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Submission on proposed changes to the Children's Television Standards 2009, July 2014

The Australian Council on Children and the Media (ACCM) thanks the ACMA for this opportunity to comment on the proposed changes.

Briefly, we are opposed to the changes because we believe that they are not in the interests of children, parents and carers.

Introduction to ACCM

The ACCM is the peak not-for-profit national community organisation supporting families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children.

ACCM has a national Board representing the states and territories of Australia, and a membership of individuals and organisations including Early Childhood Australia, the Australian Council of State Schools Organisations, the Association of Heads of Independent Schools of Australia, the Australian Primary Principals Association, the Australian Education Union, the Parenting Research Centre, the South Australian Primary Principals Association, and the Council of Mothers' Unions 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 big picture

Compliance with the CTS, like the Australian Television Standards, is a public interest obligation that commercial television licensees have accepted in return for the grant of privileged access to a limited and valuable resource, namely the airwaves.

The public interest nature of the obligation has its foundation in a recognition of children as a disempowered group of viewers, whose interests would not be catered to if it were left to market forces. The disempowerment comes partly from children's lack of economic resources (which makes them a less attractive audience for advertisers than they would otherwise be) and partly from their lack of maturity or a voice to press for high quality content.

It may be that the airwaves' value is not as great as it once was, due to the development of alternative means of accessing content (for example subscription television and online services). However, free-to-air television retains an important place in the media landscape, especially for young children, and we expect it will do so for the foreseeable future.

It is also worth noting that the commercial free-to-air broadcasters' protection from competition was extended and enhanced during the recent switch to digital multi-channelling, with all of the additional licences being granted to existing providers.

Free-to-air licensees pay little for C and P programs, so that producers also have to sell them overseas to make a profit. Indeed the Review of the CTS in 2007 indicated that some P

programs, at that time at least, were provided to licensees for free, with the producers making their living from merchandise, live concerts and recorded content. (In this sense, the programs could be thought of as half-hour advertisements for the other products and services, which raises some questions about the efficacy of CTS 26(2).)

Nor do licensees promote C and P programs. In the case of C programs the problem is especially acute: the programs are scheduled at times when few children are available to watch television, and they are never promoted with trailers or the like at any time when children do watch in large numbers. It is little wonder that these programs have such small audiences. (Screen Australia 2013 Focus 2)

ACCM considers this to be a terrible shame. C programs, especially C Drama programs, are some of our highest quality cultural output, and the licensees should be trumpeting that from the rooftops. (Screen Australia 2013 p1) It bewilders us that they should bury those programs the way they do.

The foregoing tends to suggest that commercial television licensees have not embraced their CTS obligations in a public-spirited way. This observation is not advanced by way of criticism of those licensees who, after all, are businesses trying to maximise profits for their shareholders. However it does put in context the current pressure to deregulate. We suggest that changes to the media landscape are only a small part of the picture here; and that the industry's disposition against its CTS obligations goes back further and is more fundamental.

ACCM calls upon the ACMA to hold the line against this pressure to deregulate – that is, to protect corporate profits – at the expense of children, parents and carers. In our view the balance already favours the industry, considering how little they sacrifice in order to provide a very few hours of quality television for young Australians. There is no need to swing it even further in that direction.

We now turn to the specific proposals under consideration.

Self-assessment of programs

ACCM generally supports independent classification, of the kind currently undertaken by the ACMA, because it has greater potential to ensure that all of the criteria are met. The assessment process must be effective or quality will not result.

We do not think this is the time to be putting faith in the licensees' ability to replicate the process that currently occurs within the regulator. For example we understand that (unlike their overseas counterparts) they do not normally have dedicated fulltime children's program commissioning personnel nor a compliance process or officers.
For this reason ACCM does not support the proposal to give licensees the full responsibility of classifying their own content.

Moreover, ACCM notes some gaps in the logic of presenting the proposal as a lightening of the administrative burden on licensees.

First, as far as we know, the vast majority of classification applications are made by producers, not licensees (see for example the ACMA's 2012-13 Annual Report, Appendix 5). In those cases classification by the ACMA imposes no obvious burden at all on licensees. As to producers, we note their clear support for C and P (see Screen Australia 2013 p11).

Secondly, the task of applying for classification can only be any more burdensome to licensees than doing the classification themselves if the classification process is expected

(and possibly intended) to be less rigorous than it currently is. The same goes for the difference to producers between having material classified by a licensee and by the ACMA. Not coincidentally, as mentioned above, a loss of rigour is precisely what one would normally expect as a matter of common sense, when any kind of independent review process is replaced by one where the reviewer has an interest in the outcome. In other words we can confidently predict a loss of quality in C and P programming.

We note in particular that the ACMA currently employs experts in child development as consultants to their classification processes. All new programs submitted for Provisional P, P and C classification are sent to a minimum of two specialist consultants before final staff assessment. We do not believe there is any assurance that the licensees would be required to do the same, or that they would do so voluntarily. Yet from our perspective as the peak body on children's development, well-being and media use, this is crucial to the efficacy of the system to achieve what it is intended to achieve.

Putting it slightly differently, if the expected outcome is an equally rigorous classification process that happens to be undertaken by industry rather than the ACMA, one has to ask which interests are being served. Is it perhaps the ACMA's need for savings, rather than the public interest, that is driving this proposal? A further reason to oppose this proposal is the likely impact on the market for C and P programming. If licensees do the classification, we believe that there will be a strong temptation will be to play it safe and go with known producers, reducing innovation and diversity in the content available. ACCM believes that children's interests will be better served by a vibrant and dynamic production industry and market.

What is needed with C and P programming – especially C programming and even more especially C drama – is proper promotion by licensees and consistency of scheduling so that Australian children and their parents are fully aware of, and encouraged to use, the excellent material that the CTS make available. The 2007 review of the CTS made it clear how defective the system is in this regard, yet little if anything has been done to correct it.

Notification of C periods and variations

ACCM has considered the likely impact of these changes on compliance with, and enforcement of, Part 3 of the CTS – that is, those provisions that limit the amount and type of advertising that can be shown during C periods.

The co-regulatory system's heavy reliance on consumer complaints for enforcement of Part 3 makes it crucial that consumers have the fullest possible information to enable them to judge whether a breach has occurred and whether it is worth complaining. In the case of children's television one of the most important pieces of information is whether the material was broadcast during a C period.

(As an aside, the route one has to take through the CTS to figure out the relationship between periods and programs is confusing and circuitous, taking one from the definition of C period in CTS 5 to CTS 9 and then back to the definition of C program in CTS 5. We submit this should be simplified if reliance is to continue to be placed on consumers to draw breaches to the attention of the ACMA.)

The system has never been very good at informing the public of when C and P periods are. Currently the ACMA website refers consumers to their local television program guides to find out when C and P programs are scheduled, which is not as helpful as if the information were disseminated from a central and authoritative source, for example the ACMA website itself. However, it is helpful that the times are relatively stable, so that a consumer can not only have

a degree of confidence that certain times are C or P periods but also predict when C and P programs will be available .

The proposed changes are detrimental to consumers in both senses: first it will be harder to work out whether a particular time is a C or P period. This will necessarily make it more difficult for consumers to decide whether to complain. Our prediction is that there will be even fewer complaints than presently, and that licensees will have less incentive to put resources into complying with Part 3.

Secondly, there will be less constancy to the programming – and in this context we note also the loosening of the requirements about on-air notifications about last minute changes affecting C and P programming. We have already noted the deficiencies to the system in terms of gaining a following for C programs. (see also Screen Australia 2013 Chapter 2) As to P programming, parents and carers with young children at home rely on broadcasters to provide such programming at certain times as part of the routine they set up for their children. The children gain an expectation that a program will be shown at a certain time, look forward to it, and may become upset and difficult to manage if it is not available. The present system caters to those needs of parents, carers and children. The arbitrary and frequent changes to scheduling that the proposed changes will pave the way for will obviously act against those interests.

Parents should not be required to continually consult 3 websites in order to determine the availability of C and P programming. At the very least the information should all be available on one website, and the obvious candidate is the ACMA's.

When we conducted research with parents in 2010, they informed us that what they really want is on-screen notification about the nature of a program, throughout the program. (Australian Council on Children and the Media 2011) This is the only truly effective way to ensure that consumers have all the information they need, not just to select the best material for their children but to fulfil their function as potential complainants in the co-regulatory system.

Finally Appendix 6 of the ACMA Annual Report mentioned above shows there were numerous breaches that year regarding scheduling. If licensees have been so willing to breach their CTS obligations under the current system, this suggests that they do not regard that system as especially onerous. Perhaps more importantly it shows how the ACMA needs to keep a close watch on licensees. Changes like these can only make it harder for a regulator to do so.

Other matters

It has come to our attention that producers and licensees are required, when applying for classification under the C criteria, to indicate the age range for which the program is suitable. It is not immediately obvious to us why this is considered necessary from a regulatory point of view, even though ACCM applauds this attention to ages and stages of development, which is one of our key principles. We submit that if it is to be retained, the sub-categories of C programs be more deeply embedded in the CTS, and in particular that parents and carers be informed through the normal channels about which sub-category each program falls into.

We also submit that there should be sub-quotas for the different categories, to ensure that all ages and stages are catered to.

References

Australian Council on Children and the Media (2011) *Television and young children - Quality, choice and the role of parents - what the experts and parents say.* A report commissioned by ARACY. Canberra, ARACY
http://www.aracy.org.au/publications-resources/area?command=record&id=104&cid=6

Screen Australia (2013) *Child's Play : Issues in Australian Children's Television 2013*
http://www.screenaustralia.gov.au/getmedia/fb6b35d9-5a95-4521-bbdb-8b12f59d1a87/Rpt_ChildsPlay.pdf

For further information

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