

Power and Responsibility: Advertising Self-regulation and Consumer Protection in a Digital World

ABSTRACT

While advertising self-regulation is generally considered effective in a closed, largely country-based system, the digital world in which we now live is an open and global system. This raises challenges for consumer protection from national regulators trying to enforce compliance from global media platforms, advertisers and consumers. Applying the Power-Responsibility Equilibrium, this study explores who has the power and who has the responsibility for advertising self-regulation in a digital world. In doing so, it takes an ethnographic approach, eliciting insights from 18 key stakeholders in the self-regulatory process, across the three geographical areas of Europe, US and Asia-Pacific. The findings highlight the need for more collaboration and alignment of self-regulatory systems and build a framework for action through embedding responsibility, aligning standards, initiating processes and improving outcomes. Six recommendations are offered to restore the balance of power and responsibility.

Key words

Advertising, Digital, Self-Regulation, Power-Responsibility Equilibrium, Consumer Protection

INTRODUCTION

Perhaps the most well-known equilibrium in economics is that of supply and demand. Market equilibrium suggests that the amount people want to buy is equal to that being supplied. Its basic tenant is that pressure yields a response until a state of balance is achieved. Advertising self-regulation, defined as “a system by which the advertising, marketing, agency and media industry set voluntary rules and standards of practice that go beyond their legal obligations” (International Chamber of Commerce 2019) has also been imagined as an equilibrium, where pressure from the market yields a response from its stakeholders to keep balance and fairness in the marketplace. Generally, those with the greatest power also have the greatest responsibility to restore the equilibrium. In the US, for example, advertisers and media organizations have a responsibility to ensure consumers are protected from deceptive advertising, by supporting and typically financing Self-Regulatory Organizations (SROs) in upholding community standards and averting government action.

While self-regulation is effective in a closed, largely country-based system (Boddewyn 1989; Rotfeld 1992; Shaver 2003; Harker 2004; Parsons and Schumacher 2012), the digital world is an open and global system. For example, the General Data Protection Regulation (GDPR) introduced by the European Union in 2018 was designed to protect European consumers and applies to all companies trading in Europe. However, this includes not just European companies, but many US and other international companies also trade in Europe and are within its remit. So the US equilibrium has been disrupted, requiring companies to take more responsibility in order to meet EU requirements.

The altered power and responsibilities have important ethical and policy implications for all stakeholders within the advertising self-regulatory framework, including advertisers, self-regulatory organizations (SROs), media, lobby groups and consumers themselves. These various entities generally want some form of regulation to deal with a number of marketing

communication concerns, sometimes outside of the national remit. Yet the broader question is whether the advertising industry feels it has the power and the responsibility to address the self-regulatory concerns, when they exceed national borders and when governments cannot or will not step in. There are two important points here: (1) that action is often a means to averting government response, and (2) that pressure to take action may be outside the national regulatory system and an artefact of doing business in a global world.

To investigate digital disruption and advertising self-regulation, this research applies the Power-Responsibility Equilibrium (PRE). This theoretical framework emerged from power relationship studies in sociology and social psychology (Emerson 1962). Applied to an organizational framework by Davis, Frederick and Blomstrom (1980), the PRE posits that an organization's social power should be balanced by its social responsibilities. Generally, it is conceived that the most powerful partners will have the greatest responsibility to ensure the trust and confidence of society (Lwin, Wirtz, and Williams 2007). If the organization's power is greater than its responsibility, then the organization may lose power or increase responsibility or both. In such a case, it is likely that other stakeholders, such as government regulation or lobby groups, may restore the equilibrium through defensive actions, and find a new balance between power and responsibility (Davis, Frederick, and Blomstrom 1980). Applied to advertising self-regulation, a stakeholder, such as a media organization, may have presumed power and therefore responsibility to make sure the advertising on its media channel is not deceptive.

The present research aims to discover the changes in the Power-Responsibility Equilibrium (PRE) in the digital environment and the consequences of this for the advertising self-regulation process. In applying the PRE to advertising self-regulation, this paper considers: (1) Who has the power in the self-regulatory process, (2) Who has the responsibility, (3) What

are the drivers that disrupt the equilibrium, and (4) What a framework to restore the balance, creating a new, operational PRE might look like.

This research contributes to the body of knowledge because if advertising is to operate in a global, digital world, a new framework for advertising self-regulation is imperative. Such a framework should address the urgent need to both protect consumers in this new and largely unregulated environment and to ensure marketers' obligations for legal, decent and truthful advertising are met (Boddewyn 1989; Rotfeld 2002). Further, this paper fills an important gap in the literature whereby it is the first to consider the changing power and responsibility of all parties in the self-regulatory process – consumers, advertisers, media, the SROs and the government. Listening to the opinion of experts, representing all stakeholder groups across all parts of the advertising self-regulation framework, we identify those with the power and those with the responsibility for self-regulation. We show obstacles to a revitalized system in the open digital communication environment, and provide a framework and six recommendations to address those obstacles. The framework offers a practical means to restore the balance of power and responsibility in advertising self-regulation through embedding, aligning, initiating and improving the process.

THE POWER AND RESPONSIBILITY OF ADVERTISING SELF-REGULATION

The literature review builds a traditional model of advertising self-regulation by examining the literature around government regulation versus self-regulation, the benefits of self-regulation, the different regulatory systems worldwide and the stakeholders in the process. This is captured in Figure 1. It then examines changes to this traditional model of advertising self-regulation, caused by the digital environment. In doing so, it investigates the research and

response of each of the stakeholders and concludes with two research questions about how the model has been disrupted and what action is required to address it.

Responsibility for Advertising

Responsibility is a multi-level construct. At a minimal level, there is legal responsibility where the law is the “floor” (Murphy 2009). Advertising can be totally regulated by legal frameworks, although the most widely-used system is advertising self-regulation, or advertising regulated by the industry itself (Boddewyn 1989; Rotfeld 1992; Kerr and Moran 2002; Shaver 2003; Harker 2004; Bykov et al. 2015). Self-regulation versus government regulation has been the subject of intensive research for more than three decades (LaBarbera 1980; Armstrong and Ozanne 1983; Rotfeld 1992; Harker, Harker, and Volkov 2001; Harker 2003; Sheehan 2013). Self-regulation is perceived as complementary to government regulation and an agent of public policy, becoming explicitly embedded in the goals and instruments of government to elicit optimal advertising behavior (Boddewyn 1985). It has been commonly agreed that self-regulation is preferable to government regulation, except where the consequence of failure is too high or the possibility of collusion too great (Rotfeld 2002; Shaver 2003).

Self-regulation is also considered to be in the advertising industry’s best interest. As a less adversarial process, it strengthens the advertising industry’s relationship with society, protects it from criticism, models socially-responsible corporate behavior and ensures that society does not resort to government regulation in order to protect itself (Hess 2001; Jones and Donovan 2002; Shaver 2003). Self-regulation is, therefore, a balance between the power of cooperation and the threat of enforcement mechanisms, such as regulations or laws.

Power of advertising self-regulation

Advertising self-regulation “helps ensure that ads are legal, decent, honest and truthful and by doing so helps create consumer trust in advertising and in brands” (EASA-Alliance 2019). Advertising delivers product and service information and entertainment to consumers and helps fund media, sport and culture. It also benefits society by promoting good causes, such as charitable donation, as well as averting negative behavior like drink driving. Effective self-regulation ensures this advertising is responsible and trust-worthy. The US Self-Regulatory Council (2019) suggests, “The self-regulatory system monitors the marketplace, holds advertisers responsible for their claims and practices and tracks emerging issues and trends”. However, if consumers still have concerns, there is a quick and cost-free complaint process (ASRC 2019; ICC 2019).

The benefit of this for advertisers is that it maintains consumer trust in their advertising and in their brand, contributing to competition, job generation and a strong economy. The self-regulatory system offers expert review and a cost-efficient, meaningful alternative to litigation. Additionally, it can also identify emerging issues and formulate an informed industry response. Created by the industry, outside of legislation, regulators also benefit from advertising self-regulation, as the cost of developing, implementing and enforcing advertising standards is borne by the local advertising ecosystem (EASA 2019; ICC 2019).

Different levels of responsibility

Advertising self-regulatory systems do not have the same level of responsibilities universally. While all SROs protect against deceptive advertising, not all include taste and decency in their remit. The US regulatory system, for example, focuses only on deception, as according to the Federal Trade Commission: (1) Advertising must be truthful and non-deceptive; (2) Advertisers must have evidence to back up their claims; and (3) Advertisements cannot be unfair.

This paper takes the broader viewpoint of the International Council of Advertising Self-Regulation whose responsibility includes both deceptive and offensive marketing communication. In doing so, it adopts the International Chamber of Commerce's Advertising and Marketing Communications Code, which since 1937 has informed most self-regulatory systems globally, from the French ARPP Code to China's Responsible Marketing Code. Its aim is "to protect consumers by clearly setting out the 'dos and don'ts' for responsible marketing to ensure legal, honest, decent and truthful communications and practices" (ICC 2019). Its focus, like our current research, is on both deceptive and offensive advertising.

Partners in the process

Because the system requires voluntary compliance with a set of principles or advertising standards, it functions optimally when all parts of the advertising ecosystem are involved. As mentioned earlier, the stakeholders within the advertising self-regulatory framework include advertisers, media, self-regulatory organizations (SROs), government and consumers themselves.

In the traditional model of self-regulation, members of the general public who feel deceived or offended by an advertisement have the power to complain directly to the advertiser, lodge a complaint with the regulatory body, or act individually to ignore the message, boycott

the product, or tell others (Volkov, Harker, and Harker 2002; Waller, Deshpande, and Erdogan 2013). More commonly, however, the general public takes no action, despite dissatisfaction (Day and Ash 1979; Richins 1983; Andreasen 1984, 1985). Complaints lodged through formal regulatory processes by the general public represent a tiny percentage of the population (Volkov, Harker, and Harker 2002), with most complainants being older, educated, financially secure and with the capacity to take action (see Volkov, Harker, and Harker 2002 for a review). Therefore, in the traditional self-regulation process, it is contentious whether the formal regulatory complaint process truly captures a public viewpoint.

Advertisers do, however, have a responsibility for the advertising they produce. This corporate responsibility has been defined as a corporation's moral obligation to act or respond (Murphy 2009). For example, in conducting advertising, companies have a responsibility to consumers, to industry codes of ethics and to upholding the law. Murphy (1998) suggests that the "unholy trinity" of advertisers, agency and media often strive for the lowest rather than the highest common denominator and pass the responsibility to other stakeholders in the process. Murphy (1998) notes that, "Depending on the situation, one of the parties may have more power in the exchange, but who has the most power?" Further, Rotfeld (2001, 128) suggests, "the only power a self-regulation code has on its members is the power of cooperation, or any external force that might "encourage" cooperation, such as regulations or laws that might be threatened".

If a consumer does complain, the SRO becomes involved and adjudicates on the case. SRO's are country specific and their code, and therefore their power, is often determined by national practice and priorities. It is also determined by the cooperation of other stakeholders such as media. For example, compliance in the paid media environment has traditionally occurred by the third party taking responsible action, such as the media owner removing the advertising. It is only if the self-regulatory system breaks down or if the advertiser contravenes

other legal statutes regarding misleading or offensive advertising that the government becomes involved.

From a public policy perspective, governments support self-regulation as it relieves the burden and cost of legal administration, and applies statutory rules because “the first principle of ethical behaviour is respect for the law” (Boddewyn 1985, 129). Indeed, there is evidence of public policy explicitly supporting self-regulation and public officials assisting self-regulatory bodies. Importantly, government does not have to be inside the self-regulatory structure to influence it and can even use self-regulation to trial legislation (Boddewyn 1985). However, as Preston (2010, 260) points out “ethical principles are neither uniformly nor formally agreed upon by all members of society, nor can the offenders of ethical rules be sanctioned or punished as by the law.”

In summary, as shown in Figure 1, in the traditional advertising self-regulation equilibrium, the power of advertising (and advertisers) was balanced against a country-specific SRO and Code of Ethics, supported by government legislation and enforced by the media, who could withdraw unacceptable advertising for societal responsibility or the “common good”.

INSERT FIGURE 1 HERE

Disrupting the Power-Responsibility Equilibrium

While the self-regulation infrastructure – consumers, advertisers, media, SROs and government - is the same in the digital environment, the power and responsibilities of the stakeholders are quite different. These are discussed in the following sections.

Consumers with new powers of complaint

The online environment affords the general public new powers of complaint through computer-mediated communication. Individual consumers can now communicate their views to a huge audience through the internet which exponentially grows the impact of response and enables continuous electronic updates and rapid communication with multiple individuals simultaneously. In exploring consumer power in the online environment, Denegri-Knott (2006) proposed four strategies. These are: (1) control over the relationship (whether to block or to share advertiser material), (2) information (ability to be better informed and to inform others), (3) aggregation (joining with like-minded people) and (4) participation (creating content). Kerr et al. (2012) observed a fifth consumer power type, *self-liberation*, describing the power of consumers to leverage the openness and absence of restriction in the online environment to facilitate a sense of liberation at getting their message to a global audience.

Through this consumer empowerment, social media enables the public to be a critical player in the self-regulation process with the opportunity to impact on brand image and reputation (Kucuk 2008) and even forming “rules of engagement” for online interaction (Poddar, Mosteller and Scholder Ellen 2009). In cases where advertisers engage in boundary spanning, creating communications that stretch the limits of self-regulatory codes, digital media revolutionizes the power balance, because consumers can re-distribute content across channels, helping advertisers in the boundary spanning efforts (Parsons and Schumacher 2012). Consumers can both circumvent and encourage the self-regulatory process by distributing banned advertising or making posts in support of SRO decisions (Waller et al. 2009; Parsons and Schumacher 2012). Consumers also aggregate with other like-minded consumers to act as formal or incident-inspired lobby groups. Using platforms, such as online petitions, lobby groups activate support for change and deliver their ideas straight to the advertiser (Mortimer and Kerr 2014). Importantly, these mechanisms avert the formal complaint process and make the experience of complaining easy and instant.

Despite this empowerment, consumers bear little responsibility in the process (Kerr et al. 2012). For example, if a consumer posts discriminatory or untruthful remarks on a brand's Facebook page, it is the responsibility of the brand, not the consumer, to remove the post. Consumer responsibility for advertising regulation has also been investigated in terms of Locus-of-Control (LOC). Vijayalakshmi, Lin and Laczniak (2018) showed that parents with internal LOC preferred to take responsibility for the regulation of advertising to their children, while parents with external LOC thought it was government or industry's responsibility. In sum, the public's voice is increasingly powerful due to CMC, as it cannot be controlled and has the ability to change something by speaking out about it (Siano, Vollero, and Palazzo 2011).

Advertisers with new ways to connect

Like consumers, advertisers are also empowered by digital media, which offers alternative response platforms and opportunities for both listening and dialogue with the general public. Relevant and valuable branded content, curated by advertisers on owned media properties such as websites, social networking sites and company blogs, can be designed to drive earned media (Strauss and Frost 2014). Brands leverage their history, heritage, personality, relationship or incentives, in a quest to pull viewers towards their communication, rather than adopting an interruptive paid advertising approach. However, when the advertising content is controversial, the power of earned media can amplify outcomes. Not only do the platforms themselves act as a source of power, but so to, does the speed of dissemination (Kerr et al. 2012). Schumacher and Parsons (2012) note that digital media provide conditions where firms want to engage in boundary stretching as part of a market driver strategy because it can be advantageous.

Furthermore, in many self-regulation systems, it is typically the advertisers, rather than consumers, who are responsible for seeding and curating the consumer-generated content

placed on their owned assets. This requires significant time investment by advertisers to monitor these owned assets and the distribution of content in order to uphold the advertiser code of ethics.

Digital Media and Self-Regulatory Organizations

The development of digital media has a positive impact on how self-regulatory organizations (SROs) undertake their responsibilities. Online complaint mechanisms make the complaint process faster and more convenient. The internet also provides an archive for its case studies, encouraging advertising practitioners, students and consumers to learn from its rulings. Regulators can equally use the online environment and social media listening to track public opinion on controversial advertising decisions, providing a more diverse and perhaps representative view to the traditional class of complainants in the self-regulation process. This could lead to greater understanding of the complaining public and perhaps better deliberations in the future.

Despite this, digital media is hard to regulate and much remains unregulated or unenforced. In the UK, the Advertising Standards Authority (ASA) remit was extended in 2011 whereby advertiser owned assets that had formerly been exempt from regulation, were included in the definition of advertising. Standards applied to paid media were also to be applied to owned assets. For example, links to controversial advertisements on an advertisers' website were removed as a disciplinary action. Similarly, in 2012 changes in Australia empowered the Australian Standards Bureau (ASB) to regulate all marketing communications over which the advertiser has a "degree of control". This included paid online advertisements, owned assets such as corporate websites, Twitter pages, and earned media such as consumer comments on a brand's Facebook site, but does not include postings by third parties on social media sites like YouTube. From 2016, this also included Public Relations. This expansion of the SRO's remit

seems appropriate as evidence suggests that young people do not differentiate between types of marketing communications or channels, seeing them all as advertising with the purpose of “... promoting a product or service to people through media” (Laurie, Mortimer and Beard, 2018, 773).

The combination of broadened responsibility and reduced control tests the processes of self-regulation. Thus, SRO’s have sought cooperation from global online platforms, such as Google, Microsoft and Yahoo in 2010 to remove advertising deemed to be inappropriate. Despite their best attempts, in the digital environment, SRO’s are weakened in protecting the general public from unacceptable and controversial advertisements published in owned and earned media, yet their responsibility for regulation has expanded.

Government’s role in self-regulation

Perhaps as a result of the diminished powers of SRO’s, the government has introduced some control in the online environment. In an analysis of self-regulation and internet advertising, Boddewyn (2008) cited instances where governments have banned the advertising of certain products through the internet, forcing intermediary (such as Yahoo) compliance. When this activity happens in a key market, often the flow-on of such interdictions is international. Alternatively, if government cannot control the intermediaries, they can route internet traffic through controlled checkpoints. Additionally, governments can obligate access providers, such as telecommunications companies, to handle complaints (Boddewyn 2008).

The literature review identifies the key stakeholders in the self-regulatory process as consumers (and their lobby groups), advertisers, the media, the self-regulatory bodies and the government. All of these have some degree of power and some responsibility in the self-

regulation process. However, the Power-Responsibility Equilibrium, as shown in Figure 1, has been disrupted as the global, interactive, digital environment empowers consumers and challenges and changes the power and responsibilities of advertisers, media and SRO's and the veracity of advertising self-regulation for the protection of consumers. This research seeks to document this new equilibrium, showing the new powers and the new responsibilities of these stakeholders of advertising self-regulation and suggesting how shifts in these powers and responsibilities may create a new equilibrium. More specifically, two important research questions are investigated:

1. How has the power-responsibility equilibrium been disrupted by the digital environment?
2. What are the consequences of digital disruption and recommendations for advertising self-regulation and consumer protection?

METHODOLOGY

The purpose of this research is to take an ethnographic perspective, seeking the stories and advice and rich understanding from experts, who are stakeholders in the self-regulation framework. In order to explore their extensive knowledge and experience, it was necessary to adopt an exploratory inductive research approach and conduct in-depth interviews to discuss the impact of the changing power and responsibility in the self-regulation process internationally.

Sample Selection and Data Collection

For our study we collected cross-sectional data, from stakeholders in the self-regulatory process. Literature identified that stakeholders in the self-regulatory process include SRO's, advertisers, agencies, media bodies, government, lobby groups and consumers. Individual consumers were not included in this study due to their lack of strategic knowledge about the complaint process. However, their views may be captured through organized and active lobby groups, who claim to present the consumer voice.

Based on the population of interest, a list of regulatory bodies, professional bodies of advertisers and agencies, media bodies, and lobby groups, representing three key geographical areas, was compiled. Europe, the US and Asia Pacific were chosen for their leadership in self-regulation, their large advertising investments and the diversity of advertising practice. An email was sent to twenty-five experts in the global self-regulatory process, identified by their role and international profile, inviting them to participate in an anonymous semi-structured interview. Overall, eighteen experts from sixteen organizations including SROs such as the Advertising Standards Authority UK and the NARB in the US, professional bodies such as The Better Business Bureau US and the Institute of Practitioners in Advertising UK, media organizations like the Australian Outdoor Media Association and the European Interactive Digital Advertising Alliance and lobby groups, including Sustain and Australian Christian Lobby. Each of the three geographical areas were each represented; eight respondents in Europe, six respondents in the Asia Pacific region and four in USA. A breakdown of the expert participants is shown in Table 1.

INSERT TABLE 1 HERE

The interviews were structured to encourage the participant to describe their world of advertising regulation and explain their perceptions of the day-to-day power struggles and relationships that exist between the main players. Interviewees were probed, providing rich in-

depth information on the power of advertising SR, and whether the digital environment has impacted this power. Interviewees also responded to questions regarding their views on the responsibilities of SRO's, and challenges resulting in power and responsibility changes. Interviews were conducted at the informant's place of business, and on average lasted for around one hour. All interviews were taped and subsequently transcribed.

Data Analysis and Quality Checks

To investigate the identified research questions, a thematic analysis, using an inductive, data driven approach was undertaken (Boyatzis 1998). Inductive codes were assigned to data where a new theme was observed. Themes could be identified at the latent level – themes that were implicit, but not directly observable. Latent content themes were established independently by two coders. These coders were based in different countries; both have training in advertising, however, have different specializations which lessens issues from coder projection (Grayson and Rust 2001). The coders independently reviewed literature and three transcripts to develop a coding book each using NVIVO11, and then compared the level of similarity in the nodes created. Having established a base code book, two authors conducted the analysis independently and their interpretations were then compared. The inter-rater reliability (IRR) was calculated using the Kappa statistic, where there was almost perfect agreement, with an overall average Kappa = 0.87. For each of the nodes, the corresponding categories again, had strong levels of reliability, ranging from 66% to 100%.

RESULTS

The results present an insight into the way the top regulators, the CEOs of advertising agencies and media groups and the leaders of lobby groups in three key global regions see their

power and their responsibility in this new world of marketing communication. In exploring the research questions, the global experts in advertising self-regulation (as identified by SRO self-regulatory organization; PB professional body; LG Lobby Groups and M Media) articulated several changes and challenges for advertising self-regulation in the online environment. Despite the diversity of their roles, there was consensus that:

A self-regulatory agency has to be able to be impartial, independently administered, transparent and have public sanctions that can be imposed on people who don't voluntarily comply [SRO4].

Additionally, there was strong belief in the ability of the current self-regulatory system to adapt to the digital world.

The rules are the same and the standards are the same [SRO4].

We don't see digital and traditional media as being separate any more, we just see them as data driven channels in an era of big data" [PB5].

As a result:

The same principles (of self-regulation) can be extended to the digital space, but it is just about how you apply them [PB5].

The "how" appears to be the hard part and seems to be precipitated by the changes in power and responsibility in the PRE.

RQ1 How has the power-responsibility equilibrium been disrupted by the digital environment?

The findings demonstrate that the mandate of all of our global self-regulatory experts has been changed by the digital environment. These “seismic shifts” as one expert described them, were investigated in terms of the changes in power, and then the changes in responsibility.

(a) What are the changes in the power of the stakeholders?

Despite their very different roles in the self-regulatory process, their geography and even the regulatory systems in which they operate, there is a lot of common thinking and agreement. When looking at the balance of power, our experts agree that there is more power to advertisers, more power to consumers, more power to media, less power to SROs, and about the same power for Governments. The main themes from the analysis are explained below.

Technology has amplified and perhaps disenfranchised consumer power.

Technology makes it easy for consumers to complain and mobilize against advertisers directly.

Consumers have the ability to exert pressure on companies by harnessing their peer groups and shaming companies [SRO4].

Digital channels enable consumers to directly interact with advertisers, providing an opportunity to circumvent the official self-regulation process. While this might lead to direct and faster resolution, it also questions the relevance of SROs.

If the SRO doesn't have enough complaints, it becomes irrelevant. So one of the challenges in terms of the online environment is that because consumers can make greater use of [technology], they can more easily access advertisers or be critical through things like blogs or posts, [and] they can more easily create an incentive for advertisers to do something without waiting for us [the SRO]. This may mean that what

we [SRO's] need to do potentially is to become less complaint driven . . . a lot of the SRO's do self- initiate complaints or monitoring [SRO4].

Additionally, consumers are not only more powerful, but more perceptive and perhaps impatient.

We (consumers) are becoming suspicious and I think we're becoming really tired of being in this incredibly saturated world of somebody else's interest. You know, when you watch the news and you're supposed to be hearing the news and it's highlighting the latest thing that Kmart is selling (LG1).

Anyone, even consumers, can be an advertiser.

In contrast to traditional advertising where advertisers invest considerable funds in a piece of communication, there is a low cost to entry in digital advertising. This provides opportunity for advertisers to promote their product, but also raises issues about what constitutes an advertiser.

. . . at what point do they [an individual] cross a line from being a passionate consumer who wants to share their knowledge with the world, to them becoming a business and subject to all this self-regulation? [M1].

It was felt that if an individual is also an advertiser, it was unclear where their power and their responsibility starts and ends.

Empowered governments and SROs help educate and protect consumers.

The self-regulatory experts felt that the governments and SROs could also use the digital environment to their advantage, sharing information instantly, directly and cost-

effectively. Online and purpose-built platforms can empower government to connect with consumers and businesses to inform, alert or even mitigate egregious claims made online.

You have to give consumers tools to assess what to believe and not to believe, because going after those who are disseminating the ideas is just too huge, you just can't do it and it is not a good use of resources [SRO7].

It was also suggested that this connection could widen the type of people who make a complaint.

Sometimes the attitudes of the type of people that get involved in self-regulatory bodies or actual government regulatory bodies are maybe not always in touch with evolving society [PB5].

(b) What are the changes in the responsibility of the stakeholders?

There is a broader definition of advertising and an increasing volume of ads, leading to an expanded remit and more responsibility for SROs. The low cost to entry means advertisers have less investment or responsibility and there is no media gatekeeper to remove deceptive advertising. Yet the self-regulatory system is still perceived to be more agile than the legal system or government. These shifts in responsibility are expanded below.

The challenge of identifying what is advertising

Just as anyone can be an advertiser, the self-regulatory experts felt that just about anything could be considered advertising. They suggested that the remit and responsibility of SROs has been expanded and confounded by the complexity of what is, and what isn't, advertising. Often this stems from companies wanting to create..

. . . a single customer experience, a single tone of voice, a single proposition across all the media channels. . . [PB5].

While there are complexities around the average person being able to identify advertising, there was a clear understanding among participants regarding the impact of the definition on the remit of self-regulatory organizations and responsibilities of advertisers too. Advertising refers to far more than just traditional advertising and there is clarity around what the codes cover.

Does it look like an ad, does it behave like an ad? Is it trying to persuade... [PB4].

I think it's pretty obvious from an out of home sense, what is and isn't an ad. Once you get into that social media sphere it's very hard to judge [M2].

Challenges remain regarding things like native advertising, social influencer blogs and celebrity tweets.

It might be one or a couple of things that makes it advertising, but that alone is not enough [SRO3].

It was also noted that businesses often use social media for purposes other than advertising, such as customer support.

So, I have a problem in principle with thinking that everything that businesses do on digital platforms is automatically advertising [M1].

The increased scope of 'advertising' suggests,

. . . marketing communication is sort of a better term for advertising [SRO1].

The consensus is that this marketing communication could include content generated by both advertisers and consumers.

Increasing volume of marketing communication adds to the responsibility of SROs

The rise in the volume and flux of marketing communication, the number of content producers, and lack of due process, driven by the digital environment, add to the responsibility and the burden of self-regulatory organizations and makes tracking incredibly difficult.

Electronic media multiplies exponentially the number of publishers and multiplies exponentially the number of ads. And so, the practical implications of that are sort of threefold for regulation [SRO1].

SROs now deliberate over owned media assets including websites, and social media assets, and in some cases, even earned media such as user-generated content. This again impacts on volume, with implications for staff and training.

I think that both the regulatory and self-regulatory world are overwhelmed by the volume. I call it the great abyss of the internet [SRO7].

[this] has a large amount of increased cost, because there's large amounts of extra cases to review, investigate and analyse [PB5]

and

. . . how you could monitor or respond to something that is up for half an hour at most [on social media] is... I don't know... unrealistic [SRO5].

Low cost to entry translates into low care or responsibility of advertisers.

It has been noted that the low cost of entry into the digital world empowers anyone to be an advertiser. However, it does not always equip them to be responsible. Some smaller

advertisers are less knowledgeable about advertising regulation and the code of ethics and are therefore less compliant.

It's a very easy thing to buy a digital online campaign in terms of cost and I don't think there would be too much concern about copy or anything like that in that process [M2].

Another participant noted,

...because of the opportunity for these smaller, sometimes almost murky operators on the internet, they don't care two hoots about the regulatory environment, so it's a much bigger issue for those sorts of advertisers [PB2].

Another view suggested it was not just the advertiser to blame, but perhaps also the technology and the need to be seen through the clutter.

Technology is enabling advertisers to be a lot more creative about the work that they are doing, and to have engagement, they need to have a very unique message, which is very hard these days, or the need to be controversial or provocative [M1].

No media gatekeeper.

Unlike traditional media associations, such as Out-of-Home which provide advertiser advisory services and media clearing houses,

There's no media gatekeeper when it comes to most digital [SRO3].

The absence of a media gatekeeper in the digital world to guide and vet the content created by new advertisers creates a missing link in the traditional self-regulatory process.

If you can't pressure the advertisers themselves to make changes to bring their advertising on their own website into compliance with the codes, you've got nowhere to go [SRO3].

It also diminishes the power in the self-regulatory process as media is often the back-stop to enact SRO sanctions.

I think the media, in my experience, in a lot of countries, is a regulatory organization [SRO5].

Others thought that the digital media giants were often the problem.

You just can't control YouTube, that's the problem [SRO1].

Self-regulation is more agile than government or the legal system.

Participants acknowledged that the self-regulatory system is still faster and more agile than the legal system or the government, making it more adept to deal with the responsibility of the digital environment.

I think you're pressured to figure out a way to do it faster because advertising can have a very negative impact very quickly in the marketplace. How to do that within the legal structure we have set up is difficult because lawyers always want opportunities to put in, and I do think that quality suffers and getting to the right answer suffers, when you do it more quickly with less information [SRO7].

Self-regulation functions more quickly because of its monitoring efforts.

I think that's why governments like organizations like us, because we do filter out a lot of the smaller companies that the FTC just doesn't have the time for [SRO6].

However, self-regulation is equally about competitor monitoring competitor.

Although it was created as a place where consumers could challenge advertising, it quickly grew into a forum where competitors could challenge one another's claims, because competitors are in such a unique position to understand comparative claims.

The whole piece of it which is competitor versus competitor has taken what used to be a lengthy process, an expensive process, litigation in the federal courts and moved it into a much more streamlined, much quicker, dispute resolution system [SRO7].

Timeliness has always been a responsibility of the self-regulatory system, but in the digital environment, it is even more imperative.

But Government still holds the big stick

Government still has a lot of power in our industry to stop us advertising if we don't do the right thing. I think that has a definite impact on the way we manage content. I think if the stick wasn't there, I think we still wouldn't be doing it [M2].

Another added:

It's the threat of sanctions which is the deterrent effect rather than the actual application of them, which I think has been applied in a very small number of situations [M3].

In summary, Figure 2 brings these findings of RQ1 together to show how the self-regulatory experts perceive the Power-Responsibility Equilibrium has been disrupted.

INSERT FIGURE 2 HERE

RQ2 What are the consequences of digital disruption and recommendations for advertising self-regulation and consumer protection?

As evident in the findings of RQ1, the power and responsibility of stakeholders in the self-regulation process has changed. This has important consequences for maintaining the

equilibrium and the data analysis has identified three main strategies that our experts put forward to restore the equilibrium and guarantee consumer protection. Firstly, the system must be relevant and even proactive to change. Second, stronger global alignment of the SROs and self-regulatory systems. And third, the reinvention of the funding model. These suggestions are explored in the following sections.

Self-Regulatory System must remain relevant and proactive.

For self-regulation to work, our experts confirmed it must remain relevant to its mandate and its stakeholders, despite the changing powers and responsibilities. It was generally felt that:

The core values and the core concepts of self-regulation processes are still valid [M3].

However, one issue identified in this study and requiring address is consumer awareness of the system. When consumers do not know who to complain to they typically vent online or channel their complaints through online petition tools, garner groundswell through social networking services or complain direct to the advertiser so that regulation occurs outside the SR process.

I think the problem with a lot of the self-regulatory organizations is awareness is very poor. So, consumers don't know where to direct their complaint to. If they're going to complain at a broader industry level, they tend to complain directly to advertisers [M1].

It was also felt that it is not just a matter of awareness, but of choice.

While some people will continue to want to make an official complaint, others will want to vent. And be satisfied that their venting has been registered. They don't want personal correspondence. They just want to add their names to the petition [SRO3].

Other complainants will opt to use an online petition as an alternative complaint process. Its ease and immediacy provides a ...

.... way to let the SRO know community standards, because they can gauge how many people sign and how quickly [SRO3].

While some saw these alternative complaint mechanisms as a positive enabler of consumer complaint, others saw it as a challenge to the system.

If more and more consumers are able to effectively use the online social media to get advertisers to change their behaviour, they don't complain to the SRO. If the SRO don't have enough complaints, the system becomes irrelevant... [SRO4].

Remaining relevant could also mean that SRO's become more proactive. As one SRO CEO suggested,

What we need to do potentially is to become less complaints driven [SRO4].

It was suggested that online petitions could be used as a basis for informing SRO decisions, with consideration for both the number, and momentum of a petition as indicators of broad societal standards. Even social media listening could monitor the comment and sentiment around controversial advertising campaigns to see if advertising is aligning with society's standards. Of course, this does raise issues regarding what is meant by societal standards. For example,

. . as Australia becomes more multi-cultural, what do we do? Do we become more regulated or will we become more relaxed in our regulation? [PB1].

Need for a stronger global alignment of Self-Regulatory Systems and organizations

The industry experts from all parts of the self-regulatory process suggested the best way to propagate a relevant and consistent system was through the global alignment of industry bodies.

. . . because websites are available worldwide, there are obviously websites that are targeted to different markets, but if something is viral it becomes hard to section it off for different countries [SRO5].

There's differences in culture, different traditions. And some rules work in some countries where they would not necessarily work the same way towards consumers in other countries. But in the digital space as you say, you're no longer so local, you're global, you have different needs as a Self-Regulatory Organization [M3].

While alignment was viewed by our experts as a challenge, they also felt it was already happening because of increasing global standards of taste and decency, promoted by global marketers. As one key SRO executive commented:

I think a lot of the taste and decency principles are pretty similar across countries and given how broadly advertising is seen on digital platforms, and that a lot of global brands are running the same ads irrespective of which country people are seeing them in. I think there is probably more of a role for international and global associations now [SRO2].

Many of our experts suggested the European Union is leading with way with frameworks that enable trans-border regulation, yet still balance cultural nuances and regulatory variations across countries. EASA (European Advertising Standards Alliance), for example, brings together all the self-regulatory organizations in Europe, but going one step further, membership is also international.

I think what we come to is global rules, you can have global rules and local execution with consistency and coherency in there, so glocal [SRO2].

Further, consistent systems provide opportunities for efficiency in dealing with digital advertising. For example,

So for instance, we have this concept of country of origin and country of consumer . . . if a company were to designate the UK as their competent decision-making presence, then the Advertising Standards Authority then becomes the SRO that deals with that company in terms of any complaints. So, you may get a complaint from someone in the UK, that goes naturally to the Advertising Standards Authority and they'll deal with the company. And the same happens if you get a complaint through a consumer in Bulgaria about that particular company. That will make its way through to the EASA again [M3].

However, while the consistent manner of an international system was identified as important, challenges persist. For example, a coherent system would require an advertiser to nominate their country of origin, and there still remains the issues around ensuring that sanctions are relevant and consistent.

Because you wouldn't want someone in the UK ... a company designated to the UK having a different sanction for the same breach, as someone in France [SRO2].

The issues around sanctions becomes muddled somewhat when it comes to something like 'decency' where there are going to be differences.

I think that the biggest difficulty in having an international model is even in the EU there are so many different country laws and it's so difficult to get different countries to agree to the standards that would govern, so I can't imagine how every country round the world could get together on what the standards should be for advertising. [SRO5].

It is also felt that problems lie in the individual differences of consumers and this again creates challenges for global self-regulation. It can still be that there are differences in individual consumers' understanding and experience of advertising.

A Bulgarian consumer has less experience of advertising still than a UK or French consumer. We've been through three generations, so they've seen ads making fun of ads, and people understand that certain things aren't free, but there's always other things, whereas in a market where they're just seeing advertising for the first generation some of this stuff is still not evident [SRO2].

One UK respondent also pointed out that co-regulation commonly worked nationally and cooperatively.

In truth, there are very few totally pure advertising self-regulatory organizations. They normally interface with or have at least some sort of institutional relationship with the government or other statutory authorities. On the broadcast side, we're pretty well co-regulatory. Ofcom has the legal responsibility under the Communications Act to regulate broadcasting, but it contracts the day-to-day business of making sure that's regulated to us on a ten year licence [SRO3].

An existing unsustainable and unsupported funding model

Of course, a relevant and consistent system requires funding and answering the question of "Who pays?" is perhaps the ultimate assignment of responsibility for self-regulation. The self-regulatory stakeholders noted that in a national-based system, self-regulation is typically funded by a levy that is voluntarily paid by advertisers who buy media through an agency. However, media purchased directly with the media provider (for example, digital media purchased directly from Google or Yahoo), does not attract a levy and most of money invested

in digital make no contribution to the self-regulation system. This was identified by the participants as an important issue, with one leader noting,

The big stumbling block for self-regulation is funding. And when I was at an international meeting with a group of international self-regulators when we got to that issue everybody said the same thing that it's just a huge problem [SRO1].

The funding models are different in different countries, but the issue is pretty shared. It finds its form in a different way in different countries, but the same substantial issue is there [SRO3].

Another observed,

. . there has to be a way for the digital media owners, the big, digital companies like Amazon and so on, and the big search companies, to participate in the ecosystem that has been effectively funding self-regulation. The biggest challenge I would say is expanding the levy collection and the digital community understanding that they need to participate in the levy collection [PB2].

While there is evidence of some positivity regarding collaboration with digital media giants, there remains no real solution and ultimately this is a structural issue that needs to be addressed in order to keep the self-regulatory system functioning.

Google provided seed funding in the first two years to help fund the extension of the codes. But it is a structural issue that we need to tackle in the next few years [SRO3].

There still remains much uncertainty about the timeframe for a solution and whether pressure from the Governments will be required to find a funding solution;

. . the biggest issue to the future is whether the digital community and the technology companies and the agencies are going to participate in the funding of the self-regulation, and if the [name removed] workload continues to increase and it involves adjudicating it on digital media and it's unfunded then there's potentially an issue [PB5].

I often do wish the platform [digital] was burning a bit more strongly then we could actually leverage government a lot more or the threat of government a lot more as we did initially two or three years ago to get their attention to come into the tent [PB4].

In summary, according to the self-regulatory experts across the globe, the PRE has shifted. Advertisers and media have more power and more responsibility. Consumers have more power and no responsibility. Self-Regulatory Organizations have more responsibility and less power. And governments are largely unchanged in terms of their power or responsibility. Figure 3 shows how the balance might be restored for effective advertising self-regulation and consumer protection.

INSERT FIGURE 3 HERE

DISCUSSION

What is very clear from this research is that the balance of advertising self-regulation has been fundamentally changed by the transformation of advertising from a one-way, mass medium message to an interactive and international collaboration. Despite the resulting changes in the power and responsibility of the partners or moral agents in the self-regulatory process, there is still strong belief that equilibrium can, and must, be maintained. The advertising self-regulatory system can still produce optimum ethical decisions based on a consideration of their impact on relevant stakeholders and their alignment with universal moral principles to protect consumers and deliver strong public policy outcomes. Global self-

regulatory experts unanimously subscribed to the notion of upholding an equilibrium of power and responsibility in a digital world to protect consumers from offensive and misleading advertising, however, the imbalance threatens that process.

In line with the Power-Responsibility Equilibrium, the results provide a means to develop a process to restore the balance of power and responsibility in advertising self-regulation. Documenting a process is important to a revitalized system because it formalizes strategic focus, removes ambiguity, provides direction for training, and encourages improved efficiency. Four key steps emerged from the data and provide a framework for stakeholders to re-establish the power-responsibility equilibrium. *Embed Responsibility* is the first stage, creating the ethical and cultural underpinnings and stakeholder consensus that act as pillars of self-regulation. Next, *Align Standards* brings together stakeholder powers and responsibilities to uphold the standards. *Initiate Processes* is process-focused, launching the systems and cooperation required for individual stakeholders to support change, while *Improve* is focuses on the output - the connectedness and the efficiency. Figure 4 presents a model of the framework.

INSERT FIGURE 4 HERE

Embed Responsibility

The findings underscore the importance of creating a deeply rooted culture where stakeholders take responsibility for advertising self-regulation for the good of the system and the good of society. The findings note that while most stakeholders upheld their responsibilities, there is a need to convince digital global media to become an active moral agent in the self-regulation process. Their presence and power would counteract the loss of power of SROs. The consequent culture of responsibility that is internationally focused and

proactive could underpin a more robust self-regulatory system. Embedding an international culture among stakeholders is a step towards reconciling differences arising from culture, minimizing gaps between stakeholders country by country and re-establishing power of self-regulatory bodies when dealing with global media organizations. Boddewyn (2008) emphasizes the importance of size suggesting that only nations of large size [or an international group] can influence or have any impact on international digital media. The International Council for Self-Regulation, mentioned previously, already has members active on all continents, from the Americas to Europe, Africa and Asia. These include 25 SROs globally, as well as international associations such as the International Advertising Association, World Out of Home Organization, European Publishers Council, World Federation of Advertisers, Global Advertising Lawyers Alliance. As a single cohesive authority, the ICSR could represent greater international power and authority needed to manage relationships with global organizations such as Facebook and Google.

The findings also suggest that this corporate responsibility is often underpinned by the threat of government action. Regulations positively impact practice by providing a strong incentive to tell the truth. As Rotfeld (2001, 128) suggests “Without the threat of government action, only the most altruistic of firms would ever pay heed to self-regulation directives”. So perhaps it is about embedding responsibility, as well as the consequence of inaction.

Recommendation 1: Empower the ICSR to convince global digital platforms to become moral agents in the self-regulatory process.

Recommendation 2: Support the recommendations of the ICSR international alliance with appropriate national legislation.

Align Standards

Stakeholder commitment to the common goal of a robust self-regulatory system requires alignment of views regarding power and responsibility. As noted by Harker (2003), aligned views are also required to support an international perspective regarding global standards of taste and decency and ensuing consistency. Alignment of expectations of responsibility and standards of taste and decency enables cohesive and contemporary global standards. The findings note that while some stakeholders such as SROs and Government are already aligned at country level, greater alignment with digital media providers, advertisers and consumers at the international level is core to sustaining self-regulation.

This alignment is not just of values and global standards, but also of financial commitment. Unless the key stakeholders can align funding expectations with the cost of implementing an efficient self-regulation process, it will not work. Typically, this funding has come from national advertising agencies. But as advertising self-regulation has become 'open' due to the global digital environment, it could exceed the capacity of advertising agencies to finance it, raising the question of how the cost should be attributed across stakeholders or even across nations. Certainly, the cost and timeliness of the existing national self-regulatory system has won it favour with government (Boddewyn, 1989). However, as evidenced in the findings, funding and resources remain a key stumbling block for self-regulation. It appears alignment of digital media views regarding their contribution is critical to the continued operation of the self-regulatory system. Going global, the funding model must be reinvestigated to ensure both responsibility and revenue.

Recommendation 3: Greater alignment between digital media providers, advertisers, SROs and government in terms of values, global standards and financial commitment.

Recommendation 4: Include global digital media in a new funding model of self-regulatory system.

Initiate Processes

Streamlined processes that enable a proactive culture of responsibility and one that is internationally-focused is vital to a robust self-regulatory system. As advertising continues to cross borders, initiating systems capable of regulating in a global world requires cooperation and standardized practice through the international alignment of self-regulatory organizations. Initiating processes to enable national and international collaboration, and the implementation of an appropriate funding model are needed. Further, monitoring and reporting systems to support a relevant and timely self-regulatory system that is proactive and less complaint driven are also needed. These processes should enable self-regulatory organizations to foreshadow formal complaints, making resolutions faster and less formal, and should also include processes that foster greater diversity (such as e-petitions) in complainants in order to address concerns about representation in the traditional system self-regulatory process (Volkov, Harker, and Harker 2002).

Recommendation 5: Use the ICSR to align working systems and processes of SROs globally for benefit nationally.

Improve Output

An enhanced self-regulatory system is one that is in equilibrium and as such garners trust among stakeholders who have balanced responsibility and power to retain equilibrium. Improved output requires that there is improved efficiency in monitoring and reporting and resolution, improved representation, sustainable funding and enhanced collaboration. Culture, alignment and processes each contribute to the ability of self-regulation to remain relevant and robust. And all of this requires the right template for innovation.

The European Advertising Standards Alliance (EASA) provides an important working example of cross-national cooperation on advertising self-regulation. Expanding their success and innovation through an international body, such as the ICSR of which they are a member, provides a template for operational efficiency, but also an international voice for advertising self-regulation. With the right framing, and with the support of all stakeholders in the self-regulatory process, it could become an international watchdog and a leader of innovation.

Recommendation 6: Create an international voice with power and responsibility for advertising self-regulation

LIMITATIONS AND CONCLUSION

While this study provides some important insights and recommendations for advertising self-regulation internationally, it also comes with some limitations. Firstly, it is a qualitative study and while it encompasses expert opinion, it does not have the generalizability of a survey. Secondly, it chronicles the opinions of advertising self-regulatory experts across all parts of the process. It does not focus on any one group such as the advertiser perspective or the thoughts of media or self-regulatory organizations. Therefore, the findings are holistic, rather than an in-depth analysis of the various parts of the process. Finally, with the ongoing changes and controversy around the digital media giants and the advertising process, it is hard to keep the commentary current.

Future research could examine some of these limitations. It could introduce a survey to generalize the opinion or to focus specifically on one of the stakeholders in the self-regulatory process. Secondly, it could investigate what we are actually trying to regulate and the challenges of trying to manage the growing trends in native advertising and social influence in advertising.

In conclusion, this research demonstrates that there have been changes in the power-responsibility equilibrium for the advertising self-regulation process in its response to the digital environment. Specifically, data suggests that advertisers and media have more power and more responsibility; consumers have more power and no responsibility; Self-Regulatory Organizations have less power and more responsibility; and governments are largely unchanged in terms of their power or responsibility. Further, four key steps and six recommendations are identified to re-establish the power-responsibility equilibrium. Importantly, those who have the power in the advertising self-regulation process also need to take ethical and practical responsibility to ensure that the self-regulatory process fulfils its remit, maintaining an equilibrium between power and responsibility and protecting consumers from deceptive and offensive advertising. This research provides a process, and a hope, to restore the equilibrium and the survival of robust self-regulatory processes.

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FIGURE 1

The Power-Responsibility Equilibrium in Traditional Advertising

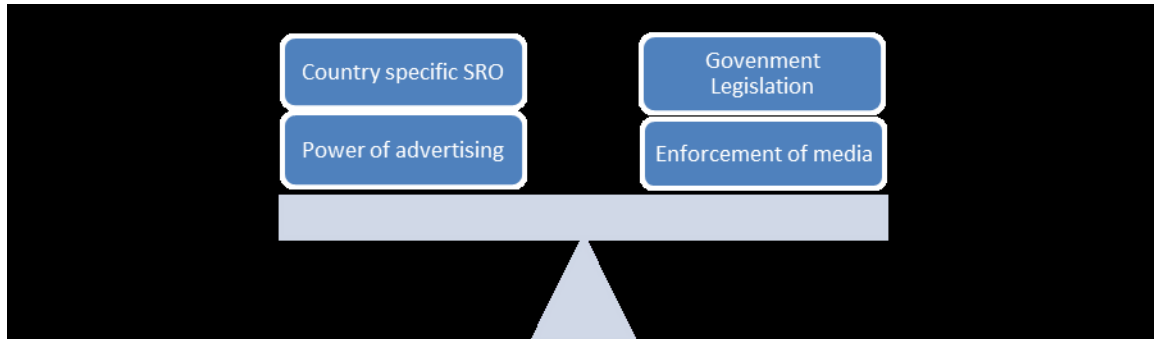


FIGURE 2

The Power-Responsibility Equilibrium in a Digital Advertising World

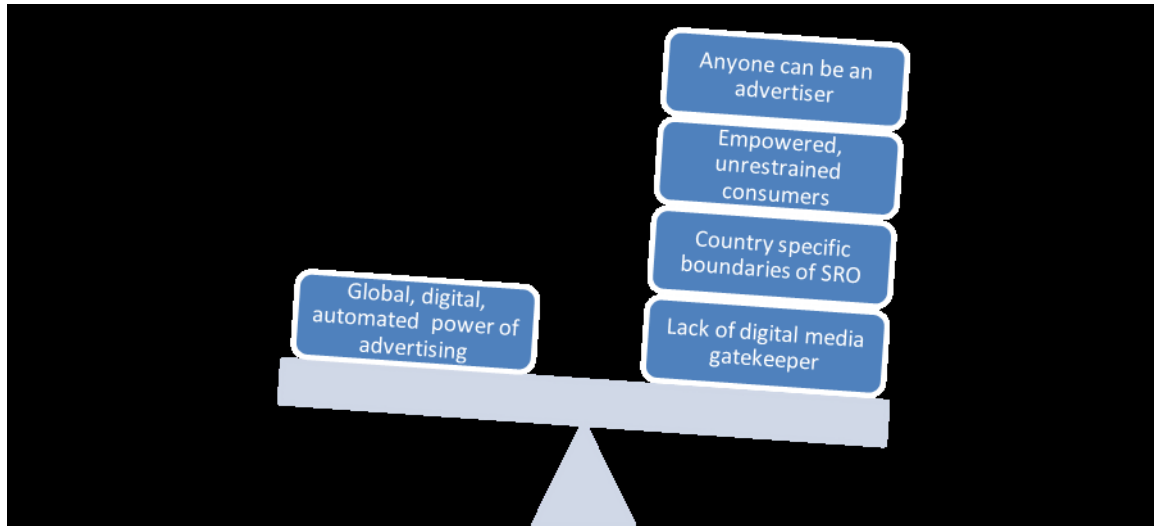


FIGURE 3

Restoring the Balance in Advertising Self-Regulation

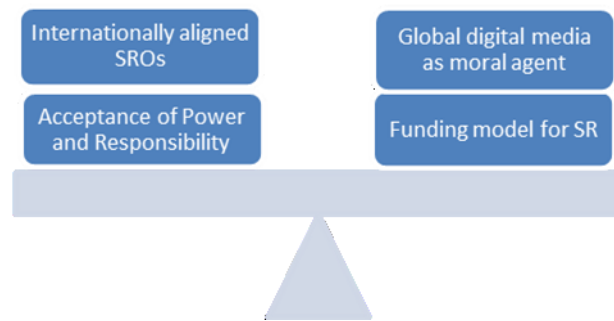


FIGURE 4

Restoring the Power Responsibility Equilibrium for Advertising Self-Regulation and Consumer Protection

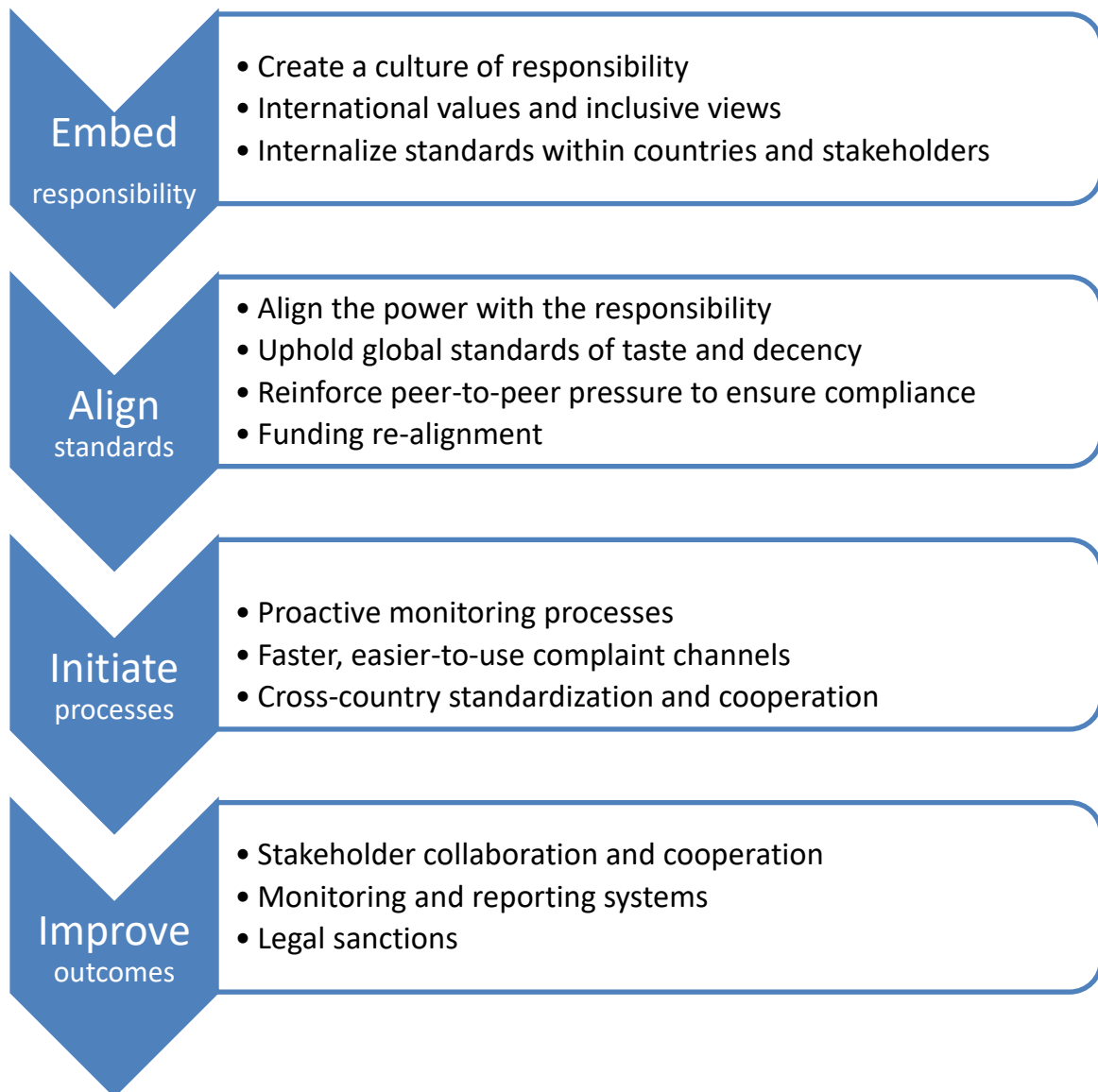


TABLE 1***Stakeholders who contributed to this Research***

Stakeholders	Organizations interviewed	Positions Held
Self Regulatory Organizations	Advertising Standards Authority UK; European Advertising Standards Alliance; NARB; Advertising Self Regulatory Council USA; Children’s Advertising Review Unit USA; Advertising Standards Board Australia	CEO or Managing Director or Director
Media Organizations	European Interactive Digital Advertising Alliance; Outdoor Media Association Australia; Interactive Advertising Bureau Australia	CEO or Managing Director or Director
Advertising Agency and Marketers Industry Bodies	Advertising Association UK; Institute of Practitioners in Advertising UK; IBSA British Advertisers UK; Direct Marketing Association UK; National Advertising Division USA; Communications Council Australia	CEO or Managing Director or Director
Lobby Groups	Sustain UK; Australian Christian Lobby Group	Director