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## SUBMISSION TO THE DEPARTMENT OF COMMUNICATIONS

### Review of the Australian Communications and Media Authority

August 2015

#### Introduction to ACCM

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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.

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#### A. Terms of reference and other relevant matters

ACCM notes the terms of reference and other matters relevant to this review.

ACCM's main interest is in "Enduring public interest objectives relevant to citizens and consumers" with an emphasis on the rights and needs of children.

#### B. The Review questions

**ACCM has responded to those questions most pertinent to the mission of ACCM, its interests and its activities.**

#### Questions:

**4. What should be the unifying objective and purpose of the communications regulator—is there a succinct way to describe what the regulator should achieve?**

The purpose and objective should be to serve the public interest in relation to broadcast media ownership, control and content, as defined from time to time by the Australian people's elected representatives based on the most up to date scientific and social research.

**6. What functions are unique to the ACMA (that is, not present or relevant to other regulators or industry sectors) and will these remain relevant in the future?**

On this our comments are limited to functions relating to the protection of children's interests. In this regard, the ACMA enforces and periodically reviews the Children's Television Standards; and receives complaints regarding those parts of the industry codes (especially the Commercial Television Industry Code of Practice) that aim to protect the child audience. Importantly, the ACMA is also responsible for reviewing and deciding whether to accept any revised versions of the Code that appear from time to time. All of these are unique to the ACMA and all will remain relevant in the future, because broadcast media will continue to be an important influence in children's lives for the foreseeable future. However it would be helpful to see more convergence between traditional broadcasting regulation functions and those traditionally associated with telecommunications. Thus far, the merger of the ABA and ACA has been a missed opportunity in this regard.

**14. What functions currently undertaken by the ACMA could be more efficiently or effectively delivered by someone else?**

The ACMA is presently responsible for the classification of the quota C and P programs for children. These quotas are relatively small, quality is obligatory, and the needs of Australian children for age- and culturally- appropriate, diverse content are very significant for their development. It is vital that the assessment of such quota content remains with a body (such as the ACMA) that is independent of industry and commercial pressures.

**15. What functions currently undertaken by other organisations could be more efficiently or effectively delivered by the ACMA**

ACCM understands that there are some moves for the States and Territories to cede their powers to classify publications, films and computer games to the Commonwealth. Should this occur, there may be pressure for the ACMA, or its successor, to become responsible for the administration and operation of the National Classification Scheme.

ACCM opposes any such change. Classification, with its accompanying need for checks and balances and review processes, requires a specialised skill set, to have ongoing input representative of the diverse nature of Australia, and regular turnover to prevent desensitisation. This lends itself to an independent and specialised body, such as the present Classification Board, and Classification Review Board.

**16. Would additional quality assurance arrangements be required where a function is provided by another party?**

Over the years there have been many suggestions that the commercial networks should be permitted to assess their own programs against the criteria for C and P programs and for Australian drama quotas.

Based on its long experience of media regulation for the protection of children's interests, ACCM is firmly of the view that assessment of quality age-appropriate material for Australian children should rest with a well-qualified independent body. The commercial networks continue to demonstrate, even after 40 years of the C quota, a failure fully to embrace their responsibilities under that quota. Expenditure is kept to a

bare minimum, responsibility is shifted to producers who respond by engaging in co-productions that water down the Australian flavour of the content and programs are not properly promoted, with the result they reach only a small audience. The attitude displayed through this behaviour illustrates that the commercial networks are yet to understand the importance and potential of providing quality content for children.

**20. What funding model would best resource an Australian communications regulator, now and in the future?**

ACCM believes that an Australian communications regulator should be totally government funded. This is the only way in which such a regulator can remain completely and robustly independent of industry.

**23. How are the ACMA's functions likely to change as a result of reforms to the communications regulatory framework?**

ACCM does not believe that the ACMA's functions will necessarily change, nor should they. It will always be necessary for there to be a regulator, with the brief to protect the public interest, ensure diversity of voices, protect children, and ensure an equitable use of the public media space.

**24. Does the list of 'enduring concepts' capture the policy concepts that are likely to continue to be central to the communications regulatory regime in the future? What are the most important communications sector public policy aims that are likely to require regulation?**

ACCM notes and supports ACMA's list of enduring concepts, noting that it will be most important to ensure quality and diverse provision for children, and protection from harm. Market forces have never anywhere, been able to provide these basic needs.

***ACCM provides comment on selected concepts here:***

**a. Diversity of voices.**

This should be a right for children as well as adults. At present, adults are provided with a diversity of program types, but the range of program types for children is very limited. There are "children's programs (mainly animation with limited story lines), with very little live action Australian drama, and a few nature programs. Children also need comedy, action, documentaries, news (at their level), science and more.

**b. Australian identity. Australians should be able to experience Australian voices and stories when using or consuming media and communications services.**

This an extremely important concept for children. Dramas and programs which commonly feature animation, a mid-Atlantic look and accents, do not allow Australian children (in all their diversity) to see their own culture reflected and to be able to see that it's important.

Supporting Australian identity is likely to need some careful attention to the avoidance of loopholes that could threaten the ability of Australian content to fulfill the function

described. In the case of children's content, this may require attention to the balance between animated and live action programs.

**c. Values and safeguards. Services should reflect community standards, meet community needs and be 'fit-for-purpose'. Users should be provided with effective and accessible avenues of complaint and redress if standards are not met. Children, in particular, should be protected from harmful material.**

*Community standards* have their place but ACCM believes that more should be done to distinguish these from the research evidence on what is harmful (or potentially harmful) to children. We would like to see the distinction made clearer, for example by mandating the involvement of child development professionals in policy- and decision-making.

*The notion of content being 'fit for purpose'* is interesting because it requires reflection and consensus on what the purpose is. In ACCM's view there has been a tendency in recent years to see the purpose as being to protect and enhance the profits of the broadcasting industry, rather than to protect the public interest. Although it is important for the broadcasting industry to be viable and vibrant, this is not an end in itself. Regulation is necessary to ensure that audience interests are given appropriate weight. Within that, the interests of children in having access to content that enhances their development should be treated as the primary concern, in accordance with article 3(1) of the UNCROC.

*In relation to complaints* there should be a greater willingness on the part of the ACMA to use the intermediate remedies to enforce licensees' obligations. The ACMA should also be empowered to require rewriting of proposed industry codes to ensure that they serve the public interest, not just that the community should have been consulted. At the time of writing the ACMA is considering a revised Commercial Television Industry Code of Practice that contains some troubling elements, from the perspective of children's interests.

Considering that the role of complaining will invariably fall to parents, the Act should contain formal statements about the significance of parental involvement and the nature of parental responsibility. These should be guided by article 18(2) of the UNCROC (see below).

***The protection of children:*** this concept should be one of the main aims, if not *the* main aim, of a broadcasting regulator.

The healthy development of children is surely an 'enduring policy objective'. It is of significance, not just to individual children and their families, but to the whole of society, as these are the leaders of the future. In any case the United Nations Convention on the Rights of the Child, to which Australia is a signatory, recognises that, as a matter of human rights, children's interests should be a primary consideration in all decisions affecting them. Broadcasting can be a powerful influence on children's development, especially in the crucial early years, but also as a shared family activity for older children. It is crucial to recognise that children are influenced by a wide range of programs and material, not just those where they are the target audience.

The connection between a healthy media environment and children's healthy development is universally recognised, even if there may be different views about what constitutes a healthy media environment. As not all parents are able to fulfil their responsibility of protecting their children from inappropriate content themselves it is important to have protections at a population level, that only government regulation can provide.

Such regulation can fulfil the dual functions of protecting children directly and supporting parents in providing that protection. Indeed, the *United Nations Convention on the Rights of the Child* also places a duty on States Parties to 'render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities' (Art 18(2)). The protection of children is at least as important a goal as any of the others discussed in the paper, and currently served by the co-regulatory regime. Further, this requirement is reflected in Objective j of the Broadcasting Services Act.

We refer the Inquiry to our detailed comments in our submission to the 2013 ACMA *Contemporary community safeguards inquiry*:  
[http://childrenandmedia.org.au/assets/files/news/submissions/2013/ACMA\\_submission\\_community\\_safeguards\\_inquiry.pdf](http://childrenandmedia.org.au/assets/files/news/submissions/2013/ACMA_submission_community_safeguards_inquiry.pdf)

**25. What combination of regulatory interventions might be needed in the future? How much discretion should be provided to the regulator in their application?**

In terms of 'communications sector public policy aims that are likely to require regulation', ACCM would like to see a focus on gender and racial equality (including the avoidance of objectification and stereotypes), on the protection of children from violent and scary content and on the blurring of the distinction between content and advertising, for example by means of cross-promotion, host selling and product placement. Once again, all such regulations should aim to protect children as viewers of all content, at least before an evening watershed, and not just of content for which they are the target audience.

**END**

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**NOTE:** This submission has been prepared on behalf of the Board of the Australian Council on Children and the Media by Prof Elizabeth Handsley (President) and Ms Barbara Biggins OAM (Hon. CEO).

Enquiries about this submission should be directed to Ms Barbara Biggins.