

## Rules of Accreditation



**August 2010**

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# **Rules of Accreditation for Advertising Agencies**

## Rules of Accreditation

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## Rules of Accreditation

### INTERPRETATION

In these Conditions and the Rules of Accreditation, if not inconsistent with the context:

**“Accredited advertising agency”** means any partnership or company accredited in accordance with the Rules as an Advertising Agent of the Newspaper Publishers’ Association of New Zealand (Inc) (the “NPA”) and the Magazine Publishers’ Association of New Zealand (Inc) (the “MPA”).

**“Executive Officer”** means the Chief Executive Officer or Corporate Services Manager of the NPA

**“Member” or “Members”** means any Member or Members from time to time of the NPA or the MPA.

**“Member publication”** means any newspaper or magazine published by a Member.

**“Print Media Accreditation Authority”** (the “PMAA”) means the committee formed from the Members with authority to grant accreditation on behalf of MPA and NPA

**“Conditions of Credit”** means the conditions of credit applying from time to time between a Member or Members and any Accredited advertising agency.

**“Rules”** means Rules of Accreditation.

Any provision to be performed by two or more persons shall bind those persons jointly and severally.

All provisions shall be construed so as not to be invalid illegal or unenforceable in any respect but if any such provision on strict interpretation is found to be illegal invalid or unenforceable then that provision may at the option of the PMAA be construed in such manner as may be necessary to ensure that for the purposes of the Rules it is not illegal invalid or unenforceable. In the event that any such provision or part thereof cannot be so construed such provision shall be deemed to be void and severable and the remaining provisions hereof shall not in any way be affected or impaired thereby.

## THE PRINT MEDIA ACCREDITATION AUTHORITY

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The Print Media Accreditation Authority (PMAA) is a committee formed from the members of the Newspaper Publishers' Association (Inc) (NPA) and the Magazine Publishers' Association (Inc) (MPA).

The members of the NPA and MPA have given the PMAA authority to grant accreditation to Advertising Agencies who wish to place advertising in member publications.

This publication contains the Rules of Accreditation for Advertising Agencies.

Application material for Advertising Agencies wishing to apply for PMAA Accreditation is available from the office of the PMAA.

Print Media Accreditation Authority  
PO Box 2941  
Auckland

Telephone: (09) 306-1659  
Facsimile: (09) 303-2570  
Email: [jeremy.connell@newsworks.nz](mailto:jeremy.connell@newsworks.nz)

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### CONDITIONS FOR ACCREDITED ADVERTISING AGENCY

1. Each advertising agency granted Accreditation (hereinafter called an “Accredited advertising agency”) warrants, represents and agrees throughout their accreditation:
  - (i) That the relationship between the Accredited advertising agency and its advertiser clients is one of principal and agent and that the Accredited advertising agency shall throughout the term of accreditation act as agent for its advertiser clients and not for the PMAA nor the NPA nor the MPA nor for any one or more Member;
  - (ii) That notwithstanding that the Accredited advertising agency is acting as agent for its advertiser clients the Accredited advertising agency shall be responsible as a principal party for all amounts owing from time to time to any Member by its advertiser client;
  - (iii) That advertising submitted shall comply with all relevant laws, regulations and industry requirements including the codes of the Advertising Standards Authority (Inc) and may be printed by any Member without the NPA or the MPA or any Member incurring any liability of any nature whatsoever and the Accredited advertising agency or agent shall indemnify and keep indemnified the NPA, the MPA, the Members and their employees against all claims, actions, suits, demands, losses, costs or expenses of whatsoever nature arising from a breach of the terms of this subsection;
  - (iv) That it shall familiarise itself with any legislation affecting the advertising business, in particular the Fair Trading Act or any Act passed in substitution therefore;
  - (v) That it shall ensure its advertiser clients are made familiar with legislation and industry requirements affecting the advertising business, particularly those referred to in subclause 1 (iii) and 1 (iv) above;
  - (vi) That it shall use all reasonable endeavours to secure the ready observance and performance of such terms and conditions as may be required of its advertiser clients;
  - (vii) That it shall maintain consistent professional standards to properly meet the needs of its advertiser clients and fairly represent negotiations with the PMAA or the NPA or the MPA or any Member to its clients;

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- (ix) That the Accredited advertising agency does not have any authority to act for or on behalf of the PMAA or the NPA or the MPA or any Member as agent or in any other capacity.

### **2. APPLICATION FOR ACCREDITATION**

- 2.1 Any partnership or company (hereinafter referred to as “the applicant advertising agency”) wishing to deal with the NPA and the MPA as an advertising agency acting on behalf of any advertiser or advertisers who appoints that advertising agency to represent them to the NPA, the MPA or any Member and whose business is advertising shall make written application in the form prescribed (such form being called “the Application Form”) to the PMAA for the purpose of obtaining confirmation of Accreditation.

Application by a partnership shall be signed by all of the partners. Application by a company shall be executed with the signatures of at least two Directors, or otherwise in accordance with the Companies Act 1993.

- 2.1.1 Application forms are available on request from the PMAA, PO Box 2941, Auckland 1140 or email: [jeremy.connell@newsworks.nz](mailto:jeremy.connell@newsworks.nz)

### **3. APPLICATION INFORMATION**

- 3.1 The applicant advertising agency shall submit to the PMAA with its application (in a form and content satisfactory to the PMAA):
  - 3.1.1 Evidence that the applicant advertising agency is in business as an agency acting for advertisers, is of good repute and is experienced in the placement of advertising with the print media.
  - 3.1.2 Evidence that the applicant advertising agency is properly equipped for such business and has a fixed office or place of business.
  - 3.1.3 Evidence that the applicant advertising agency is in a position to place with Members orders for advertising of a total value sufficient in the opinion of the PMAA to warrant accreditation.
  - 3.1.4 Evidence that the applicant advertising agency has financial resources sufficient to enable it to make payment of the accounts of its advertiser clients and in particular:
    - (i) Where the applicant advertising agency is a company evidence that it has shareholder funds fully paid up to an amount not less

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than \$100,000.00 or such higher amount as the PMAA shall determine;

- (ii) The financial accounts show a ratio of \$1.25 of tangible assets (excluding goodwill) for each \$1.00 of liabilities (including shareholder loans) as at last balance date.

3.1.5 Where a company applying for accreditation is controlled by an advertiser, evidence that the company is not primarily intended to process the advertising of that advertiser.

3.2 The evidence shall include at least the following particulars:

3.2.1 Where any applicant advertising agency is a company:

- (i) The names, addresses and occupation of the directors or any proposed directors of the company;
- (ii) The names of the principal shareholders in the company, and where any principal shareholder is not the beneficial owner of the shares registered in its name then the name of each person having a beneficial interest whether directly or indirectly in those shares in the company.

3.2.2 Where any applicant advertising agency is a partnership:

- (i) The names, addresses and occupations of the partners.

3.2.3 A list of current clients of the applicant advertising agency (hereinafter referred to as "the advertiser clients").

3.2.4 Such details of the names and relevant experience of staff operating the advertising agency as are sufficient to demonstrate knowledge of advertising practices, the ability to operate an advertising agency and an ability to meet its advertiser clients' needs.

3.2.5 The commercial history and experience in advertising of the applicant advertising agency including, where the applicant is a company, details of positions held by Directors within the advertising industry during the last five years.

3.2.6 Details as to staff qualifications and experience on relevant legislation, regulation and industry rulings including the codes of the Advertising Standards Authority; the arrangements in place in respect of access to research, and the provision of media booking skills including media campaign planning and placement. i.e. years of experience and years in the advertising industry.

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- 3.2.7 Two business references to confirm credit history and trade worthiness (additional references may be required by the PMAA).
- 3.2.8 A detailed outline of the financial resources of the applicant advertising agency including a set of accounts in respect of the last financial year (or such shorter period as consented to by the PMAA) prepared by a member of the Institute of Chartered Accountants of New Zealand and signed by the principal executive of the applicant advertising agency.
- 3.2.9 Details of any place through arrangement with non accredited agencies including flow of payments, debtor insurance details.
- 3.2.10 Details of any shareholding in newspapers, periodical publications, or any other advertising media except for shareholding in public companies.
- 3.2.11 The PMAA may in its discretion call for any such further information as it deems desirable for the purpose of enabling it to decide whether or not the application for accreditation should be granted.

#### **4. SEPARATE ACCREDITATION FOR BRANCH**

Any Accredited advertising agency who proposes to establish a branch or subsidiary having a different shareholding from that agency must apply for separate accreditation for that branch or subsidiary.

#### **5. DEBTOR INSURANCE**

- 5.1 The PMAA requires the applicant advertising agency to hold client debtor insurance to the value of the client's three month maximum spend over a 12 month period with a recognised insurance company for individual clients (excluding those clients that are Government departments and publicly listed companies) that provide 10% or more of the applicant advertising agency's annual turnover and to provide evidence of such cover on request.
- 5.2 Where an accredited agency has a place through arrangement with a non-accredited agency, the non-accredited agency will be treated as a single client in respect to the annual cumulative value of its client billings for the purposes of the 10% threshold under Rule 5.1.



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### 6. CONFIRMATION OF ACCREDITATION

- 6.1 Upon firstly the fulfilment of all requirements specified herein to the satisfaction of the PMAA (including the provision of the required sets of accounts) and, secondly, after payment of the fee for accreditation the PMAA shall issue to the applicant advertising agency a confirmation of Accreditation.
- 6.2 Accreditation when granted shall extend to all Members.
- 6.3 Notwithstanding these conditions any Member may carry on business with any advertising agency in accordance with any conditions prescribed by that Member.
- 6.4 Upon the grant of accreditation an Accredited advertising agency shall immediately provide the PMAA with a signed authorisation in respect of each of its advertiser clients in the following format:
- 6.4.1 X (the advertiser) hereby appoints Y (the Accredited advertising agency) to act as its agent for the purpose of placing advertisements with any Member.

Duly authorised by the Executive Officer of X and Y

- 6.4.2 When Y (the Accredited advertising agency) is placing business on behalf of Z (the non-accredited advertising agency) under a place through arrangement, client Letters of Appointment must clearly state that the accredited agency is placing advertising on behalf of X (the advertiser) and its non-accredited agency.

Duly authorised by the Executive Officer of X, Y and Z

- 6.4.3 Thereafter an Accredited advertising agency or agent shall immediately inform the PMAA of:
- (i) Any advertising account obtained and shall provide the PMAA with the signed authorisation of the advertiser referred to in Rule 6.4.1 and 6.4.2.
  - (ii) Written advice of any change or revocation of any authorisation by any advertiser.

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### **7. DECLINED APPLICATION**

- 7.1 An applicant advertising agency whose application for accreditation has been declined may seek a review of that decision by way of written application to the PMAA within fourteen days after the date of notice that such application has been declined. The review shall be undertaken in accordance with the procedures set out in Rule 15.4.

### **8. ACCREDITATION FEES**

- 8.1 The fee for accreditation shall be as determined from time to time by the PMAA. Each application shall be accompanied by this fee which shall be received by the PMAA as a deposit on account of the accreditation fee. Where the accreditation is initially granted for less than one year a proportion of the fee shall be refunded. Where the application is refused the fee shall be refunded.
- 8.2 A fee shall be charged for:
- (i) Granting of accreditation
  - (ii) Accreditation of each branch or subsidiary
  - (iv) Annual renewal of accreditation
  - (v) Annual renewal for each branch or subsidiary

### **9. REACCREDITATION**

- 9.1 Unless the PMAA otherwise directs an Accredited advertising agency applying for renewal of its accreditation for the next ensuing year shall be required to furnish evidence in relation to subclauses 3.1.4, 3.2.3 and 3.2.11.
- 9.2 Accreditation period covers 12 months, beginning 3 months after the financial balance date of the accredited agency. Accreditation shall expire at the end of the 12 months unless such accreditation is earlier terminated. Application for renewal of accreditation is to be made within the three months prior to expiry.

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### 10. OBLIGATIONS OF AN ACCREDITED AGENCY

- 10.1 During the accreditation period an Accredited advertising agency shall give immediate notice to the PMAA of:
- (i) Any inability it may have to pay its debts or any default which has or is likely to occur in the payment of its debts;
  - (ii) Any inability to maintain its asset/liability ratio \$1.25:\$1.00 as outlined in Rule 3.1.4 ii) ;
  - (iii) Any proposed arrangement or compromise to be made in relation to all or any of its creditors;
  - (iv) Client changes which will affect debtor insurance cover requirements as outlined in Rule 5;
  - (v) In the case of a company, the proposal or issuance of any petition or the passing of any resolution or Court Order to wind up the company; or the appointment of any liquidator, official manager, receiver or manager;
  - (vi) In the case of a partnership or individual any judgment against it.
- 10.2 Where the PMAA considers the credit of the NPA or the MPA or any Member is at risk it may at its discretion require (where not already provided) any or all of the following:
- (i) A set of accounts prepared in accordance with the standards of the New Zealand Institute of Chartered Accountants and signed by the principal executive of the Accredited advertising agency and any other relevant current financial information;
  - (ii) The principal shareholders and/or directors of any company that is an Accredited advertising agency to obtain a guarantee from a third party and/or to sign a joint and several personal guarantee for the performance of the obligations of the Accredited advertising agency or agent as expressed or implied herein;
  - (iii) An Accredited advertising agency to take out and maintain an appropriate level of client debtor insurance cover satisfactory to the PMAA with a recognised insurance company and to provide evidence thereof upon request;
  - (iv) An Accredited advertising agency to make payment in cash of all amounts owing to the NPA or the MPA or any Member in advance of publication;

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- (v) The advertiser represented by the Accredited advertising agency to make payment directly to the NPA or the MPA or the Member as the case may be for any advertising placed on behalf of the advertiser.
- 10.3 Where any Accredited advertising agency is a company the PMAA may require a statutory declaration by one or more Directors in a form determined by PMAA as to the agency's compliance with the provisions of clauses 3.1.4 (shareholder funds and asset ratio), 5.1 (debtors insurance) and 12 (share ownership). The declaration must be provided at the intervals specified by PMAA during an Accreditation period, or on PMAA's request. Failure to provide the required declaration in the time specified will be a breach of these Rules.
- 10.4 In the case of an Accredited advertising agency which is not a company, the PMAA may require a statutory declaration in a form determined by the PMAA from principals or partners or the beneficial owners of the business, as to compliance with clause 5.1 (debtor insurance) and an asset ratio and minimum equity levels which are equivalent with the requirements for a company under 3.1.4, but which reflect the structure of the business. The declaration must be provided at the intervals specified by PMAA during an Accreditation period, or on PMAA's request. Failure to provide the required declaration in the time specified will be a breach of these Rules.
- 10.5 An Accredited advertising agency shall supply in writing within seven days after being requested by the PMAA all such further information, facts, data, particulars and material as may be reasonably required by the PMAA in relation to this Rule, and the same shall be verified by statutory declaration or affidavit if required by the PMAA.

## **11. CHANGE OF CONTROL**

- 11.1 Should an Accredited advertising agency reconstruct its business or effect any alteration in its ownership (in the case of a company where more than 10% of its shares change beneficial ownership); or alter its effective management or control, the PMAA shall be given immediate notice of such reconstruction, and/or alteration whereupon the accreditation shall be reviewed by the PMAA which may as its option revoke such accreditation or impose conditions on such accreditation.

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- 11.2 Any applicant advertising agency which is a partnership must give not less than 21 days written notice to the PMAA of the formation of a new partnership.
- 11.3 In the case of an applicant advertising agent which is an unlisted company it must give not less than 21 days notice to the PMAA of its intention to make any change in the ownership of its shares which results in a change in the effective management or control of the company.

### **12. RULES FOR PLACING ADVERTISING**

- 12.1 An Accredited advertising agency shall not sublet nor resell any advertising space which has been purchased by the advertiser client from the NPA or the MPA or any Member without the prior written approval of the relevant Member.
- 12.2 It shall be a condition of these Rules that advertising payments shall be received by the relevant Member on the last working day of the month following the publication of any advertisement.
- 12.3 The Accredited advertising agency shall provide any Member with which it deals with copies of advertising instructions.
- 12.4 Every advertising instruction shall clearly state the name and address of the Accredited advertising agent; the name of the advertiser and product; the size of the advertisement; the frequency and insertion dates; the price; any relevant loadings; whether subject to commission and if relevant, the rate of commission.
- 12.5 Any Member has the right to accept or reject any advertising instruction or advertisement for publication.
- 12.6 The Accredited advertising agency shall forthwith provide the PMAA with copies of print advertising schedules on request.
- 12.7 Each Member shall determine its own level of charges from time to time for the placement of advertisements and instructions shall be submitted in accordance with those charges.
- 12.8 Where an order is exceeded and thereby qualifies for a lower charge the lower charge may, at the discretion of a Member, be retrospective to the commencement of that order. It is the responsibility of the Accredited advertising agent to notify Members as soon as the Accredited advertising agent is aware that an order is increased to enable an agent to qualify for a lower charge. The relevant Member must be notified during the currency of an order.

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### 13. COMMISSION

- 13.1 Notwithstanding Rule 1(i) it is agreed by the Accredited advertising agency that its entitlement to commission from any Member is personal to the Accredited advertising agency and that such entitlement arises from agreement between that Member and that Accredited advertising agency and not from any agreement between any Member and the advertiser client or that Accredited advertising agency and its advertiser client.
- 13.2 The NPA's and MPA's current recommended rates of commission are:
- (i) For advertising payments received by the Member on the last working day of the month following the publishing of any advertisement - twenty percent (20%);
  - (ii) For advertising payments received after the last working day of the month following the publishing of any advertisement and before the 15th day of the following month - fifteen percent (15%);
  - (iii) For advertising payments received thereafter - no commission;
  - (iv) Notwithstanding any other remedy available to it pursuant to this Agreement, a Member may charge interest in accordance with a member's advertising terms and conditions and, if there is no agreement between the member and the accredited advertising agency the member may charge interest at 5% p.a. above that member's current bank lending rate on payments outstanding for 60 days from the last working day of the month following the publishing of any advertisement;
  - (v) For the purposes of this provision the month of the publishing of any advertisement is the cover date or mast-head date of the publication in which the advertisement occurs.
- 13.3 Where payment for publishing an advertisement has not been received by a Member by the 15th day following the last day of the month following the publishing date then that Member may require by written notice to the accredited advertising agency that the advertiser clients of that Accredited advertising agency make all payments then due and payable (not already paid to the Accredited advertising agency) and all future payments for publishing advertisements directly to that Member. On receipt of any such payment from an advertiser client of an Accredited

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advertising agency a Member may pay such commission to that Accredited advertising agency as that Member shall in its absolute discretion determine.

- 13.4 Any Member may from time to time on giving three months notice in writing of its intention to do so vary or amend the rates of commission to be allowed to Accredited advertising agencies as well as the terms of payment and any such amendment or variation shall apply upon expiration of the notice.
- 13.5 Except as otherwise provided in these Rules an Accredited advertising agency shall, in respect of any payments made to any Member for the cost of publishing any advertising on behalf of its advertiser clients, be entitled to deduct the commission payable by that Member as agreed by that Member and in accordance with these Rules.
- 13.6 Commission shall not be payable where:
- (i) The accreditation of an Accredited advertising agency is terminated except where any advertising has been published and paid for by due date by the Accredited advertising agency;
  - (ii) The advertising has not been accepted or printed for any reason;
  - (iii) An advertising order has been obtained through the initiative and enterprise of any Member or the NPA or the MPA, whether by direct or indirect solicitation notwithstanding that the advertiser may have instructed an agency to prepare materials in respect of advertisement;
  - (iv) The Accredited advertising agency has a controlling interest in the commodity advertised;
  - (v) The Accredited advertising agency is directly engaged in the sale or the distribution of the commodity advertised;
  - (vi) The advertiser has any financial or other interest in the Accredited advertising agency handling its advertising appropriations.
- 13.7 An Accredited advertising agency shall:
- (i) Not charge its advertiser clients a higher rate for advertising than the sum charged by any Member to an Accredited advertising agency or agent before the deduction of commission;

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- (ii) Disclose commissions paid and rates charged by the relevant Member on all invoices to its advertiser clients in respect of any placement of advertising with any Member; and
- (iii) Whenever required by the PMAA to do so, produce copies of any such invoices to the PMAA.

13.8 Where an advertiser notifies the PMAA or the NPA or the MPA or any Member of its intention to transfer its business from one Accredited advertising agency to another Accredited advertising agency and such transfer is carried out in accordance with the terms and conditions upon which advertising material is received and printed by any Member, then any commission payable shall be paid:

- (i) To the first agency only in respect of the value of such advertisements as are actually printed prior to the transfer of such business; and
- (ii) To the second agency only in respect of the value of such advertisements as are actually printed after the transfer.

13.9 The PMAA will from time to time make recommendations as to the maximum commission payable to Accredited advertising agencies upon any order for advertising submitted to and accepted by any Member. An Accredited advertising agency shall show in the fee charged by it to the advertiser the amount of commission paid to the Accredited advertising agency.

## 14. TERMINATION

14.1 Accreditation may be terminated by either the PMAA on behalf of the NPA or the MPA or the Accredited advertising agency upon the expiry of one month's notice in writing to the other party.

14.2 In the event of a breach by the Accredited advertising agency of the these rules or on the PMAA determining that there is some conflict between the interest of the NPA or the MPA or any Member and any other party the PMAA shall have the right to terminate this Agreement immediately by notice in writing and to revoke Accreditation.

14.3 In the event of termination:

- (i) The obligations of the NPA and the MPA and the Accredited advertising agency as set out in these Rules shall cease as from



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the date of termination PROVIDED THAT any monies due pursuant to these Rules before such termination shall continue to be owed and such revocation or cancellation shall be without prejudice to the rights and remedies of any party in respect of any such monies.

### **15. DISPUTE OR BREACHES**

- 15.1 Any dispute between any Member and an Accredited advertising agency or between agencies regarding the interpretation of these Rules shall be submitted to the PMAA, whose decision shall be final.
- 15.2 If the PMAA is satisfied that a breach of these Rules has been committed, it may, in respect of any such breach, issue to the Accredited advertising agency concerned a warning, or require the Accredited advertising agency to pay to the NPA and the MPA part or the whole of any commission received in breach of these Rules and/or to surrender their Accredited status.
- 15.3 In the event of a breach of these Rules by an Accredited advertising agency the PMAA on behalf of any Member, or any Member shall have the right to approach an advertiser client direct for payment of the full cost of publishing any advertisement by that Member and the Accredited advertising agency shall have no claim nor bring any action whatsoever by reason of or arising out of or in connection with such approach or payment except for any commission agreed to be paid under Rule 14.2.
- 15.4 Any Accredited advertising agency whose accreditation has been cancelled or suspended or upon whom any penalty has been imposed by the PMAA or an applicant whose application has been refused by the PMAA may lodge an appeal with the PMAA at any time within 14 days after the date upon which written notice of such cancellation or imposition of penalty or refusal of an application for accreditation has been received by the applicant.
- 15.4.1 Upon receipt of any notice of appeal the PMAA shall request the President of the NPA and the President of the MPA to appoint a committee for the purpose of considering the appeal which committee shall not include any Member who is also a Member of the PMAA.
- 15.4.2 The committee appointed to consider the appeal may confirm or vary the decision of the PMAA or may determine to set aside any such cancellation, suspension or penalty or grant accreditation to the applicant.

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15.4.3 The committee so appointed shall allow the agency whose accreditation has been cancelled or suspended or the applicant whose application has been refused to make such representations as the committee in its absolute discretion shall determine and think fit.

### **16. RULE CHANGES**

16.1 These Rules are subject to change from time to time on one month's notice except where the PMAA alters the recommendations relating to commission levels in which case three months' notice of such change will be given.

### **17 OTHER**

The provisions of clauses 12 and 13 of these Rules are subject to the relevant member's advertising terms and conditions from time to time. In the event of a conflict or inconsistency between those rules 12 and 13 and the member's terms and conditions, the latter will prevail.

### **18. CONTACT DETAILS**

Address: Print Media Accreditation Authority  
PO Box 2941  
Auckland

Telephone: (09) 306-1659  
Facsimile: (09) 303-2570  
Email: [jeremy.connell@newsworks.nz](mailto:jeremy.connell@newsworks.nz)

The address for service of notices on an Accredited advertising agency is its last known place of business.