

Australian Council on Children and the Media

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SUBMISSION TO FREE TV AUSTRALIA ON THE PROPOSED REVISED CODE OF PRACTICE SEPTEMBER 2009

1. INTRODUCTION

This submission has been prepared on behalf of the Australian Council on Children and the Media (ACCM) by Prof Elizabeth Handsley (Vice-President) and Barbara Biggins OAM (Hon CEO).

The ACCM is a not-for-profit national organization, with a membership which includes other national and state organizations and individuals with expertise, experience and/or interest in the area of media and children and young people.

The mission of the ACCM is to support families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children.

ACCM's core activities include the collection of research and information about the impact of media on children's development, and advocacy for the needs and interests of children in relation to the media. For further information about the ACCM see Appendix 1.

2. THE BASIS FOR THIS SUBMISSION

2.1 This submission reflects the following principles

2.1.1 The International Convention on the Rights of the Child Article 17, viz

"Parties recognise the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production of, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority groups or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of Article 13 and 18."

2.1.2 Objectives b), e), f), h) i) and j) of the *Broadcasting Services Act* at s 3.of The Act.

- (b) to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs; and
- (e) to promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity; and
- (f) to promote the provision of high quality and innovative programming by providers of broadcasting services; and
- (h) to encourage providers of broadcasting services to respect community standards in the provision of program material; and
- (i) to encourage the provision of means for addressing complaints about broadcasting services; and
- (j) to ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them;

- 2.2.** In the preparation of this submission, ACCM has relied on its experience and active involvement in issues related to the regulation of television in Australia since 1980. ACCM has
- informed itself about the effectiveness of Free TV Australia's Code of Practice through its own monitoring of programs, and from receiving community feedback about present standards
 - constantly reviewed the research literature as it relates to the impact of media on children and young people.

3. SUMMARY OF ISSUES

3.1 Obligation to protect children

ACCM wishes to emphasise the obligations of the commercial TV licensees to protect children from exposure to program material which may be harmful to them (s 3(1)(j)).

Measures aimed at protection of children need to be applied during the times they are likely to be watching, not only during programs primarily directed to them.

3.2 Children's viewing times

Children and young people spend significant amounts of time with television. They view in large numbers at times when the programs are not aimed at them and it is important that programming and other materials broadcast at those

times should be appropriate for them, or at least not inappropriate. ACCM believes that the Code should implement a concept of “children’s time bands”. These would coincide with the hours in which children are watching in significant numbers (even if they do not make up the major percentage of the audience), viz 6.00-8.30 am and 4.00 to 8.30 pm on weekdays, and 6.00 am to 8.30 pm on weekends and public holidays.

The provision of dedicated children’s channels would not be an appropriate way of meeting these needs. Children should not be ghettoized into another part of the family home when their parents wish to watch prime-time television.

3.3 Code too complex

ACCM submits this Code is unduly complex, containing too many cross-references, exceptions and appendices. The co-regulatory system relies on consumers to determine whether a matter of concern to them is in fact a breach, but this complexity makes the task difficult, if not impossible. The Code should be made simpler in its application (particularly in areas such as advertising directed to, or for products of interest to, children, and in the area of promotion of programs).

Such simplification would support a more effective system of co-regulation.

3.4 Sexualised depictions

No provision has been made to accommodate community concerns about, and to take note of research indicators of harm from sexualised depictions, especially in G and PG music video programs. This is especially disappointing and puzzling considering the Senate ECA Committee’s recommendations that the broadcasting industry review this matter. In our view the absence of formal complaints is not evidence that the community is unconcerned about this matter; most likely it reflects the fact that the Code as it stands contains no provision which is clearly being breached by the broadcast of inappropriately sexualised material. The Senate Committee’s Inquiry and the submissions to it provide ample evidence of widespread community concern that the code should address.

3.5 What is a child?

The definition of the ‘age of a child” varies throughout this Code and should be consistent. We urge the use of the definition as at 4.3.5.3 below, viz a child is a person under the age of 16yrs.

3.6 Program promotions.

The provisions in regard to program promotions are not only confusing, but fail to provide adequate protection from misleading and/ or potentially harmful content.

3.7 Classification of programs: classification criteria for violence are inadequate, and the use and display of classification information should be improved to support child- appropriate choices.

3.8 Relaxation of Free TV Codes in relation to multi channels

Free TV has not provided compelling justification for these proposals.

4. DETAILED COMMENT

ACCM Comment on specific sections of this Code is included at the relevant sections of the proposed revised Free TV Code draft pasted below.

NOTE: Text in blue signifies Free TV's proposed changes.

Proscribed Material

...

1.10.6 provoke or perpetuate intense dislike, serious contempt or severe ridicule against a person or group of persons on the grounds of age, colour, gender, national or ethnic origin, disability, race, religion or sexual preference.; or

ACCM COMMENT: the adjectives "intense", "serious" and "severe" seem very high bars here

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Disclosure of Commercial Arrangements

ACCM COMMENT: ACCM welcomed the move to address this set of issues within the Code in 2004.

However we wonder whether it is possible to adequately cater to the needs of children under the scheme below. While a system of disclosures might be appropriate for radio, children are not as exposed in that context. The different uses made by children of different media justify different rules.

Many children are unable to appreciate the selling intent of any commercials, and their ability to correctly interpret disclosures under this clause is open to great doubt.

Moreover, we are aware that children routinely watch many programs that are not primarily directed to them, and so their vulnerability to commercial messages remains a concern even in the context of other programming for example prime time sitcoms (for example *Packed to the Rafters*, *Home and Away*, *The Simpsons*).

We therefore submit that no "commercial arrangements" at all should be allowed, at least in relation to programs broadcast during children's viewing times.

At the very least, no "commercial arrangements" at all should be allowed in relation to programming directed to children.

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Premium Charge Telephone Services

ACCM COMMENT: In the current economic climate Australian families risk crippling telephone bills if their children take up invitations to use these services. We do not believe that the measures proposed in the Draft Revised Code go far enough to protect

them from this risk. Children do not necessarily always follow these kinds of instructions, especially if the inducement is framed in a way that is especially attractive to them (for example the chance to win a competition).

Once again we must refer to the inability of children to properly understand the intent behind advertisements and the need to put measures in place to limit, or ideally to eradicate, the risk that their special vulnerability will lead to real harm.

ACCM submits that no invitations to use premium charge telephone services should be allowed during children's viewing times, as defined above.

APPENDIX 1: AANA ADVERTISER CODE OF ETHICS

ACCM COMMENT: All appendices should be at the end of the Code. This applies to Appendices 1, 2 and 3 that appear here in the middle of the Code. This placement makes it difficult to follow the flow of the Code, and to find the Appendices themselves, because such things usually appear at the end of a document.

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SECTION 2: CLASSIFICATION

Objectives

Section 2 Classification

ACCM COMMENT: ACCM notes the clauses including 2.1.7 and 2.5 which deal with the presentation of material outside of the appropriate time zones. At present there is a range of categories of programs for which concessions are provided in regard to classification (eg 2.4.1, 2.5, 2.13.1). In addition, the present proposal (at 3.14) to widen the types of program promotions within such programs increases problems of supervision for parents. ACCM is opposed to the retention of the existing concessions for these categories, and all the more opposed to the expansion of concessions. The provisions which allow more "adult" material to be shown outside the appropriate time zone are at odds with the obligation that Objective (j) of the *Broadcasting Services Act 1992* places on broadcasters, which places a unique and high priority on the protection of children.

The general expectation of by the community of live (or near live) sporting programs is that they will be "G" type. ACCM cannot see why sporting programs of any type should be excused from the classification requirements, and more particularly, why sporting programs should be permitted to contain advertisements or program promotions not normally permitted within a G program shown before 8.30pm at night.

Further, Free TV should ensure that "current affairs" programs are defined to be commentary on current events, and not just a pot pourri of segments with little

connection to events of the day. Again there is little justification for being excused the classification requirements when the segments are not really related to current events.

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Broadcasting of Material

2.13 Material may only be broadcast in the classification zone corresponding to its classification, except in the following circumstances:

2.13.1 ***News, current affairs and broadcast of sporting events***: While not required to be classified, may be broadcast in the G classification zone, provided that care is exercised in the selection and broadcast of all material.

ACCM COMMENT: We recommend that “current affairs” programs be defined as programs which deal in a serious manner with current events of the day, if these are to be exempt from classification requirements.

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Display of Classification Symbols

2.18 For any program required to be classified (whether under the [National Classification Board](#) Guidelines or the Television Classification Guidelines), an appropriate classification symbol of at least 32 television lines in height, in a readily legible typeface, must be displayed for at least 3 seconds at the following times:

ACCM COMMENT: 3 seconds is not long enough, particularly at the beginning of a film or program. ACCM sees no reason why the symbol should not be inserted as a watermark for the duration of the programme, much as the broadcaster’s logo usually is now.

2.18.1 as close as practicable to the program’s start;

2.18.2 as soon as practicable after each break;

2.18.3 subject to Clause 3.15, in any promotion for the program.

2.19 Clearly visible classification symbols must accompany all press advertising of programs on behalf of a licensee, and all program listings in program guides produced by a licensee.

2.19.1 Program classification advice is not required in radio or outdoor advertising by a licensee.

Consumer Advice for Certain Programs

2.20 Consumer advice provides viewers with information about the principal elements that contribute to a program’s classification, and indicates their intensity and/or frequency. It is intended to help people to make informed choices about the programs they choose.

2.20.1 Consumer advice is mandatory for all MA and AV programs and for one-off programs classified M and very short series classified M – that is, feature films, telemovies, mini-series, series episodes presented in a feature film format, documentaries and specials.

2.20.2 Consumer advice is mandatory for all PG films (as the term film is defined in clause 2.3.3).

ACCM COMMENT: Consumer advice should be mandatory for those G films that carry consumer advice (for eg “some scenes may scare young children”)

2.20.3 A licensee must supply consumer advice with any PG classified program broadcast between 7.00pm and 8.30pm on weekdays or between 10.00am and .30pm on weekends that contains material of a strength or intensity which the licensee reasonably believes parents or guardians of young children may not expect.

2.20.4 A licensee must also supply consumer advice with any other program which contains material of a strength or intensity which the licensee reasonably believes viewers may not expect.

2.21 Consumer advice must be broadcast at the start of programs covered by Clause 2.20. It must be both spoken and written. The consumer advice must be in a readily legible typeface, and must remain visible for at least five seconds. It must take the following form:

ACCM COMMENT: If consumer advice has to be displayed for 5 seconds, then so also should the classification symbol.

2.21.1 **Classification text:** For required programs the PG symbol must be accompanied by the text: “parental guidance is recommended for young viewers”. For required programs, the M symbol must be accompanied by the text: “Recommended for mature audiences”. The MA and AV symbol must be accompanied by the text: “[Suitable only for persons aged 15 years and over \[prev. Not suitable for persons under the age of 15 \]](#)” or such other text as agreed between the [National Classification Board](#) and Free TV Australia.

ACCM COMMENT: The old wording is better, viz NOT suitable This is clearer and gets the message across to parents who may be under pressure to allow their children to view unsuitable material.

2.21.2 **Consumer advice text:** The advice must specify one or more of the classification elements set out below. Where the frequency of classification elements is not indicated in the listed terms, the adjective “some” or “frequent” should be used (e.g. “some nudity”).

2.21.2.1 **Language**

- mild coarse language
- some coarse language
- frequent coarse language
- very coarse language
- frequent very coarse language

2.21.2.2 **Violence**

- stylised violence
- mild violence
- some violence

frequent violence
realistic violence
strong violence

2.21.2.3 **Sex**

sexual references
a sex scene
sex scenes
strong sex scenes

2.21.2.4 **Drugs**

drug references
drug use

2.21.2.5 **Other**

adult themes
strong adult themes
medical procedures
supernatural themes
horror
nudity

ACCM COMMENT: Are these phrases the only ones to be used?- the list should also include others such as “some scenes may scare young children”.

2.21.3 *Classification and consumer advice voice-over:*

2.21.3.1 for required PG programs, the voice over must say: “The following program [or film or movie] is classified PG. It contains [consumer advice corresponding to the graphic]. [This channel] recommends parental guidance for young viewers”.

2.21.3.2 for required M programs, the voice-over must say: “The following program [or film or movie] is classified M. It contains [consumer advice corresponding to the graphic]. [This channel] recommends viewing by mature audiences”.

ACCM COMMENT: See above re use of old wording “not recommended for ...”.

2.21.3.3 for all MA and AV programs, the voice-over must say: “The following program [or film or movie] is classified [insert classification]. It contains [consumer advice corresponding to the graphic]. [This channel] advises that it is [not] suitable **only** for persons **[under the aged of 15 years] and over**”

ACCM COMMENT: as above, the phrase “not suitable for those under 15 years” is a clearer message.

agreed between the [National Classification Board](#) and Free TV Australia.

2.21.4 Except for programs which now require an AV classification, programs classified before this revised Code came into effect may use the consumer advice required at the time of the original classification.

2.22 Consumer advice after breaks: Briefer written consumer advice must be broadcast as soon as is practicable after the resumption of the program at each break. A lower frame graphic or graphics must show (in addition to any station/network logo) the title plus the classification symbol and the consumer advice, abbreviated in letter form, beside the symbol. The letters to be used are one or more of:

A = adult themes or medical procedures

D = drug use/references

H = horror or supernatural themes

L = coarse language

N = nudity

S = sexual references/sex scenes

V = violence

ACCM COMMENT: This use of symbols instead of full consumer advice is not helpful.

2.23 Press advertising: Clearly visible consumer advice must accompany:

2.23.1 all press advertisements placed by the licensee of one quarter page by four columns or larger. This must be spelt out (eg 'some coarse language').

2.23.2 relevant program listings in any program guides produced by a licensee, unless it is not practical to do so.

2.24 Radio advertising: Consumer advice is not required in radio advertising by a licensee.

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APPENDIX 4: TELEVISION CLASSIFICATION GUIDELINES

ACCM COMMENT: this appendix should be placed at the end of Code.

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The General (G) Classification

2. Material classified G is not necessarily intended for children but it must be very mild in impact and must not contain any matter likely to be unsuitable for children to watch without supervision.

2.1 **Violence:** Visual depiction of physical and psychological violence must be very restrained. The use of weapons, threatening language, sounds or special effects must have a very low sense of threat or menace, must be strictly limited to the story line or program context, must be infrequent and must not show violent behaviour to be acceptable or desirable.

2.2 **Sex and nudity:** Visual depiction of, and verbal references to, sexual behaviour must be brief, infrequent, contain little or no detail and be strictly limited to the story line or program context. Restrained, brief and infrequent visual depiction of nudity only when absolutely necessary to the story line or program context.

ACCM COMMENT: The criteria used here are not adequate to cover “sexualized” depictions. Such depictions, particularly in music videos are of growing concern to the community, and further are harmful to children (Ref:Brown 2006, 2007; Chandra 2008; Peterson et al 2007)

ACCM recommends amendment of this clause to exclude “sexualised depictions” and “sexually suggestive behaviour”. A definition of “sexualized” should be added viz “depicting or including the trappings of adult sexuality”.

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The Parental Guidance Recommended (PG) Classification

ACCM COMMENT: We have long taken the view that the PG classification is poorly constructed for getting the message out that parents need to supervise young children when watching PG material. Certainly the PG classification has a high degree of recognition in the community, but this does not translate into usefulness or usability. Many parents simply assume that PG material is suitable for all children, without appreciating the crucial developmental difference between children of different ages in terms of their ability to cope with the elements that counsel classification as PG rather than G. This is particularly so considering the paucity of consumer advice which accompanies PG material. Parents need much more detail about which classifiable elements are present in order to make effective choices and effectively monitor their children’s viewing.

3. Material classified PG may contain careful presentations of adult themes or concepts but must be mild in impact and remain suitable for children to watch with supervision.

3.1 **Violence:** Visual depiction of violence must be inexplicit, restrained and justified by the story line or program context. More leeway is permitted when the depiction is stylised rather than realistic, but all violence shown must be mild in impact, taking into account also the language, sounds and special effects used.

ACCM COMMENT: There is no justification for greater leeway for stylised violence, viz "More leeway may be permitted when the depiction is stylised rather than realistic." There is no evidence that stylised violence per se is any less likely to disturb children than realistic violence, especially when animation techniques can create really scary images, well beyond reality. Further, there is good evidence that glamorised stylised violence by heroes raises the risks that children will choose to use violence themselves, ie is a harm to children. (See for eg [National Television Violence Study)

3.2 **Sex and nudity:** Visual depiction of and verbal reference to sexual behaviour must be restrained, mild in impact and justified by the story line or program context. Restrained visual depiction of nudity is permitted, but only where justified by the story line or program context.

ACCM COMMENT: The criteria used here are not adequate to cover “sexualized” depictions. Recent examples of sexualized music clips screened in PG programs include

Florence and the machine "Kiss with a fist"; Madonna "Material Girl"; Katy Perry "Waking up in Vegas"; Pitbull "I know you want me" ; Beyonce "Sweet dreams" . See above for further information.

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The Mature (M) Classification

4. Material classified M is recommended for viewing only by persons aged 15 years or over because of the matter it contains, or of the way this matter is treated.

ACCM COMMENT: It is clearer to viewers if the wording "Not recommended for those under 15 years is used".

4.1 **Violence:** May be realistically shown only if it is not frequent or of high impact, and is justified by the story line or program context. Violence should not be presented as desirable in its own right. Any visual depiction of or verbal reference to violence occurring in a sexual context must be infrequent and restrained, and strictly justified by the story line or program context.

ACCM COMMENT:

DRAFT ACCM COMMENT: The now reliable body of research on the impact of media violence on the young is compelling [Ref: Anderson et al., 2003; Bushman & Huesmann, 2006; Gentile, 2003)

The criteria for violence here are not adequate to exclude the most harmful elements, viz depictions of violence by heroes, in a good cause, that is rewarded and applauded, and often in a comic context.

Apart from the problem that any depiction of realistic violence for this age group is likely to have deleterious effects, including greater fear and hostility, desensitisation to further depictions of violence, beliefs normalising aggression and scripts for aggressive behaviour, the wording here also implies that violence which is "not realistically shown" can be frequent or high impact. This is clearly problematic, because unrealistic depictions of violence and aggressive behaviour can have a similar effect to realistic depictions. For this reason, any depictions of violence, to minimise harm, should be very infrequent, fully justified within the plot, and should preferably be carried out by non-admired characters or characters the viewer will not identify with (e.g., see Huesmann & Kirwil, 2007).

ACCM's earlier comments, regarding the use of the words "strictly justified by the storyline", apply here also. This allows the use of high levels of violence if the storyline calls for it. A better test is whether the story cannot be told without the use of violence at that level.

ACCM urges Free TV to consider the findings of the US National Television Violence Survey Vol 3 Executive Summary pages 7-10. 1998, which identifies the types of contexts most likely to increase the risk of young people using aggression to solve conflict. This study, and many others, clearly identify "glamorised violence" as the most problematic context. "Glamorised violence" is violence done by a hero, who is justified, rewarded and applauded or being best at the violence, and has few real life

consequences, and often in a comic context. This type of violence abounds in many M films, but it is not reflected in present classification criteria. ACCM submits that Free TV should consider its obligations to consider this evidence given the requirements of Objective(j) in Section 3 of the Broadcasting Services Act 1992.

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The Mature Audience (MA) Classification

5. Material classified MA is suitable for viewing only by persons aged 15 years or over because of the intensity and/or frequency of sexual depictions, or coarse language, adult themes or drug use.

ACCM COMMENT: the wording here should read 'NOT SUITABLE FOR THOSE UNDER 15 YRS'

ACCM urges Free TV to change the proposed description given to these classifications, viz, "suitable for viewing *only* by persons aged 15 years and over". This is not sufficiently different from the meaning given to the M classification, viz "M is recommended for viewing by persons aged 15 years and over".

The intent of the M, MA and AV classifications would be much clearer if the Classification Board descriptions were adopted, viz "M is not recommended for those under 15 years of age", and for MA, and AV, "Material classified MA is considered unsuitable for persons under 15 years of age."

5.1 **Violence:** The requirements are those set out in Paragraph 4.1 of this Appendix for the M classification.

5.2 **Sex and nudity:** Visual depiction of intimate sexual behaviour (which may only be implied *may contain detail but the impact shall not be high and only where relevant to the story line or program context. Visual depiction [or] of nudity only where relevant to the story line or program context.. Verbal references to sexual activity may be detailed but the impact may not be high.*

ACCM COMMENT: It is impossible to imagine a verbal reference that is detailed but not of high impact.

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The Adult Violence (AV) Classification

6. Material classified AV is suitable for viewing only by persons aged 15 years or over.

ACCM COMMENT: This should be changed to "NOT SUITABLE FOR THOSE UNDER 15 YEARS".

is unsuitable for MA classification because of the intensity and/or frequency of violence, or because violence is central to the theme. In other respects, the classification's requirements are identical to the MA classification.

6.1 **Violence:** Realistic depictions may contain some detail, but should not be prolonged and should not be unduly bloody or horrific. Such depictions must be justified by the story. Violence occurring in a sexual context must not be detailed, and must be brief and infrequent, justified by the story line and not exploitative.

ACCM COMMENT: It is difficult to imagine a meaningful definition of “unduly bloody or horrific”. “Justified by the story” has no real meaning because a storyline that includes horrific violence justifies itself.

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APPENDIX 5: GUIDELINES FOR THE CLASSIFICATION OF FILMS AND COMPUTER GAMES 2008

ACCM COMMENT: this appendix should be at the end.

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SECTION 3: PROGRAM PROMOTIONS

ACCM COMMENT: The placement of program promotions is an area of great concern to parents. Parents believe that if they have chosen programs classified P,C, G, or PG, they should not be ambushed by promotions of programs, or films, that are of a higher classification, regardless of the actual content of the promotion.

If a parent chooses to take a child to the cinema, or hire a video, they can have reasonable confidence that the laws which prohibit the screening of promotions for films of a higher classification, with films of a lower classification, will ensure that they are not ambushed in the way that presently happens on TV. The requirements of the Objective 3(j) of the *Broadcasting Services Act 1992* (which places a high priority on the protection of children) surely place a similar restraint on telecasters.

ACCM recommends that this section of the Code be revised in its entirety to require that no promotions for M, MA, or AV programs occur in, or adjacent to, any P, C, G or PG program which is screened before 8.30pm, including in programs excused from the classification requirements, such as news.

Further, there should be no promotions of news and current affairs programs or sporting programs within C programs, in the breaks adjacent to C and P programs, nor in G programs such as cartoon programs, or in G programs promoted to, or which are likely to attract substantial numbers of children.

Further, ACCM is opposed to the concessions (content, advertising, and promos) presently allowed to news and current affairs programs and live sporting programs, being extended to all sporting programs. There is no justification for excluding from classification requirements programs such as wrestling, for example.

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Scope

3.2 This Section applies to all material transmitted in breaks within or between programs, or by superimposition on a program, which promotes a program or programs to be broadcast on the station. The only material not subject to these requirements is a program listing (line-up) and voice over announcements during the end credits of a program, provided that:

3.2.1 at times when a promotion for an AV program would not be permitted by this Section such programs may be included in a program listing, provided that no footage from the program or other material unsuitable for the relevant timeslot is shown;

3.2.2 where this material refers to an M or, MA program at a time when a promotion for an M or, MA program would not be permitted by this Section no material unsuitable for the relevant timeslot is shown; and

3.2.3 the listing shows the classification of each program it contains.

For the purposes of clause 3.2.2, a listing which contains the title of an M or, MA program, or headshots of the stars of the program, will not be considered material unsuitable for the relevant time slot.

ACCM COMMENT: We find this provision puzzling. On the face of it, it says that provided the 'listing' contains the title of the program, or headshots of the stars, it will not be considered unsuitable irrespective of what else is shown. At the very least the provision should add the word 'only' so that it would read 'a list which contains only the title ... or headshots... will not be considered material unsuitable ...'. However even this would not fully address our concerns because it is possible to imagine, for example, a blood-spattered Dexter being used in such a listing, or some other potentially harmful image. The code should stick to the same basic tests of suitability of material, for all material, and not carve out exceptions like this. It needs to be borne in mind that the restriction of program promotions fulfills two functions: first, to avoid the exposure of children to unsuitable material, but second to avoid creating child interest in unsuitable programs. It is easy to imagine a listing with headshots and/or the title of the program creating such an interest.

3.3 In this Section, the following definitions apply:

3.3.1 **"cartoon program"** means an animated program aimed predominantly at a children's audience;

3.3.2 **"children"** means children of or below primary school age;

ACCM COMMENT: The code should use a consistent definition of "child".

3.3.3 **"substantial numbers of children"** means that children comprise 30% or more of the program's total audience or that 20% or more of all children in television homes in the licence area are viewing the program;

ACCM COMMENT: ACCM submits that this definition of what constitutes a substantial number of children should be reassessed. .

ACMA 2007 shows that the 0-14yr audience in 2006 reaches a morning peak of 134,000 during the 8-9am slot and is 30% of audience at that time. Substantially more children

(480,000) aged 0-14 years watch in 7 to 8pm slot where they are, however, only 14.6% of audience. (ACMA 2007 p18, p47, 49)

If children are to be protected as required by BSS Act, then the % required above should be lowered to around 10%. This percentage might provide a level of protection for the many children who might watch one of the top rating programs for this age group.

3.3.4 “**material**” means visual or aural material.

...

Promotions in G Programs

See ACCM Comment above

3.6 Only a promotion which complies with Clause 3.8 and is for a P, C, G or PG program, or for an unclassified news, current affairs or sporting event, may be broadcast during the following programs:

3.6.1 cartoon programs in G viewing periods on any day;

3.6.2 G programs in weekend G viewing periods that are promoted for viewing by children, or are likely to attract substantial numbers of children (as defined in Clause 3.3.3);

3.6.3 programs between 4.00pm and 6.00pm on any weekday.

3.6.3.1 The exceptions during this period are news, current affairs, sporting events and other programs that are neither promoted to children nor likely to attract substantial numbers of children. In those programs a promotion for an M program may be broadcast, provided that the content of the promotion complies with Clause 3.8.

3.7 In G viewing periods other than those referred to in Clause 3.6, a promotion for a P, C, G, PG or M program may be broadcast, provided that the content of the promotion complies with Clause 3.8.

ACCM COMMENT: The provisions of 3.6 and 3.7 are unnecessarily complex and make it very difficult for parents to understand when and when not they have to be alert for promotions of higher classified programs.

In the view of ACCM, G PROGRAMS BEFORE 8.30PM (or at least to 7pm) SHOULD NOT CONTAIN PROMOS FOR HIGHER CLASSIFIED PROGRAMS.

Restrictions in G Viewing Periods and in Certain Other G Programs

ACCM COMMENT: Promotions which are for higher classified programs, but have content toned down to meet the requirements of 3.8 and following, are deceptive. This is compounded if the classification symbol is only shown for 3 secs or less.

3.8 Special restrictions apply to the content of program promotions in G viewing periods, or in G programs which start at 3.30pm on a weekday, or which are broadcast between 7.00pm and 8.30pm on any day. All such program promotions must comply with the G classification requirements set out in paragraph 2 of Appendix 4, and in addition must include no material which involves any of the following:

- 3.8.1 the use of guns, other weapons or dangerous objects in a manner clearly intended to inflict harm on, or to seriously menace, people or animals;
- 3.8.2 punches, blows or other physical or psychological violence against people or animals (other than in sequences that clearly depict comedy or slapstick behaviour);
- 3.8.3 any form of violence or cruelty to children;
- 3.8.4 sequences that involve loss of life;
- 3.8.5 close-up vision of dead or wounded bodies;
- 3.8.6 any visual depiction of suicide or intended means of suicide;
- 3.8.7 anything which has more than a very low sense of threat or menace;
- 3.8.8 visual depiction of nudity or partial nudity;
- 3.8.9 visual depiction of, or verbal reference to, sexual behaviour, except of the most innocuous kind;
- 3.8.10 socially offensive or discriminatory language.

....

Promotions for Programs Classified MA or AV

3.14 A promotion for an MA program may be broadcast at any time except during C and P programs, provided the promotion is suitable for the classification zone in which it is broadcast

ACCM COMMENT: THIS CONTRADICTS THE REQUIREMENTS OF 3.6. MA promos should not be broadcast before 8.30pm.

3.15 A promotion for an AV program may not be broadcast between 5.00am and 7.30pm on any day or in G programs between 7.30pm and 8.30pm on any day.

ACCM COMMENT: AV promos should not be broadcast before 8.30pm on any day.

Display of Classification Symbols

3.16 A promotion for a program other than a news, current affairs or sporting event must display the classification of the program promoted, as required by Clause 2.18.

3.16.1 A voice-over program promotion transmitted during the closing credits of a program is not required to comply with this clause.

3.16.2 A program promotion need not include consumer advice.

ACCM COMMENT: Program promotions should carry consumer advice, and throughout, especially if they are “sanitized”.

Excerpts from Films Not Yet Classified for Television Included in Composite Station Promotions

3.17 Restrained and very brief excerpts from films that have been classified M or higher for cinema or video or DVD, but have not yet been classified for television, may be included in station promotions featuring a number of films to be broadcast. The content of these promotions must comply with the requirements of the classification zone in which they appear and, where relevant to their placement, with Clauses 3.8, 3.9 and 3.11.

ACCM COMMENT: Same comments apply here re sanitised promos.

SECTION 4: NEWS AND CURRENT AFFAIRS PROGRAMS

Objectives

4.1 This Section is intended to ensure that:

4.1.1 news and current affairs programs are presented accurately and fairly;

4.1.2 news and current affairs programs are presented with care, having regard to the likely composition of the viewing audience and, in particular, the presence of children;

4.1.3 news and current affairs take account of personal privacy and of cultural differences in the community;

4.1.4 news is presented impartially.

ACCM COMMENT: Again, ACCM believes that there is no justification for special treatment for many present “current affairs” programs. A definition is needed that provides that “current affairs” programs are those that deal in a serious way with matters of current news or current significance’.

...

ACCM COMMENT: It appears from 4.3.5.3 below that this section uses “under 16 years” as the definition of a child. Why not apply this throughout the Code?

4.3.5.2 for the purpose of this Clause 4.3.5, licensees must exercise special care before using material relating to a child’s personal or private affairs in the broadcast of a report of a sensitive matter concerning the child. The consent of a parent or guardian should be obtained before naming or visually identifying a child in a report on a criminal matter involving a child or a member of a child’s immediate family, or a report which discloses sensitive information concerning the health or welfare of a child, unless there are exceptional circumstances or an identifiable public interest reason not to do so;

4.3.5.3 “**child**” means a person under 16 years.

....

SECTION 5: TIME OCCUPIED BY NON-PROGRAM MATTER

ACCM COMMENT: ACCM is opposed to the exemption of prize, competition or information segments which refer to commercial products or services, in programs directed to children, or which can be expected to attract significant numbers of children. These segments are promoting products, and often in ways which make the task of children in distinguishing between ads and programs much more difficult. They should be counted as advertising.

For the same reasons, ACCM is opposed to the inclusion of references to companies or commercial brands in community service announcements shown in programs directed to children, (or which will attract substantial numbers of children).

ACCM can see no justification for the exemption of promotions etc for digital television. This is a commercial product being sold for profit as much as any other.

...

Definitions

5.4 ***Non-program matter***: For the purposes of this Section, any of the following material will be counted as non-program matter:

5.4.1 a spot commercial, namely any advertising for a product, service, belief or course of action which is scheduled within a program break or between programs, and for which a licensee receives payment or other valuable consideration;

5.4.1.1 this includes bonus and make-good advertisements;

5.4.2 advertising of the kind specified in Clause 5.4.1 but which takes the form of superimposed text or visual matter occupying all of the screen during a program;

5.4.2.1 this does not include matter which relates to a prize or competition, or which refers to a commercial product or service in an information segment.

5.4.3 a program promotion that is scheduled within a program break or between programs, or in the form of superimposed text or visual matter that occupies all of the screen during a program, **except that**;

5.4.3.1 this **applies only to material of greater than 10 seconds in length which promotes a program or programs broadcast by the station, or which promotes the station or its activities; and**

ACCM COMMENT: The previous wording of “material of any length” is preferable. The proposed wording increases the time allowed as exempt non-program material

5.4.3.2 this does not include any of the matter defined in Clause 5.5.8, or a community service announcement, as defined in Clause 5.5.2;

5.4.4 any matter of the kind set out in Clause 5.5.8 but which contains more than **30** seconds of visual material from any program or programs broadcast by the station.

ACCM COMMENT: No justification has been offered for increasing the amount of exempt non- program material from 10 seconds to 30 seconds.

5.5 ***Exempt non-program matter***: For the purposes of this Section, none of the following will be counted as non-program matter:

5.5.1 a prize, competition or information segment which refers to commercial products or services;

5.5.2 a community service announcement, namely an announcement which promotes a charitable cause or activity or which constitutes a service to the community, and which is broadcast free of charge by a licensee;

5.5.2.1 **“free of charge”** means without the station’s receiving payment or other valuable consideration;

5.5.3 an announcement on behalf of an election authority;

5.5.4 a sponsorship announcement, before or after a program or segment, provided that:

- 5.5.4.1 it is made clear to the viewer that there is a sponsorship relationship between the sponsor and the program;
- 5.5.4.2 it makes no reference to the price of goods or services;
- 5.5.4.3 it consists of no more than 10 seconds, in the case of a single sponsor, or 10 seconds per sponsor in the case of multiple sponsors, to a maximum of 30 seconds in any instance;
- 5.5.5 a shopping guide, infomercial or similar material, in which the presentation of advertising and information of general interest is an integral part of the program or segment;
- 5.5.5.1 this includes a shopping guide within a program break that is clearly distinguishable from other advertising e.g. as a community billboard;
- 5.5.5.2 such material is subject to the requirements of Clauses 1.17 18 and 6.2.1;
- 5.5.6 a voice-over program promotion transmitted during the closing credits of a program;
- 5.5.7 superimposed text or visual matter occupying only part of the screen during a program;
- 5.5.8 any matter of the kind set out below, providing that it contains no more than 30 seconds of visual material from any program or programs broadcast by the station:

ACCM COMMENT: Again, no justification has been offered for increasing the amount of exempt no program matter.

- 5.5.8.1 a spoken or visual announcement that a program will not be shown at the advertised time;
- 5.5.8.2 a spoken or visual listing of programs to be broadcast [that day/evening](#);
- 5.5.8.3 a brief announcement of the next program (“next-on”);
- 5.5.8.4 a movie opener, namely a brief introductory sequence to a feature film which typically identifies the station and the film to be presented;
- 5.5.8.5 a station identification, provided that there is no reference to the day and/or time of broadcast of any program or programs;
- 5.5.9 a plot summary at the start of an episode of a program series or serial;
- 5.5.10 a program trailer at the end of the first or subsequent episode of a program series or serial, provided that it is broadcast before the closing credits;
- 5.5.11 a promotion, announcement, or information segment which is broadcast without charge or consideration by the licensee and which promotes digital television services, provided that no specific product or brand is promoted or endorsed (unless that product or brand is Freeview). Such a digital promotion, announcement or information segment may include reference to or depictions of a specific program, programs or channel broadcast by the licensee, provided that the primary focus of the spot is the promotion of digital television
- 5.5.11.1 for the purposes of clause 5.5.11 **“Freeview”** means Freeview Australia Pty Limited, the company formed by the Australian free to air television broadcasters to promote the digital free to view platform.

....

Non-Program Matter on Licensees' Multi-Channels

5.10 For the avoidance of doubt, clauses 5.6 – 5.9 inclusive do not apply to non program matter on licensees' multi-channels.

ACCM COMMENT: There is no clear justification for excluding digital channels from the above requirements.

....

SECTION 6: CLASSIFICATION AND PLACEMENT OF COMMERCIALS AND COMMUNITY SERVICE ANNOUNCEMENTS

Scope

6.2 The requirements of this Section apply to commercials and to community service announcements (as defined in Clause 5.5.2) that are broadcast in breaks within or between programs or by visual and/or oral superimposition on a program:

6.2.1 information within programs or segments of programs for which licensees are paid must comply with Clauses 6.5, 6.7, 6.14, 6.15 to 6.19 and 6.22.

6.3 In this Section, the following definitions apply (unless otherwise stated):

6.3.1 “**children**” means children of or below primary school age;

ACCM COMMENT: Why is this definition of children different from other definitions within the Code.?

6.3.2 “**substantial numbers of children**” means that children comprise 30% or more of the program’s total audience or that 20% or more of all children in television homes in the licence area are viewing the program.

ACCM COMMENT: See argument at 3.3.3 above

....

Commercials which Advertise Alcoholic Drinks

6.7 A commercial which is a “direct advertisement for alcoholic drinks” (as defined in Clause 6.11) may be broadcast:

6.7.1 only in M, MA or AV classification periods; or

6.7.2 as an accompaniment to the live broadcast of a sporting event on weekends and public holidays.

ACCM COMMENT: We recommend that “a direct advertisement for alcoholic drinks” should not be permitted in live sporting events on weekends and public holidays. ACCM is opposed to the advertising of alcohol in live sporting events, as the association of the drinking of alcohol with being a sporting success is not a healthy message for the young. ACCM is particularly opposed to the expansion of this concession, to be able to advertise alcohol during *any* sporting event. ACCM’s

recommendation is in line with the recommendation of the National Preventative Health Task Force report 2009.

6.8 Notwithstanding Clause 6.7, a commercial which is a “direct advertisement for alcoholic drinks” may be broadcast as an accompaniment to the live broadcast of a sporting event if:

6.8.1 the sporting event is broadcast simultaneously across a number of licence areas; and

6.8.2 Clause 6.7 permits direct advertisements for alcoholic drinks in the licence area in which the event is held or, if the event is held outside Australia, direct advertisements for alcoholic drinks are permitted in a majority of the metropolitan licence areas in which the event is simulcast.

6.9 A commercial which is a direct advertisement for an “alcoholic drink” or a “very low alcohol drink” (as both are defined in Clause 6.10) may not be broadcast during a C classification period, as defined in the Children’s Television Standards.

ACCM RECOMMENDS: that the provision of 6.9 should extend to G programs before 8.30pm as well.

....

Commercials for Cinema, Video, Videodisc or Interactive Films and Video, Computer or CD Games

6.17 Subject to Clause 6.19, a commercial for a cinema film, video film, videodisc film or interactive film, or for a video game, computer game or CD game must be scheduled in accordance with Section 3: Program Promotions.

ACCM COMMENT: ACCM recommends that commercials for these items be scheduled only in programs of a similar classification.

6.18 All such commercials must display the [National Classification Board’s](#) cinema classification for the cinema film, video film, videodisc film, interactive film, video game, computer game or CD game advertised.

ACCM COMMENT: ACCM recommends that the classification symbol for such items be displayed throughout the commercial.

6.19 A commercial for an R film may only be broadcast after 8.30pm, and a commercial for an X film may not be broadcast.

Commercials or Community Service Announcements Directed to Children

1 Children’s Television Standards 10, 17–21 and 22–23 are [set out in the Appendix to this Section incorporated into this Code by reference.](#)

2 Children’s Television Standards 1, definition of “children”

ACCM COMMENT: Definition of “advertisement directed to children”

ACCM notes with interest the use of the term ‘other valuable consideration’ in AANA Code Appendix 2 Clause 1. In our view this has been interpreted too restrictively in the past, as it has been held not to extend to ‘toy tie-ins’. This expression refers to an arrangement whereby a broadcaster gains access to a program at a reduced rate because of merchandising opportunities associated with it. We believe that this reduced rate should be considered sufficiently valuable consideration to qualify those programs for description as advertisements.

However, as this interpretation of ‘advertisement’ has been rejected in the past, we submit that the definition should be amended to expressly include the kind of arrangement just described.

ACCM submits that because of the importance of the phrase “directed to children” to this part of the code, it is imperative that a clear and unambiguous definition of it be provided, that is not just an advisory note and not limited to 6.23. Such a definition should cover those advertisements that are likely to attract the attention of children, so any one of the elements currently listed in the practice note should be sufficient to conclude that the advertisement is covered by these restrictions. At least one element should be added, namely that of the use of any performer, personality or character who is associated with children’s entertainment or products.

Better still, protections for children against advertising should be applied to all ads shown at times when large numbers of children watch television. There is no evidence that children are unduly influenced only by advertising ‘directed to’ them, whatever that might mean.

6.20 Commercials or community service announcements directed to children must exercise special care and judgement, and comply with Children’s Television Standards 17–21.¹

6.20.1 For the purposes of this Clause, “**children**” means people younger than 14 years of **age**.

ACCM COMMENT: again there are inconsistencies in the definition of a child.

6.21 Only commercials and community service announcements which satisfy G classification requirements and which comply with Children’s Television Standards 10, 17–21 and 22– 23 may be broadcast during a C period or in breaks immediately before or after a C or P period.

ACCM COMMENT: This should apply to C bands , not just C periods. C timebands are when children are watching in largest numbers and it is not always easy to tell when a C period falls.

6.21.1 C and P periods are as defined in the Children’s Television Standards.

6.22 A commercial or community service announcement which is classified at a lower level than its content would normally require, in accordance with Clause 2.5, may be

scheduled in programs where children are likely to form a substantial part of the audience only where children are appropriately a target audience.

ACCM COMMENT: This clause provides an example of the kind of cross referencing that makes this code difficult to follow.

Further, it seems to imply that if a commercial or CSA is targetted to children, but its content would otherwise be, say M, it could be shown in a PG or G program with a large child audience? This seems undesirable.

6.23 Advertisements directed to children for food and/or beverages:

6.23.1 should not encourage or promote an inactive lifestyle;

6.23.2 should not encourage or promote unhealthy eating or drinking habits;

6.23.3 must not contain any misleading or incorrect information about the nutritional value of the product.

ACCM COMMENT: 6.23.1-3 are of little value in the protection of children.

We regard paragraph 6.23.1 as a 'straw person': we are not aware of any suggestions that television advertising has a record of promoting an inactive lifestyle, or unhealthy eating or drinking habits, as defined below. Moreover, this clause is based on a very naïve and simplistic model of how advertising works and how it shapes children's (and adults') preferences, as if it were a linear relationship between people seeing something on television and then imitating it. It is well known that advertising is far more subtle than that, sparking our desires for a product by associating it with other desirable things such as health, fun, social success and so on.

While the presence of this paragraph can be seen as doing no harm, we believe it is counterproductive to purport to address what are in fact non-issues as it gives an impression that the Code is doing something about junk food advertising when it is in fact doing nothing. Rather the Code should limit its attention to practical measures for addressing live issues and genuine community concerns.

Paragraph 6.23.3 is substantially the same as the provision under the existing Code, which has been shown to be inadequate in catering to the special needs of children. Rather than avoiding misleading information, we submit that advertisers should be required to actively provide accurate information about the nutritional value or otherwise of food they are promoting. At the very least, the paragraph should address the overall impression give by the advertisement, and not focus narrowly on the information it contains.

ACCM supports the view of the Coalition on Food Advertising to children that the only effective remedy is the banning of food ads shown during children's viewing hours (as defined above by ACCM).

6.23.4 For the purposes of this Clause 6.23:

“children” means people younger than 14 years of age²;

“inactive lifestyle” means not engaging in any or much physical activity as a way of life;

“**unhealthy eating or drinking habits**” means excessive or compulsive consumption of food and/or beverages;
“**promote**” means expressly endorse.

ACCM COMMENT: If nothing else, this provision should be redrafted to include the definitions in the substantive provision. Having them set out separately like this is confusing for consumers, and only provides further support for the impression that the industry is ‘doing something’. It masks the fact of just how little this provision does.

Promotion of Products or Services in Programs Directed to Children

ACCM COMMENT: We note that in 2003/4 revision, there was an industry proposal to not permit material that would cause alarm or distress to children, but that it is not in the 2004 Code nor this proposed revision. Such a provision would be welcome. There would however, need to be spelt out who would be making these judgments and according to what criteria. There are ages and stages of development at which children are alarmed and distressed by different things, and specialised knowledge of child development is necessary in order to determine whether material breaches this section or not.

6.24 In any program mainly directed to children:

6.24.1 the host or any other regular presenter or character in the program must not sell or promote products or services; and

6.24.2 products that have names or packaging featuring the host or any other regular presenter or character in the program must not be recommended or promoted within the program;

ACCM COMMENT: We assume that the revised Free TV Code will pick up the new CTS prohibitions against use of characters

6.24.3 material in the program which recommends or promotes products or services must be presented as discrete segments, and its sponsorship must be advised to viewers in a way that will be clear to them; and

6.24.4 references to prizes for competitions must be brief.

Premium Charge Telephone Services in Certain Commercials

ACCM COMMENT: we are of the view that the promotion of premium charge telephone services should not be permitted in or adjacent to P, C or G programs directed at children, nor during children's viewing times (as defined above). Free TV should consult with the Aust Communications and Media Authority about these issues, given the ACMA inquiry into 190 services, and the widespread community concern about large and unexpected phone bills incurred by families who cannot afford to pay them.

6.25 In any commercial involving the use of premium charge telephone services (e.g. 0055 and 1900 numbers) which is directed to children, or is placed in a G program that has a substantial child audience and commences before 5.00pm:

- 6.25.1 the basic terms of any competition involved must be presented in a form which children can understand; and
- 6.25.2 the information about the cost of the call should be in a form which children can understand, and must be presented both in a clearly readable form and orally; and
- 6.25.3 children must be invited orally to seek parental permission before calling.

Commercials or Community Service Announcements in G Programs Between 7.00pm and 8.30pm

6.26 In breaks within or between G programs broadcast between 7.00pm and 8.30pm, commercials and community service announcements must comply with the requirements of the PG viewing period and with the additional restrictions in Clause 3.9.

ACCM Comment: All commercials and CSAs in G programs in this time zone should be G.

Commercials or Community Service Announcements in G or PG Programs at 8.30pm

6.27 In breaks within G or PG programs scheduled to start at 8.30pm, or in a station break preceding such programs, commercials and community service announcements must comply with the requirements of the PG viewing period.

6.27.1 This clause also applies to breaks at or after 8.30pm within a G or PG program which starts before 8.30pm.

6.27.2 This clause does not apply to breaks within G or PG programs which follow a program which starts at or continues past 8.30pm (e.g. a PG program starting at 9.00pm).

6.27.3 Where a program of the kind referred to in this clause continues beyond 10.30pm, these restrictions will cease to apply beyond that time.

6.28 For the purposes of Clause 6.27, all sporting coverage between 8.30pm and 10.30pm will be deemed to be PG.

APPENDIX 6: CHILDREN'S TELEVISION STANDARDS RELEVANT TO COMMERCIAL PLACEMENT

ACCM COMMENT: ACCM assumes that the new CTS will replace the content of this Appendix.

....

SECTION 7: HANDLING OF COMPLAINTS TO LICENSEES

....

7.3 The requirements of this Section do not apply to a complaint which:

7.3.1 is received more than 30 days after the relevant broadcast;

7.3.2 does not otherwise satisfy the requirements in Clause 7.2; or

7.3.3 indicates that the viewer has not, or could not, have watched the material complained about.

ACCM COMMENT: 7.3.3 would appear to prohibit an organization such as ACCM lodging a complaint on behalf of a viewer. This requirement should be removed.

7.4 To avoid doubt, a complaint need not refer to this Code, nor specify the Section of the Code to which the complaint relates to satisfy Clause 7.2. The complaint need not refer to this Code, nor specify the Section of the Code to which the complaint relates.

ACCM COMMENT: This provision is welcome, but ACCM would still like to point out that there is a flaw in a process where it falls to the person complained about to identify the clause which might have been breached. At the very least the ACMA should keep a record of any complaints that are resolved in this way, and ideally it would also review all such cases to determine what the licensee might have overlooked.

7.5 In this Section, a Code complaint means:

7.5.1 a written complaint which satisfies Clause 7.2;

7.5.1.1 this includes a complaint sent by facsimile to the licensee's main facsimile number but, unless a licensee specifically agrees, does not include complaints lodged by electronic mail or on computer disk;

ACCM COMMENT: Written complaints should be permitted to be lodged by email either as an attachment or in body of email. Very often these days, the facsimile number of licensees are not accessible.

7.5.2 where, by reason of disability, a complainant cannot lodge a written complaint, a telephoned complaint or a complaint on an audio cassette in a common format, provided in each case that it otherwise satisfies Clause 7.2.

7.5.3 If a written complaint is made to a licensee more than 30 days after the broadcast to which the complaint refers, this Section does not oblige the licensee to comply with the requirements of this Section in responding to the complaint.

....

No Further Response Required

7.15 A licensee is not required to make any further response to a complainant after responding to a complaint in accordance with this Code:

7.15.1 if the complainant makes a further complaint about the response or the same subject matter, unless the complaint raises new and distinct issues and this further complaint otherwise complies with this Code; or

7.15.2 if the complaint advises that s/he will refer or has referred the matter to the Australian Communications and Media Authority.

7.16 A licensee may treat a series of complaints made by a body or group of persons about the same subject matter as a single complaint and provide only one response to that series of complaints.

ACCM COMMENT: ACCM opposes this provision to allow a group of complaints to be treated as one. Further, this appears to allow a licensee to disregard complainants who may have a better grasp of a particular apparent Code breach.

...

MULTI-CHANNEL APPENDIX

1: Introduction

Scope

1.1 This Multi-Channel Appendix applies to the classification zones and time occupied by non-program matter on a licensee's multi-channel. This Multi-Channel Appendix also sets out the process for review and amendment for all or part of this Appendix which may occur separately to the review of the Code to which it is attached.

1.2 The regulation of content on a licensee's multi-channel, other than in relation to classification zones and time occupied by non program matter, is determined by the provisions of the Code.

ACCM COMMENT: ACCM cannot see any justification for separate and different Codes for Multi channel services which are also Free to Air Services. They are equally accessible to children and families as are Free To Air services.

2: Future Review of the Multi-Channel Appendix

2.1 This Multi-Channel Appendix came into effect on registration by ACMA on [insert date].

2.2 This Multi-Channel Appendix, or specific clauses in this Appendix, may be reviewed from time to time as determined by licensees and with agreement of ACMA.

2.3 If any substantive changes to this Multi-Channel Appendix are needed, members of the public will be given an adequate opportunity to comment on those changes. For the avoidance of doubt a 3 week public consultation period will be regarded as an adequate opportunity for the public to comment on those changes.

3: Classification Zones

3.1 The following classification zones apply to all material required to be classified on a licensee's multi-channel (whether under the National Classification Board Guidelines or the Television Classification Guidelines).

Parental guidance recommended (PG) classification zones

3.2 The PG classification zones are:

Weekdays (schooldays) 5am - 12noon

3pm - 8.30pm

Weekdays (school holidays) 5am - 8:30pm

Weekends 5am - 8:30pm

ACCM COMMENT: ACCM strongly opposes this relaxation of timezones to allow PG programs all day, including in school holidays. See argument above at 1.2 . Further .

Such a drastic reduction, in our view, needs clear and compelling support. No such support is offered.

In spite of the introduction of other viewing options, commercial television remains the most pervasive and powerful. Nothing in technological development has in any way challenged this basic assumption of parliament's plan for media regulation set up in the

Broadcasting Services Act 1992. In an important sense it does not matter what happens in other media, there is a strong case for closer regulation of commercial television than of any other medium.

It is often argued that parents should monitor their children's viewing. However, it need scarcely be pointed out that there is a long distance between 'should' and reality. Few parents have the time or the wherewithal to fulfil this function effectively, especially at the end of the day when there are multiple demands including the preparation of the evening meal and helping children with homework. This is another example of family-unfriendliness in the proposed changes

Moreover, few parents have sufficient expertise in child development and related fields to replace the monitoring that comes with effective regulation. The average Australian parent, even if he or she does have time between 5.00 and 7.30 pm to keep a close eye on what small children are watching, cannot gauge or anticipate the impact of particular viewing choices. They often find out only when it is too late, for example when they have to get up in the middle of the night to comfort an upset child after a nightmare. Any change which places greater responsibility on parents, and less on institutions which have vastly greater access to the necessary information and expertise, will have the effect only of watering down the protection children receive.

ACCM has long taken the view that the PG classification is poorly constructed for getting the message out that parents need to supervise young children *while* watching PG material. Certainly the PG classification has a high degree of recognition in the community, but this does not translate into usefulness or usability. Many parents simply assume that PG material is suitable for all children, without appreciating the crucial developmental difference between children of different ages in terms of their ability to cope with the elements that counsel classification as PG rather than G. This is particularly so considering the paucity of consumer advice which accompanies PG material. Parents need much more detail about which classifiable elements are present in order to make effective choices and effectively monitor their children's viewing.

ACCM reminds Free TV that its members are in a privileged and powerful position, with their industry oligopoly being protected by government legislation. Commercial television remains a highly lucrative industry for this reason. Therefore it is not unreasonable to expect broadcasters to devote resources and expertise to the task of developing quality and diversity in ways that do not create risks to children.

ACCM again draws attention to the objects of the *Broadcasting Services Act*: while it is true that they include the promotion of high quality and innovative program material (s 3(1)(f)), they also include the protection of children from exposure to program material which may be harmful to them' (s 3(1)(j)). Moreover, this latter objective is stated to be a high priority, whereas the former is not. We therefore conclude that in any area where 'quality' and the protection of children come into tension, the tension must be resolved in favour of the protection of children.

3.3 In PG zones, any material which qualifies for a television classification may be broadcast, except that material classified M, MA and AV is restricted to the times set out in Clauses 2.10 - 2.12 of the Code respectively.

3.4 School holidays mean Government primary school holidays in the State or Territory in which the service originates.

Mature (M), Mature audience (MA) and Adult violence (AV) classification zones

3.5 The M, MA and AV classification zones are as set out in clauses 2.10-2.12 respectively of the Code.

...

ADVISORY NOTE

COMMERCIALS OR COMMUNITY SERVICE

ANNOUNCEMENTS DIRECTED TO CHILDREN

ACCM COMMENT: this advisory note should be part of the Code. Further these provisions should be revised in the light of ACCM comment above (See section 6.20)

This Advisory Note is intended to provide guidance on the factors licensees will consider in assessing *who a commercial is directed to* for the purpose of applying Clause 6.23 of the Code “*Commercials or Community Service Announcements Directed to Children*”. Licensees will consider the following factors:

- the nature of the product or service, and the persons most likely to be interested in that product or service – is the product or service one for which children are the only users or form a substantial part of the market?;

- the theme of the commercial – are adult or children’s themes used? For example, characters such as monsters, animals and the like;

- the ‘story line’ and the approach taken in selling the product or service – is the story line aimed at children? For example, does the commercial have a simple uncomplicated plot structure such as ‘good’ against ‘evil’?;

- the visuals used in the commercial – are the visuals aimed at children? For example, the commercial uses animation or imaginative visuals which appeal to children;

- the language of the commercial – does the commercial use children’s language?;

- the age of actors appearing in the commercial – are child actors depicted actively using a product or service for which children constitute the market?; and

- the target audience for the commercial – is the target audience children? This is relevant where the other factors set out above indicate that a commercial is intended to appeal to children.

ACCM COMMENT: a further element which should be specified is the use of a children’s entertainer or licensed character from a children’s entertainment vehicle in the advertisement.

References:

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Attachment 1: About the Australian Council on Children and the Media (incorporating Young Media Australia)

The ACCM is a not-for-profit national community organisation structured as a company limited by guarantee. The ACCM has a national Board of Directors representing the states and territories of Australia, and has a national membership of organisations and individuals who support the aims of the organisation, viz to stimulate and maintain public interest in the provision of suitable films and television programs for children.

The ACCM has a comprehensive organisational membership which includes ECA (Early Childhood Australia (formerly AECA Australian Early Childhood Association)), ACSSO (Australian Council of State Schools Organisations), AHISA (Association of Heads of Independent Schools of Australia), AEU (Australian Education Union), the Australian Association for Infant Mental Health, Enough is Enough, SAPPA (South Australian Primary Principals Association), Federation of NSW P&C (Parents & Citizens), and the Mothers' Union in Australia. Our members have a special interest and/ or expertise in media issues and children.

The ACCM supports families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children.

ACCM's core activities include the collection of research and information about the impact of media on children's development, and advocacy for the needs and interests of children in relation to the media.

ACCM's core services include:

- the national freecall 24/7 Children and Media Helpline (1800 700 357)
- the ACCM website www.youngmedia.org.au containing media-related information (attracting over 1000 visits per day)
- the popular child-friendly *Know before you go* movie review service (now with more than 420 movie reviews)
- the development of parent media awareness materials, and
- making submissions, and participating in media interviews, related to media regulation.

Parents can access our services via :

- ACCM website www.youngmedia.org.au which contains a wealth of information for parents and carers, and attracts over 900 visits per day.
- Children and Media Helpline, (national, freecall, 24/7) which helps parents deal with issues such as children scared by coverage of disasters on TV, or concerned that their children are spending too much time with videogames, for example.

ACCM also provides an award-winning movie review service *Know before you go* . This gives an assessment of the child-friendliness of all current G, PG and some M cinema releases. These reviews are published on the ACCM website, or can be accessed via the Children and Media Helpline. This service received a National Child Protection Award in November 2005.

ACCM's unique information and research program is conducted by a small team of part-time staff working with professionals who donate their time and expertise.

NOTE: as from April 2009, the Australian Council on Children and the Media has chosen to revert to using its corporate name, rather than its registered business name Young Media Australia.