, an advertisement might touch on a taboo subject like underage sex, this an advertisement suggesting that a 'young boy fancies his friend's mum' … 'Often the joke backfires, it's not the amount of complaints but it's the issue itself, not the campaign that they are really complaining about' (A5). This was also mentioned in the case of MFI, a furniture retailer whose campaign featured arguing families (A4, R3); or homosexuality when a Heinz mayonnaise advertisement depicted two men kissing (C4).

As this section has shown, macro-social issues of controversial advertising elicit contradictory views from practitioners. There are differences in how these issues are seen by advertising professionals and marketers on the one hand, and regulators on the other. The collective view of marketers and advertisers suggests that claims about the negative social consequences of advertising are often exaggerated by pressure groups and government, and that the industry must itself lobby to prevent tighter advertising regulation. While being more sympathetic, even the regulators did not feel that all public complaints were justified. However, practitioners acknowledged that the existing advertising self-regulation system makes it difficult to prove and actively deal with these cumulative, macro issues. These are passed over to others such as government to decide, underpinning the practitioners' dominant focus on the micro-issues and localised controversy within individual advertisements. The following section presents practitioners' views of controversial advertising issues at the micro-campaign level.

6.2.2 Micro-campaign issues: Negotiating an advertisement through the stages of the process

The interviews generated a large amount of data relating to controversial issues involving specific campaigns. Problems relating to specific campaigns constitute the vast majority of the ASA caseload and are from the practitioner viewpoint typical examples of advertising controversy. Many complaints at the campaign level relate to technical issues, such as the veracity of claims, minutiae of timing of advertisements and so forth (M5, A11, A15, R3). Some, however, also touch on more substantial ethical issues of what is and is not acceptable in a particular campaign. Such issues can arise at every stage of the 6Cs process. The position of controversy in terms of being situated upstream or downstream is addressed fully in a later section of the chapter.

Some interviewees felt that complaints were sometimes due to the nature of the product, service or cause being advertised rather than the advertisement itself (A5, A6, A7, A15). Therefore campaigns could be controversial independently of the inherent merits of that product, service or cause. Some campaigns were likely to attract more concern than others, such as those related to social or health issues (M2, M4, A15, C3). Often advertisers were aware of that fact and spent considerable time and effort in negotiating an advertisement's passage through the 6Cs process.

One particular client organisation Donate and its advertising agencies have extensive experience of needing to foresee and negotiate controversial issues throughout the process. Because of the sensitivity of these issues of child abuse, the charity was specifically targeted and agreed to be included in this research. On the one hand, the charity promotes a goal generally considered to be highly worthy, i.e. the protection of vulnerable children. On the other, their campaigns touch on highly controversial, taboo issues and often upsetting social problems, such as the psychological, physical or sexual abuse of children.

These themes are reflected in their advertising, which has generated a fair amount of controversy and complaints over the years. Donate's campaigns and complaint adjudications were therefore particularly appropriate to illustrate many of the micro-level problems that advertiser, agency and regulator encounter and must handle as they navigate the 6Cs process.

The charity aims to protect children from cruelty, support vulnerable families, campaign for changes to the law and raise awareness about child abuse. This represents a uniquely challenging brief, creative and commercial for the practitioners involved. Donate's advertising is inherently controversial and hard hitting. However, the charity has been internationally recognised for its award-winning, provocative and effective in getting its cause and activities to the forefront of the British public. With its advertising agencies' support, the charity has been successful in raising awareness and funding, receiving income of over £147m in 2008 alone.

In the context of controversial campaigns, one of Donate's advertising campaign has become the iconic, and was often mentioned across the interviews. The advertising featured a cartoon character and shows the effects of a boy being physically and verbally abused by his father. It represents quite dramatically how a controversial portrayal within a single advertisement can be provocative, powerful and persuasive. The creative used a mixed real-life context, and a cartoon character, which was shouted at, punched, burnt with a cigarette, and thrown down the stairs. The advertisement ends with the cartoon victim transformed into a real boy, lying face down and still on the floor. The powerful slogan 'Real children don't bounce back' encouraged the public to act if they believed that a child was being abused. As a result of this campaign and now many subsequently, the charity have built up a strong knowledge base in how to deal with and negotiate through the regulatory process, given the inevitable complaints that arise.

The Donate organisation uses both traditional and digital advertising agencies and is highly aware of the concerns of their many stakeholders. Viewers who are also victims of abuse may be psychologically distressed by the imagery or themes portrayed, particularly if they trigger painful memories of abuse (M4). Innocent children may be upset by the frightening scenes depicted.

Potential donors can be put off by advertisements that are too hard hitting (M3, M4). Such campaigns may attract complaints and be pulled by the ASA, incurring significant financial losses and damage to the brand's reputation. The decision to run controversial advertising therefore bears commercial, social and regulatory risks. The client and their agencies uses a number of techniques to avoid such problems, including in-house discussion, consumer research and the use of creative devices such as metaphor via masks, dummies and cartoons to tone down potentially distressing campaign content. The charity also makes sure they record and track issues arising from individual campaigns for future reference, significantly both upstream [C1-C3] and downstream [C4-C6]. One of the Donates's advertising agency planners showed the researcher a special file of the charity's campaign documents, illustrating the formal mechanisms that are in place to track the creative and clearance stages, and to record lessons learnt from earlier campaigns. These included samples of creative ideas, final advertising copy and relevant ASA adjudication correspondences.

Problems may arise as early as the ideas stage [C1] relating to contentious message content whether thematically, tactically or ethically. A more detailed categorisation of the types of controversy and when they arise is presented in Table 6.1. The first major hurdle for the client and agency involves getting the script through clearance [C2]. Interviewees felt this stage could be quite a battle (A17). The director at Donate recalled that during the cartoon boy and many subsequent campaigns, the TV clearance organisation had refused initial

scripts outright, citing the excessive violence or concerns that cartoon devices might trivialise child abuse (M3). The agency and the charity had to develop robust counter-arguments and produce research evidence to prove that the advertising would 'not induce excessive or unnecessary shocking of the audience' (A17). Quoting from campaign extracts and regulator adjudications and correspondence, they stressed: 'our intentions are in no way to disturb, shock or distress our audience, but to have a commercial that is impactful, powerful, insightful and ultimately behaviour changing' (A17). In discussions with the TV clearance organisation [C2], the client and agency spent considerable time and effort to stress their important social and commercial objectives to engage the public in the child protection issue and encourage donations from the public, and to address any concerns with evidence from consumer focus groups.

> *Our years of experience creating* [Child Protection] *advertising has shown us that creative work that shocks for shock's sake, does not lead to any long term effects. People turn off to avoid being disturbed. For this reason we do not intend to shock people with this creative work and have chosen the icon of a cartoon child to illustrate that insight ... showing a real child being abused is far more likely to shock and disturb than using a cartoon kid who gets better.* (A17)

This accumulation of evidence works across campaigns to build a repertoire of evidence and proven tactics to get the clearance teams on message and supportive (M4). Other problems arise around particular sequences of words, which may lead to challenging sequences being cut or re-edited. In the past they have had regulators' concerns about an individual controversial scene, for example, portraying a boy urinating due to fear and about the use of offensive words, such as 'bum' and 'pissed', or the malevolence characterisation or indeed sex of the perpetrator. These disagreements over meanings of words, symbolisms even choice of music can involve many days of negotiation and preparation of formal correspondence. The interviewees from the Donate charity (M3, M4)

and its two agencies (A7, A17) expressed concerns about the imposition of blanket media time restrictions by the regulator at the clearance stage [C2]. If televised after the 9pm watershed, the viewing audience is significantly reduced and lowers the cost effectiveness of the campaign. Internal memos and correspondence highlighted that the regulators acknowledged that 'child abuse is a difficult, sensitive subject' and that the agency their Donate client 'need to make people sit up and take notice' (C3).

Previous campaigns, including some from other charities, are used by the Donate to support their arguments and gain clearance approval. However, both the charity and its agencies believe their advertising automatically attracts a more stringent level of scrutiny at the clearance stage.

> *So it is very difficult because if you actually look at these* [Charity advertisements] *on face value, you can see that almost every piece of advertising is going to portray very negative associations in the advertising – it is by nature that we will come up against problems, I think there is a given – we know when something is going to get a post 9, post 7 or an EX Kids* [Media time restrictions] *– we want it as wide as they can possibly make it, they* [Regulators] *are obviously covering themselves on that angle and for us* [Client and agencies] *every time we finish a piece of work, we totally go in with it thinking we are going to copy committee, so that will be our standard practice because in many instances the managers at the BACC* [Clearcast Sic] *will give a restriction, will play it safe and give it the harsher one* [A later TV time slot]. (A17)

This excerpt also highlights the preciseness of the interpretation of interview data given the level of technological jargon and multi-party nature of the discourse.

The charity implied that clearance executives will give an extra level of scrutiny to a Donate advertisement (M1, A17), initially to avoid upsetting the public; they may well then refer it to the clearance copy committee to be on the safe side, and they then will often let it pass. This again suggests a multi-party consensus is needed to define the line of controversy and back up the final decision to clear the advertising. Each campaign for the charity is a fresh challenge; there are ongoing creative debates between the charity and internal and external experts (including victims and children) about the best ways to depict abuse in advertising form. There is also a sense that each party has to be able to defend their earlier upstream decisions if any complaints or 'flak' (M4) arise after the advertising campaign goes out.

Despite the vast experience of the client and agencies in dealing with potential issues and the high level of scrutiny received at clearance stage, problems will still surface during the downstream stages, leading to complaints to the ASA. Table 6.1 summarises the common causes of controversial advertising as they emerged from this research giving all the source interviews.

Table 6.1 Categorisation of Controversial Advertising

Category	Details and examples	Data Source
1 Message Content	The advertising is controversial in the actual words and text used in the advertising itself, written on paper, on screen, on film, on-line, or spoken on audio soundtrack. E.g., swearing, sexual innuendo, dark humour.	A1, A2, A4, A7, A8, A9, A10, A12, A16, A17, C1, C3, C4, M1, M2, M3 M4, M5, M7, R1, R2, R3, R4, R5, R6, R7.
2 Visual Content	The advertising is controversial due to the actual images and pictures used in the advertising itself, shown on paper, on screen, on film, on-line, on video, These can be portrayed as real or fantasy. E.g., nudity, violence.	A1,A4, A5, A13, A16, R1, R2, R4, R6, R7, C1, C3,C4 M1,M3 M5
3 Visual Tactics	The advertising is controversial due to the uses of visual effects, hypnotic, strobing bright lights, or subliminal impacts. E.g., photosensitive epilepsy	A4, A5, A10, A17, R6, C1, C3, M1, M4, M5.
4 Audio Tactics	The advertising is controversial due to aural effects such as loud, high frequency, low frequency soundtracks. E.g., ambulance sirens in radio ads.	A4, A9, A17, M3, C2, C4.
5 Actors in the advertising	The advertising is controversial due the impacts on the actors involved in its production. Particularly distress to children, seniors or animals. If the actors used in the advertising are being portrayed in manner inappropriate to their legal age. E.g., underage consumption of alcohol.	A1, A2, A10, A16, A17, R4, C1, C3, C4, M1, M2, M3, M4,
6 Media Targeting	The advertising is controversial due to audience overspill or impacts as a consequence of unintended consumers. Inappropriate intrusion, stealth tactics or media scheduling of location of advertising. E.g., violent film posters near schools, viral games.	A3, A4, A5, A17, C1, C3, C4, R4, R1, R3, R4, R6 R7, M1, M2, M3, M4, M5.
7 Substantiation	The advertising is controversial due to false claims, exaggeration, puffery, that deceives or misleads consumers about a product or service. Or denigrates the competition illegally or unfairly. E.g., financial comparisons, survey statistics.	A1,A2, A5 A9, A10,A11, A12, A14, A17, A15, R1, R3, R4, R6, R7, C1, C3, C4, M1, M2, M3, M4, M5.
8 Dangerous Behaviours	The advertising is controversial due to negative consumption consequences or harm to consumers or society. Harmful products, e.g. hard drugs, alcohol, tobacco. Behaviours that may have dangerous consequences particularly if emulated by children. E.g., violence, reckless driving, speeding.	A1, A3, A4 A10, A12, A13, A14, A17, R1 R2, R3, R4, R6, R7, C3, C4, M1, M2, M3, M4, M5.
9 Environmental	The advertising is controversial due to negative impacts of its production on the natural environment and sustainability. E.g., wastage, deforestation, pollution, carbon emissions.	A4, A5, A12, R6 R7, C1, C3, C4, M2, M5.
10 Ethical or Acceptable Standards	The advertising is controversial due to breaching acceptable norms and standards of society. This would include racism, sexism, ageism, religious intolerance, anti-social ideas e.g., pornography death, offence or distress caused to vulnerable of minority groups e.g. children, disabled.	A1, A2, A3, A4, A5, A9, A10, A11, A12, A13, A14, A15, C1, C2, C3, C4, R2. R4, R6, R7, M2, M3, M4, M5.

Source: Author (2011)

In summary, this section has shown that practitioners perceive a difference between micro-issues related to specific campaigns and macro-issues related to the cumulative effects of many campaigns. There is a grey area between these two levels, which can make it difficult to unpack whether difficulties with a campaign relate specifically to the product or brand itself, or issue or context problems that arise because of a cumulative unease with particular advertising trends or societal taboos.

What is also beginning to emerge is that different practitioners often find it hard to judge the acceptability of particular campaigns and to predict what will cause controversy for stakeholders or the public. In terms of what makes advertising acceptable or not to any individual or group of stakeholders and causes controversies evidenced across the interviews include: the content of the advertising message; its audio-visual and tactical characteristics; the actors' activities involved; the nature of the product or issue portrayed; the facts and substantiation of the claims being named; the audience being targeted; and the consequences for both the intended and unintended audiences, society and the environment. Interviewees often referred to the difficulty of knowing when one was 'crossing the line' and that it was also a movable one. This is discussed in more detail in the next section.

6.3 Assessing the Line between Acceptable and Unacceptable Advertising

Practitioners perceive controversy in advertising as akin to crossing a line, whether this arises due to concerns about honesty, decency or offence. Interpreting acceptability is complex, differing according to specific roles, the stage of the 6C's process, and the organisation or brand in question. Practitioners often struggle to pinpoint exactly where the line is and may express frustration about this difficulty. A further complication is that the line continually shifts in response to the behaviour and decisions taken by practitioners during the process and how external stakeholders react. This line of controversy between

acceptability and unacceptability is considered below first from the advertiser and agency perspective; then from the regulators point of view.

6.3.1 Assessing 'the Line': The Marketers' and Advertising Agency View

One theme emerging from the research is the difficulty marketing and agency practitioners have in determining what is and what is not permissible in terms of acceptable advertising standards. As a consequence they sometimes deliberately challenge the limits of decency and honesty to see how far they can go to get their brand noticed or message across. Upstream conflicts of interest and differences in opinion must be negotiated between the planners, creatives and the client, described metaphorically as 'walking on thin ice' (A8), or 'sailing close to the wind' (A5). Clearly there is concern about how far to stretch claims in terms of taste, before moving from Creation [C1] on to official clearance stage [C2].

One important aspect of determining the line relates to the values and beliefs held by individual practitioners, client organisations, regulators, consumers and sections of the public in general. These values inform different players' perceptions of where the line lies and, if they do not coincide, are also the basis for conflict and possible complaints. A communication strategy will reflect the values integral to the client organisation's mission, reputation and brand values (M3, M5, A4, A14). This was, again, particularly evident in the Donate's campaigns, which were hard hitting for the purpose of bringing the message home to the public, reflecting the underlying values concerning children's rights and protections which are the raison d'être of the organization. Individual practitioner judgments of what is right and acceptable also play a role (A9, A11, A12). For instance, a creative director from an agency acting on behalf of a pharmaceutical company, explained how the interpretation of the codes of practice was filtered through personal perceptions of ethics.

I mean the codes of practice [Pharmaceutical] set out quite strictly the way that you use information, and what can and cannot be extrapolated, and I suppose we take that on board, but we also have our own way of working I think ... they [Regulators/Clearance] are used to scrutinising fact, that they want you to be able to say something that has a really firm foundation and even before you submit something, it goes back to the client and back to their (internal) regulatory people, you try and push the boundaries a little, but you have to feel yourself that it is something fair. (A11)

These practitioners clearly see risks in 'crossing the line' and will weigh up personal repercussions as well as any potential 'fallout' for their agency, client or brand (A3, A11). Often this corporate protection appeared to be a higher concern than any consumer, competitor or societal impacts.

Collective judgments about matters of taste in controversial content or the use shock tactics had to be considered. Some interviewees questioned the commercial risks of shock tactics used by competitors' brands particularly charities like NSPCC or Barnardos. 'I just thought, personally, it [Violent Ad Content, showing slapping of a victim] was so just so visually repulsive that I'm not sure it would engage anybody to think about the issue, that you would engage in what they were trying to tell me' (A5). However, others felt shock tactics could sometimes be appropriate.

As a charity campaign, people recognize that, and it creates its challenges because you could easily get into a cycle of 'see if we can be more shocking' and that wouldn't be right. So you keep applying that check of 'is the challenge that we are creating in the ad actually going to deliver the action that we're looking for? And the answer might be awareness, it may be attitude or behaviour change or it may

be giving. Because there are lots of things it can be and obviously you mustn't

undermine the action that you want just in order to get immediate visibility. (M3)

The question of whether the ends justify the means is considered in the following EDM findings chapter. Practitioners try to bargain for the best estimate of the 'line' and how hard to push the boundaries more often as a cost/benefit trade-off. Consequently, expert advice and market research are often consulted to establish whether a particular advertisement is likely to cause problems with upset customers or competitors and, where necessary, they could to substantiate advertising claims to the regulator.

At the outset, the tone and imagery used is researched. Knowing the code, creatives

work through the scripts but when you get it to the stage of saying, 'this is how far

we want to go here', in terms of balance between harm and putting people off'

(A17).

When interpreting the results of consumer research some agency practitioners implied that a utilitarian ethics approach using majority rules and consensus judgements was adopted. If most of the consumer focus group(s) were uncomfortable with the advertising idea, it had gone too far. If only a few consumers were upset then the right balance had probably been achieved and the advertising idea would probably be acceptable to the majority of the general public.

We will always be aware of what the issue is. I have never been in a [focus] *group*

– certainly in the last four years, where the group united in saying 'I think it is too

much'. Of course, there are people within the group who will definitely have that

attitude, who don't initially seem to agree that the [Donate Charity] should be

advertising at all (A17).

There is evidence that upstream research is a practical way to gauge consumer sensitivity about the line of taste or offence (M1, M3, M4, A1, A2, A6). It can help balance the competing objectives of making advertising effective, pushing hard enough to get noticed and change behaviour, without putting consumers off.

> *I suppose the guideline we set out for ourselves is it clear [the Advertising Message] ... Does our testing suggest that it's clear to the viewer that we are challenging in order to provoke a response - not in order to create offence or for the sake of creating a challenge ... and therefore we do a lot of testing and measuring and evaluation of our campaign so we do have a fairly good idea of how the people are going to react to them. (M3)*

While audience reaction could be gauged by market research, anticipating how the clearance and advertising standards regulators' would assess these 'fine lines' in terms of the code and regulations was a different matter. A significant number of the marketing and advertising practitioners expressed frustration dealing with regulators and clearance and interpreting the nuances of the codes (M1, M3, M5, A8, A11, A14, A17) . The position of the line is learnt over time through experience; with practitioners building collective awareness through knowledge of previous negotiations.

> *It's a complex area actually and the answer comes by virtue of doing it and learning as you go about where the lines are. We are very clear that we never set out to cause offence; we never set out to create complaints but at the same time we are almost always aware that the nature of the work we do will generate complaints, because we do set out to challenge. (M3)*

A vital issue is how well this knowledge is internally recorded and documented or evidenced by research (M5, A2, A17). One internal document from an advertising agency

director stated that they do not have time to reflect on complaints cases and simply move on from crisis to crisis. An additional area of difficulty for most practitioners was the lack of the clarity within the advertising regulations themselves. Clauses of the code were not always specific or prescriptive enough at clearance [C2] or complaint resolution [C4-5], resulting in an inevitably subjective, interpretive 'battle of experts' (M5).

One important issue for many client and agency interviewees was the need to achieve creativity and innovation in their advertisements and the view that an overly cautious interpretation of the 'line' could restrict that creativity and innovation (M2, A10, A11, A14). In order to be creative and innovative it was often necessary to push the boundaries, to do something new or to challenge old concepts (A2). Often the marketing client was specifically paying for this creativity and would actively push the agency to challenge the status quo.

> *One of the demands we make of our agencies is for them to challenge us because it*
> *is equally possible for us to be complacent in one direction or the other - if we just*
> *carry on doing the thing that worked last time, so we do have, long before we get*
> *anywhere near the regulators we get quite interesting discussions between*
> *ourselves about where we could push it further and where we couldn't. (M3)*

Therefore, for a large number of agency practitioners the biggest threat of regulation was limiting the creativity of advertising and resulting in bland campaigns.

> *There is no incentive for them* [Regulators] *to push things, stifling creativity, in the*
> *real world some of the rules are irrelevant, and you will always get people*
> *complaining about things ... but you have to be allowed to portray them otherwise*
> *nothing is engaging. (A13)*

This creative 'edginess' can significantly affect the effectiveness of a campaign even if there is a high risk of receiving complaints and sanctions (A4, A16). One marketer stated that receiving complaints indicated that their controversial advertising was working and having an impact.

Knowing where the line is and I mean this in a sensible way not a crass way, in that if you got absolutely no complaints at all then you might actually need to challenge yourself as to whether you can push the line a little further out, because if you are being bland and people aren't actually noticing it then you may be undermining the other side of the equation in terms of people being aware. (M3)

The creatives interviewed felt that regulatory codes were too restrictive and that it was not their job to worry about the minutiae of the advertising and clearance watchdogs (A2, a11, A14). This sentiment was expressed in the following quote from an account executive regarding their creative department that 'Creatives never draw lines! Clients do frequently, but these can be challenged, if you have a thought out, strong rationale and have taken advice' (A1).

Some clients and agencies associated with brands that were perceived to a bit risqué or edgy were more willing to take the risk of pushing a campaign a bit further than others. They were by definition thought to view controversy in any form as a legitimate, powerful and extremely cost effective means of gaining publicity (A5, A8, A11). These practitioners also did not see the threat of regulatory sanction as a serious deterrent to using controversial tactics, rather as, 'saber rattling' (A15). Such clients were happier to exonerate their advertising agency, taking full responsibility for controversial tactics and subsequent fallout from complaints (A15, A16). Some clients and agencies also admitted to deliberately initially pushing harder with creative tone and content, accepting that they might be pulled back by clearance. 'Of course we will always push things further than the

BACC [Clearcast sic] would allow us, I think' (A17). Others also felt that in that way they were more likely to achieve the kind of creative advertisement they were seeking than if they anticipated possible concerns from the clearance regulators.

Even within one agency, all involved do not see what constitutes the line equally. It is central to the account planners' role to negotiate the line with the client and media or legal clearance (A13). These practitioners are pragmatists who want to get the best from the creative team but without damaging the brand, upsetting the regulators or losing the client. 'I tell my creative team, don't push it, it will actually annoy people, especially the client' (A14). Account planners were more risk averse and used more self-regulation than creative teams. They do not want creatives to waste resources on 'edgy' scripts with little chance of getting through clearance (A5). 'A script that was really sexist or whatever and somebody going "I think not", we know clients won't buy them, I think the creatives could push it, but we wouldn't let that out of the office' (A13).

Client advertisers faced a similar dilemma of wanting challenging creative ideas that run close enough to the limit, while needing to be happy to sign off the material and take responsibility for subsequent complaints or losses, if the regulators find a breach of the code (M1, M3). One senior advertising player described their role as a guardian of the brand and their responsibility for gauging and drawing the line:

> *It's probably the agency more that the client in some regards, saying that we don't*
> *feel it's appropriate for your brand, because actually there are a lot of clients*
> *particularly if they have got young people in relatively senior posts in client*
> *companies who want to turn their brands into edgy brands, which aren't, isn't*
> *necessarily appropriate for the brand. I've heard cases sort of the like effect of*
> *youth, of having consumed lots of stuff like Grand Theft Auto* [Violent Video
> Game], *reading Loaded* [Laddish Soft Porn Magazine], *then all of a sudden they*

feel it's appropriate for their brand, which isn't necessarily in that market to start

acting in that way, and so I would say the agency more often than not is regulating

the clients on what is appropriate for the brand than the client is. (A5)

A theme of brand or client 'appropriateness' of the message emerged as an important determinant of the line of truth, taste and decency in relation to how practitioners managed the risk of controversy and complaints (A5). Some brands manage to successfully build up an edgy brand persona across many campaigns so that consumers expect them to be provocative, act irreverently and push the boundaries. Examples cited by interviewees included: WKD, Pot Noodle, Benetton, Barnardos, Ryanair, Tango, Abercrombie and Fitch, Calvin Klein. But trading in notoriety can prove a high risk strategy and other brands adopting these campaigns can fail because they are copying rather than innovating (A5, A16). The majority of clients, however, were seen by agency account planners to tread more cautiously.

Clients never want to take any risks, in fact the whole kind of agency-client process

in terms of getting creative work through, is the client constantly taking out

anything that can be remotely misinterpreted, offend one person and the agency

trying to keep enough in there to make it impactful ... In over 20 years here, I've

not come across any client where they have actually said I want to take risks, I

want to push the boundaries of what the ASA will accept or the BACC [Clearcast

sic]will accept, because I want to be different, I've never had any client do that.

(A5)

Some newer creative agencies were mentioned who have built reputations by encouraging their clients to take greater risks; for example, the now legendary postmodern 'gorilla playing drums' advertisement for Cadbury's chocolate.

Nearly 99 times out of a hundred, it's the agency trying to get the client to be a bit more adventurous, but unless you are a big creative agency like Saatchi or some of the younger, new creative agencies like Fallon... taking risks...lots of other weird .. random stuff to get cut-through (A5).

However, another more conservative organization with a strong set of corporate values or brand heritage might not be so laissez faire.

I think there is a balance of knowing the boundaries – knowing our corporate boundaries, but then go away and be creative. I don't think we, as a company, would be happy to just give them the contract and say go away and be creative. (M5).

This section has shown that assessing the 'line' beyond which advertising become controversial is complex for advertising clients and agencies, involving a combination of experience, negotiation and research. What is considered acceptable for the client and the level of risk associated with controversy is determined by the appropriateness to the image and reputation of the particular brand; and the perceived likelihood, volume and impact of complaints. Advertiser and advertising agencies practitioners have to try to assess the line of acceptability in terms of their public, consumers and competitor stakeholders, as well from the regulator and clearance practitioners' perspective. As a clearance practitioner suggests nudity in advertising is appropriate for a shower product but more questionable in a beer commercial (C4). The regulators' perceptions of controversy in advertising are examined in the following section. The ethics of crossing the line are described in the next chapter.

6.3.2 Assessing 'the Line': The Regulators' View

This section looks at the lines of acceptability in advertising from the perspective of the regulator practitioners: the media clearance teams involved in upstream regulation and the ASA complaint handling teams involved in downstream regulation. Regulators tend to define the line of acceptability by using their expertise of the advertising code and knowledge of past clearance and complaint cases. In judging the line of acceptability, the concept of 'precedence' emerges in the first instance as the fundamental guide when negotiating with advertisers and agencies (C2, R3, R4, R7). The upstream clearance teams flag up any likely problems of specific legality, truth or decency issues to the advertising agency and client. Downstream regulators claimed to focus closely on whether the advertising campaign was compliant with the letter and spirit of the advertising codes (R2, R4).

Clearance practitioners saw themselves as advisors and consultants rather than as punishers (C3, C4). They find that cases of misleading claims are easier to deal with than interpretive issues of taste or offence and view the line as a fuzzy, subjective and dynamic entity that ebbs and flows over time (C2, C4). Like the advertising agencies, the regulators use experts to arbitrate on difficult scientific and technical claims and may run independent surveys to garner public reactions (R1, R3). Stakeholder engagement is not a compulsory activity for regulators, but the ASA and CAP nonetheless were seen as more active in organising trade and public consultations.

> *We do some research and I think Nottingham* [Public Seminar] *was part of that positive litmus paper, really. 'What is the public's perception of this issue?' ... you can only go on ASA rulings and it's only as good as the judgments and that's where the code of practice comes in – it's not going to answer all your questions, especially about something subjective. That's where we bring to the party, our*

sense of judgment; there are other cases that are not in the public domain that we

can also use to inform our decision. (R1)

The regulators saw the mechanism of complaints and compliance itself as a crucial, evidence-based means to gauge the public's reaction to particular advertisements. The onus was seen to be on the public to complain and the publication of the ASA adjudications online and annual complaint statistics were considered pragmatic barometers of what the public and trade view as the prevailing standards required (R3, R4). Nonetheless, the regulators were somewhat guarded about the nature of some complaints, particularly those coming from professional activist complainants (R3), who might try to manipulate the statistics if they had a 'cause to maintain' (C2) or an 'axe to grind' (R4). However, because only complaints that proceed to investigation are reported, critics of the process argue that complaints statistics might actually underreport issues.

Frequently, the clearance bodies and complaints regulator have different views about what is and what is not acceptable. This interpretation of decisions at clearance [C2] is called into question at the complaint [C4] and compliance [C5] stage. The parties most often clarify their actions and motivations. Past ASA adjudications in particular were seen to help the media clearance and CAP advisors to estimate where the ASA Council stands on a particular issue or area of the code. This is illustrated by the following quote from a senior clearance practitioner.

The ASA put on their consumer protection, slightly 'worthy hat', by their charter,

their own thinking, they are probably entitled to come to a conclusion about where

they think the line should be drawn. For them it's reasonably easy, they would

probably find their feet on fairly firm ground. I think they feel justified in what they

are doing. For Clearcast, it is much more difficult because on the one hand they

have got the imperative not to upset the TV audiences and on the other hand have

got responsibility not get in the way of the creative process indicated by the

advertiser and their agency. And I think that the ground must be slightly moving under Clearcast's feet. What Clearcast do is up for review by the ASA all the time, really so not only do Clearcast have to do the balancing act between the general desire to protect the reputation of the TV station versus the desire to accommodate the advertiser; but they have also got to think about the dimension of 'I wonder what the ASA would make out of this'. (C4)

This underscores the cyclical and interlinked nature of the 6Cs process where upstream and downstream decisions set precedents for later disputes as in legal case law. Regulators agreed they had sometimes pre-conceived or default positions regarding past experience with certain organisations, products, services or specific brands with a legacy of controversy. This also was often the opinion of practitioners having sensitive themes or challenging claims like the Donate, Gamer and Beauty case campaigns. However, the heightened acuity of the regulatory radar did not always have a negative outcome. Regulators and clearance admitted giving charities and government campaigns more leeway to use gritty advertising content than commercial advertisers.

With a charity commercial first and foremost it's the code, when it comes to potential to cause offence ... it's subjective and that's the nature of taste and decency so that's fine. So we have to go by previous cases – they're important – ASA adjudications would be a really good steer on that. With charities for instance, the other thing that will come into it is the good cause, you know, the aims of the NSPCC is to reduce or put a full stop to child abuse, so in order to achieve that they've got to get their message out there and they've got to do it in a compelling way, so there is probably a little bit more license for a charity advertiser than there would be for violence or many other things and I'm sure you will have noticed that for commercial brands. (C2)

There is therefore evidence that regulators will give social causes the benefit of the doubt. However, there is also a danger that commercial advertisers may interpret this leniency as controversial advertising in terms of taste, decency, offence or violence being acceptable and may try similar tactics in the future (C2). Some practitioners gave examples of campaigns were commercial advertisers misjudged the leeway public stakeholders give to hard-hitting social campaigns for good causes as the benchmark; as in the MFI case, were the furniture retailer depicted themes of domestic violence in its TV advertising (R4).

Dealing with micro-level controversy around a given campaign's claims, particularly in relation to more tangible or scientific claims, such as product benefits, CO_2 emissions, are often easier for upstream clearance [C2] than macro-level complaints particularly about more intangible or emotive issues. Thus for regulators the veracity of a concept like 'global warming' is not a debate they wish to engage in, given their lack of expertise (R4). They therefore require the marketers and external experts to 'hold the proof' of any claims made. This refocuses the adjudication on micro-technical details of the advertising. Some downstream regulators find it easier to detect controversy around emotional taste and decency issues, than to test whether claims can be substantiated, particularly if different experts' technical evidence is contradictory.

> *It is less easy to draw the line now ... where is the line between enthusiasm and forgery as to where the misleading line needs to be drawn ... or where to draw a line between taste and decency, people recognise that line. I think that the line ... you can draw your misleadingness line in different places (C2).*

This extract illustrates that the line is a fluctuating one and therefore the regulators adopt a formal strategy of systematic analysis, disseminating adjudications, notes of guidance and offering training to practitioners on the codes themselves. When there is a critical mass of complaints, the acceptability of certain types of advertising may be more fundamentally

reassessed, possibly involving widespread stakeholder consultation (R2, R4). Thus, the extensive ASA/CAP review of the UK advertising codes in 2009-10, involved a wider consultation with marketers, agencies, the media, plus concerned consumer and governmental groups (R3). Recent code revisions and new regulations particularly regarding advertising in new digital, interactive and social media, illustrate that existing adjudications were not seen as a sufficient basis for judging acceptability. These stakeholder driven developments underscore the ever-moving line of acceptability and complexity of interpreting controversy in advertising. In the following section, practitioners' perceptions of the consequences of crossing these lines are examined.

6.4 The Implications of Controversial Advertising

The literature review shows the potential risks and costs of controversial advertising as including stakeholder criticism; complaints; negative publicity; collateral damage to brand image or corporate reputation; referral to regulators; litigation; more regulation; brand boycotting; and, potentially, sales and job losses. This section reports how practitioners perceive as the potential costs and risks of controversial advertising practices from this study.

In relation to the 6Cs model, there are potential upstream costs in relation to production resources needed to amend or reschedule advertising, and possible downstream costs in relation to negative publicity, fines, and lost sales. There are immediate financial implications if a campaign is amended at the clearance stage [C2] or has to be withdrawn after complaints adjudication [C5] at the control stage [C6]. These include losses associated with pre-booked media space and time or additional production costs incurred to re-shoot or write new material (M2, M3, M5, A4, A5, A11). For example, if time restrictions were applied to a controversial advertisement this could significantly reduce

the audience coverage, media reach and campaign effectiveness, as evidenced in the cases of Donate, Beauty and Gamer organisations in the previous chapter.

Longer term costs were also mentioned, particularly those arising from bad publicity following negative ASA adjudications. Interviewees stated that negative publicity is no longer short term, remaining online in perpetuity. The adage that there is no such thing as bad publicity was not seen as necessarily true. For example one marketing practitioner describes how a complaint going through the ASA regulation process led to the discontinuation of a product range.

> *That publicity, if it's picked up by the news, you can bet your bottom dollar it is going to go global and we had at one stage an advert for* [Shampoo Brand] *– it's on the ASA website – and we had, in China, we had government officials taking* [The Brand] *off the shelf as a result of this ASA adjudication which, in my view, was unjustified. I have said to the ASA many, many times that they do not understand the implications of what they do when they make an adjudication and make a decision, especially not where there are bodies of scientific evidence and they choose to listen to their* [ASA] *expert, who I am not convinced IS[6] an expert, but it is a viewpoint.* (M5)

This quote highlights the frustrations that can arise if there are differences of opinion regarding the science behind product claims. 'But the ASA has the power and they will adjudicate; and you are hung, drawn and quartered, whether you like it or not, even if you could argue until doomsday' (M5). The publication of negative ASA adjudications can have a reputational cost not only for the brand, client organisation and their agency; as a senior regulator suggests, their misdemeanour makes headline global news and remains accessible on the ASA website.

---

[6] Participant's emphasis

The fact is the ASA has very real power simply in declaring what is or is not misleading, socially irresponsible or unacceptable. Week by week, ASA adjudications make news. Their impact goes far beyond the fate of any particular ad. ASA adjudications affect sales. They hit the share price. They lose marketing managers their jobs and agencies their accounts. An ASA adjudication is one of the first things you learn about a company when you first Google them. (R2)

For that reason advertisers often prefer to accept advice not to go ahead with an advert at the early stages of the process, rather than risk complaints, a negative adjudication and the consequence negative public image. One interviewee said of a campaign that was pulled before broadcasting: 'It was a huge cost to the business, but we thought that from an external relations point of view, you get far more bad publicity if we had gone ahead with it' (M5).

Significant costs of repeatedly breaching the ASA code can also include additional sanctions; referral to the Office for Communication (OfCom) or Office for Fair Trading (OfT) involving fines or compulsory pre-vetting of future campaigns.

So, if we have somebody who was a repeat offender and we uphold more complaints then obviously we would refer them to OfCom, who would fine them or revoke the [media] license and we have done that in the past (R4).

The most critical costs to an agency due to controversial advertising are the breakdown of the client relationships, losing the account and individuals losing their jobs (A5, a12, A15). Disputes between agency and client over the responsibility for an offending or deceptive advertisement are common and something that advertising practitioners were particularly worried about.

Clearly the client will have had to sign everything off at every stage, but you will always end up getting involved in a certain amount of discussion about – 'yes but

you the agency told us it would be Ok'... 'I know I signed it off and agreed to it but you [the agency] *told me it would be ok', so you'll end up in a dispute quite often.* (A5)

Increasingly, advertising agency interviewees fear lengthy and costly legal battles with their client, particularly having got clearance approval and clients to sign off the final campaign.

You'll hope that the client is reasonable and acknowledge that they signed it all off, I mean to be honest the agency's objective will be carry no cost whatsoever, that would be the start of the discussion ... so that would be an agency's first reaction depending on what it is that is being objected about and how much and it's worth fighting it...because if you make the decision to fight it is going to cost a lot of money. (A5)

If both the client and the agency fight it out to settle the cost of whatever it is you've been told not to run. More often than not its really TV where it's a big issue, because if you've just spent a half million quid on a TV commercial that 20 people have complained about and the BACC [Clearcast sic] *decide you can't run it anymore and for whatever reason, if it's something you can't easily re-edit, you might be facing a hundred grand of costs to do so.* (A5)

A number of clients and their agencies expressed concern over the costs of bad advice about the code from the clearance experts (M1, M5, A11, A14). In some cases, even after amending their advertising to gain approval, complaints were still received leading to further amendments or even complete withdrawal. Clearcast/BACC or CAP advice does not guarantee that the clients' advertising will not receive complaints or exempt it from

being later amended or pulled by the ASA. Interviewees felt that there is no financial cost to the clearance or code advisors when they get it wrong.

> *TV is where you have the big hit on costs, if the BACC* [Clearcast sic] *rule against something after, this is the great get out with the BACC, they approve you for airing but with the caveat that if a few people complain, they will un-approve it.* (A5)

This section has examined the negative financial and other commercial consequences that interviewees see arising from controversial advertising. The following section looks at the ethical and social consequences of controversial advertising for stakeholders.

6.5 Controversial Advertising: Consequences for Stakeholders

Ultimately controversial advertising can have positive and negative consequences that involve both intended audiences and unintended stakeholders. This section analyses the extent to which practitioners see such consequences for stakeholders as problematic. The findings contribute new insights into practitioners' perceptions of consumption risks, psychological distress, and physical harm related to controversial advertising practice. Interviewees were aware of the understandable social costs associated with advertising that promotes inherently harmful goods, such as tobacco, guns, alcohol, or fast food. Indeed, some interviewees stated that they refused to work on such accounts (A2, A9, A12). Others also referred to concerns over social consequences for young children such as commoditisation, sexualisation, and emulation of dangerous behaviour (A13, A17, C2, R3). The costs of these issues are seen as significant and did play a role in practitioners' decision making. Advertising that is seen to have such ethical and social consequences is known to evoke a backlash from society, eventually triggering legislation and even calls for advertising bans. There was a heightened sensitivity to young consumers evident at specialised brands like Gamer and Donate. However, evidence from other interviews (M1,

M2, M3, A8, A9, A16, C3,) showed many examples of unanticipated consequences for stakeholders.

Regulators and advertising practitioners expressed concern over vulnerable stakeholders, and were more tuned into particular ethnic or religious groups, disabled people and children. In particular, any campaign that had the potential to harm through 'emulation' by children would trigger alarm during the upstream phase. 'Any action that can be emulated by kids, particularly, we are very concerned about it. We will either give it a timing restriction or we'll say no' (C2). Social campaigns for charities often run into these problems involving 'copycat kids' (R3). For example, another cause celebre campaign was mentioned for the Royal Society for the Prevention of Cruelty to Animals (RSPCA) who ran a campaign stating: 'A dog is not just for Christmas', this was described by one of the regulators:

> *The guy had a dog for Christmas and didn't want it anymore, put it in sports bag and lobbed it in the river. We got hundreds of complaints, saying we had given them an instructional video on how to get rid of a dog, because the message 'don't do this, it's awful, think before you get it' was lost. It was left for the viewer to work out the message for himself.* (R4)

Often, however, ASA regulators question how well the upstream clearance colleagues actually assess the level of risk in campaigns (R3, R4]. The following longer quote from an advertising regulator illustrates the decision process dialogue involved in examining another notorious controversial case.

> *The first broadcast advert we ever banned at the ASA was Tango [Soft Drink]– kids playing in concrete pipes rolling down the hill; well-meaning members of the public felt it was a bit of a dangerous thing to show on television, but we also had complaints from people who had seen accidents happen to young people playing on*

building sites. And somebody saying that's how my son died, doing that sort of thing. The first thing we do is look at the complaint and if we see a reasonable complaint from a reasonable person, who hasn't got an axe to grind and they are not on either side of the extremes, then we look carefully at what they have said. I can see that some children of a certain age might be influenced by this image, because we know that children are influenced by advertising, then we will go to Clearcast and we'll say 'what do you think about that?' And 'what was your rationale for clearing it'? Ordinarily it will be 'what was your rationale for the timing you put on it – this is the complaint and what have you got to say about it. (R4)

However, the regulator appears to have a default position: that only the timing restrictions need checking; as opposed to whether any dangerous advertising scenes that are emulatable by children, should automatically be banned outright. Unintended and unanticipated consequences like emulation were seen as widespread across the interviews and were considered to be more serious.

The credit card ad showed a mermaid who has been out on a spending spree and one of the things it bought, was a hairdryer and so there it was blowing bubbles out of a hairdryer – now Clearcast all the way through, never thought that children might pick up mum's hairdryer and go off and blow bubbles in the bath with it – but that was actually the complaint we [The ASA] *got, 'I stopped my child just before she electrocuted herself' and it made all of us think! There are these random things that go on and that's a major consideration for an advert. You've got to keep an open mind as to 'is it what you intended by that?' It's about interpretation.* (R4)

Other examples of advertising that were mentioned as problematic and which could result in dangerous emulation, such as school children 'slapping' each other as in the Tango case

(C4). Others included a long-running confectionary campaign showed children flicking small sweets into their mouths (a potential choking hazard) (R4); an intoxicated young man climbing scaffolding in an anti-alcohol campaign (R4); and a man diving off a cliff in a fragrance advertisement (M5).

The main controversies around children's advertising mentioned in the literature include 'pester power', 'obesity', 'sexualisation' and 'distress'. This research would suggest adding 'emulation' to the list. The evidence suggests that players involved in advertising creation, clearance, complaint handling, and adjudication need to consider consumer safety issues if such potential dangers are to be averted, as well as considering the cumulative effects of exposure to such advertising. The final section considers how the 6Cs process model can be used to capture where controversial advertising decisions occur in practice.

6.6 Positioning Problems of Controversy in Advertising

The extant literature on controversy in advertising has predominantly viewed the problems retrospectively from a downstream complaint handling (C4-C6) rather than upstream complaint preventing perspective (C1-C3). This researcher however distinguishes two further broad categories of controversial advertising: 'upstream micro production' choices and 'downstream macro consumption' outcomes. In other words controversy can emanate from individual campaign level issues around practitioners' decisions about the advertising message content, word, pictures, claims or tactics on one hand. On the other there are macro level issues that may accrue from the advertising and consumption of controversial products or promotion of behaviours or ideas with broader cumulative societal effects. However just as micro-campaign consequences are often manifest downstream, macro–societal consequences can also manifest upstream. Both categories bear an ethical decision making dimension explored in the next chapter. Thus the 360 degree nature of advertising production, consumption and regulation processes illustrates how there is a symbiosis

between all the stages of the 6Cs process. Indeed one might see the regulatory systems as the bridge between the production and consumption sides of advertising. As seen in the Donate and Gamer cases, research into the macro issues can shape the context of upstream practitioners thinking. Effective regulation must help the industry address both macro and micro dimensions whether upstream and downstream. These concepts are illustrated in Figure 6.1 and categorised earlier in Table 6.1. This also offers a richer and more systematic categorisation of controversial advertising than simply differentiating problems in terms of solely product, message, targeting and behavioural consequences as found in the literature and in the wording of the advertising code. Figure 6.1 illustrates how clearance and complaint resolution are intrinsically interlinked. More precise primary concerns from the practitioner' perspective are also given which expands upon those previously suggested by Zanot (1985).

Practitioners seemed to perceive complaints about advertising to be focused specifically to an individual campaign from one complainant, rather than viewed cumulatively from many complainants. Equally the volume and recurrence of complaints is an important consideration to gauge the prevailing and evolving nature of advertising standards. Client practitioners in particular often see the causes of controversial advertising being located downstream, manifested in complaints, misinterpretation and activism of biased consumers, pressure groups and competitors. Regulators tended to perceive both sides the social, public protection and consumer rights issues as well as the industry and media desire for fair business practice. The advertising agencies however, run into trouble when these competing stakeholder interests conflict.

Figure 6.1 Positioning Controversial Advertising

PRIMARY CONCERNS
- *Message Content*
- *Audio-Visual*
- *Language*
- *Themes*
- *Characterisation*
- *Claims*
- *Tactics*
- *Targeting*
- *Media*
- *Timing*

Upstream

C1 Creation

C2 Clearance

C3 Communication

C4 Complaint

C5 Compliance

C6 Control

Downstream

PRIMARY CONCERNS
- *Acceptability*
- *Substantiation*
- *Collateral Damage*
- *Ethics*
- *Regulations*
- *Offence*
- *Taste*
- *Decency*
- *Harm*
- *Precedence*
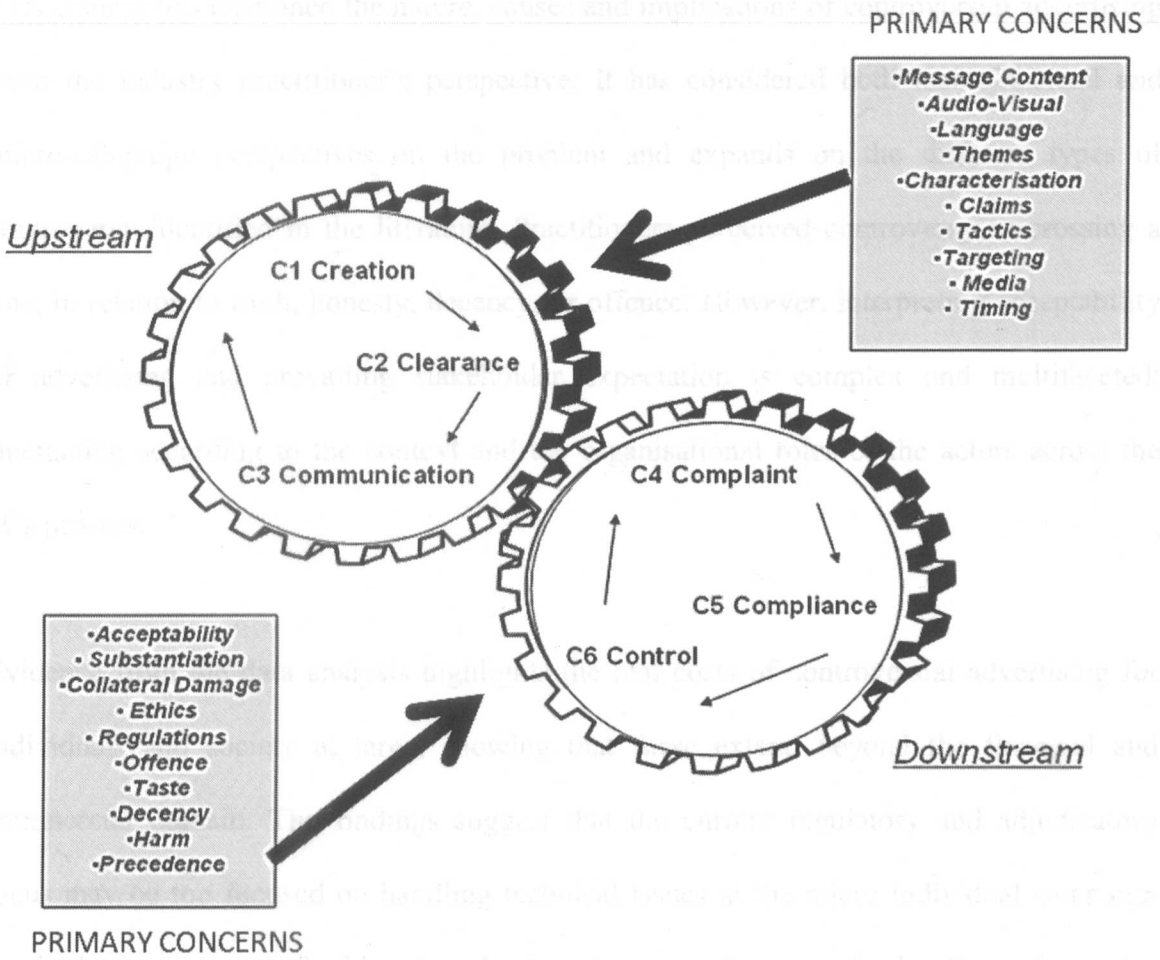
Source: Author (2011)

6.7 SUMMARY

This chapter has examined the nature, causes and implications of controversial advertising from the industry practitioner's perspective. It has considered both macro-societal and micro-campaign perspectives on the problem and expands on the different types of controversy identified in the literature. Practitioners perceived controversy as crossing a line, in relation to truth, honesty, decency, or offence. However, interpreting acceptability of advertising and prevailing stakeholder expectation is complex and multifaceted; fluctuating according to the context and the organisational roles of the actors across the 6Cs process.

Evidence from the data analysis highlights the real costs of controversial advertising for individuals and society at large, showing that these extend beyond the financial and commercial domain. The findings suggest that the current regulatory and adjudicatory focus may be too focused on handling technical issues at the micro individual campaign level, at the expense of addressing the broader consequences of advertising for wider stakeholders and for society.

The positioning of the problems related to controversial advertising are also contextualised in regard to the upstream and downstream phases of the 6Cs model. The findings also highlight how C1-C3 are the upstream drivers of downstream practice C4-6, however there is a feedback loop manifested between them in terms of 360 degree regulation.

The findings also raise questions about how open practitioners are to the ethical dilemmas that can arise. The following chapter examines how practitioners make sense of ethics around the practice of controversial advertising.

Chapter 7

Findings: Ethical Decision Making –
A Practitioner Perspective.

What is the difference between unethical and ethical advertising?
Unethical advertising uses falsehoods to deceive the public;
Ethical advertising uses truth to deceive the public.

~Vilhjalmur Stefansson ~

Discovery

1964

Chapter 7
Findings: EDM – A Practitioner Perspective

7.1 Introduction

This chapter addresses the third research objective, to make sense of practitioners' ethical decision making in the context of controversial advertising. The findings present a more practice-orientated perspective on ethical decision making (EDM) than generally portrayed in the literature. The chapter looks at the findings with regard to how practitioners consider the ethical aspects of advertising practice and how they frame their decisions in terms of business, legality, regulation and ethics. The latter sections describe findings showing how practitioners use collaborative, pragmatic and precedence based strategies to work through advertising dilemmas in practice.

7.2 Formal versus Informal Processes and Ethical Reasoning

This section provides a closer examination of how EDM is enacted by practitioners. It provides insights into the role of formal processes and codes; as well as the informal processes of ad hoc reasoning and interaction between players. In dealing with controversial advertising and the ethical issues it raises, practitioners can be seen to use two main strategies. The first is the formal processes to institutionalise ethics and best practice through the use of control systems, regulations and codes of practice, notes of guidance policies and compliance protocols. These can be defined as 'hard' tools to enshrine the rules of the game and professional standards. The second strategy is the use of informal 'soft' tactics to get the advertising job done. They involve compromise and negotiation particularly around the subjective nature of defining acceptability of advertising in practice. While formal processes aim to guide practitioners towards desirable responsible and ethical outcomes the evidence suggests that practitioners more often adopt soft informal means to work around, within and without the rules.

7.2.1 Formal Ethical Decision Making and Codes

When interviewees talked about ethical matters they repeatedly described ethics as a formalised codification of the shared values within their organisation, institutions and industry as a whole. Through this formalisation of advertising ethics through regulation EDM thus becomes a legalised process, encompassing 'court case' scenarios, expert representation, investigation and adjudication. Trade Associations, Copy and Code Committees or the ASA Council experts sit in judgment over practitioners to gauge if their advertising breaches the spirit and letter of the advertising profession's regulatory codes. The codes enshrine the ethical principles, legal requirements and standards expected by the profession and society. However, as already shown in Chapter 5, the advertising regulation process is a complex and circular one, spanning upstream and downstream phases. EDM is similarly a dispersed activity across multiple players within the 6Cs process, as summarised in Figure 7.1.In contrast to the EDM literature, little evidence was found to corroborate the individualised and rational or stepwise approaches to moral reasoning by practitioners theorised by Rest (1984), Jones (1991) or Trevino (2004). Rather, ethics related decisions seem to flow from multiple actors engaging with each other in the process of creating, clearing and regulation of controversial advertising.

Figure 7.1: Dispersed Decisions Makers across the 6Cs Process
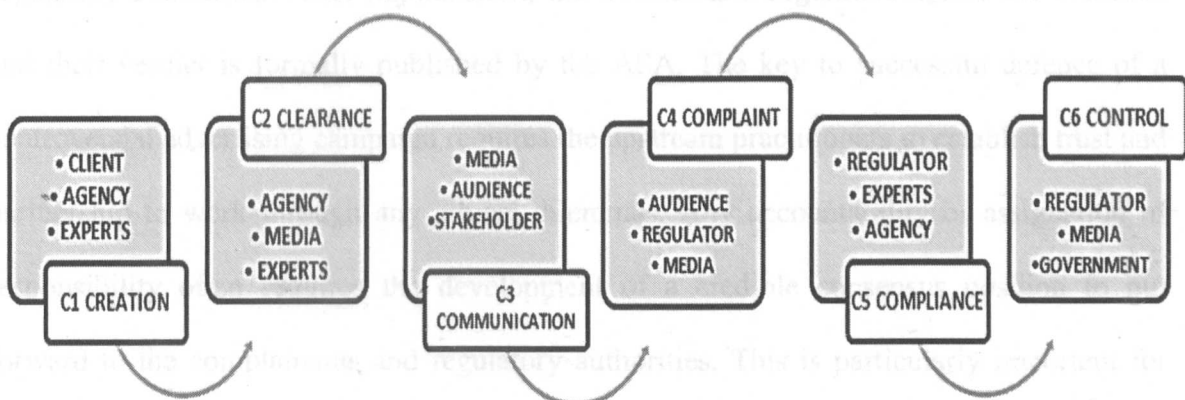
Source: Author (2011)

These actors will operate within a self-regulatory framework not only set by the UK advertising industry, but also voluntary codes specific to their clients' industry sector. There must also be consideration of in-house rules, organisational role specification, management expectations and their own personal values. As the following advertising practitioner suggests, both multi-level and multi-party decision making is the norm in their day-to-day practice.

The codes of practice that I mentioned, two big ones [Medical & Pharmaceutical] *set out quite strictly the way that you use information and what can and cannot be extrapolated, and I suppose we take that on board; but we [Agency] also have our own personal way of working I think, especially if scrutinising fact, to be able to say something that has a really firm foundation and even before you submit something it goes back to the client and back to their regulatory people.* (A11)

When ethical issues arise and are formally investigated, the onus is on upstream practitioners to fully verify in writing how they acted, their intentions and the precautions taken to stay within the spirit and letter of the advertising codes. This re-constructing of their decision making often involves a collective effort by creative practitioners, account directors, clients and their internal experts to corroborate their version of events to the regulatory authorities. After adjudication, the downstream regulators assess the evidence and their verdict is formally published by the ASA. The key to successful defence of a controversial advertising campaign requires the upstream practitioners to establish trust and partnership to work through any ethical dilemmas. Any accountability or assignation of responsibility often requires the development of a credible consensus position to put forward to the complainants and regulatory authorities. This is particularly important for the marketing client and their agency as suggested in the following quote.

It has to be seen as a partnership. We work with our clients, with moral responsibility. With all the accounts I work with it is absolutely joint ... I won't ever

recommend anything that wasn't right for them. I think they trust me in that respect.
(A14)

Good relationships are also seen as desirable between upstream and downstream players. For example, sometimes a clearance advisor gets things wrong, and therefore building a long-term relationship with advertising agency practitioners is important to prevent ongoing disputes.

> *The way I think* [Clearance Executive] *things will develop in the future. It shouldn't be simply that an advertiser can't sue Clearcast; it should be that they wouldn't want to, because the working relationship is more important than an individual thing going wrong. This is why I have always seen Clearcast potentially being a partner with an advertiser in the creation of advertising that complies with the rules rather than sort of being a standalone hurdle as far as the advertiser is concerned. As it maybe it will increasingly develop that way.* (C4)

Practitioners frequently find it difficult to interpret the advertising codes and regulations, due to their broad aspirational, normative nature and lack of specific application to the issue or brand in question (A1, A3. A16). Clearance and CAP code experts try to provide advice but often this is tentative and not as clear-cut as the clients or agencies would like. A CAP Code expert admitted the following:

> *I don't think the code can ever be very much more specific than it is. It outlines the areas that you're likely to fall foul of but other than that it is all down to interpretation.* (C1)

When agencies ask the clearance and code experts 'what do you think of this advertising idea or copy' or how they feel the public or ASA people will interpret it, clearance can only advise on possible complaints that might arise; there is no formal guarantee that there will

be no complaints even if the advertisement is given clearance. However, if agencies opt out of getting advice they run the risk of controversy and complaint.

> *Some advertising agencies choose not to come to copy advice because it is voluntary and they don't have to, because they see us as a troublemaker as opposed to a trouble shooter* (C1).

There was also a sense that often advertisers opt to wait and see what happens and deal with the ad-hoc problems on a reactive basis (M1, A5, A15).

The formal authority of CAP and Clearance advisers to enforce upstream compliance [C1-C3] was limited through inherent role conflict and a lack of power (C4).; as well as concerns that stopping controversial advertising has implications for the financial viability of their media owners

> *You've got to get the ad noticed because advertising is seen as wallpaper by a lot of people. So you've got to make an impact and if you've got a strong message you will make an impact, maybe by shock tactics – We regularly clear commercials knowing a complaint will be whistling its way to our door, but at the end of the day you've got it going on air. But that cannot be a reason for us not to clear commercials because otherwise we wouldn't be doing our job properly.* (C2)

Another concern was formal complaints from professional lobbyist groups, some even sending in multiple copies from organised campaigners around a particular issue like smoking, alcohol or animal rights taking up too much time for ASA investigation staff regulators. However, the clearance community was not actively engaging with such groups to pre-empt this, even though they could see potential merit in engaging with pressure groups early.

That's not to say we wouldn't talk to lobby groups, or pressure groups, because we would – certainly if they want to engage. They choose to ignore the fact that pre-clearance occurs and I think we would try to engage with those people to try to make sure that they understand the process. But pressure groups, where you've got one mission, can be frustrating. (C2)

There is also the potential temptation for already very busy clearance teams to concentrate their focus on objective technical advice like timings and quantifiable facts rather that get drawn into time consuming social or ethical arguments. Clearance practitioners (C2, C4) often found these too subjective and therefore tended to leave difficult ethical or societal concerns to downstream regulators to solve.

There is an argument today to leave the code as broad as possible and let the ASA interpret how that code should be applied; something like guns and violence are really broad no's at the moment with so many kids being killed and stuff like that. You can't legislate for that in the Cap Code. Really I think the ASA has just got to just say 'you shouldn't cause offence and you shouldn't be socially irresponsible' and we will be the judge of when you transgress. (C1)

Downstream, at the compliance [C5] and control [C6] stages, the relevant adjudication councils arbitrate on the formal written evidence presented by the complainants and industry defendants. The final verdict is formally sent with any recommendations. No individual practitioner or complainant is ever named in the ASA reports other than by reference to the advertising agency, client, brands or groups involved. However, if blame cannot be assigned to any single actor or organisation this may be one reason why controversy in advertising reoccurs. Most practitioners are of the opinion that the industry self-regulatory process and the codes demonstrate to government and consumers that advertisers maintain professional standards independently and can be trusted to act fairly

and police themselves effectively (A5, A7, A17). While the formal processes as described in the Advertising Code and discussed above clearly have some relevance to practitioners it became evident during research that the formal recording of events is often quite different from discussions that take place off the record, in personal conversation or email between the players as they work through each stage of the process. The findings regarding these more informal aspects are now discussed.

7.2.2 Informal Ethical Negotiations and Pragmatism

The findings of this research highlight the importance of informal and pragmatic approaches in helping make sense of practitioner's decision making around controversial advertising. As mentioned above, practitioners found it insufficient to rely solely on rules and regulation to help them achieve responsible practice. Prior experience was a highly important factor. All the specialists in the advertising and regulatory communities had a wealth of knowledge over many years and thousands of campaigns, which helped them to foresee negative consequences. This was particularly relevant in those areas of advertising, i.e. broadcast and print advertising, where established and often compulsory clearance procedures were in place. For example, on a controversial charity campaign showing child abuse, the agency planner describes using 'soft' intuitions and 'hard' research in tandem. This was often said to be the case with issues of offence or harm.

> *It is experience and a gut feel. As well, we do show pieces [Sample Advertising Concepts] both internally and externally to members of our target audience to gauge their reactions.* (A7)

However, when it comes to clearing advertising copy, upstream regulatory experts were always trying to spot new or unusual cases early, particularly when radical claims were being made about a brand or in comparative advertising. A major national cosmetics advertiser (M5) felt that the ASA was always vigilant for what she called 'breakthrough

claims', where a brand advertises a new variant, formula or ingredient, or makes claims from scientific tests or statistical surveys The implication being that the regulatory experts often take issue and 'require a huge level of evidence' (M5) that can delay the campaign getting on air. Often there was a 'battle of experts' (M5) and external consultants 'trying to steer the Clearcast executive in ways that were scientifically incorrect or unproven' (M5). In many cases, with the client being seen to be pushing one way and the regulators another, intermediaries in agency account management and in clearance feel they are the ones trying to find the middle ground. (A1, A4, A13, A14) Other marketers (M1, M5) felt that regulators and clearance personnel sometimes were biased against their brands and more lenient with the competition.

To overcome implications of favouritism or bias, the clearance officers or regulators have independent ombudsmen that can be called in to undertake a formal review. However, as suggested by an agency account planner below, the more common and preferable solution was for the upstream and downstream players to build better working relations and more regular contact, not just when there is a complaint.

> *You've got notes of guidance and regulations to refer to but you can also talk to your Clearcast executive ... I think what helps the process is to have a good relationship between the person clearing the scripts and the day-to-day account exec. A lot of it, in my experience, problems, occurs when people have a bad relationship. Their (Clearance) role isn't just yes no, you cannot do this, mustn't do that, but they are obviously under a lot of pressure time-wise to get things turned around quickly. But I think if you have got a good relationship you can at least, if you have got an issue with your script then, you can talk to them to try and resolve early issues before you even send the scripts. (A4)*

There was considerable evidence in the interviews that at each phase players were beginning to see the merits of building a 'community of practice' (C3). Players could forge better stakeholder relationships and networks to represent their views and self-interests. New consultations were occurring among client members at the micro-level in relation to advertising campaign disputes, at the meso-level among those refining the codes and systems of practice, and at the macro-level in terms of negotiations about national and even international self-regulation. Examples of these collaborative links discussed in the interviews (M12, M4, C1, C2, R4), revealed both formal and informal initiatives to promote mutual understanding, reduce conflict and co-create more effective regulatory practices. These included:

- the gaming industry participating in the government's Byron Review[7]

- ASA stakeholder seminars with community and pressure groups

- CAP code advisers offering advice workshops to new advertising agency recruits

- the 'Gamer' organisation visiting the regulators to physically demonstrate their consoles and games in action to educate them on the benefits and change in attitudes

- the 'Beauty' organisation working with their main competitive rival and the regulators to harmonise substantiation best practice for the cosmetics sector.

- members of various regulatory, clearance and industry organisations and groups serving as observers on each other's review committees.

The mutual membership of such trade association's fostering collaboration and pro-activity among organisations upstream and downstream is illustrated by the following two quotes.

---

[7] The UK Byron Review (2008) focused on the impacts of video gaming, social networking and internet on children. The report 'Safer Children in a Digital World' is available at http://www.education.gov.uk/

We invited the IPA [Institute of Practitioners in Advertising] and ISBA [Institute of British Advertisers] to sit as observing members, so that first hand they are seeing what it is we do and we are trying to do. (C2)

> *We sit on the CAP as a member and on BCAP as an observer – and we're aware of the whole process and we're involved in everything at CAP and BCAP level; we're also a director on BASBOF, which is the funding body. We sit [...] at the minute on the Code Reworking Group, which is looking at the whole code and revising it. The relationship is very close and we have regular liaison meetings and we know people personally. (C2)*

These inter-organisational initiatives build both formal and informal links to help better understand regulators', advertisers' and trade associations' needs. These interactions led to the recent year-long consultation with stakeholders, clients and industry groups, which led to a review of the CAP codes in 2010 (R3). This also enabled players to refine the self-regulation system more collectively and dispassionately at a macro-level rather than solely focusing on micro-issues or individual advertising campaigns. These initiatives also serve to change industry perceptions, such as the role of clearance from being an 'irritant' (C2) out to stop their individual campaigns getting on air, to being more like an 'enabler'(C2) to make advertising more acceptable at the brand, sector, industry and societal level. This suggests a proactive, preventive and holistic approach to advertising decision making and stakeholder engagement, which is different from the focus on individual decision making in the ethical decision-making literature and the downstream, end-of-pipe take on regulation in much of the advertising and advertising regulation literatures. Marketers were also found to be pro-actively researching what was occurring in the area of complaints on a more cumulative rather than on an ad-hoc reactive basis (M1, M4, M5). This was facilitated by the ASA publishing its adjudications on-line and even pushing the data out to the industry

in the form of email alerts with links to the latest case files. 'We have built our own database of ASA adjudications. My assistant inputs it on a weekly basis'. (M5)

Similarly the CAP and Clearance organisations were actively trying to raise the profile of their upstream advice and code guidance services to specific industry sectors.

> *What we try to tell advertisers and agencies is – 'come to us at an early stage – even if it is just conceptual – even if you're saying 'kind of thinking about this idea and what do you think' or even if you are pitching. There is no point winning a pitch to an advertiser, having this great idea and then come to us and we say 'you can't run that; it's a breach of the code'. One of the things that I think we'll be doing in the future is pushing copy advice because it is this idea of pushing resources upstream especially in the recession. (C1)*

Overall this shows how the 6Cs process as conceptualised in this research underpins a new 360-degree view of advertising regulation rather than one focused on isolated players or issues. Indeed the international debate about the future of advertising self-regulation across Europe echoes these trends.

> *To be truly effective, self-regulation cannot afford to restrict its activities to responding to complaints: if it does so, its interventions will inevitably be haphazard and lack consistency or thoroughness. To proceed effectively against violations of the code, it will need to put in place a planned programme of systematic monitoring, based on specific product sectors or problem areas [...] on its own initiative and to evaluate levels of code compliance. This, in its turn, enables potential problems to be discussed with the industry and eliminated before they become too serious; regular dialogue with the industry should be a routine part of the SRO's [self-regulatory organisations] activities. Monitoring and compliance*

surveys will also indicate areas where the code may need to be strengthened or changed. (EASA, 2011: 8)

Discussions with a clearance specialist with over 30 years' experience highlight how these developments in upstream self-regulation are organic improvements to their formal and informal practices to resolve difficulties in relations and resource bottlenecks. But rather than doing it in an adversarial way, the industry is now seen as working much more closely with each other.

> *Very occasionally – relationships break down because it is a difficult time, it can be very stressful, and if you're constantly telling somebody at one of the agencies that you don't like the scripts that come through – you are constantly battering them – it can be very, very difficult – on both sides.* (C4)

> *A few years ago when the vacuum cleaner industry was ticking along and there were lots of gentlemen from Hoover and Miele – it wasn't a very dynamic market at all and then along came Dyson with very aggressive marketing and all of a sudden the ASA almost ground to a halt because of getting so many intra-industry complaints about very, very technical things – no evidence about consumers being misled and what we ended up doing was getting them all in a big room and smashing their heads together and saying 'OK this is the testing protocol that we are all going to agree to, if you are going to make these types of claims, and they are, as you say, sector specific and very, yes just really specific about what you can and can't do in telecoms' and vanity publishing – all the glamorous side of advertising really.* (C4)

Evidence of collaboration among practitioners to co-create better regulatory practice was found to push for both upstream activity and proactivity.

The ASA and CAP are working with the health and beauty trade association again to bring out guidelines which will try and get things right before they place their ads, so it's all about pushing resources upstream to get it right before the ads, before people are misled or offended. (C1)

Rather than banging heads together (C4), practitioners were now putting their heads together voluntarily, to resolve complaints with peers and get a more active role in the regulatory process, and even to change the codes and how the clearance and regulatory process itself works. This was confirmed in interviews in the Beauty organisation, which preferred to informally contact their competitors directly first to avoid involving the regulator.

Within [Beauty] we have a gentlemen's agreement with industry members, where we contact each other first and talk to one another's legal department. Two weeks ago my colleague from [Competitor organisation], who does the same type of job and you know also – we go to meetings and we're good friends – rang me and said they were not happy about the ad we had on air at the moment. I said 'tell me what your problem is', looked at it, went away and actually what had happened was that the Production Department had sent an older version, their [Competitor's] legal department e-mailed our legal department and when I told him the whole situation he said 'great, I'll go back to them and send them what we actually should have on air'. We wouldn't tend to go to ASA but we would go to Clearcast and mount a challenge with Clearcast. It is actually quite rare that a competitor would go to the ASA. (M5)

Marketing clients were also keen to make their voice known to the regulators, by working with their competitors to actively influence the codes and working practices of the clearance and regulators.

In the cosmetics industry we are actually working with Clearcast and the ASA to make guidelines and a series of 'mutual understanding' documents, which will help us have the ASA consultant, the Clearcast consultant and ourselves working to the same principles. And in that way we should eventually get to, despite what the expertise is that if there is a certain way of looking at a claim then we should all be looking at it in the same way. (M5)

The representatives of the various cosmetics marketing organisations have been active in drawing up collaborative sector documents of 'common understanding' to add weight to their lobbying for fairer regulation and to reduce the time and resources wasted in battles between the industry experts on matters of interpretation. 'The ultimate intention of our association members is to get those guidelines into the ASA or CAP code of practice' (M5).

The advantage would be that we would know that we could produce an ad, safe in the knowledge that the opinion of the ASA at the end of it, would be based on the same guidelines as we intended that ad to be. At the minute, I think it comes from two different directions. What the ASA claim as a 'breakthrough claim' and therefore requiring a huge level of evidence – actually in the cosmetics industry we have been doing it for years so it's not a 'breakthrough claim'. Well it might be that this particular ingredient does this and the ASA may not accept that because they say 'no, that's breakthrough' and they've got their own definition of 'breakthrough' and the amount of evidence you require for a 'breakthrough'. (M5)

Stakeholder engagement emerged from the data as a core construct for dealing with controversial advertising (A2, A7, A8, A17, R1, R2, R3, C1, C2, M1, M3, M5). This is not only in the form of collaboration with industry but also public and governmental stakeholders. For example, at Donate, the national child protection charity, the marketing

director stated that they consult with victims of abuse to get the tone of their advertising right (M3, M4). Donate was keen for the advertising regulators to get more involved with young stakeholders to get a better understanding of their views and better inform their adjudication of complaints regarding sensitive child protection campaigns (M3). As has been explained, clearance time restrictions often limit getting their message through to children, by having ex-kids classification and 9pm watershed imposed on their advertising.

We involve young people in looking at our advertising material which isn't intended purely for a child audience so our adult TV ads, we obviously take a view as to how hard-hitting they are and wouldn't show a very young child something that was not appropriate but something like cartoon-boy or ventriloquist we would have shown to children who were 14,15,16 years old and got views from them about it as well and some of the young person's advertising we've done has been generated because of the input we've been given by young people themselves and I just wonder whether there is something to be said for giving young people more of a role in the regulation process in some way. (M3)

The findings underscore the dual role of formal codes and ethical standards in conjunction with pragmatism and informal collaboration to translate them into a workable solution. By resolving these conflicts, researching where the line of acceptability lies and engaging with rather than second guessing peers and stakeholders; upstream and downstream advertising practitioners can enact ethical practice. An advertising executive from a major multinational agency illustrates how their decision making in practice is a multifaceted activity reflecting values that are personal to individuals, shared throughout institutions and enshrined by professional codes (A17). This duality of talking about and working out how best to implement ethics in sensitive areas of practice is also illustrated by the following quote from a marketing client.

If you stick to the principles then you can't go too far wrong and if you just keep those principles, without going into the fine details of each of the CAP code or the Clearcast's own code of guidance. I think that there's the codes [Advertising] but also our [Beauty Organisation's] principles show how it should be. It's a balancing act: organisational objectives, your industry thinks that you've signed up to and then I suppose to a certain extent there is a part of your own personal ethos. Knowing that you believe this is right, yeah. (M5)

In the upstream context, agency and advertisers tended to view ethical issues in an informal pragmatic way. The influence of cultural values and everyday practice was more likely to be guiding their judgements rather than formal systematic training around ethical matters. Indeed the real way that practitioners learned about any ethical expectations, culture or ethos in their job was through watching others and doing the job (A6, A12, A13, C3,R4, R6), picking up the rules of the game through osmosis(A10).

No agency values ... it's certainly not formalised in any way, it is something that works by almost osmosis as it were, so that everyone in the agency is to a certain degree aware of a certain value system within the agency. (A10)

Despite the pragmatic, proactive fashion in which some issues were addressed through industry collaboration there were also many instances where EDM or any moral debate seemed to be clearly lacking. Why this should be so is the topic of the next section.

7.3 Assessing the Ethical Framing of Practitioner Decision Making

While practitioners often engaged in proactive, inter-organisational discussion and consultation in order to help get advertising campaigns through the system, there was frequently a distinct lack of any overtly moral discourse. Indeed many believed there were even risks in having such debates as they could draw attention to sensitive or controversial

advertising (A3. A6, A9, A13, A14). The following quotes illustrate what seems to amount to moral muteness in the industry.

I think we are reactive, an awful lot of what we are allowed or not to do is driven by our client and I think we tend to react to a debate rather than engage in it. We tend to keep our mouths shut (a) because we don't want to get our clients into hot water and (b) in my view whatever you say as an advertiser you are going to be demonized. The more you engage in the debate the more you are sticking your head above the parapet and being asked to defend what you are doing and I think inevitably you are never going to win. (A13)

From an advertising agency point of view, they are the servant of the client. That's fundamentally their role ... the client can go anywhere. In agencies we don't have to put on a moral hat, because the moral hat should sit with the client, it's their issue. (A9)

The fiduciary nature of client–agency relationships embeds the advertisers' power over the advertising agency to carry out their bidding or risk being let go. This can structurally embed moral abdication and amoralisation, and a dominance of commercial interests over ethical ones. 'The reason they [the clients] pay fees is so we take some flak for that and keep our mouths shut, we're expected to do it as part of the job' (A14).

The absence of moral language in the ASA adjudications, campaign documents and transcripts does not necessarily mean that ethics are unimportant or non-existent. In talking to practitioners in the marketing, agency and regulatory organisations, it was evident that controversial campaigns and their consequences created moral dilemmas, but unlike the more pragmatic efforts to get advertisements through the system, moral questions would mostly only be addressed after complaints arose (C1, C4, R3). This is even structurally

embedded in the process for many types of advertising. Unlike for the broadcast and print advertising that forms the basis of much of the empirical evidence in the previous section, the lack of compulsory pre-clearance of non-broadcast advertising means that complaints are 'the main means to keep an eye on what is happening' (R1) for those types of advertising. This makes the regulatory system reactive and embeds a time delay that opens up the opportunity for risqué brands and irresponsible or unethical practitioners 'sailing close to the wind' (A5), using controversial content in the hope that no one complains. Indeed some interviewees admitted that complaints could also be a basis of judging effectiveness of their more youth-orientated brands (A4, A8. A16). For example, an instant noodle snack proudly announced it was 'the Slag of all Snacks' and be enticing enough to give one 'the [Snack Brand Name] Horn'.

> *I have to say on [Provocative instant food campaign] if we didn't get loads of complaints and coverage in certain tabloids, we considered we'd failed, because you know that was almost put in as a shock campaign. Everyone knew [Instant Noodle Brand] used shock tactics and we relied on that extra publicity for generating interest. We did it on [Infamous soft drink brand]; we used to[8] do all sorts of things to create an issue – a reaction.* (A4)

In many cases, however, and as already alluded to earlier in this chapter, advertisers and clients would push potentially risky advertising copy and see whether they got a reaction but would consider the possible repercussions carefully at an early stage. Yet, when doing so advertising agency practitioners mainly considered commercial risks rather than ethical ones when making decisions and were concerned whether an advertisement would get their

---

[8] Note they use past tense to imply the agency would not do so anymore.

client or brand into 'regulatory hot water' (A2), or whether a campaign would be pulled, or involve costly re-editing or media rescheduling(A5, A15, A17).

> *To be honest the way the agency reacts to this [Controversy] would be the same as any agency reacts and this would be, it's panic, over costing the client money and or having to stand a lot of cost yourself as the agency. So I have to say that the very first instinct on all things like that [Having their advert pulled] for an agency is to worry about losing the client or losing money.* (A15)

> *Ultimately it regulates itself because it doesn't want to end up with something that gets pulled, because then you are in a financial argument, so for most agencies it's not in the agency's interest, ethically either, to get the client to run a very risky ad that's pushing some boundaries and having spent a lot of money on it, then it be pulled, because you will end in a triangle, that will have the regulator telling you can't run it anymore, then the client telling you have got to pay for it because 'I said I didn't want to do it and you told me to do it, so it kind of regulates itself'.* (A5)

As already mentioned briefly in Chapter 6, clearance and copy advisory practitioners also tended to frame decisions in legal or micro-campaign level terms; they were concerned with breaches of technical clauses in the media regulations or advertising codes, rather than in explicitly ethical terms (C1, C3). Clearance practitioners were also concerned that the media owners or government might revoke their licence to practice if they brought their medium into disrepute (C2, C4).

The ASA as complaint investigators were more likely to express the stakeholder interests and use ethical framing particularly around deceptive advertising and the protection of

consumers' rights and the reduction of macro-societal harm (R6, R7). Clients marketing controversial products or services (M1, M3) tended to consider legal safeguards as the vital defence using product licensing, classification certificates and parental guidance and age controls. 'GTA and Manhunt [Popular Violent Video Games] are rated 18 BBFC rated, it's down to parents at the end of the day to be looking after what their kids are watching and playing' (M1).

These alternative decision frames were also evident in the arguments and evidencing of their motivations in the light of formal complaints and ASA investigations. Sometimes there was a reverse engineering of moral framing about past decisions made by the client and agency claiming 'they never intentionally set out to cause offence' (M1).

The interviews (M1, M3, M5, A5, A13, A14, A15) show that when advertising created a high volume of complaints, practitioners sometimes tried to displace their intention or role in amoral activity, blaming others or downplaying its significance.

> *There is an education job to be done and it is our responsibility to do that, to educate the parents, do you realise these games are rated BBFC 18 for a reason and it's not just you know like cartoon violence, it can be quite graphic, realistic violence and so it's our job, it's the retailers job and fundamentally it's down to the parents at the end of the line.* (M1)

Many interviewees showed instances of 'moral myopia and muteness' (Drumwright and Murphy, 2004) in their decision processes. Some practitioners also seemed to seek to legitimise their own decisions and actions by blaming or abdicating their moral obligations to others or by using legal and economic arguments (A5, A9, A16). This meant that they failed to reflect on their personal role in the regulation process or on the cumulative impact their actions had on the advertising industry itself. Other practitioners argued that their

actions were vindicated by the fact that advertising was legal and that the exaggeration of claims was tolerated by savvy consumers who understood how advertising works (A10). 'If the product or service is legal to be marketed, it's fine to advertise it' (A13). The assumption that a lack of explicit regulation in the code meant that a practice was acceptable could be seen particularly in the case of controversial digital, viral advertising (passed on peer to peer) and branding of social network sites (A3), which up until 2011 were off the regulatory radar and therefore most tactics seemed to be considered acceptable.

Some agency practitioners even expressed cynicism about the perceived truth and intentions behind their clients' and even the industry's claims about the ethics of advertising (A2, A5, A11, A12). Some advertising agencies saw pro-bono work by advertising agencies or the adoption of socially responsible or environmentally sustainable advertising campaigns by clients as being 'green-wash' (A12) and more of a public relations exercise, or jumping on the ethical bandwagon for commercial gain (A11). There were some comments that sometimes client marketers or the advertising industry as a whole tended to respond reactively to stakeholder concerns but then tried to get kudos in the process.

> *It's consumer and media pressurising government, who then decide they will pressurise the industry ... E.g. Drink-aware, where initiatives appear to have been taken by us, the industry to bring in some voluntary code, they are only doing it in reality because of pressure from government indirect and direct, otherwise they wouldn't be self-regulating in the way that they are.* (A5)

> *The slight worry I have with charity stuff* [Pro Bono Advertising] *and absolutely I'm not ashamed to say the agency wants to get great work out for their show reel out of that.* (A13)

Let's appear like we're the good boys; let's start sponsoring anti-drink ads. The reality is that unless there was that pressure [external], they wouldn't be bringing in stricter codes of conduct. (A5)

A number of agencies suggested that their pro-bono work for good causes helped to offset less ethical creative work (A9, A13, A17) and even social marketers and charities were sometimes found to be using false claims and offensive tactics.

Not all the practitioners in this study showed moral muteness, though. Attempts by some organisations to proactively engage with their stakeholders to pre-empt complaints, as shown earlier, enabled further discussions of ethical issues and revealed evidence of moral awareness. Indeed the concept of 'moral imagination' (Werhane, 1998) suggests that ethical reasoning is a process that needs active engagement to foresee and creatively address moral dilemmas. Rather than just leave ethics to chance, some practitioners decided to put ethics at the heart of their practice over and above their commercial or legal demands (A9. A12). These practitioners would disengage from clients or practices that did not fit with this more ethically aware decision making (A11. A16).

One practitioner, who now works solely on campaigns that he considers ethical and sustainable, explained that he had become disillusioned with his clients and decided to go it alone and set up as an 'ethical agency'. As a result he felt that he 'had been poorer but less miserable ever since' (A12). Such practitioners and agencies that claimed to engage with ethical practice used both formal and informal mechanisms to institutionalise a more ethical culture, by going beyond the regulatory requirements. They were also more likely to refuse to work on a controversial brand or campaign despite the financial and commercial benefits of doing so(A11, A16). The difficulty at the industry wide level for

regulators and trade associations is identifying strategies to encourage moral awareness and imagination on a bigger scale in order to counter the widespread moral myopia and muteness.

> *Again, it very much depends on – it's very much an individual thing, obviously some people working in agencies couldn't give a hoot because it [Ethics] doesn't come into their character make up, they are only there for the money. Others have a much more developed ethical view of the world. Everybody's perfectly free to bring up those issues and then its matter of who wins the discussion.* (A14)

Practitioners often found it difficult to decide where the line between truth and deception lay in terms of how advertising claims are worded (C4). The rule of thumb in relation to the use of exaggerated claims, technical jargon, scientific or complex terminology, or 'weasel words (A15) was to consider how far the competition were going (A15) or how lenient the clearance advisor was likely to be (A13). Rather than view the question of 'puffery' or exaggerating the claims as lying on behalf of a client, an agency said the agency directors always strove to be honest and transparent, but were prepared to 'bend the rules' if the competition did so. In other words, commercial reasons or business decision framing could overrule any idealised ethical decision frame they might have.

> *You are always looking for product opportunity; you are always looking for the ability to position your product better than the person next to you; because it's a massively competitive arena. On occasion you would try to bend the rules but it's usually to follow what direction the market is going in.* (A15)

Difficult trade-offs between achieving commercial and legal ends by responsible means existed. For example, one clearance executive frankly stated:

> *I see creative consultancy [Clearance] as being incompatible with a consumer protection oriented regulator ... I think what is easy to lose sight of ... in the*

advertising control department that TV stations are set up fundamentally to find a way around the rules ... not to be the ones that are stopping the stations [TV] getting the money in. They are a professionally sharp group of people who as being part of the creative process, wearing the hat of rules and regulations, work with an advertising agency to say, 'having reviewed your evidence, you can't prove that you wash whiter, let's find some way of phrasing your claim or moderating your claim so that we all can agree that it does comply with the rules'. It's slightly facing in several different, subtle directions; it's about trying to put the brakes on over exuberant claims but not scaring away the business. (C4)

In addition there was a feeling that the level of punishment was often not enough to curb risk taking (A4. A5, A15). 'There are an awful lot of clients out there that are quite happy to flout regulations, until they are rapped across the knuckles'. (A4) Another agency director felt that the regulator was 'sabre rattling' but there was 'not a lot of cutting and slicing of the client' (A15).

In this section we have seen that the extent to which ethical considerations play a part in practitioners' decision making varied considerably. While some practitioners took ethical issues quite seriously and many used a proactive stance to consult stakeholders and industry players, in the majority of cases, commercial and legal considerations outweighed ethical ones. Moral muteness and some displacement of responsibility were evident as ways in which the players justified their actions.

It was common practice for advertising briefs and client documents to have generic ethical, legal and regulatory compliance statements printed on them; however, these were rarely elaborated on or discussed in depth at client meetings (A3, A5, A11). Rather these formal clauses were a legal gesture or process tick box, rather than an active moral choice for

many practitioners in practice. The following and final findings section looks at the importance and efficacy of 'precedence' as a driver in fostering proactive ethical practice.

7.4 The Role of Precedence

Precedence, that is, the use of existing knowledge, experience from actual cases of critical instances and best practice emerged as a further core construct underpinning practitioner EDM. The existence of precedent cases is important in giving practitioners a steer on what kind of advertising practice or content is likely to be considered controversial, illegal and unacceptable or unethical. A strong sense emerged from the interviews that ethics are mostly informally learnt through experience from past campaigns (C4) and that the lines are drawn experientially from doing the job (A2) and engaging with peers and process, rather than being formally embedded through special training or the codes themselves (A10).

For all the clearance practitioners, knowledge of past adjudications and precedents provided evidence of the established organisational position(s) regarding any given issue, and helped to speed up the clearance process. Reliance on precedence could override individual decision making. Precedence provides feedback loops that enable advertisers and their agencies to learn from their own and others previous decisions. This is a point that has sometimes been missing from linear EDM models, such as the ones discussed in Chapter 3. Precedents however can change or be reconstructed as conditions evolve or new ones arise. Increasing stakeholder complaint activity can help point to changes in the ethical climate and new cases are vital to gauge the currency of the industry knowledge base (R2, R4). Learning processes that systematically track emerging trends in complaint behaviour and that help to fast track this information to others are particularly important in areas where explicit regulation is lacking or major changes are occurring (C1), such as advertising in new social media.

Clearance and code advisors compile cases of campaigns that are controversial and categorise the issues and complaints in line with the latest iteration of the code. By looking beyond single cases and more cumulatively analysing practice they can better spot future issues and pre-empt problems.

One of my things on my to do list, is to sit down and have a look at these commercials, side by side, and say 'right, anything that looks similar to this in the future, that's it, we're not clearing, because we have to be bound by the [ASA] adjudication and we have to be seen to take action[9] to make sure we're not clearing similar commercials'. (C2)

Clearance and agency staff can therefore utilise these precedent cases as a reference point for their ongoing clearance decisions. This feedback can help provide a collective learning mechanism and suggests a more 360-degree self-regulation process whereby pre-clearance and regulation are viewed as one, rather than two separate processes.

One of the first things we do is check the ASA database to see if the advertiser has offended before. If there is an on-going case, what the ASA position has been on this advertiser or similar issues before and that will inform the advice that we give. So we use the ASA as a precedent in that sense and then obviously we look at the CAP code to see what the CAP code says and we use the ASA similar cases, the cap code and common sense. (C1)

That's all very well but you will find the same issue comes up time and time again, so what we've tried to do is put a number of these more specific cases and a volume of advice on to the CAP website, so that advertisers or practitioners, whether they are agency or media or whatever, can look at the CAP site and say 'I've got an ad for an alcohol brand featuring someone who looks younger than 25 and what does

---

[9] Note: the term 'seen to take action' suggests more moral intention rather than active ethical action.

the CAP code say?' And rather than just re-iterating what the Cap Code says, the advice we've given on-line explains what the rationale is behind maybe an ASA ruling. (C1)

Upstream Clearance and CAP code advisors here were in favour of more interpretive means to help practitioners determine the line of acceptability for a given claim or advertising treatment, based on real cases rather than as a generalised rule or code clause. The collective 'folk memory' (C4) is then used, as well as monitoring current complaint activity so that codes are reviewed and adapted to reflect the dynamics of the market and society. There was also a heightened sense of awareness among the clearance advisors and regulators if the brand in question was a serial offender (R3) ; or the content or theme of the advertising related to a 'hot topic' with which the government, media or public are currently concerned (R4).

> *You haven't only got the code, what you have got is precedents. So if an issue has come up before, the code may not be changed whatever, but there will be, for example, past decisions of the ASA and there will be past decisions of the TV stations, so if an issue comes up for the clearance people then they can look at their own folk memory and say have we dealt with this before. If so, how did we respond and the extra question that they will ask themselves at that stage is 'has anything changed because obviously the world does move on, which is one of the great strengths of having a code of principles, it means that you can actually adapt to deal with the passing decades.* (C4)

Downstream regulators also use their experience of past cases as a key strategy in adjudicating on complaints (R4, R6). If a new type of complaint is emerging that is not currently covered by the code, the investigators will involve the ASA council and CAP committees to consider if a review is needed. Practitioners are also conscious that the line

of controversial advertising is always shifting (C1, C4, R3), therefore precedents help make better judgement calls.

> *We do it on experience as well, so we look back on decisions we've made in the past and we have to think of our principal codes in the clearance process and what we think what council are going to go with it and what the complainant said and if complainants always tend to see, which they do, 'we appreciate that it's a health message' then we'll be a bit more tolerant of the images used to put that message for the greater good across. But there is a line ... and where is the line and does the line move and are we keeping up with it? Have we gone beyond it? [...] so they are all judgement calls.* (R4)

Some practitioners (C1, C2, R1) could clearly see the long-term benefit of pragmatic and proactive debates around likely controversies and of actively learning from precedence. Regulators are increasingly conscious of their need to better inform both industry (C1) and the public of their role in the protection of wider stakeholders' interests (R3).

> *On the frontline we encourage advertisers and agencies to involve or at least think about clearance right at the start of a project. I've seen flowcharts of the development of work from the advertisers' side and so often they operate sort of a gateway and its often that the copy clearance gate is placed right near the end of the process and I always used to argue saying the clearance gateway be more higher up on the process because for heavens' sake, we can help you, given the starting point for clearance is I want to get your ad on air.* (C4)

As seen in this section, precedence played an important role in establishing where 'the line' of acceptable advertising is, not only in the eyes of agencies and marketing organisations but also from the perspective of clearance staff and regulators. This clearly

underlines how essentially pragmatic and process-driven EDM is in the UK advertising industry context.

Unlike the individual practitioner emphasis adopted in the ethical theory literature, a more collective reasoning emerges where EDM is a dispersed process, involving multiple players with diverse perspectives, interests and power relations. Across the 6Cs process, therefore, no one player has a complete overview of the dispersed 'ethical decision' or necessarily sees themselves as having responsibility for the entire ethical outcome. The conclusion of this group decision making is an advertisement that can be broadcast or not; generates complaints or not; rather than being 'ethical' or not. The data illustrate differences in formal versus informal aspects of EDM. The literature on advertising ethics and regulation emphasises the formal, codified aspects of the process. However, ethical pragmatism showed itself in a greater willingness to take risks in some areas of advertising than in others.

Because television advertising is the most expensive and highly regulated medium, which requires compulsory pre-vetting, it carries the greatest financial risk when things go wrong. Interviewees were much more likely to take chances with print and web campaigns because there is no compulsory pre-vetting and because of the time delay before receiving complaints and their being investigated by the regulator (m1.M3, A4. A15). This pragmatism, which emphasises commercial and legal rather than moral issues, can be interpreted as a form of moral myopia. Practitioners generally did not spontaneously perceive the ethics in any given advertising decision across the 6Cs process. Ethics could be routinely omitted, passed over, or actively ignored with limited moral reasoning. Practitioner EDM involves predominantly post-hoc rationalisation and few players think beyond the business and legal framing of their decisions. This helps explain the existence of moral muteness and myopia in day-to-day practice.

7.5 Summary

This findings chapter provides new perspectives on practitioner EDM. A more pragmatic, dispersed and process driven phenomenon emerges than hitherto suggested in the literature. The practitioners studied in this research dealt with the ethical aspects of controversial advertising with a great deal of pragmatism and by negotiating each stage of the process, but with little explicit moral framing of the problem. The tendency was to make decisions based on an assessment of the risk of complaints and any resulting sanctions.

This chapter has further highlighted that EDM in the UK advertising industry is largely a dispersed process, where several different actors and stakeholders are involved in pragmatic interaction in order to make the process work without too many complaints. The interviews highlighted multiple and varied levels of moral awareness and responsibility across all player types. Issues were found at an inter-organisational, rather than an individual or even organisational level. Individuals inferred ethics from precedence and discussions and no one individual or organisation seemed to take ethical responsibility for a campaign from start to finish; rather, different players contributed different parts of the decision along the process. Practitioner EDM predominantly involves post-hoc rationalisation, with few players thinking beyond the business and legal framing of their decisions. The advertising code is more of an aspirational guide-map rather than a specific ethical compass. The line between acceptability and controversy tends to be drawn pragmatically based on precedents and risk/reward calculations. The evidence suggests that greater cross industry collaboration, peer-to-peer and stakeholder consultation could bolster proactive and imaginative solutions to ethical dilemmas in advertising practice. The implications of these findings are discussed in the final discussion and conclusions chapter.

Chapter 8

Summary and Conclusions

Anything we do in advertising is controversial.
If it's provocative and sensual and related to what we're selling,
I'm willing to take the chance.
I have fun with the ads.

~ Calvin Klein ~

Chapter 8:

Summary and Conclusions

8.1 Introduction

This chapter summarises the main findings of the research and examines their contribution to knowledge and implications for practice. Section 8.2 provides a summary of the findings as they relate to the three main research aims. Section 8.3 describes the key theoretical and practical contributions of the research. Section 8.4 discusses the limitations of the research approach and findings and Section 8.5 examines the implications for research, policy and practice. Section 8.6 concludes the chapter and the thesis as a whole.

8.2 Summary of Main Findings

Emanating from the literature review and addressing identified gaps in the knowledge, the three main research aims of this PhD thesis were:

1) To build a holistic view of the UK advertising and regulation process, including the various upstream and downstream stages and the multiple players involved;

2) To examine and analyse the nature of controversial advertising in the UK from the industry practitioner's perspective;

3) To make sense of players' interactions in the process of creating and implementing advertising in order to better understand how EDM takes place in practice.

These aims are now discussed in terms of the critical findings, beginning with the process of advertising creation and regulation itself.

8.2.1 The Advertising and Regulation Process

This research has constructed a holistic view of how advertising is produced, consumed and regulated in the UK. The 6Cs process model (Chapter 5) provides a new map of the discrete stages from upstream advertising creation and clearance through to downstream dissemination and complaint adjudication. The stages identified are 'creation, clearance, communication, complaint, compliance and control'. The findings reveal the vital role of clearance in promoting advertising standards and responsible practice; and importantly reducing the costly consequences of controversial campaigns. The findings also highlight the integrated nature of the upstream and downstream phases in relation to advertising practice and an emergent move towards proactive rather than reactive regulatory control.

The predominant view of advertising regulation, both in practice and the academic literature, has been of a reactive, post-hoc phenomenon, largely focused on single, problematic brands and advertising campaigns. This research reveals that much negotiating and amendment of advertising takes place at the clearance stage, which suggests that this can be a vital catalyst in working towards effective advertising self-regulation, pre-empting controversy and embedding commercial, social and ethical best practice. This also shows how the upstream pre-clearance stages C1-C2 are as important as the traditionally dominant focus on downstream compliance C4-C6 stages in achieving acceptable advertising practice.

The findings also illustrate how the six distinct stages are cyclical in nature. The emerging concept of '360-degree regulation' helps to make sense of the interdependency of the upstream and downstream stages of the advertising self-regulation system. The evidence from practitioners reveals a more proactive and pragmatic perspective of clearance and regulation highlighting the benefits of informal and consultative multi-party negotiations. These can help to define the line of acceptability as well as weaknesses of the codes in

relation to subjective interpretation. This contrasts with the traditional view of dyadic, punitive regulator–practitioner interactions based on enforcement of the formal codes. The 6Cs process also helps to make sense of players' different perceptions, roles, priorities and responsibilities.

The role of clearance and precedence feedback loops is a fundamental finding of this research and points to the benefits of prevention over cure, particularly when practitioners actively engage not only with specialists in their own industry sectors but also with regulatory and public stakeholders. Practitioner decisions reflect the collective inputs and interactions of these parties; hence the controversies of adverting practice are rarely resting with one individual or organisation. This accounts for the fuzziness and subjectivity of interpretation of advertising standards of acceptability. Self-regulation via formal advertising codes alone is not enough to determine the line of advertising acceptability; it is in practice a subjective, negotiated and dynamic position. Marketing and advertising practitioners interviewed are becoming more actively engaged with government, regulators, competitors and the public to discuss potential issues. In particular the sharing of experience and use of precedents can better serve self-regulation than simply waiting for complaints. The role of CAP, Clearcast and other industry trade bodies can be seen as the drivers of change here, particularly if complaints are to stop being the only controversy catalyst triggering downstream regulatory responses. Upstream collaboration engages all parties in setting standards directly with peers, public and policy makers.

8.2.2 Controversial Advertising

The combination of qualitative interviews with practitioners and archival study enabled new insights into the nature of controversial advertising at both the societal and campaign level. Perceptions of controversial advertising were found to differ depending on the context, role and position of the practitioner in the advertising production and regulation

process. Practitioners defined controversial advertising as crossing a line or lines of acceptability, conceived of in different ways such as truth, honesty, decency, offence, legality. Advertisers, regulators and stakeholders also disagreed on the causes and on the magnitude of the consequences of controversial advertising. Interpreting the acceptability of controversial advertising is complex given its multifaceted nature and the number of players and institutions involved. Advertising producers, regulators and consumers collectively negotiate the position of these fine lines of controversy and their consequences. Typically, complaint behaviour resulted from deceptive advertising or the harmful consequences of inappropriate targeting, stereotyping, shocking imagery, or intrusive tactics.

The data highlighted macro-level problems related to cumulative behavioural consequences of advertising. Controversy at the micro level involved more specific or technical concerns of individual consumers, pressure groups or competitors. Micro-level complaints, particularly misleading advertising, accounts for about 80% of the regulatory resources, and more macro-concerns account for the remaining 20% (ASA, 2011). These micro-controversies at the individual or campaign level in the long run cumulatively build up to make the industry level controversies that have societal impacts. Evidence suggests that industry practitioners find it difficult to envision and untangle both types of problems. Regulators stated that they do not want to be involved in 'social engineering' and were far more comfortable when dealing with technical matters around individual advertising campaigns and compliance with specific clauses of their codes. A radical departure would be to address the macro consequences more specifically in the codes themselves, in terms of what is not allowed rather than leaving practitioners too much room for manoeuvre. In highly sensitive areas or controversial products, for example to protect children, this is the model of regulation in France and Sweden.

The findings suggest that controversy was seen to more often result from practitioners' misinterpretation of the code clauses or from omissions in the regulation or a limited remit to pre-empt or resolve specific issues. Because complaints reflect the sensibilities of stakeholders, it was often easier to use the volume of complaints as a steer to action, rather the vehemence of individual complainants or pressure groups.

Human or technical errors are cited as the most likely cause of controversy, when inexperienced practitioners lack knowledge of the regulatory codes or important precedents. These were not deliberate mal-intent but were excusable when controversial advertising was shown at the wrong time or to an unintended audience. These account for most ASA complaints that are informally resolved without the need for a full council adjudication.

Given that data were collected during a period of global economic downturn and increasing market competitiveness, practitioners admitted that to get more 'bangs for their buck' (R4) some advertisers may adopt controversial tactics. A certain level of controversy was also often inherent in the product or the issues within the advertising itself. In particular, advertising for youthful, edgy, challenging brands that reflected the zeitgeist of urban youth culture tended not to appeal to more conservative groups. Practitioners frequently defended their brands' commercial and legal right to reflect their products and the aspirations or lifestyles of specific target audiences. Some practitioners felt that their profession was the scapegoat for society's ills and that advertising reflects rather than causes societal problems such as obesity, binge drinking and others.

Advertising practitioners felt that their collective self-regulation mechanisms were effective and responsive to parental, pressure group and governmental concerns. Some practitioners argued that the level of controversial advertising in practice was insignificant

given the vast of amount of advertising that is not complained about, therefore suggesting that the majority of advertisers must be acting responsibly; and the ASA system shows they will comply if any breach of the code is later proven. Advertisers felt they were often demonised by stakeholders who were not always appreciative of the beneficial role of advertising in specifically backing good causes via pro bono work and more generally giving consumers more choice, by promoting competition and boosting the economy.

Focusing at the campaign level, problems arising from controversial advertising were many and varied frequently due to misinterpretations of technical advertising claims, or subjective differences around taste, decency or humour. Clearly judging 'the line' of controversy is a more problematic issue than the advertising code alone can solve, not least due to the subjectivity involved in predicting ever shifting standards of acceptability. This is compounded by systematic and structural flaws in the regulatory system itself where certain media have no compulsory pre-vetting or the code provides no specific guidance.

A wide variety of consequences of failing to pre-clear and run with controversial advertising were found. Perceived costs of controversial practice included latent costs of regulatory investigation, reduced advertising effectiveness, and diminished audience coverage caused by media timing restrictions or sanctions imposing costly amendments to campaigns or even being pulled altogether. In addition, engaging panels of experts to handle disputes over technical claims was costly, as was any litigation that might ensue from unanticipated health and safety implications and unforeseen emulation of harmful behaviours. When unintended consequences manifest at a societal level they also incur costs to practitioners in terms of ever tighter regulation; reputational damage arising from critical media coverage; and ultimately even consumer and media boycotts.

8.2.3 Ethical Decision Making in Practice

Chapter 7 showed how practitioners' ethical choices were habitually embedded and to some extent even concealed within the interplay with other players in the process and their many stakeholders. Advertising ethics, as seen in this study, emerged from cumulative and dispersed decisions made in the informal and formal interplay across a wide range of actors beyond the dyadic client–agency relationship. As mentioned above, it was noticeable how much debate around acceptability of advertisements occurred at the clearance stage and the extent to which precedence, in the form of previous ASA adjudications, informed this debate.

While there seemed to be a significant amount of decision making around ethical issues embedded in the process and dispersed across multiple players at different stages of the process, the findings also suggest some abdication of moral awareness of responsibility by individuals, either to others or to the process as a whole. Ethical aspects of advertising decisions were seen as abstracted in codes of practice or a more general industry responsibility. Indeed there was little evidence of an explicit ethical discourse within either the marketing practitioner or regulatory community. Ethical sensitivities around controversial advertising practice were often found to be secondary to commercial and legal or technical concerns. Despite some proactive discussions of acceptability of advertisements at the clearance stage, concerns of an ethical nature were more likely to appear after problems had emerged.

These findings suggest a more dispersed, fuzzy and informal form of EDM than the essentially rational and linear EDM processes depicted in models such as those proposed by Rest (1986), Jones (1991) and others. Multiple parallel decisions seemed to be taken by different players at different stages of the process. Marketing client and advertising agency practitioners were not necessarily aware of their contribution to or responsibility for their

consequences for other parties. With so many different people involved in the process to produce the outcome, none of them saw themselves as responsible for the whole story.

Some other factors also contributed to a picture of little explicit EDM by individuals. Practitioners found it difficult to reconcile different stakeholders' priorities at an early stage and thus often preferred to 'wait and see' if any problems arose. While agreeing that advertising should be 'legal, decent, honest and truthful', practitioners also found that the formal codes of practice did not necessarily help to define what constituted ethical advertising. Rather, acceptable standards and values emerged more from practice itself, through the prevailing ethos within their organisations and external business relations. As mentioned above, informal peer-to-peer cooperation and collaboration increasingly emerged as a pragmatic means to identify and resolve potential ethical dilemmas.

There was evidence of a more proactive, upstream stakeholder engagement by the UK advertising industry regulatory bodies to help establish acceptable standards rather than second-guessing what is important or simply waiting for complaints. An early, upstream stakeholder engagement on the part of both industry and regulator is likely to reduce the number of cases causing unintended controversy or unanticipated consequences. EDM thus emerged not as a premeditated or pre-planned practitioner activity but rather an output that is negotiated through collaboration between players.

8.3 Contributions of the Thesis

This section describes the main theoretical and practical contributions of this thesis.

8.3.1 Contribution to Theory

This thesis makes several contributions to existing theory on advertising ethics and regulation, particularly in terms of providing an insider, practitioner perspective of

advertising regulation, controversy and EDM in practice. The contributions centre around the three topics signposted in the research objectives: (1) the nature of the advertising creation and regulation process; (2) the nature of controversial advertising as experienced by advertising practitioners and (3) the nature of advertising related EDM in practice.

The overarching contribution of this research is its 'insider' practitioner perspective, which is under-represented in previous literature, particularly in the UK context. The empirical data provide a better understanding of the role that different organisations and individuals play across the whole spectrum of the advertising creation and regulatory process. The research focus on the way in which these practitioners understand and experience this process illustrates more deeply how they deal with controversy and ethical issues in advertising at a practical level.

The first specific research contribution is a holistic description and analysis of the advertising creation and regulation process from the perspective of practitioners. The previous literature on advertising regulation tends to focus almost exclusively on downstream, post-complaint activity. This means that the vital role of preventive upstream practices has been mostly ignored. Clearance is a conceptually and practically important stage of the process, where participants negotiate the borderline between acceptable and unacceptable advertising, activate self-regulation and pre-empt controversy. This hidden aspect of the advertising and regulatory process was also found to be of increasing significance to both marketers and regulators, given the growth of stakeholder and legislative pressure and ongoing industry fragmentation in the digital and social media age.

Through in-depth analysis of key UK marketing and regulatory organisations the author developed a new and more holistic model of the process of advertising creation, clearance and regulation. This 6Cs model (Chapter 5) identifies six discrete phases that practitioners

work through in the process of creating advertising campaigns and dealing with advertising regulation. This integrated approach also uncovered the roles of players at different stages and their usage of both informal and formal systems of self-regulation. Looking at evidence of real controversial campaigns brought to the surface the importance and interdependency of both upstream and downstream praxis and the cyclical nature of the process from problem to prevention. This research therefore adds to Boddewyn's (1983, 1992) and Harker's (1998, 2003) important studies of the advertising regulation systems, by revealing the workings of upstream clearance and how controversy and complaints arise and can be prevented rather than belated code adjudications. The evidence in this study shows that feedback loops and precedence cases are a significant means to educate practitioners as to the acceptability of claims, tactics and consequences of advertising in their particular industry sectors.

The second specific research contribution is a better understanding of the characteristics and consequences of controversial advertising phenomena as experienced by practitioners who make decisions about actual advertising campaigns. The existing literature seems to provide little evidence to show how practitioners interpret levels of controversy in advertising and where the line between acceptable and unacceptable advertising lies. This research shows that there is no clear, universally accepted line between controversial and uncontroversial advertising.

Practitioners struggle with normative regulatory controls, particularly when the interpretations of truth, taste and harm are often relative and subjective. In addition, controversy was shown to be dependent on the social context of the advertising and the brand and product in question. Controversial advertising techniques in campaigns for good causes, such as the prevention of cruelty to children, tend to be seen as more acceptable than they are for commercial products. The research uncovers how precedence, industry

collaboration and stakeholder engagement can be effective strategies in proactively defining the line in controversial advertising. In addition, the research shows that practitioners often avoid making moral judgements on controversial advertising in terms of its cumulative, macro-societal consequences and prefer to focus on technical, micro-campaign level matters.

The research also helps to broaden the categorisation of controversial beyond the categories of products and brands themselves (Rehman and Brooks, 1987; Salter, 1982); message (Spence and Van Heekeren, 2005); tactics and targeting (Barnes and Dobson, 1990; Beard, 2008) and consequences (Pollay, 1986; Hastings et al., 2010). The findings of this project suggest ten categories of controversy, arising at different stages of the process, and an expanded list of consequences of controversial advertising as viewed by practitioners themselves, and going beyond purely commercial considerations (Chapter 6).

The third specific theoretical contribution is in the area of EDM as advertising practice. EDM was found to be framed by inter-organisational interactions of social actors across the process, rather than being down to individual decision makers, formalised institutionalised ethics or normative codes, as tends to be the focus of the literature. The research demonstrates the importance of group decision making, particularly through multi-party negotiation and committee style interaction, which fostered pragmatic debate and compromises, rather than triggering explicit ethical considerations by individuals. EDM is dispersed through the process, with different players making different decisions with ethical dimensions at different times. This builds up to an advertising outcome, which is then considered acceptable or controversial.

However, it is difficult to pinpoint any time or place in the process where one individual took something that might be called an explicit ethical decision. The findings of this

research therefore paint a very different picture of how decisions with ethical implications are made from the one portrayed in existing rational ethical decision models such as those provided by Rest (1986) or Jones (1991). The big difference seems to be that those models take an individualistic view of EDM. By contrast, this research has looked at EDM as embedded in social structure and practice, and the picture that emerges is thus very different from that proposed by traditional models of EDM. The fact that EDM appears to be dispersed throughout the everyday praxis and collaborative processes may also explain why previous researchers, such as Drumwright and Murphy (2004), found moral myopia and muteness to be so prevalent in advertising practice.

8.3.2 Contributions to Practice

The findings of this research can make a number of useful contributions to advertising creation and regulation practice. Understanding the holistic, 360-degree nature of the advertising creation and regulation practice suggests different stages where different players can contribute to the process. Regulators and policymakers can benefit from these insights to devise and/or reinforce earlier points of regulatory intervention. Pre-clearance negotiations are currently often ad hoc and informal, but the CAP and the ASA have started to become more involved in an explicit, formal manner to reduce the number of controversial advertisements in the downstream stages.

The findings suggest an emerging shift from a punitive, compliance regulation culture to consultative, pre-clearance culture. Thus the role of clearance is moving from being an 'irritant to an enabler' (C2) and recognised as a proactive regulatory tool, evident only when taking the more holistic view illustrated by the 360 degree/6Cs process. Precedence was also found to be an important aspect of negotiating the acceptability of campaigns at the upstream stages and could be used more systematically to help practitioners' raise awareness of prevailing advertising standards. Community of practice forums, education

events, and cross-sector initiatives with stakeholder groups have a vital part to play in understanding the true nature and implications of controversial practice. Furthermore, stakeholder engagement with public, policymakers and competitors at these early stages is an effective method of identifying problems before they may arise, and helps the marketing, agency and regulatory practitioners to gauge where the fine lines of controversy are located.

The nature of what constituted controversial advertising was found to be somewhat disputed between different players and stakeholders, and practitioners expressed a certain degree of uncertainty as to what would constitute a controversial or an acceptable message or campaign. In practice, practitioners tended to focus on legal and commercial considerations, rather than ethical ones, and also tended to spend more time considering micro issues related to individual campaigns rather than macro issues related to overall societal impact.

Understanding this distinction can help marketing managers and advertising agency staff to regard their practice and responsibilities from a less partisan and more social and holistic perspective. Also regulators may better consider how to prioritise their work and systems around wider stakeholder concerns rather individual complainants. The advertising code was found to be of limited help in this respect. While agency and client practitioners express a desire for greater clarity as to what is allowable and what is not, it is not necessarily obvious whether setting out clearer rules is feasible or even desirable.

This research highlights how standards of truth, decency and honesty are negotiated between multiple stakeholders and evolve over time. This would seem to make it difficult to specify in advance in any great detail what is and is not allowable in advertising. In this respect, the research also highlights the significance of proactive collaboration between

different practitioners to establish lines of controversy and acceptability. It seems that by engagement in these collaborative processes players can contribute to the clarification of acceptability of different types of messages and campaigns and to make self-regulation more effective, democratic and consensus based.

Findings relating to the dispersed and implicit nature of EDM across the process also make a practical contribution. The research provides new perspectives on how ethical practice is co-constructed and an output of the collaborative and/or cumulative actions of different advertising practitioners, rather than any normative ethical principles espoused in the extant literature. In effect, the consequence of the dispersed nature of EDM seems to be that individual practitioners rarely feel they are making or contributing to ethical decisions. As stated above, ethical decisions seem to be de facto abdicated to the process rather than explicitly considered, which accounts for apparent moral muteness of industry players.

However, a process does not in itself produce ethical decisions and a greater awareness by players of their individual contribution to the overall ethical outcome of the process is likely to be beneficial in this respect. Practitioners may need to reconsider the role of EDM in their interactions and negotiations. The dominant logic of commercial and legalistic framing of decisions does not always service stakeholder, consumer or societal best interests. Regulators may benefit from considering this ethics in practice perspective more wholeheartedly to determine how clearance and regulation can both constrain malpractice and help to make ethical considerations more explicit. Before looking at the implications for future research, policy and practice, the limitations of the thesis are considered in the following section.

8.4 Limitations of the Thesis

The advertising industry remains a difficult arena for academic research, particularly given the issues of commercial client confidentiality and any latent desire to downplay the more controversial aspects of their professional practice. Similarly, ethics research is inherently difficult to conduct given its multifaceted, philosophical and interpretive nature. This research was ambitious in attempting to access senior marketing, advertising and regulatory practitioners. In terms of sampling, the study design was therefore purposive and pragmatic; and despite the best intentions it was not always possible to access participants involved in some preferred contemporary controversial campaigns. There had to be a compromise, so the range of cases is indicative but not exhaustive. An inherent limitation of this research is that it offers no statistical inferences or claims to its generalisability beyond the UK context and its particular forms of advertising practice and regulation. It is acknowledged that there is limited detailed cross tabulation or statistical analysis in this study. Rather the focus was on role differences and process stage differences between the marketing, advertising, media and regulatory players.

The literature suggests that there are limitations of qualitative inquiry and the researcher acknowledges that some of these inherent weaknesses may be present. Interpretive research may be open to preconception and there is potential for personal bias to occur in data collection and analysis. Equally the interview data is an account of how the respondent and researcher perceive the reality to be. Whenever possible to do so, the researcher attempted to triangulate evidence from specific controversial campaigns and multiple players involved in the process, by grounding and checking the data with additional archival sources to boost their reliability. Applying Lincoln and Guba's (1985) criteria to evaluate the quality of qualitative research, the researcher feels that characteristics of 'believability, transferability, dependability, and confirmability' can be demonstrated.

First, credibility that the interpretations made are valid is bolstered by the elite interviews with experts in the advertising and regulatory organisations. Furthermore, methodological and data triangulation helped to verify information sources, such as obtaining participant feedback on the findings. Ethical approval, informed consent and anonymisation protocols were undertaken to meet the criteria standards set out in the methods chapter. The findings chapters illustrate this research's transferability by providing a frank and detailed account of the theoretical framework, methods and analysis used to facilitate its generalisability and replication to other business situations. Lincoln and Guba's (1985) confirmability criteria are manifest in the adequacy of the archival and interview data collected and thorough analysis underpinning the findings, using established qualitative software and coding techniques. In addition, providing detailed participant campaign accounts and themed verbatim quotes serve to present the views of the respondents transparently, accurately and fully.

It is recognised in EDM research that social desirability bias can occur. The interpretation of practitioner EDM is compounded by the problem of making largely implicit phenomena explicit. These issues around researcher reflexivity have been outlined in the earlier methodology chapter. It is important, however, that researchers continue to probe the less charted territories of marketing practice to uncover further insights into practitioner EDM practice.

8.5 Implications for Future Research, Policy and Practice

This section initially considers the implications for practice in terms of regulatory policy and practice. The implications for client marketers, advertising agents and academic researchers are then explored. The ever changing competitive marketing and regulatory environment in the new digital and social media age point to future resource management issues for both clearance and regulator organisations. As was discussed in Chapter 6,

advertising regulators habitually find all their capacity is taken up with controversial advertising cases of a technical nature and have little time to consider macro or cumulative issues that straddle across several sectors or themes. There is a strategic imperative for the industry bodies to redefine their self-regulatory systems to expedite a proactive consultative strategy. While the formal downstream advertising adjudication process is well established in the UK, the importance of upstream informal relationships between the players emerges as vital means to deal with the transition from traditional to new digital and social media advertising platforms. Greater stakeholder engagement and intra-organisational debate provides real opportunities for practitioner groups to learn from peer, sectoral industry and governmental stakeholders. This sharing of expertise and experience from past campaigns, current challenges and educational initiatives can better inform the ethics and control of controversial advertising practice.

Recent changes to the UK ASA regulations in 2010 regarding on-line advertising on corporate and branded websites confirm how the regulators are slowly adopting a more proactive stance. CAP for example is now offering a service to audit advertisers' websites to check for compliance. There are, however, obvious resource constraints and practicality issues to offering these services on a purely voluntary and unfinanced basis. Numerous governmental reviews of advertising practice for alcohol, food, and gambling, gaming and social media advertising, have been undertaken in the last 10 years. OfCom, the independent regulator and competition authority for UK communications industries continues to review the mandate of the ASA and CAP, to better reflect public concerns and correct market failures or industry malpractices (OfCoM, 2012).

Future proofing regulation however requires more than self-regulatory tinkering with the rulebook. For example, the 2010 government health select committee investigation into alcohol advertising, in which this researcher was involved, found considerable evidence

the advertising and marketing industry have been very slow in addressing stakeholder concerns. This echoes the documentary evidence of controversial advertising practices (Hastings et al., 1994; 2010), particularly those targeting youth via stealth, viral, mini-brand sites, sponsorship and product placement. Further research is warranted to independently monitor and measure how effectively practitioners are adhering to the recently changed regulations around new digital and social media.

Interviews with the regulators highlighted inefficiencies in the self -regulation system that will be need addressing in the next decade. For example, the future of Clearcast is unclear; it currently only deals with TV advertising, a shrinking market. They may find their remit needs to expand into non-broadcast or new media. However, any structural or organisational moves to pre-clear and regulate new digital, mobile and social media will need a new funding model. Furthermore, traditional approaches to regulation are now redundant in the digital era particularly 'timing restrictions', age restrictions or the 9pm watershed to control controversial advertising.

New global media providers such as Google, Twitter, Facebook offer radically altered platforms for advertisers. Indeed legislators and governments are struggling to keep up with the pace of technological change and the implications of the unparalleled amount of personal information and insights advertisers have about their consumers. The extant regulation developed for non-interactive traditional media is clearly not fit for purpose. On-line regulation using technical restrictions, like age controls on websites have been proven not to work (HSC, 2011). Word of mouth, brand ambassadors (Nairn, 2008), embedded product placement (Newell et al., 2006) and viral marketing (Petrescu and Korgaonkar, 2011), via friends on social networks, are further blurring the lines of what actually constitutes editorial, advertising, sponsorship or even user generated web content (Yang, et al., 2004).

These new methods of marketing communication and targeting have ethical implications particularly in terms of the protection of vulnerable groups and children, in the absence of extant regulation. The sheer volume of digital advertising vehicles from international advertisers makes the clearance role ever more complicated.

The implications for both client marketers and their advertising agencies are considerable in the digital age. Controversial advertisers have ever more new creative 'routes to magic' (Hastings et al., 2010), exploiting innovative technologies such as quick response (QR) codes or augmented reality apps on smart-phones, are able to target individual consumers, not just mass audiences. If the ASA and CAP are to fulfil their broadened digital remit, industry self-regulation will need considerable extra resources to police it. Currently, internet service providers and social networking sites are operating a rudimentary voluntary self-regulatory process. More stringent controls on deceptive and controversial on-line marketing activity are needed with regard to personalisation and privacy; and to monitor the nature, extent and legality of new media advertising practice.

The imminent convergence of TV and internet digital on demand, smart phone and digital tablet applications (Apps), will see the further embedding of advertising messages and product placement into the fabric of people's lives. Commercial messages are ubiquitous, and somewhat subliminal when hidden in streaming movies or i-player TV shows, music lyrics and videos, 'virals or adver-games' (A3), blogs, RSS and Twitter feeds. A concern for parents is the unsolicited use of peer pressure to consume brands via social media conversations, often without the consent or knowledge of the consumer.

The onus for ethical responsibility lies with marketers and the media to provide the regulatory mechanisms needed to police digital advertising. Many of the industry experts interviewed suggested that it might be impossible to regulate new media, other than

through voluntary means. Some critics are calling for independent sector-specific regulators who are non-industry representatives to pre-vet and regulate campaigns, particularly alcohol and food (Jernigan, 2011; Hastings et al., 2010). In the digital media revolution, can marketers and the advertising industry deliver on the self-regulatory promise upstream, rather than opt to leave the job to be sorted downstream by regulators?

Clients and agencies and trade associations can create voluntary codes of digital advertising conduct, work with regulators to guide best practice – but is there sufficient practitioner compulsion, effective sanctions or disincentive in place to forestall controversial tactics? Clearly a one-stop shop such as the ASA cannot cope with the volume of new advertising formats and channels. Taking a more 360-degree and holistic view of the process can help practitioners to avoid unwanted and costly damage to brands' reputations and customer loyalty. Pre-clearance organisations are well placed in setting the bar in terms of standards expected by and acceptable to stakeholders. The future role of self-regulation needs to re-calibrate to be proactive and occur upstream. Table 8.1 following summarises 14 potential practice-based enhancements to the regulation of controversial advertising emerging from this research.

Table 8.1 Potential Practitioner Strategies to promote Responsible Advertising Practice

Strategy	Empirical Evidence
1. Peer to peer sector collaboration	E.g. within sector as in the cosmetics industry (M5, A2)
2. Voluntary pre-vetting of sensitive campaigns	E.g. industry specific pre-vetting for video games, alcohol (M1, R4)
3. New digital and social network codes of practice	E.g. new remit for Clearcast or new body funded by industry levy (C2)
4. Independent sector-specific regulation of controversial sectors	E.g. Alcohol Advertising monitoring and pre-vetting agency run by industry independent body however funded by levy on alcohol industry (A1, A5, A15, R4, C3, M5)
5. Provide practical guides to copy that is unacceptable	E.g. ASA provide database of 'actual' ad media for practitioners to see exactly what and why controversial. In other words not just general on-line adjudications, building a cumulative picture not just one off. (C4, R4)
6. Give specific examples within the code of what is and is not acceptable	E.g. similar to the French Loi Evan system of regulation which tells advertisers specifically what they can do rather than leaving it to interpretation (C2, R4)
7. Develop ethical checklists to help encourage formal ethical consideration	E.g. regulators and ethics experts to construct an ethical checklist that must be completed for all advertising before dissemination in any medium (A10, A9)
8. Clearance notes of guidance	E.g. building on Clearcast and CAP's recent attempts to pre-empt emerging controversies (C1, C3)
9. Education	E.g. compulsory ethics and regulatory training in academic for new marketers and advertising recruits (A10, A9)
10. Stakeholder consultation & representation both upstream and downstream	E.g. compulsory inclusion of consumers on clearance panels, focus groups and in the ASA adjudications and code modification process (M4, M1)
11. Promotion of precedence cases pushed directly to sectors	E.g. rather than opt-in, industry sector trade bodies compile and disseminate latest cases and regulations to their own sectors (C2, C4, M5)
12. Show positive cases	E.g. industry bodies and media to create awards, publicise positive and responsible advertising campaigns (C2, C3, A3, R3)
13. Ethics & CSR Training Practitioner	E.g. brands and corporations to advance CSR initiatives and ethical leadership codes in house rather than just to their industry sector (A10, C5)
14. Academic teaching of regulation best practice	E.g. Universities to formalise study of ethics and regulation within their courses for undergraduates and practitioners (C5, M2, M3)

Source: Author (2012)

The implications for academic researchers are now discussed. Inevitably investigative and exploratory research brings up new questions and opportunities for further investigation of the changing regulation landscape. The following future research themes emerged from this thesis. First, it would be useful and highly interesting to further examine the nature of how controversy arises in practice across the 6Cs process, using an ethnographic or 'fly on the wall' study to track players' EDM as a participant observer within an advertising agency. Similarly, ethnographic immersion in the clearance and regulatory organisations could shed light on how practitioners might adapt regulatory systems to deal with the challenge of new digital and social media advertising. In addition, research is warranted to compare international regulatory regimes from the practitioner's perspective, particularly as this study was UK based only.

A further area necessitating in-depth analysis is the nature of complaint behaviour; this could have two strands – (1) quantitatively by further analysis of the ASA archives on a more thematic basis to track trends in regard to specific complaint types; (2) qualitatively by accessing and following up with public and commercial complainants to the ASA for their views of the regulatory process. These ideas and research gaps follow from the findings of this research and such further study would advance our knowledge of advertising regulation. Key challenges however remain for the marketing, advertising and regulatory communities themselves to enable greater access to academic researchers and better engagement with stakeholders.
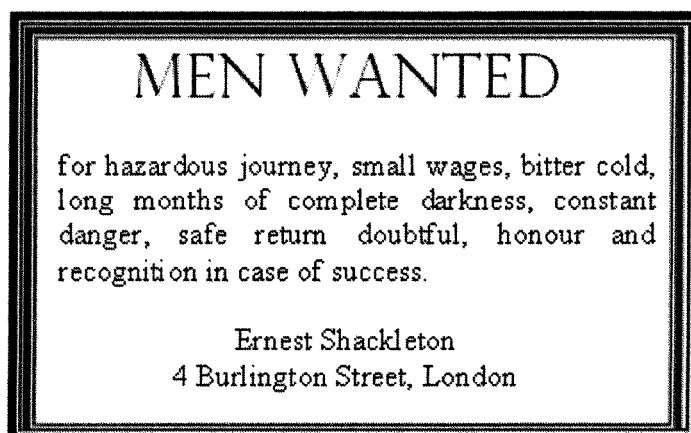
8.6 Thesis Conclusion

In summary, this thesis has explored the creation, clearance and regulation of controversial advertising in the UK and how EDM emerges from industry practitioners' interactions. The empirical research has important implications for practice in terms of commercial, legal, policy and practitioner ethics. Opportunities to engage fully with over 30 advertising practitioners, regulators and marketers has allowed this study to provide new insights into how the problem of controversial advertising, its regulation and ethics of practice are perceived.

This 'insider view' unveiled a new 360-degree map to make sense of how marketing, advertising, media-clearance and regulatory players negotiate the various upstream and downstream phases of the 6Cs process. The model shows how problems can potentially be pre-empted and resolved through precedence and working in a collective rather than individualised way. The findings contribute to important contemporary marketing debates and regulatory policy. Further gaps in our knowledge and new areas for future research have been identified and presented. Conclusions and contributions from the thesis have particular resonance with regard to the challenge of fostering both responsible advertising policy and practice in the digital age, to protect vulnerable groups.

Furthermore, new findings on the nature of practitioner EDM have been identified. Triggering ethical awareness using both formal and informal means can raise professional standards and an institutionalised culture, whose ethos stems from proactive pre-clearance rather than reactive regulation. Socially responsible practice and future regulation requires a paradigm shift away from focusing on one-off controversies, issues of offence or technicalities of claims at the individual campaign level, to urgently addressing the broader consequences of advertising on society.

Epilogue

Returning to the initial example of advertising copy in the preface to this thesis....

> ## MEN WANTED
>
> for hazardous journey, small wages, bitter cold, long months of complete darkness, constant danger, safe return doubtful, honour and recognition in case of success.
>
> Ernest Shackleton
> 4 Burlington Street, London

As it turned out, this much quoted example of honest advertising for Ernest Shackleton's Antarctic expedition, 100 years ago, is itself controversial. No empirical evidence of the actual newspaper advertisement has ever been found. This anecdote again reflects the underlying issue of *where the truth lies* in advertising, a conceptualisation central to the thesis. However, the sentiments of the above advertising message and philosophy of Shackleton's epic journey remain a fitting metaphor for my PhD Journey. It was at times hazardous to my health, wages were indeed small in comparison to my practitioner days, I had many cold days and long dark months waiting for access. I often had brain freeze, stuck in the data, getting the research data coded and analysed. After a lengthy time sitting out the doldrums in the data collection, coding and writing up; the ice slowly breaking through and here I am at this important compass point. My work is now complete, honour and recognition await in case of success. Thank you for your time and endurance in reading my PhD travelogue. For me this is actually just the end of the beginning of my academic research career.

Tom Farrell (2012)

References

Advertisements are now so numerous that they are
very negligently perused, and it is therefore become necessary
to gain attention by magnificence of promises, and by eloquence
... Promise, large promise, is the soul of an advertisement.

~ Samuel Johnson ~
The Idler
1767

References

Abernethy, A. M. (1993). Advertising Clearance Practices of Radio Stations - A Model of Advertising Self-Regulation. *Journal of Advertising* 22(3): 15-26.

Abernethy, A. and Franke, G. (1998). FTC Regulatory Activity and the Information Content of Advertising. *Journal of Public Policy and Marketing* 17: 239-256.

Abernethy, A. and Wicks, J. (2001). Self-regulation and Television Advertising: A Replication and Extension. *Journal of Advertising Research* 41: 31-37.

Advertising Association (AA) (2012) *Advertising Association Reports and Research Reports*. Available at http://www.adassoc.org.uk/Home./ Accessed 3rd July 2012.

Advertising Association (AA) (1996). *Public Attitudes to Advertising*. London: Advertising Association.

Advertising Standards Authority (ASA) (1998). *Drawing the Line in 1998: A Survey into the Prevailing Standards of Taste and Decency in Non-broadcast Advertising*. London: ASA

Advertising Standards Authority (ASA) (2012a) *Advertising Standards Authority Adjudication Archives 2004-2011*. Available at http://www.asa.org.uk/ASA-action/Adjudications.aspx. Accessed 3rd July 2012.

Advertising Standards Authority (ASA) (2012b). *Advertising Standards Authority Hot Topics 2006-2012*. Available at: http://www.asa.org.uk/Resource-Centre/Hot-Topics.aspx. Accessed 3rd July 2012.

Advertising Standards Authority (ASA) (2012c). *Advertising Standards Authority Background Briefings 2008-2011* Available at http://www.asa.org.uk/Resource-Centre/Background-Briefings.aspx. Accessed 3 July 2012.

Advertising Standards Authority (ASA) (2012d). *Advertising Standards Authority Research and Surveys 1995-2011*. http://www.asa.org.uk/Resource-Centre/Reports-and-surveys.aspx. Accessed 3 July 2012.

Ajzen, I. (1991). The Theory of Planned Behaviour. *Organisational Behaviour Human Decision Process* 50: 179–211.

Alexander, J.; Crompton, T. and Shrubsole, G. (2011). *Think of Me as Evil? Opening the Ethical Debates in Advertising*. Powys: Public Interest Research Centre (PIRC) and WWF-UK.

Alwitt, L.F. and Prabhaker, P.R. (1994). Identifying who dislikes television advertising: not by demographics alone. *Journal of Advertising Research* 34(6): 17–29.

Ameen, E.C., Guffey, D.M. and McMillan, J.J. (1996). Gender differences in determining the ethical sensitivity of future accounting professionals. *Journal of Business Ethics* 15(5): 591–597.

Amit, V. (2000) *Constructing the Field: Ethnographic Fieldwork in the Contemporary World*. Oxford: Routledge.

Andreasen, A. R.(2006). *Social Marketing in the 21st Century*. Thousand Oaks, CA: Sage.

Armstrong, G. M., and Ozanne, J. L. (1983). An Evaluation of NAD/NARB Purpose and Performance. *Journal of Advertising* 12(3): 15-52.

Babor, T.; Caetano, R.; Casswell, S.; Edwards, G.; Giesbrecht, N.; Graham, K.; Grube, J.; Hill, L.; Holder, H.; Homel, R.; Österberg, E.; Rehm, J.; Room, R.; Rossow, I.;

(2010a). *Alcohol: No Ordinary Commodity*. Oxford: Oxford University Press (2nd edition).

Babor, T, Ziming, X, and Damon, D. (2010b). Changes in the self-regulation guidelines of the US Beer Code reduce the number of content violations reported in TV advertisements. *Journal of Public Affairs* 10(1/2): 6-18.

Bailey Review (2011) *Letting Children be Children - Report of an Independent Review of the Commercialisation and Sexualisation of Childhood*. London: Stationery Office.

Bandura, A. (1990a). Mechanisms of moral disengagement. In W. Reich (Ed.), *Origins of terrorism: Psychologies, ideologies, states of mind* (pp. 161–191). New York: Cambridge University Press.

Bandura, A. (1990b). Selective activation and disengagement of moral control. *Journal of Social Issues* 46: 27–46.

Barnes, J.H, J.R. and Dotson, M.J. (1990). An exploratory investigation into the nature of offensive television advertising. *Journal of Advertising* 19(3): 61–69.

Barrett, R.A. (1984). *Culture and Conduct*. Belmont, CA: Wadsworth.

Bartels R (1967). A Model for Ethics in Marketing. *Journal of Marketing* 31:1): 20-26

Bartlett, D. (2003). Management and Business Ethics: A Critique and Integration of Ethical Decision-making Models. *British Journal of Management* 14: 223–235.

Bauman, Z. (2011). The-London-Riots-on-consumerism-coming-home-to-roost. Social Europe Journal Blog. Available at http://www.social-europe.eu/2011/08/ . (Accessed 04/01/2011)

Bazeley. P. (2007). *Qualitative Data Analysis with Nvivo*. Thousand Oaks, CA: Sage.

Beard, F. K. (2003). College student attitudes toward advertising's ethical, economic, and social consequences. *Journal of Business Ethics* 48(3): 217-228.

Beard, F. K. (2008). How products and advertising offend consumers. *Journal of Advertising Research* 48(1): 13-21.

Beltramini, R. F. (2003). Advertising Ethics: The Ultimate Oxymoron? *Journal of Business Ethics* 48: 215–216.

Bian, X., Kitchen, P. and Cuomo, M. (2011). Advertising self-regulation: Clearance processes, effectiveness and future research agenda. *The Marketing Review* 11(4): 393-414.

Bird, F. B. (2002). *The Muted Conscience: Moral Silence and the Practice of Business Ethics*. Westport, CN: Quorum Books.

Bird, F. B. and Waters, J.A.(1989). The Moral Muteness of Managers. *California Management Review* 32(Fall): 73-88.

Birley, H. (1999). Turning advertisements into talking points. Marketing 1 April, 29–30.

Bishop, F.P. (1949). *The Ethics of Advertising*. London: Robert Hale.

Blakeney, M. (1986). Advertising Self-Regulation under Scrutiny in Australia. *Journal of Consumer Policy* 9(2): 181-190.

Boddewyn, J. J. (1981). The Global Spread of Advertising Regulation. *Business Topics* 29(2): 5-13.

Boddewyn, J. J. (1982). Advertising Regulation in the 1980s – The Underlying Global Forces. *Journal of Marketing* 46(1): 27-35.

Boddewyn, J. J. (1983). Outside Participation in Advertising Self-Regulation: The Case of the Advertising Standards Authority (UK). *Journal of Consumer Policy* 6: 77-93.

Boddewyn, J. J. (1985). Advertising Self-Regulation: Private Government and Agent of Public Policy. *Journal of Public Policy and Marketing* 4: 129-41.

Boddewyn, J. J. (1988). *Advertising Self-Regulation and Outside Participation: A Multinational Comparison*. Westport, CT: Quorum Books.

Boddewyn, J. J. (1989). Advertising Self-Regulation - True Purpose and Limits. *Journal of Advertising* 18(2): 19-27.

Boddewyn, J. J. (1991). Controlling Sex and Decency in Advertising around the World. *Journal of Advertising* 20(4): 25-35.

Boddewyn, J. J. (1992). *Global Perspectives on Advertising Self-Regulation*. Westport, CT: Quorum Books.

Boddewyn, J. J. and H. Kunz (1991). Sex and decency issues in advertising: General and international dimensions. *Business Horizons* 34(5): 13.

Boffey, D. (2012). Riots Panel to call for curb on Youth-Targeted Brand Adverts - Aggressive marketing aimed at the young was one underlying cause of last summer's lawlessness, *The Observer* (Sunday 5 March 2012)

Borrie, G. (2005). CSR and Advertising Self-Regulation. *Consumer Policy Review* 15(2): 64-68.

Brewer, J. and Hunter, A. (1989). Multi-method Research: A Synthesis of Styles. Thousand Oaks, CA: Sage.

Brown, A. (2006). Advertising Regulation and Co regulation: The challenge of Change. Economic Affairs, Institute for Economic Affair, 26(2, June): 31-36.

Bryman, A. and Bell, E. (2003). *Research in Business Research Methods*. Oxford: Oxford University Press.

Bushman, B. J. and A. M. Bonacci (2002). Violence and Sex Impair Memory for Television Ads. Journal of Applied Psychology 87: 557-564; *Business Ethics* 9: 233–242.

Butterfield, K.D., Treviño, L.K., and Weaver, G.R. (2000). Moral awareness in business organizations: Influences of issue-related and social context factors. *Human Relations,* 53: 981–1018.

Calfee, R. (2001). Insights from Consumer research on the effects of Deceptive Advertising. In P.M. Bloom and G.T. Gundlach, (Eds.) *Handbook of Marketing and Society*, pp. 428-435. London: Sage.

Carrigan, M. and Szmigin I., (2000). The Ethical Covenant: Regulating Ageism in UK advertising. *International Journal of Advertising* 19(4): 509-528.

Carroll, A. (1991). The pyramid of corporate social responsibility. *Business Horizons* July-August: 39-48.

Carson, T. L., Wokutch, R. E. and Cox, J. (1985). An ethical analysis of deception in advertising. *The Journal of Business Ethics*, 4: 93-104.

Carter, N, de Meyrick, J, and Buchanan, J. (2009), Ethical Stance amongst senior Business and Marketing Students. *Review of Business Research* 9(5): 47-56.

Cassell, C, Johnson, P, and Smith, K (1997) Opening the Black Box: Corporate Codes of Ethics in Their Organizational Context. *Journal of Business Ethics* 16(10): 1077-1093.

Chakotin, S. (1940). *The Rape of the Masses*. London: Routledge.

Chen, A. W. and Mei-Chyi Liu, J. (1998). Agency Practitioners Perceptions of Professional Ethics in Taiwan. *Journal of Business Ethics* 17: 15-23.

Cherry, J., M. Lee and C. S. Chien: (2003). A Cross-Cultural Application of a Theoretical Model of Business Ethics: Bridging The Gap Between Theory And Data. *Journal of Business Ethics* 44(4): 359-376.

Chonko, L.B. and Hunt, S.D. (1985). Ethics and marketing management: An empirical examination. Journal of Business Research 13(4): 339–359.

Christy, T. (2006). Females Perceptions of Offensive Advertising: the Importance of values Expectations and Control. *Journal of Current Issues and Research in Advertising* 28(2 Fall): 15-32.

Christy, T, and Haley, E. (2008). The influence of advertising context on perceptions of offense. *Journal of Marketing Communications* 14(4): 271-291.

Chung, J., and Trivedi, V.U. (2003). The effect of friendly persuasion and gender on tax compliance behavior. *Journal of Business Ethics* 47(2): 133–145.

Clearcast (2010). Official TV Clearance Body. Available at http://www.clearcast.co.uk/ . Accessed 3 June 2010.

Clearcast (2012). Available at http://www.clearcast.co.uk/. Accessed 3 July 2012.

Cleek, M.A. and Leonard, S.L. (1998). Can corporate codes of ethics influence behavior? *Journal of Business Ethics* 17(6): 619–630.

Clegg, S., Kornberger, M. and Rhodes, C. (2007). Business Ethics as Practice. British *Journal of Management* 18: 107–122.

Cohen, J.R., Pant, L.W. and Sharp, D.J. (2001). An examination of differences in ethical-decision making between Canadian business students and accounting professionals. *Journal of Business Ethics* 30(4): 319–336.

Cole, B.C. and Smith, D.L. (1996). Perceptions of business ethics: Students vs. business people. *Journal of Business Ethics* 15(8): 889–896.

Colston, E. W. (1962). Advertising. A Critic's View. *Journal of Marketing* 26(4): 10-14.

Committee of Advertising Practice (CAP) (2011). *CAP Research and Survey Reports 2003-2009*. Available at http://www.cap.org.uk/Resource-Centre/Research-and-surveys.aspx. Accessed at 3July 2012.

Committee of Advertising Practice (CAP) (2012a). *The Advertising Codes*. Available at: http://www.cap.org.uk/The-Codes.aspx. Accessed 3 July 2012.

Committee of Advertising Practice (CAP) (2012b) *CAP Annual Reports* (2004-2010). Available at http://www.cap.org.uk/About-Us/Annual-report.aspx. Accessed 3 July 2012.

Crane, A. (1999). Are you ethical? Please Tick 'Yes'? or 'No'?: On Researching Ethics in Business Organizations. *Journal of Business Ethics* 20(3): 227–237.

Crane, A. (2000). Corporate greening as amoralization. *Organization Studies* 21(4): 673–696.

Crane, A. and Matten, D.(2007 [2004]) *Business Ethics: Managing Corporate Citizenship and Sustainability in the Age of Globalization*. Oxford: Oxford University Press.

Creamer, M. and A. Klaassen (2007). Caught in the Clutter Crossfire: Your Brand. *Advertising Age* 78(14): 1-35.

Creswell, J. (2008). *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. Thousand Oaks, CA: Sage.

Crosier, K. and B. Z. Erdogan (2001). Advertising complainants: who and where are they? *Journal of Marketing Communications* 7: 109-120.

Crosier, K., T. Hernandez, et al. (1999). The Risk of Collateral Damage in Advertising Campaigns. *Journal of Marketing Management* 15: 837-855.

Crotty, M (2006, 1998). *The Foundations of Social research - Meaning and Perspective in the Research Process*. London: Sage.

Cunningham, P. (1999). Ethics of Advertising. In J.P. Jones (Ed.), *The Advertising Business,* pp. 499-513. Thousand Oaks, CA: Sage.

Dahl, D. W., Frankenberger, K. and Manchanda, R. (2003). Does it pay to shock? Reactions to shocking and non-shocking advertising content among university students. *Journal of Advertising Research* 43: 268-281.

Damasio, A. (1994). *Descartes' error: Emotion, reason, and the human brain*. New York: Penguin Books.

Davis, J. J. (1994). Ethics in Advertising Decision Making – implications for reducing the incidence of deceptive advertising. *Journal of Consumer Affairs* 28(2): 380-402.

Davis, M.A., Johnson, N.B. and Ohmer, D.G. (1998). Issue-contingent effects on ethical decision making: A cross-cultural comparison. *Journal of Business Ethics* 17(4):373–389.

Deal T. E. and Kennedy, A. A. (1982). *Corporate Cultures: The Rites and Rituals of Corporate Life*. Harmondsworth: Penguin Books.

DeConinck, J.B. and Lewis, W.F. (1997). The influence of deontological and teleological considerations and ethical climate on sales managers' intentions to reward or punish sales force behavior. *Journal of Business Ethics* 16(5): 497–506.

de Chernatony, L, Drury, R. and Segal-Horn, SL (2005). Using triangulation to assess and identify successful services brands. *Service Industries Journal* 25(12): 5-21.

Delanty, G. (2000). Modernity and Postmodernity: Knowledge, *Power and the Self.* London: Sage.

Denzin, N. (1989) *The Research Act: A theoretical introduction to sociological methods.* Englewood Cliffs, NJ: Prentice Hall (3rd edition).

Denzin, N. K. and Lincoln, Y.S. (1994). *Handbook of Qualitative Research*. Thousand Oaks, CA: Sage.

Detert, J.R., Trevino, L.K. and Sweitzer, V.L. (2008). Moral disengagement in ethical decision making: A study of antecedents and outcomes. *Journal of Applied Psychology* 93: 374–391.

Dexter, L.A. (1970). *Elite and Specialized Interviewing*, Evanston, IL: North-western University Press.

Dey, I. (1993). *What is Qualitative Data? Introduction to Research: Basic Skills and Methods*. London: Open University Press.

Dixon, H. D. (2002). *Macroeconomic Policy, Competition and Welfare*. Swindon: Economic and Social Research Council.

Dommering, E. (1992). Unlawful Publications under Dutch and European Law-- *Defamation, Libel and Advertising, Media Law and Practice*, 13(4): 262-70.

Douglas, P.C., Davidson, R.A., and Schwartz, B.N. (2001). The effect of organizational culture and ethical orientation on accountants' ethical judgments. *Journal of Business Ethics*, 34(2): 101–121.

Drumwright, M. E. and Murphy P.E. (2004). How Advertising Practitioners View Ethics. *Journal of Advertising* 33(2): 7-24.

Drumwright, M.E. and Murphy, P.E. (2009). The Current State of Advertising Ethics. *Journal of Advertising* 38(1): 83-105.

Dubinsky, A.J. and Loken, B. (1989). Analyzing ethical decision making in marketing. *Journal of Business Research* 19(2): 83–107.

Ducret, A. (1991). Deregulation and the Trade Practices Act. In *Deregulation or Better Regulation?: Issues for the Public Sector*, Edited by: Head, B. and McCoy, E. 70–79. Australia: Macmillan

Dukerich, J.M., Waller, M.J., George, E., and Huber, G.P. (2000). Moral intensity and managerial problem solving. *Journal of Business Ethics* 24(1): 29–38.

Easterby-Smith, M. Thorpe, R. and Lowe, A, (2002). *Management Research an Introduction*, London, Sage.

Economic and Social Research Council (ESRC) (2005). Economic and Social Research Council Research Ethics Framework, *Writing Ethnographic Fieldnotes*. Chicago: University of Chicago Press.

Eisenhardt, K. M. (1989). Building Theories from Case Studies. *Academy of Management Review* 14(4):532-440.

European Advertising Standards Alliance (EASA) (2012). Available at http://www.easa-alliance.org/ Accessed 17/9/2011

Eynon, G., Hill, N.Y., and Stevens, K.T. (1997). Factors that influence the moral reasoning abilities of accountants: Implications for universities and the profession. *Journal of Business Ethics* 16(12): 1297–1309.

Fahy, J., Smart, D., Pride, W. and Ferrell, O.C. (1995). Advertising sensitive products. *International Journal of Advertising* 14: 231-43.

Falk, P. (1997). The Benetton–Toscani effects: testing the limits of conventional advertising. In M. Nava et al. (eds) *Buy This Book: Studies in Advertising and Consumption*. London: Routledge, pp. 64–86.

Fam, K. S. and D. S. Waller (2003). What makes controversial advertising offensive? A study of attitudes in the Asia Pacific Region. *Journal of Business Ethics* 48: 237-250.

Fam, K. S.,Waller D.S. and Yang, Z. (2009). Addressing the Advertising of Controversial Products in China: An Empirical Approach. *Journal of Business Ethics* 88: 43-58.

Ferrell, O. C. and Gresham, L. G. (1985). A Contingency Framework for Understanding Ethical Decision Making in Marketing. *Journal of Marketing* 49: 87–96.

Ferrell, O. C., Gresham, L. G. and Fraedrich, J. (1989). A Synthesis of Ethical Decision Models for Marketing. *Journal of Macromarketing* 11: 55–64.

Ferrell, O.C.; Fraedrich , J. and Ferrell, L. (2011). *Business Ethics: Ethical Decision Making and Cases*. (9th ed.) Mason, OH: South Western.

Flanagan, J. C. (1954). The Critical Incident Technique. *Psychological Bulletin* 1: 327-58.

Flannery, B.L., and May, D.R. (2000). Environmental ethical decision making in the US metal-finishing industry. *Academy of Management Journal* 43(4): 642–662.

Fleischman, G., and Valentine, S. (2003). Professionals' tax liability and ethical evaluations in an equitable relief innocent spouse case. *Journal of Business Ethics* 42: 27–44.

Flick, U. (1998). An introduction to Qualitative Research. Sage: Thousand Oaks California.

Ford, R. C. and W. D. Richardson: (1994). Ethical Decision Making: A Review of the Empirical Literature. *Journal of Business Ethics* 13: 205-221.

Fox, S. (1984). *The Mirror Makers: A History of American Advertising and Its Creators*, New York: William Morrow.

Frank, R.E., (1996). A stakeholder theory of the modern corporation. In D.M. Messick and A.E. Tenbrunsel (Eds.), *Codes of conduct: Behavioral research into business ethics*. New York: Russell Sage Foundation.

Freeman, R.E. (1994). The politics of stakeholder theory. *Business Ethics Quarterly*, 4: 409–422.

Frey, B. F. (2000). The Impact of Moral Intensity on Decision Making in a Business Context. Journal of Business Ethics 26: 181–195.

Fritzsche, D.J. (2000). Ethical climates and the ethical dimension of decision making. Journal of Business Ethics 24(2): 125–140.

Fritzsche, D. J. and H. Becker: (1984). Linking Management Behaviour to Ethical Philosophy – An Empirical Investigation. Academy of Management Journal 27: 166–175.

Galbraith, J.K. (1976). *The Affluent Society,* New York: New American Library.

Gaudine, A., and Thorne, L. (2001). Emotion and ethical decision making in organizations. *Journal of Business Ethics* 31(2): 175–187.

Geertz, C. (1973). *The Interpretation of Cultures*. New York: Basic.

Gillie, Z. (2001). Critical ethnography in the time of globalization: toward a new concept of site. *Cultural Studies-Critical Methodologies* 1(3): 319-334.

Gilligan, C. (1982). *In a different voice: Psychological theory and women's development*. Cambridge, MA: Harvard University Press.

Glaser, B.G. and Strauss, A.L. (1967). *The Discovery of Grounded Theory: Strategies for Qualitative Research*, Thousand Oaks: Sage.

Goffman, E., (1990 [1959]). *The Presentation of Self in Everyday life*. New York. Penguin Books.

Goolsby, J. and Hunt, S. (1992). Cognitive Moral Development and Marketing. *Journal of Marketing* 56(1): 55-68.

Grabosky, P. and Braithwaite, J. (1986). *Of Manners Gentle: Enforcement Strategies of Australian Business Regulatory Agencies*. Melbourne: Oxford University Press.

Grant, I. and McLeod, C. (2007). Advertising agency planning -conceptualising network relationships. *Journal of Marketing Management* 23(5/6): 425-442.

Grant, I., Gilmore C. and Crosier, K. (2003). "Planning: Whose role is it anyway? Marketing, *Intelligence and Planning* 21(7): 462-472.

Greenberg, J. (2002). Who stole the money and when? Individual and situational determinants of employee theft. *Organizational Behavior and Human Decision Processes* 89: 985–1003.

Greene, J.D., Sommerville, R.B., Nystrom, L.E., Darley, J.M., & Cohen, J.D. (2001). An fMRI investigation of emotional engagement in moral judgment. *Science* 293(5537): 2105–2108.

Grim, P. F., Kohlberg, L. and White, S. H. (1968). Some relationships between conscience and attention processes. *Journal of Personality and Social Psychology* 8: 239-252.

Guba, E. G. and Lincoln, Y. S. (1994). Competing paradigms in qualitative research. In N. K.Denzin and Y. S. Lincoln (Eds.), *Handbook of qualitative research*. London: Sage.

Gustafson, A. (2000). Making Sense of Postmodern Business Ethics. *Business Ethics Quarterly* 10(3): 645-658.

Haefner, M. J. (1991). Ethical Problems of Advertising to Children. *Journal of Mass Media Ethics* 6: 83-92.

Hammersley, M. (1992). *Some Reflections on Ethnography and Validity*, Open Research Online (ORO). London: Open University

Hammersley, M. and Atkinson, P. (2003). Ethnography - Principles in Practice, London, Routledge.

Harker, D. (1998). Achieving Acceptable Advertising: An Analysis of Advertising Regulation in Five Countries. *International Marketing Review* 15(2): 101-118.

Harker, D. (2003). The Importance of Industry Compliance in Improving Advertising Self-Regulatory Processes. Journal of Public Affairs 3(1): 63-7.

Harker D. (2005). From Harrods to a car boot sale: Exploring a continuum of regulatory options to control online advertising, *Academy of Marketing Conference*, UK.

Harker, D, and Cassim, S (2002). Towards effective advertising regulation: A comparison of UK, Australian and South African schemes. *South African Journal of Business Management* 33: 4.

Harker, D. and M. Harker (2000). Establishing New Advertising Self-Regulatory schemes: A comparison of the UK and Australian approaches. *Australian Journal of Public Administration* 59(2): 56-62.

Harker, D, and Harker, M. (2008). Advertising in Australia: the big issues. *International Journal of Advertising* 27(5): 910-915.

Harker D, Wiggs G, and Harker, M. (2005). Responsive advertising regulation: A case study from New Zealand. *Australian Journal of Political Science* 40:(4): 541-554.

Harris, R. G., Carman, J. M. (1984). Public Regulation of Marketing Activity: Part II: Regulatory Responses to Market Failures. *Journal of Macromarketing* (2): 41-52.

Hastings, G.B. and MacFadyen, L. (2000). A day in the life of an advertising man: Review of internal documents from the UK tobacco industry's principal advertising agencies. *British Medical Journal,* 321(5): 366-37.

Hastings, G. B., Ryan, H., Teer, P. and MacKintosh A.M (1994). Cigarette Advertising and Children's Smoking. *British Medical Journal,* 309(6959): 933-937.

Hastings, G. B., Stead M. and Webb, J. (2004). Fear Appeals in Social Marketing: Strategic and Ethical Reasons for Concern. *Psychology and Marketing* 21(11): 961-986.

Hastings, G.B., Brooks ,O., Angus, K., Stead, M., Anker, T. and Farrell, T. (2010). Failure of Self-Regulation of UK Alcohol Advertising, *British Medical Journal* 340. 21:.

Hegarty, W.H. and Sims, H.P. (1978). Some determinants of unethical decision behavior: An experiment. *Journal of Applied Psychology*, 64(3): 451–457.

Health Select Committee, (HSC) (2012). Available at http://www.parliament.uk/healthcom/ .Accessed 13 Jan 2012.

Hertzberg, F. (1987). One more time: How do you motivate Employees? *Harvard Business Review* 65 (5).

Higgins, A., and Gordon, F. (1985). Work climate and socio-moral development in two worker-owned companies. In M.W. Berkowitz and F. Oser (Eds.), *Moral Education: Theory and Application* (pp. 241-268). Hillsdale, NJ: L. Erlbaum and Associates.

Hill, R.P. and Beaver, A.L. (1991). Advocacy Groups and Television Advertisers. *Journal of Advertising* 20(1)18-27.

Hofstede, G. (1980). *Culture's consequences: International differences in work-related values.* Beverly Hills, CA: Sage.

Hosmer, L.T. (1987). *The Ethics of Management.* Homewood, IL: Richard D. Irwin Press.

Hunt, S. D. and Chonko, L. B. (1987). Ethical Problems of Advertising Agency Executives, *Journal of Advertising* 16, (4):16–24.

Hunt, S. D. and Vitell S. (1986). A General Theory of Marketing Ethics, *Journal of Macromarketing*, 48, 30–42.

Hussey, J. and Hussey, R. (1997). *Business Research: a practical guide for undergraduate and postgraduate students.* Basingstoke: Macmillan.

Independent Television Commission (ITC). (1997). *The ITC Code of Advertising Standards and Practice.* London: ITC.

Jackall, R. (1983). Moral Mazes: Bureaucracy and Managerial Work. *Harvard Business Review.* 6(5):118-130.

Jackall, R. (1988). *Moral Mazes: the world of corporate managers.* New York Oxford University Press.

Jackson, T. (2001). Cultural Values and Management ethics: A 10 Nation Study. *Human Relations* 54(100):1267-1303.

Jaggar, A.M. (1992). *Feminist ethics. In Encyclopedia of Ethics,*(ed). Lawrence C. Becker. New York and London: Garland Publishing.

James, E.L., Pratt, C. B. and Smith, T.V. (1994). Advertising Ethics: Practitioners and Student Perspectives, *Journal of Mass Media Ethics*, 9 (2):68-83.

Jernigan, D.H. (2011). Public health tools for holding self-regulators accountable: Lessons from the alcohol experience. *Health Promotion Practice.* 129(3):336-340.

Jones, T. M. (1991). Ethical Decision Making by Individuals in Organizations: An Issue-Contingent Model, *Academy of Management Review* 16:366–395.

Jugenheimer, D. W. and White, G. E. (1980). *Basic Advertising.* Columbus, Ohio: Grid Publishing.

Kant, I. (1964*). Groundwork of the Metaphysic of Morals* (H. J. Paton, Trans.). New York: Harper and Row. (Original work published in 1785).

Kant, I. (1797). *The Metaphysics of Morals (Die Metaphysik der Sitten),* Cambridge University Press.

Kaplan, H., and Houlberg, R. (1988). *Broadcast Condom Advertising, the Public Interest, and Deregulation: A Case Study*. Presented at International Communications Association Conference, New Orleans, LA.

Kaptein, M. and Schwartz, M.S. (2007). The effectiveness of business codes : A Critical examination of existing studies and the development of an integrated model. *Journal of Business Ethics* 78: 111-27.

Kelman, H.C. and Hamilton, V.L. (1990). *Crimes of obedience: Toward a social psychology of authority and responsibility*. New Haven, CT: Yale University Press.

Kerlinger, F. (1986). *Foundations of Behavioral Research*. Holt, Rinehart, and Winston, New York, NY.

King, N. (2004). Using templates in the thematic analysis of text, in C. Cassell and G. Symon (Eds.) *Essential Guide to Qualitative Methods in Organizational Research*. London: Sage.

Kinnear, T.C. and Taylor, J.R. (1996). *Marketing Research: An Applied Approach*, 5th ed., McGraw-Hill, New York, NY.

Klein, G. A. (1999). *Sources of power: How people make decisions*. Cambridge, Mass; London, MIT.

Kohlberg, L. (1969). Stage and sequence: The cognitive–developmental approach to socialization. In D. A.Goslin (Ed.), *Handbook of socialization theory and research*. Chicago, IL: Rand McNally.

Kohlberg, L. (1984). *The Psychology of Moral Development*, San Francisco: Harper and Row.

Kotler, P. and Keller, K.L. (2006). *Marketing Management* (12th ed.), Pearson Prentice Hall: New Jersey.

Kozinets, R. V. (2002). The Field behind the Screen: Using Netnography for Marketing Research in Online Communities *Journal of Marketing Research* 39(1):61-72.

Krueger, D. (1998). Ethics and Values in Advertising: Two Case Studies. *Business and Society Review* 99, 53-65.

LaBarbera, P.A. (1980). Analyzing and Advancing the State of the Art of Advertising Self-Regulation. *Journal of Advertising* 9(4): 27-38.

LaBarbera, P.A. (1983). The Diffusion of Trade Association Advertising Self-Regulation. *Journal of Advertising* 47(Winter): 58-67.

Lancaster, G.A., Massingham, L.C. (2001). *Marketing Management*. New York: McGraw-Hill.

Lasn, K. (2000). *Culture Jam: How to reverse America's suicidal consumer binge and why we must*. New York, Quill.

LeBlanc Wicks, J. and Abernethy, A. (2001). Effective Consumer Protection or Benign Neglect? A Model of Television Infomercial Clearance, *Journal of Advertising* 30, (1): 41-54.

Levin, H. J. (1958). Economic Structure and the Regulation of Television. Quarterly *Journal of Economics* 72(3): 424-450.

Levitt, T. (1960). Marketing Myopia, *Harvard Business Review* 38 (July August): 45-56.

Li, H., Edwards, S. and Lee, J.(2002), 'Measuring the Intrusiveness of Advertisements: Scale Development and Validation', *Journal of Advertising* 31, (2): 37-47.

Lincoln Y. S. and Guba, E. (1985). *Naturalistic Enquiry*. Beverley Hills CA Sage.

Loe, T. W., Ferrell, L., and Mansfield, P. (2000). A review of empirical studies assessing ethical decision making in business. *Journal of Business Ethics* 25, 185–204.

Lyons, Kate (1996). Offensive, Titillating, Outrageous ......? *Australian Professional Marketing* (8):8-10.

Lyotard, J.F. (1984). *The postmodern condition: A report on knowledge*, Minneapolis: University of Minnesota Press.

McKendall, M, DeMarr, B, and Jones-Rikkers, C (2002). Ethical Compliance Programs and Corporate Illegality: Testing the Assumptions of the Corporate Sentencing Guidelines', *Journal of Business Ethics* 37, 4, pp. 367-383.

McMahon, J. M. and Harvey, R.J. (2006). An Analysis of the Factor Structure of Jones' Moral Intensity Construct. *Journal of Business Ethics* 64: 381–404.

McMahon, J. M. and Harvey R.J. (2007). The effect of Moral Intensity on Ethical Judgment. *Journal of Business Ethics* 72:335-357.

March J. G. (1995). *A Primer on Decision Making*. New York: Free Press.

Markowitz, S. and Grossman, M. (1998). Alcohol regulation and domestic violence towards children. *Contemporary Economic Policy* 16(3): 309-320.

Marnburg, E. (2001). 'The Questionable use of Moral Development Theory in Studies of Business Ethics: Discussion and Empirical Findings', 32(4): 275-283.

Marshall B. and Dewe, P. (1997). An Investigation into Moral intensity. *Journal of Business Ethics*. 16,521-530.

Maxeiner, James and Peter Schotthofer, eds. (1992). *Advertising Law in Europe and North America*, Boston: Kluwer Law and Taxation Publishers.

May, D. R. and Pauli, K. P. (2002). The role of moral intensity in ethical decision making *Business and Society*. 41 84-117.

Merriam, S. B. (1991). *Case study research in education: A qualitative approach*. San Francisco, CA: Jossey-Bass.

Messick, D.M. (1999). Alternative logics for decision making in social settings. *Journal of Economic Behavior and Organization* 39(1): 11–30.

Messick, D.M., and Bazerman, M.H. (1996). Ethical leadership and the psychology of decision making. *Sloan Management Review* 37(2): 9–22.

Messick, D.M., and Tenbrunsel, A.E. (1996). Behavioral research into business ethics. In D.M. Messick and A.E. Tenbrunsel (Eds.), *Codes of conduct: Behavioral research into Business Ethics*. New York: Russell Sage.

Mick, D. G. and S. Fournier (1998). Paradoxes of Technology: Consumer Cognizance, Emotions, and Coping Strategies. *Journal of Consumer Research*, 25: 123-143.

Miles, M. B. and Huberman, A. M (1984, [1994]). *Qualitative Data Analysis*, Beverley Hill. CA: Sage Publications.

Milliken, F. J. (1990). Perceiving and Interpreting Environmental Change: Academy of Management Journal 33(1): 42-63.

Miracle, G. E. and Nevett, T. (1987). *Voluntary Regulation of Advertising: A Comparative Analysis of the UK and US*. D C Heath, Lexington Books: Mass., US.

Miracle, G. E. and Nevett, T. (1988). A Comparative History of Advertising Self-Regulation in the United Kingdom and the United States. *European Journal of Marketing* 22(4): 7-23.

Mittal, B. (1994). Public Assessment of TV Advertising – Faint Praise and Harsh Criticism. *Journal of Advertising Research* 34(1): 35-53.

Moon, Y. S. and Franke, G. R (2000). Cultural Influences on Agency Practitioners: A comparison of Korea and the U.S. *Journal of Advertising* 29(Spring): 51-65.

Moore, C. (2007). *Moral disengagement in processes of organizational corruption.* Unpublished Doctoral Dissertation, University of Toronto.

Moriarty, R.T. (1983). *Industrial Buying Behaviour,* MA: Lexington Books.

Moyer, R. (1978). *Macro Marketing: A Social Perspective.* Beverley Hills, CA: Wiley.

Moyer, M. L. and Banks, J. C. (1977). Industry Self-Regulation: Some Lessons from the Canadian Advertising Industry. In: D. Thompson (ed) *Problems in Canadian Marketing,* pp. 185-202. Chicago, IL: AMA.

Murphy, P. E. (1998). Ethics in Advertising: Review, Analysis, and Suggestions, *Journal of Public Policy and Marketing* (15): 261–272.

Myers, G. (1999). *Ad Worlds: Brands, Media, Audiences.* London: Edward Arnold.

Nairn, A. (2008). It does my head in... buy it, buy it, buy it! The commercialization of UK children's web sites. *Young Consumers: Insight and Ideas for Responsible Marketers.* 9 (4): 239-253.

Nairn, A. and Fine, C. (2008). Who's messing with my mind? The implications of dual-process models for the ethics of advertising to children. *International Journal of Advertising* 27(3): 447-470.

Nairn, A. and Monkgol. D. (2007). Children and Online Privacy. *Journal of Direct, Data and Digital Marketing Practice* 8 (4) 294-308.

Neelankavil, J.P. and Stridsberg, A.B. (1980). *Advertising Self-Regulation: A Global Perspective.* New York: Hastings House Publishers.

Newell, J., Salmon C. and Chang, S. (2006). The Hidden History of Product Placement. *Journal of Broadcasting and Electronic Media.*50,(4):575-594.

Newton, L. H. (2003). *Ethics and sustainability: Sustainable development and the moral life.* Upper Saddle River, N.J.: Prentice Hall.

Nielsen Media Research (2009). http://www.nielsenmedia.co.uk/. Accessed 12 June 2009

Nevett, T. (1982). *Advertising in Britain, A History,* Heinemann: London.

Nevett, T. (1985). The Ethics of Advertising: F. P. Bishop Reconsidered. International *Journal of Advertising* 4(4): 297-304.

Nevett, T. (1992). Differences between American and British Television Advertising - Explanations and Implications. *Journal of Advertising,* 21(4): 61-71.

Nwachukwu, S. L. S. and S. J. Vitell: (1997). The Influence of Corporate Culture on Managerial Ethical Judgments, *Journal of Business Ethics* 16(8):757-776.

O'Fallon, M.J. and Butterfield, K.D. (2005). A review of the empirical ethical decision making literature: 1996–2003. *Journal of Business Ethics,* 59, 375–413.

OfCom (2011a). *UK Advertising Expenditure by Media 2005-2010.* Available at: http://stakeholders.ofcom.org.uk/market-data-research/market-

data/communications-market-reports/cmr11/internet-web/876706. Accessed: 28 Feb 2012.

OfCom (2011b). *Office for Communications Report on Food Advertising*. Available at: http://www.ofcom.org.uk/research/consumer_audience_research/television/food_ad vertisements/report.pdf . Accessed: 15 January 2012.

Orwell, G. (1936). *Keep the Aspidistra Flying*. London: Penguin Classics.

Packard, V. (1962 [1959]). *The Hidden Persuaders*. London: Penguin Books.

Paolillo, J.G.P. and Vitell, S.J. (2002). An empirical investigation of the influence of selected personal, organizational and moral intensity factors on ethical decision making. *Journal of Business Ethics* 35(1): 65–74.

Patton, M. Q. (2002[1987]). *Qualitative Evaluation and Research Methods*. Newbury Park, CA; London: Sage.

Peterson, D. (2002). The relationship between unethical behaviour and the dimensions of the ethical climate questionnaire. *Journal of Business Ethics* 41, 313– 326.

Petrescu; M. and Korgaonkar, P. (2011). Viral Advertising: Definitional Review and Synthesis. *Journal of Internet Commerce* 10, (3):208-226.

Pettigrew, A. (1988). *Longitudinal Field Research on Change theory and practice*. National Science Foundation Conference. Austin, TX.

Pollay, R. W. (1986). The Distorted Mirror: Reflections on the unintended consequences of advertising. *Journal of Marketing* 50(4): 18-36.

Posner, B. Z. and Schmidt, W. H. (1987). Ethics in American Companies: A Managerial Perspective, *Journal of Business Ethics*, 6, 383–391.

Potter, S. (2006). *Doing postgraduate research*. 2nd ed. London: Sage.

Pratt, C. B. and James E. L. (1993). A Factor Analysis of Advertising Practitioners' Perceptions of Advertising Ethics, *Psychological Reports* 13, 455–468.

Pratt, C. B. and James, E. L. (1994). 'Advertising Ethics: A Contextual Response Based on Classical Ethical Theory', *Journal of Business Ethics*, 17(2): 316–319.

Prendergast, G., W. L. Cheung, et al. (2008). How Far Is Too Far? The Antecedents of Offensive Advertising in Modern China, *Journal of Advertising Research* 48(4): 484-495.

Presbrey, F. (1929). *The History and Development of Advertising*. Garden City, NY: Doubleday.

Preston, I. L. (1994). *The Tangled Web They Weave*. Madison. University of Wisconsin Press.

Preston, I. L. (1996). The Great American Blow-up: Puffery in Advertising and Selling. Madison. University of Wisconsin Press.

Preston, I. L. (1998). Fear of persuasion: A new perspective on advertising and regulation. *Journal of Public Policy and Marketing* 17(2): 336-339.

Proctor, T. (2000). *Essentials of Marketing Research*. Prentice Hall: Essex.

Pruden, H. O. (1971). Which Ethics for Marketers? in *Marketing and Social Issues*. John R. Wish and Stephen H. Gamble, eds. New York: John Wiley and Sons, Inc., 98-104.

Randal, D. M. and A. M. Gibson. (1990). Methodology in Business Ethics Research: A Review and Critical Assessment', *Journal of Business Ethics* 9(6): 457—471.

Rawls, J. (1999[1971]). A Theory of Justice. Cambridge, MA: Belknap Press.

Rehman, S.N. and J.R. Brooks (1987). "Attitudes towards Television Advertising for Controversial Products", Journal of Healthcare Marketing, 7, 78-83.

Reichert, T. (2003). "The Prevalence of Sexual Imagery in Ads targeted to Young Adults". *Journal of Consumer Affairs*, 37(2): 403-412.

Reidenbach, R. E. and Robin, D. P. (1988). Some Initial Steps Toward Improving the Measurement of Ethical Evaluations of Marketing Activities. *Journal of Business Ethics* 7: 871–879.

Reidenbach, R. E. and Robin, D. P.: (1990). Toward the Development of a Multidimensional Scale for Improving Evaluations of Business Ethics. *Journal of Business Ethics*. 9:639–653.

Reidenbach, R. E. and Robin, D. P. (1993). A Comment on 'A Multidimensional Scale for Measuring Business Ethics: A Purification and Refinement, *Journal of Business Ethics* 12:8,663.

Reidenbach, R. E., Robin, D. P. and Dawson, L. (1991). An Application and Extension of a Multidimensional Ethics Scale to Selected Marketing Practices and Marketing Groups, *Journal of the Academy of Marketing Science* 19(2): 83–92.

Reiss, M, and Mitra, K. (1998). The Effects of Individual Difference Factors on the Acceptability of Ethical and Unethical Workplace Behaviours, *Journal of Business Ethics* 17, (14):1581-1593.

Rest, J. R. (1983). Morality. In J. H. Flavell and E. M. Markman (Eds.), *Handbook of child psychology: Cognitive Development*, (3):556-620. New York: Wiley.

Rest, J. R. (1984). Research on moral development: Implications for training counselling psychologists. *Counselling Psychologist* 12: 19-29.

Rest, J. R. (1986), *Moral Development: Advances in Research and Theory*. New York: Praeger.

Rest, J. R. (1994). Background: Theory and research. In J. R. Rest and D. Narvaez (Eds.), *Moral development in the professions: Psychology and applied ethics*. Hillsdale, NJ: Erlbaum.

Rest, J. R., Cooper, D., Coder, R., Maganz, J. and Anderson, D. (1974). Judging the important issues in moral dilemmas- an objective test of development. *Developmental Psychology* 10, 491-501.

Rest, J. R., Davison, M. L., and Robbins, S. (1978). Age trends in judging moral issues: A review of cross-sectional, longitudinal, and sequential studies of the Defining Issues Test. *Child Development* 49(2): 263-279.

Richards and Petty (2007). Advertising Self Regulation. In Tellis, G. and Ambler, T (Eds) *The SAGE Handbook of Advertising*. London: Sage Publications.

Robin, D. and L. Babin: (1997). 'Making Sense of the Research on Gender and Ethics in Business: A Critical Analysis and Extension', *Business Ethics Quarterly* 7(4):61–90.

Robin D. P. and Reidenbach R. E. (1987). Social Responsibility, Ethics, and Marketing Strategy: Closing the Gap between Concept and Application. *Journal of Marketing*. 51,(1): 44-58.

Robson, C. (1993). *Real World Research*. Oxford: Blackwell.

Rokeach, M. (1973). *The Nature of Human Values*. New York: Free Press.

Rotfeld, H.J. (1999). Breaking up America: Advertisers and the New Media World. *Journal of Marketing* 63(1): 121-123.

Rotfeld, H.J. and Abernethy, A.M. (1992). Radio Station Standards for Acceptable Advertising. *Journal of Business Research* 24, 361-75.

Rotfeld, H.J., and Parsons, P.R. (1989). Self-Regulation and Magazine Advertising. *Journal of Advertising* 18(4): 33-40.

Rotfeld, H.J., and Taylor, C.R. (2009). The Advertising Regulation and Self-Regulation Issues ripped from the headlines with (sometimes missed) opportunities for Disciplined Multidisciplinary Research. *Journal of Advertising* 38(4): 5-18.

Rotfeld, H.J., Parsons, P.R., Abernethy, A.M., and Pavlik, J.V. (1990a). Television Station Standards for Acceptable Advertising. *The Journal of Consumer Affairs* 24(2): 392-410.

Rotfeld, H.J., Abernethy, A. M., and Parsons, P.R. (1990b). Self-Regulation and Television Advertising. *Journal of Advertising* 19(4): 18-26.

Rotfeld, H.J., Abernethy, A.M. and Bulter, D.D. (1990c). *Acceptance of Products for Television Advertising*. In M.L. Carsky (Ed.), Proceedings of American Council on Consumer Interests (299-304). West Hartford CN: University of Hartford.

Rotter, J. (1966). Generalized expectancies for internal versus external control of reinforcement. *Psychological Monographs* 80(1):609.

Rotzoll, K. B. and Christians, G. C. (1980). Advertising Agency Practitioners' Perceptions of Ethical Decisions, *Journalism Quarterly* 57(3):425-431.

Salmela, M. and Mayer, V. (2009). *Emotions, Ethics and Authenticity*. Amsterdam: John Benjamins.

Sampson, H. (1872). *History of Advertising*, London: Chatto and Windus.

Sapsford, R. (2004). *Survey Research*, London: Sage.

Saren, M. (2007). *Critical Marketing- Defining the Field*. Oxford: Elsevier.

Sathe, V. (1986), How to Decipher and Change Organizational Culture," in *Managing Corporate Cultures*, R. H. Kilman and Associates, ed. San Francisco: Jossey-Bass, Inc.

Scandura, T. and Williams, E. (2000). Research methodology in management: current practices, trends, and implications for future research, *Academy Of Management Journal* 43(6):1248-1264.

Schaefer, A. and Harvey. B. (1998). Stage models of corporate 'greening': a critical evaluation. *Business Strategy and The Environment*, 7(3):109-123.

Schein, E. H. (1985). *Organizational Culture and Leadership*. San Francisco: Jossey-Bass

Schepers, D. H. (2003). Machiavellianism, Profit, and the Dimensions of Ethical Judgment: A Study of Impact. *Journal of Business Ethics* 42(4): 339-352.

Schlegelmilch, B. and Houston, J. (1989). Corporate Codes of Ethics in Large UK Companies: An Empirical Investigation of Use, Content and Attitudes, *European Journal Of Marketing* 23(6):7-21.

Schlegelmilch, B. B. and M. Oberseder, M. (2010). Half a Century Marketing Ethics: Shifting Perspectives and Emerging Trends, *Journal of Business Ethics* 93:1-19.

Schor, J. B. (2004). *Born to Buy: The Commercialized Child and New Consumer Culture*, New York, Scribner.

Schricker, G. (1990). Law and Practice Relating to Misleading Advertising in the Member States of the EC, *International Review of Industrial Property and Copyright Law*, 21 (5):620-44.

Schwartz, M. (2004). Effective Codes of Ethics: Perceptions of Code Users, *Journal of Business Ethics* 55, 323-343.

Seglin, J., (2000). *The Good, the Bad, and Your Business: Choosing Right When Ethical Dilemmas Pull You Apart*. John Wiley & Sons Inc. New York.

Sewell, M. and Jennerjahn, M. L. (1982) *Advertising Gatekeeping: Clearance of Network Television Commercials; Studies in Journalism and Mass Communications*, Review from the Southwest Education Council for Journalism/Mass Communications Conference.

Silverman, D. (2006). *Doing Qualitative Research: A Practical Handbook*. London: Sage.

Sinclair, J., (1992). *Globalisation and National Culture: Structure Regulation and Content in the Advertising Industry in Australia*. Policy Research Paper No. 24 Centre for International Research on Communication and Information Technologies. June, Melbourne, CIRCIT.

Singhapakdi, A. (1999). Perceived importance of ethics and ethical decisions in marketing. *Journal of Business Research* 45, 89– 99.

Singhapakdi, A. and Marta, J. K. M. (2005). Comparing marketing students with practitioners on some key variables of ethical decisions. *Marketing Education Review* 15, (3):13-25.

Singhapakdi, A., Vitell, S. J. and Kraft, K. L. (1996). Moral intensity and ethical decision-making of marketing professionals. *Journal of Business Research* 36:245– 255.

Smit, E., van Reijmersdal, E. and Neijens, P. (2009). Today's practice of brand placement and the industry behind it. *International Journal of Advertising* 28(5): 761-782.

Sonenshein, S. (2007). The role of construction, intuition, and justification in responding to ethical issues at work: The sense making-intuition model. *Academy of Management Review* 32, 1022–1040.

Spence, E. and Van Heekeren. B. (2005). *Advertising Ethics*. Upper Saddle River, N.J., Pearson/Prentice Hall.

Stake, R. E. (2005). Qualitative Case Studies. In Denzin, N. K. and Lincoln, Y. S. (Eds.) *The Sage Handbook of Qualitative Research*, Sage Publications, London.

Starkey, K. (1998) What can we learn from a Learning Organisation? *Human Relations*. 51(4)531-546.

Starkey, K. and Madan, P. (2001) "Bridging the Relevance Gap: Aligning Stakeholders in the Future of Management Research", *British Journal of Management*, 1, (12) 4-41.

Stefansson, Vilhjalmur. (1964). *Discovery*. New York: McGraw-Hill Book Company.

Stevens, B. (2004). An analysis of Corporate Ethical studies. Where do we go from here? *Journal of Business Ethics*, 13(1): 63-69.

Stevens, B. (2007). Corporate Ethical Codes: Effective Instruments for Influencing Behaviour. *Journal of Business Ethics* 78:601-609.

Strauss A.L. (1987). *Qualitative Analysis for Social Scientists*. Cambs.: Cambridge University Press.

Strauss, A. and Corbin, J. (1998). *Basics of Qualitative Research. Techniques and Procedures for Developing Grounded Theory*. 2nd ed. Newbury Park, Sage.

Tsalikis, J. and Fritzsche, D.J. (1989). Business Ethics a literature review with a focus on Marketing Ethics. Journal of Business Ethics. (8)695-743.

Tapp, A. (2005). Why Practitioners Don't Read Our Articles and What We should do about It. *Marketing Review* 5(1): 3-12.

Tenbrunsel, A.E. (1998). Misrepresentation and expectations of misrepresentation in an ethical dilemma: The role of incentives and temptation. *Academy of Management Journal* 41: 330–339.

Tenbrunsel, A.E., and Messick, D.M. (1999). Sanctioning systems, decision frames, and cooperation. *Administrative Science Quarterly* 44: 684–707.

Tenbrunsel, A.E., and Messick, D.M. (2004). Ethical fading: The role of self-deception in unethical behavior. *Social Justice Research*, 17(2): 223–235.

Tenbrunsel, A. E. and Smith-Crowe, K. (2008). Ethical decision making: Where we've been and where we're going. *Academy of Management Annals*, 2:545– 607.

Tenbrunsel, A.E., Smith-Crowe, K., and Umphress, E.E. (2003). Building houses on rocks: The role of the ethical infrastructure in organizations. *Social Justice Research*, 16(3): 285–307.

Treviño, L. K. (1986). Ethical decision making in organizations: A person–situation interactionist model. Academy of Management Review 11: 601– 617.

Treviño, L. K., and Nelson, K. A. (2010) [2007]. *Managing business ethics: Straight talk about how to do it right*. New York, NY: Wiley.

Treviño, L. K., and Weaver, G. R. (2003). *Managing ethics in business organizations: Social scientific perspectives*. Stanford, CA: Stanford University Press.

Treviño, L. K., and Youngblood, S. A. (1990). Bad apples in bad barrels: A causal analysis of ethical decision-making behaviour. *Journal of Applied Psychology* 75:378– 385.

Treviño, L. K., Weaver, G. R., and Reynolds, S. J. (2006). Behavioural ethics in organizations: A review. *Journal of Management*, 32:951– 990.

Vale, N. and Boddewyn, J. J. (1992). *Global Perspectives on Advertising Self-regulation: Principles and Practices in Thirty-eight Countries*, (Hardcover - 30 Aug 1992)

Valentine, S. R. and Rittenburg, T.L. (2007). The ethical decision making of men and women executives in international business situation. *Journal of Business Ethics* 71:125–134.

Van Maanen, J. (1979). *Qualitative Methodology*. Thousand Oaks: Calif. Sage Publications.

Victor, B. and Cullen, J.B. (1988). The organizational bases of ethical work climates. *Administrative Science Quarterly* 33, 101–125.

Volkov, M., Harker, M. and Harker, D. (2006). People who complain about advertising in Australia: The aficionados, guardians, activists and seekers, *Journal of Marketing Management* 22:379-405.

Waller, D. S. (2005). A Proposed Response Model for Controversial Advertising. *Journal of Promotion Management*. 11: 3-15.

Waller, D.S. (2012). Truth in Advertising: The Beginning of Advertising Ethics in Australia, *Journal of Mass Media Ethics* 27(1): 46-56.

Waller, D. S. and Fam, K. S. (2003). Advertising of offensive products: A challenge for marketing in China. *Asian Journal of Marketing* 9: 38-47.

Waller, D., Fam, K. and Erdogan, B. (2005). Advertising of controversial products: a cross-cultural study, *Journal of Consumer Marketing* 22(1):6-13.

Weaver, G.R. and Treviño, L.K. (1999). Compliance and values oriented ethics programs: Influences on employees' attitudes and behavior. *Business Ethics Quarterly* 9:315– 337.

Weber, M. (1981). Institutionalizing Ethics into the Corporation. MSU *Business Topics*. (1):44-52.

Weber, J. (1990). Managers' moral reasoning: Assessing their responses to three moral dilemmas. *Human Relations* 43:687– 702.

Weber, J. (1992). Scenarios in business ethics research: Review, critical assessment, and recommendations. *Business Ethics Quarterly* 2:137– 160.

Webley, S. (2001). *Values-based codes. In Guide to Business Ethics*, Ch. 11, pp.157-169. London: Economist Intelligence Unit.

Webley, S. and Werner, A. (2008). Corporate codes of ethics: necessary but not sufficient, *Business Ethics: A European Review* 17(4): 405-415.

Weeks, W., Moore, C., McKinney, J. and Longenecker, J. (1999). The Effects of Gender and Career Stage on Ethical Judgment, *Journal of Business Ethics*, 20(4):301-313.

Weick, K.M. (1979). *The Social Psychology of Organizing*. New York: Random House.

Wells, W., Burnett, J.J. and Moriarty, S.E. (1998). *Advertising Principles and Practice*. 4th Ed. Englewood cliffs: Prentice Hall.

Werhane, P.H. (1998). Moral Imagination and the search for Ethical Decision Making in Management. *Business Ethics Quarterly* (1):75-98.

Wicks, J. L. (1991). An Exploratory Study of Television Advertising Practices: Do Profitability and Organization Size Affect Clearance Formality? *Journal of Advertising* 20:57-68.

Wilson, A. and C. West (1995). Commentary: Permissive Marketing - The Effects of the AIDS Crisis on Marketing Practices and Messages. *Journal of Product and Brand Management* 4(5):34-48.

Wolcott, H. F. (1999). *Ethnography: a way of seeing*. Oxford: Altamira Press.

Wyckham, R. G. (1987). Self-Regulation of Sex Role Stereotyping in advertising – The Canadian experience. *Journal of Public Policy and Marketing*, 6:76-92.

Yang, M., Roskos-Ewoldsen, B. and Roskos-Ewoldsen, D.R. (2004). Mental models for brand placement, in Shrum, L.J. (ed.) *The Psychology of Entertainment Media: Blurring the Lines between Entertainment and Persuasion*. NJ: Mahwah.

Yetmar, S. and Eastman, K. (2000). Tax Practitioners' Ethical Sensitivity: A Model and Empirical Examination, *Journal of Business Ethics* 26 (4):271-288.

Yin, R. K. (2003). *Case Study Research: Design and Methods*. Thousand Oaks, Calif., Sage.

YMCA (2012) *Reflections on Body Image*: Report from the All Party Parliamentary Group on Body Image. London: Central YMCA

Zanot, E. (1985). Unseen But Effective Advertising Regulation: The Clearance Process. *Journal of Advertising*, 14(4): 44-68.

Zenith Opti-Media (2009). Available at http://www.zenithoptimedia.co.uk/. Accessed 11/11/2009.

Zimbardo, P. G. (1971). *The power and pathology of imprisonment*. Congressional Record (Serial No. 15, October 25, 1971). Hearings before Subcommittee No. 3, of the Committee on the Judiciary, House of Representatives, Ninety-Second Congress, First Session on Corrections, Part II, Prisons, Prison Reform and Prisoner's Rights: California. Washington, DC: U.S. Government Printing Office.