



**SUBMISSION TO
DIGITAL SWITCHOVER POLICY AND REGULATION,
DEPARTMENT OF BROADBAND, COMMUNICATIONS, AND THE DIGITAL ECONOMY.**

COMMENT ON

**CONTENT AND ACCESS: THE FUTURE OF PROGRAM STANDARDS AND
CAPTIONING REQUIREMENTS ON DIGITAL TELEVISION MULTI-
CHANNELS. DISCUSSION PAPER DECEMBER 2009**

The Australian Council on Children and the Media welcomes the opportunity to comment on these issues, but finds the short time frame available for comment very limiting. We would welcome the opportunity to expand on the issues raised at a later date.

This submission has been prepared for the Australian Council on Children and the Media by Professor Elizabeth Handsley (Vice President) and Barbara Biggins OAM (Hon CEO) For further information, please contact Barbara Biggins at above address.

Prof. Elizabeth Handsley is a specialist in media law as it relates to children, and Barbara Biggins is CEO of YMA, and a former member of the Children's Program Committee of the Australian Broadcasting Tribunal, with 9 years of experience in the application of CTS in the assessment of programs for the C and P quotas.

1. INTRODUCTION

The ACCM is a not-for-profit national community organisation whose mission 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.

Its patrons are Baroness Susan Greenfield and Steve Biddulph.

ACCM has a national Board representing the states and territories of Australia, and a comprehensive membership of organisations and individuals who support its mission. Membership includes ECA (Early Childhood Australia), ACSSO (Australian Council of State Schools Organisations), AHISA (Association of Heads of Independent Schools of Australia), AEU (Australian Education Union), Enough is Enough, Australian Association for Infant Mental Health, Parenting Research Centre, Junior School Heads Association of Australia SAPPA (South Australian Primary Principals Association), Federation of NSW P&C (Parents & Citizens), and the Council of Mothers' Union in Australia.

ACCM's core activities include the collection and review 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.

The ACCM's core services include the national freecall 24/7 Children and Media Helpline (1800 700 357); the ACCM website www.childrenandmedia.org.au containing media-related information (attracting over 1000 visits per day); the award-winning and popular *Know before you go* child-friendly movie review service (now with more than 500 movie reviews); the development of parent media awareness materials, making submissions and participating in media interviews related to media regulation.

2. This submission reflects the following principles

2.1 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."

2.2 The Charter for Childrens' television

This was formulated at the first World Forum on Children and Television held in Melbourne in 1995, and revised during the following years.

1. Children should have programs of high quality which are made specifically for them. These programs, in addition to entertaining, should allow children to develop physically, mentally and socially to their fullest potential.
2. Children should see, hear and express themselves, their culture, their languages and their life experiences, through television programs which affirm their sense of self, community and place.
3. Children's programs should promote an awareness and appreciation of other cultures in parallel with the child's own cultural background.
4. Children's programs should be wide-ranging in genre and content, but should not include gratuitous scenes of violence and sex.
5. Children's programs should be aired in regular slots at times when children are available to view, and/or distributed via other widely accessible media or technologies.
6. Sufficient funds must be made available to make these programs to the highest possible standards.
7. Government, production, distribution and funding organisations should recognise both the importance and vulnerability of indigenous children's television and take steps to support and protect it.

2.3 Objectives b), e), f), h) and j) of the *Broadcasting Services Act* at para 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
- (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;

2.4 The Objective of the Children's Television Standards of the Australian Communications and Media Authority, viz

"Children should have access to a variety of quality television programs made specifically for them, including Australian drama and non-drama programs.

2.5 The Policy Guidelines on Children's Television of the Australian Council on Children and the Media.

3. In the preparation of this submission, ACCM has also:

- relied on its experience and active involvement in the standards and Codes governing commercial TV stations in Australia
- informed itself of the current state of children's programming
- reviewed the research literature as it relates to the impact of media on children. This is an ongoing activity of ACCM.

ACCM SUBMISSION

This submission is divided into 2 parts, viz **A. General Comment** on the issues raised in the Discussion Paper. **B. Detailed comment** on the issues.

A. General comment on the issues

A 1. Positive provision: ACCM has always supported the role of the Children's TV Standards (CTS) in promoting access by Australian children to quality age-specific programs and dramas, and especially in encouraging the production of Australian made TV product for children. ACCM strongly believes that it is important for Australian children to see Australian faces, places and voices on their TV screens. From small beginnings in 1979, the CTS have been expanded in response to community need and demand, and remain relevant in today's society, regardless of the growth in new media.

This is particularly so considering that the preponderance of children's screen time is still taken up with television. In a study published in the *Australian and New Zealand Journal of Public Health* Olds, Ridley and Dollman found that median screen time was 229 minutes per day. For boys, the median was 264 minutes, and girls 196 minutes. 73% of time was devoted to TV, 19% to video games and 6% to computer use (not games). (Olds, T, Ridley K, Dollman J, (2006) "Screenieboppers and extreme screenies: the place of screen time in the time budgets of 10-13 year old Australian children", *Australian and New Zealand Journal of Public Health*, 2006, vol. 30, No. 2, p.137).

See also levels of viewing by 4 and 5 yr old children in Australia as reported in the Australian Institute of Family Studies *Growing up in Australia* project.

a) in Baxter, J (2007) Children's time use in the longitudinal study of Australian children. Technical paper No 4. p33 (mean time watching TV or movie 134 mins per day at weekends and 125 mins on weekdays).

b) in Australian Institute of Family Studies (2004) Annual Report "How do Australian infants and 4-5 yr old children spend their time? P27 " 4-5 yr old children are relatively heavy watchers of television, 89% of of 4-5yr olds watched television, a video, or DVD, on average for 2.3 hrs per day, and 46% of infants (3 and under) watched television for 1.4 hrs per day. "

More widely, the trend that new media have not supplanted old media use by children is reported in New Zealand Broadcasting Authority (2007) at p12-13.

The commercial free-to-air TV industry, in general, has rarely been happy with having to broadcast age-specific programs and dramas for children, and has fought against quotas, citing costs as a major issue. But many producers have found success in marketing their C dramas overseas, and there is no reason why that should not continue, given that the criteria for C programs only require the provision of entertaining, well made, age-specific programs that enhance children's understanding and experience and which have relevance to Australian children. Surely this is a recipe for success, assuming creativity in the creator and a commitment to an adequate budget!

A 2. Protection from harm: ACCM holds the view that Objective J of the Broadcasting Services Act viz

"(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"

is not given sufficient regard.

In particular, ACCM holds the view that the recent acceptance by ACMA of the provisions of the newly revised FreeTV Code of Practice, which allow the screening of PG material all day on the new digital channels, does not support that objective. To rely on the associated provision of parent education programs so “parents can take appropriate steps to protect their children”, puts the ongoing onus on parents not on broadcasters, where it rightfully belongs.

A 3. Claims made for the new digital services: The frequent advertising of the benefits of the Freeview new digital channels uses the slogans “more channels, more choice”; “more for free”, and “more for me”. The advertisements feature a significant number of children of different ages (along with a diversity of older persons and cultures) saying “more for me”.

This advertising creates an expectation that there will be more for children across the new services, and not just on the ABC. In addition, 7TWO claims it will “be a broad entertainment channel offering you greater choice through a variety of shows with something for everyone no matter what your age”.

A 4. Public service obligations

ACCM believes that those who operate in a protected media environment must observe their public interest obligations to the child audience.

The broadcasters, it appears, are unwilling to support the children’s television production industry in anything that does not earn them points towards their C and P quotas. It also appears that they have been grudging about paying the full cost of the material they need to purchase to fill their quota. In a sense they can hardly be blamed for this; they are business people and they like to buy things as cheaply as possible. However the obligations of broadcasters under the CTS are not part of ordinary business dealings, but rather a public service they are required to undertake. ACCM believes that it is important that broadcasters be reminded of the nature and foundation of this obligation. The *Broadcasting Services Act* has established (or rather continued) a commercial free-to-air oligopoly, protecting licensees from competition within their sector, and in return the licensees fulfil certain community obligations, including the C and P quotas. Any approach to the cost of fulfilling those obligations that does not take into account the value of the protection the community affords the licensees, through the legislation, misses the point in a fundamental way.

ACCM understands that the value of the commercial free to air oligopoly may have eroded somewhat in recent years because of the introduction of subscription broadcasting, the internet and other technological innovations. But it needs to be remembered that commercial free to air television is still the most influential and widely used medium, especially among children, and the most remunerative as well. The fact that times are not as good for the industry as they once were does not mean that they are not still very good indeed. At the very least it can be said that things have not changed so much that the fundamental logic of the obligation needs to be rethought. Rather it needs to be reaffirmed.

Moreover, it should be made clear that there is no expectation that C and P material pay for itself in advertising. Rather, its cost should be cross-subsidised from other more remunerative aspects of broadcasting, of which there are plenty (precisely because of the legislative oligopoly).

In summary, the expectations created by Freeview’s advertising, along with the public service obligations of all free-to-air services, require that the expanded digital channels will provide an increase in numbers and diversity of programs offered to that 22% of the Australian population who are children under the age of 16 years.

B. Detailed comment on the issues

B1. Program standards

B1.1 Should the distinction of a “core” commercial television service remain

As described in A 3 above, an expectation has been created that there will be more programming for children with the new channels. ACCM therefore does not support the concept of the “core” channel which alone has obligations to meet current standards.

B1.2 Should program standards start applying to all... before commencement

ACCM supports this option, as being that most likely to result in more quality programming, especially Australian programming being available to children.

B1.3 should the current exemptions for program standards continue until all switched over

ACCM does not support this option as it is not likely to support an increase in programming for children, or a greater percentage of Australian programming.

B1.4 fulfilment via tradeable obligations ?

ACCM (as Young Media Australia(YMA)) made a submission to the Australian Broadcasting Authority on this matter in Nov 2003 in response to the Allen Consulting Group report. At that time YMA opposed tradeable obligations as a viable option, and sees little reason to change that view. ACCM also made the following arguments against tradeable obligations in the context of the CTS review by the ACMA in 2007.

“A tradable obligations scheme could provide some flexibility for licensees, and might have the effect of making them less resentful of their obligations under the CTS. Also, ironically, making those obligations tradable, and thereby placing a market value on them, might make licensees take them more seriously.

We believe it is unlikely that any of the free-to-air commercial broadcasters is likely to be terribly interested in taking on another broadcaster’s obligations. We would find it highly ironic if one station were willing to pay another station more to accept its obligations than it is currently willing to forego in advertising revenue in order to meet its obligations. But this is precisely what would need to happen for such a scheme to make commercial sense.

Yet we see it as absolutely crucial that a tradable obligations scheme should not diminish the number of hours of quality children’s programming available to Australian children. For this reason we argue below that any such scheme should be available only between members of the same sub-sector, namely commercial free-to-air television.

A particular challenge would be to ensure that the station(s) that traded away their obligations did not fill the gap by putting lower quality children’s material up against the C programs their competitors would be obliged to show. We presume that such material has some kind of market advantage, or there would be no need for the CTS quotas. Therefore the replacement of C programs by lower quality material on one or more stations would have the potential to erode the audience for C programs, rather than building it up. This concern could be allayed to some extent by applying the tradable obligations scheme only to C drama. This way all stations would continue to show their weekday afternoon/evening C programs and their P programs.

We have argued elsewhere in this submission in favour of extending advertising restrictions beyond C periods to those C time bands when a substantial proportion of children watch television. If for any reason this did not happen, YMA would submit that under a tradable obligations scheme, those stations that traded their obligations away should still be bound by the CTS advertising restrictions during any

programming with which they replaced their C programming that would be of appeal to children. This would necessitate the introduction of a formal system for determining which programming meets the definition.

YMA believes that the CTS already achieve their objective of providing for children to be specifically catered for in programming. The problem lies in ensuring that such programming is made *sufficiently accessible* to children. It has become clear that this is not achieved under current conditions. We are unsure whether a tradable obligations scheme would assist in this regard. The answer depends to some extent on the kind of body to which the obligation is traded.

YMA is strongly of the view that the scheme should extend only to trades between commercial free-to-air broadcasters. Trades to other sectors would risk either derogating from the achievement of the objective of catering to children, or making the material even less accessible to the child audience.

The principal reason for our uncertainty as to the likely effect of trades between commercial free-to-air broadcasters is that we are unsure why such broadcasters currently do so little to make C programming accessible to the child audience, by scheduling it at regular times and otherwise promoting it. This would need to be determined before any firm predictions could be made.

In particular, YMA finds it difficult to predict how a tradable obligations scheme would affect the attitude of a commercial free-to-air broadcaster that received payment for taking on another's obligations. As noted above, there are indications in the *Issues Paper* that broadcasters are currently taking a negative and apathetic attitude to C programming, paying only the attention required to fulfil their obligations and not seeing C programming as any kind of opportunity. Perhaps a broadcaster that decided to specialise in children's programming would take a more positive attitude, and make greater efforts to promote its C programs. On the other hand it is possible that such a broadcaster would see itself as having already made enough money on that programming, in the fee it would have been paid under the scheme, and be even more apathetic about it.

Trading obligations to national broadcasters, at least to the ABC, would be very unlikely to expand the amount of quality children's programming available overall ... the only effect of tradable obligations would be take quality children's programs off the commercial channels and to pay the ABC for doing what it already does. It is possible that the ABC would displace some overseas material with Australian material, which could be a useful development.

Matters are slightly different for the SBS, which does have space for additional children's programming. However as with the ABC it must be ensured that any trade did not lead to a diminution in the overall amount of quality children's programming available.

For the reasons given above, provided other concerns were met and the station taking on the obligation were obliged to enhance the accessibility of the programs, YMA believes it would be appropriate for commercial free-to-air licensees to trade obligations amongst themselves. However we recommend that the introduction of any such scheme be done strictly on a trial basis in the first instance, for a limited time, followed by a thorough review."

B1.6 what arrangements and standards should apply after final switchover?

Exemptions?

B 1.6.1 after switchover?

ACCM believes that the present levels of children's programming and Australian content quotas should be required on all commercial digital channels as the most effective method of obtaining the promised increase in children's programs, and of preserving a significant percentage of Australian programs. .

B1.6.2 Allow broadcasters to apply for exemptions from program standards for particular channels?

ACCM does not support this option. ACCM asks how for eg, a proposal for a channel for mature adult viewers can be accommodated within the FreeTV Code requiring all day time programs to be no more than PG classified.

B1.6.3 Aggregate all programming across multichannels?

ACCM does not support this option as it will not lead to the promised increase in programming for children, nor guarantee an increase in Australian made programming.

B2. Captioning requirements

B2.1 should current captioning arrangements apply immediately after switchover

ACCM: Yes

B2.2 should broadcasters receive exemptions

ACCM: No

B2.3 should application be phased in over a period of time?

ACCM: No- this would fly in the face of the promised “more for me” for deaf and visually impaired viewers.

END