SECTION TWO: INFORMATION REVIEW

2.1 STATUTORY REVIEW

Legislation governing outdoor advertising in South Africa has its origin in the late 1930s when the Automobile Association proposed measures aimed at protecting the visual attractiveness of the rural countryside. The need for such a policy was especially pressing in urban areas, where the rapid growth of the motor industry had caused an increase in motor traffic.

Sub-problem 2: Undertake a comprehensive statutory, literature and case study review of outdoor advertising on a national and international scale.

Hypothesis 2: A comprehensive statutory, literature and case study review of outdoor advertising on a national and international scale can serve as basis and point of reference for the study.

In this section, a statutory review is presented, discussing the history of legislation governing outdoor advertising as well as current legislation. A literature review is presented listing the type and scale of literature referenced. Case studies from abroad are described and discussed. Section Two comprises the following sub-sections:

2.1 STATUTORY REVIEW

2.2 LITERATURE REVIEW

2.3 CASE STUDY REVIEW

2.4 CONCLUSIONS

2.1.2 NATIONAL ROADS ACT 54 OF 1971

The National Roads Act (54 of 1971) constitutes the legislation by virtue of which advertisements along all national roads are controlled. The act prohibits the display of any advertisement other than visible from a national road. This prohibition on advertisements, however, is not absolute. The following exceptions:

(a) Business advertisements on buildings
(b) Advertisements displayed on vehicles
(c) Advertisements that have been authorised before or after the promulgation of the National Roads Act
(d) Advertisements displayed before the declaration of a National Road
2.1 STATUTORY REVIEW

2.1.1 THE HISTORY OF LEGISLATION GOVERNING OUTDOOR ADVERTISING

Legislation governing outdoor advertising in South Africa has its origin in the late 1930’s when the Automobile Association proposed measures aimed at protecting the visual attractiveness of the South African countryside. Although the original concerns are still valid today it has to be conceded that the relevant legislation has become somewhat dated.

The main function of South Africa’s environmental statutes is to protect the natural beauty of the rural countryside. A second, but equally important consideration is to ensure road safety by preventing the erection of distracting advertisements along public roads.

Outdoor advertising alongside South African Roads is currently governed by three sets of legislation and administered by three powers of authority depending on location:

- **The National Roads Act, 1971 (Act 54 of 1971)** prohibits advertisements visible from a national road, but six exceptions are allowed. The regulatory authority is the Department of Transport.

- **The Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940)** prohibits advertisements visible from a public road in rural areas, but nine exceptions are allowed and a permit is issued under regulations and departmental policy. The regulatory authority is the Provincial Administration.

- **Municipal ordinances and bylaws** empower local authorities to regulate advertising in urban areas by permit.

Advertisements within urban areas are generally controlled by the local authority in question but also, to some extent, by the Department of Transport (in the case of national roads within urban areas) and by the provincial administrations (in the case of certain other public roads within urban areas).

2.1.2 NATIONAL ROADS ACT 54 OF 1971

The National Roads Act 54 of 1971 constitutes the legislation by virtue of which advertisements along all national roads are controlled. The act prohibits the display of any advertisement on, or visible from a national road. This prohibition on advertisements, however, is not applicable to the following exceptions:

(a) Business advertisements on buildings.

(b) Advertisements displayed on vehicles.

(c) Advertisements that have been authorised before or after the promulgation of the National Roads Act.

(d) Advertisements displayed before the declaration of a National Road.
(e) Any advertisement which is displayed in the performance of a person's duties in the service of the state, or which is displayed in accordance with any law.

(f) Advertisements that have been authorised by or under regulations (section 14(2)(f)).

2.1.3 ADVERTISING ON ROADS AND RIBBON DEVELOPMENT ACT 21 OF 1940

The Advertising on Roads and Ribbon Development Act 21 of 1940 seeks to achieve its aim through a provision, which prohibits anyone from displaying an advertisement, which is visible from any public road other than a national road. The prohibition, however, is not applicable to the display of the following specified advertisements:

(a) Certain advertisements on buildings.
(b) Informational advertisements on gates.
(c) Farm names.
(d) Advertisements displayed before the commencement of this Act.
(e) Advertisements displayed on vehicles.
(f) Advertisements displayed in urban areas.
(g) Any advertisement that is displayed in the performance of a person's duties in the service of the state.
(h) Directional advertisements.
(i) Advertisements displayed on windmills, or on vehicles, implements or machinery used in connection with farming.

Unlike the National Roads Act, the prohibition, as set out in the above mentioned Act, is not absolute. Advertisements may be displayed if this is done in accordance with the written permission of the controlling authority concerned.

2.1.4 MUNICIPAL ORDINANCES AND BY-LAWS

Control of outdoor advertising in urban areas is carried out by the local authority concerned in terms of the respective municipal ordinances that authorises the making of by-laws. Although adequate provision is generally made in local by-laws for control over advertisements, local authorities still have the discretion to allow commercial advertising. The degree of control exercised in urban areas is, therefore, entirely dependent upon the policies to which the controlling authorities adhere.
2.2 LITERATURE REVIEW

A review of all relevant literature was undertaken as a part of the background study. Information
was collected locally and internationally providing a balanced reflection of the views of both the
commercial and conservation sectors. The literature review covered a variety of outdoor
advertising related topics as listed below:

- Perceptions
- Outdoor Advertising
- Control of Outdoor Advertising
- Tourism
- Legislation of Advertising
- Environment
- Safety aspects
- Road classification

Not all of the above literature is directly referenced in the body of the report. The literature
review enabled the author to obtain a holistic understanding of the problem on an international
scale, as well as attempts to address the problem.

The complete reference list is included in the Bibliography at the end of this dissertation.

2.3 CASE STUDY REVIEW

Problems and solutions experienced in neighbouring countries and abroad were investigated by
means of case studies. These studies were conducted telephonically, by means of personal
visits and by means of an international literature review. A summary of the findings is included
below.

2.3.1 UNITED STATES OF AMERICA

2.3.1.1 Introduction

Professor Willem van Riet conducted the most important case study during a weeklong
fact finding mission to the United States of America. Professor Van Riet concentrated on
establishing the approach adopted by a variety of US State Departments to outdoor
advertising control and legislation. The following is the author's summary of the case study
gleaned from a debriefing immediately following the return of Professor Van Riet:

Three days were spent discussing the effects of outdoor advertising with a number of
sections of the US Department of Transport. This included discussions with a variety of
officials. The discussions centred on an approach followed by certain officials as well an
overview of the situation in the United States of America.

A vast amount of relevant literature was made available to the OASSC. This has been
included in the list of references.
The most important points raised during the discussions with the Department are as follows:

- Very little control over national roads is available to the US Department of Transport.
- Serious concern over the effect of outdoor advertising and especially billboards on the aesthetic quality of the natural and urban landscape has been expressed in the USA for many years.
- The most important control measure was the establishment of the scenic byways programme over the last twenty years. This scenic byways programme has controlled outdoor advertising to an enormous extent. This programme however, has only been applied to selected scenic routes in the USA.

Most of the other controls have been implemented through the urban areas of America where certain cities such as Houston and other smaller cities have implemented sign control measures. These control measures have been in place for a number of years and have focused on the removing of existing billboards as well as the development of design and guideline procedures for the implementation of new types of outdoor advertising.

In the Department of Transport there is a special sub-department or section dealing with the scenic byways programme. A large number of staff are busy planning, designing and implementing this programme. This programme has achieved notable success.

A visit was also undertaken to the United States Department of Forestry. This Department has a large area of land under their control and as many of the National or Provincial roads traverse these areas, they have had an interest in the scenic byways programme. They have also developed an in-depth signage control and design programme for dealing with information transfer in the Department of Forestry’s land. This large manual (United States Department of Transportation, Federal Highway Administration, 1988.) was made available to the OASSC.

2.3.1.2 Control of outdoor advertising in the USA

The problems associated with uncontrolled outdoor advertising were first addressed in the USA in the 1950’s. The Federal-Aid Highway Act of 1958 provided for bonus payments to States, which voluntarily agreed to control outdoor advertising adjacent to the Interstate System. By the time eligibility to participate expired in 1965, 23 States had entered the programme. In 1965, the Highway Beautification Act (HBA) became law, requiring the States, as a condition of receiving their total apportionment of Federal-aid highway funds, to control outdoor advertising adjacent to both the Interstate System and the Federal-aid primary system. Under the HBA new off-property commercial advertising signs are only permitted in commercial and industrial areas. Size, lighting and spacing criteria were established. States had to maintain “effective control” of outdoor advertising signs along the highways.

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which was signed into law on December 18 of that year, amended the HBA with four significant provisions involving the control of outdoor advertising. Section 1046 defined the "primary
system" for purposes of enforcing the HBA, required the removal of illegal signs, prohibited most new signs on scenic byways, and provided highway funding for the control and removal of outdoor advertising.

The ISTEA requires that the sign owner remove illegal signs within 90 days of the effective date of the ISTEA. If owners do not remove the signs, the State must remove them, using Federal-aid highway funds.

To retain the character of designated scenic byways, the ISTEA provided that new signs may not be erected along any highway on the Interstate System or Federal-aid primary system that is designated as a scenic byway. Certain signs, such as directional, official, on-premise, and "for sale" or "lease" signs are exempt from this control.

2.3.1.3 Tourist orientated signing systems in the USA

Currently, there are two signing systems used within the highway right-of-way that provide information to the travelling public about the availability of services furnished by small businesses. The signs are categorised as "specific service" signs and "tourist-oriented directional" signs.

Specific service (or LOGO) signs provide travellers with business identification and directional information regarding essential motorists services. Typically, these gas, food, lodging, and camping signs are found adjacent to interchanges on the Interstate System. However, these signs may be used on any class of highway, and they are primarily intended for use in rural areas. Almost 40 States are using this system. (Logos are displayed on a blue background).

Tourist-oriented directional signs (TODS) provide business identification and directional information about business services and activities, including the availability of seasonal agricultural products. TODS advertise businesses and activities that derive the major portion of their income or visitors from the motoring public that do not reside in the immediate area of the business or activity. TODS may only be used on rural, conventional roads (non-freeway type highways). Currently, 15 States use such signs. (White lettering on a blue background).

2.3.1.4 Environmental viewpoint - Sierra Club

Comments were received from the Sierra Club of America regarding their stance on outdoor advertising and visual pollution. The Sierra Club is one of the largest environmental organisations in the USA and act as watchdogs on sensitive issues such as outdoor advertising.

The Sierra Club opposes billboard development along highways and actively supports litigation to compel the Federal Highway Administration to enforce the Highway Beautification Act of 1965. The Sierra Club opposes the proliferation of outdoor off-premise advertising and endorses legislative and other actions to strengthen prohibitions against billboard proliferation and to replace existing billboards with state-managed service logo signs on highway rights of way.
The Sierra Club opposes unnecessary night lighting in both urban and sub-urban areas as it is a waste of electrical energy, destroys the aesthetics of the night sky and interferes with astronomical research.

Numerous other US publications were consulted and these are listed in the bibliography at the end of the dissertation.

2.3.2 AUSTRALIA AND THE UNITED KINGDOM

Budget constraints meant that a case study investigation of Australia and the United Kingdom relied primarily on correspondence and documentation received from their various transport and environmental agencies. The following documents were studied and were particularly useful in defining the type and range of outdoor advertising signs as well as the various means of control.

- Department of Planning, Sydney. Outdoor advertising - an urban design based approach. 31p.

2.3.3 NAMIBIA

Discussions have been held in Windhoek with the Department of Transport. The Department gave an indication that they are very interested in the results of this study as Namibia is currently operating under the 'Advertising on Roads and Ribbon Development Act', inherited from the Cape Province before independence. The Department are keen to make changes to this Act as it is very restrictive and does not allow for the proper development of the outdoor advertising industry. The Department gave the OASSC it's full co-operation and would await a copy of the research results before commenting.
2.4 CONCLUSIONS

The following conclusions are drawn and used in the development of a National Code of Practice for Outdoor Advertising:

- The general consensus regarding the current legal situation on outdoor advertising is that the National Roads Act and Advertising on Roads and Ribbon Development Act are outdated and in need of basic revision and subsequent ratification. Local bylaws are perceived to be fragmented and very difficult to implement.

- The literature review illustrates the complexity of the outdoor advertising problem. It is clear that many authorities and researchers have been investigating solutions to the problems of aesthetic impact. Guidelines and methods of controlling outdoor advertising are constantly being developed and upgraded. The control of outdoor advertising is a universal problem and this study has come at a crucial phase in the development of this country. A vast amount of literature is available covering a variety of outdoor advertising related topics. However, significant shortcomings were noted with respect to definitive research on issues such as the relationship between road safety and billboards.

- The case studies conducted in the USA illustrate a significant negative reaction to outdoor advertising and many communities are developing strict forms of sign control. The establishment of the scenic byways program is an important event in the creation of a sign free and low impact road related landscape.

- Great interest was expressed in the results of this study and doubt was expressed whether a practical and workable framework for a National Code of Practice can be developed.

- The information review was comprehensive and served as a useful basis and reference point for the study.