



SUBMISSION TO

Department of Broadband, Communications and the Information Economy

Submission to the Convergence review

October 2011

The Australian Council on Children and the Media (ACCM) welcomes the opportunity to provide comment to this Inquiry.

This submission has been prepared for the Australian Council on Children and the Media by Prof. Elizabeth Handsley (ACCM President and a specialist in media law as it relates to children), Dr C Glenn Cupit (ACCM Vice President and Senior Lecturer in child development), and Barbara Biggins OAM, CEO.

The ACCM would welcome the opportunity to expand on the issues raised, at a later date.

For further information, please contact Barbara Biggins at above address.

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.

ACCM has a national Board representing the states and territories of Australia, and a broad membership of organisations and individuals who support its mission.

The 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.

More about the the ACCM can be found at Appendix 1.

2. THIS SUBMISSION REFLECTS THE FOLLOWING PRINCIPLES

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

“States 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 Code under the *Classification (Publications, Films and Computer Games) Act 2005* (Cth):

“Classification decisions are required to give effect to the following principles which are set out in the Code:

- (a) adults should be able to read, hear and see what they want
- (b) minors should be protected from material likely to harm or disturb them
- (c) everyone should be protected from exposure to unsolicited material that they find offensive, and
- (d) the need to take account of community concerns about:
 - (i) depictions that condone or incite violence, particularly sexual violence, and
 - (ii) the portrayal of persons in a demeaning manner.”

2.3 Objectives h) and j) of the *Broadcasting Services Act 1992* (Cth), s 3.

- (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 Policy Guidelines on Children’s Media of the Australian Council on Children and the Media.

3. IN THE PREPARATION OF THIS SUBMISSION, THE ACCM HAS:

- relied on its experience and active involvement in issues related to healthy and safe use of all media
- listened to community concerns about the content of TV, films, publications, games and the internet
- drawn on its ongoing activity of reviewing the current research literature as it relates to the impact of media on children.

4. INTRODUCTORY COMMENT

The ACCM welcomes the opportunity to comment on issues relating to regulation of content on new and converging media.

4.1 *The move for “revolutionary change”*

ACCM notes that “In the [Convergence] committee’s view it is likely that *revolutionary* change to the existing policy framework will be needed to respond to convergence.”

It is easy to overplay the significance of convergence and the level of change needed to respond to it. Revolutionary is a strong word and such change can be justified only on the basis of drastic changes in the surrounding circumstances. Therefore ACCM would like to draw the Committee’s attention to some things that have not changed, or that have changed little.

The first is child development. It is true that society’s attitudes to childhood change over time, and its treatment of children accordingly. However, children’s growth and development remain significantly affected by their DNA, and one consequence of this is that they are impressionable and vulnerable.

Nor do we think there has been significant change to society’s acceptance, in principle, of children’s special need for protection in a range of areas, including the media environment. (However there have been some issues debated recently where certain sections of society appear to have lost sight of the principle and preferred to foist responsibility on to parents – for example, internet filtering and the classification of violent video games.)

Children’s media habits may not have changed as much as many people think. Children still engage with ‘old’ media – especially television – to a far greater extent than with ‘new’. This is the case both overseas and in Australia, and there is little evidence of a trend downwards in TV use by children, despite some evidence of a trend towards increasing use of new media.(ACMA 2011, Ofcom 2011, Commonsense Media 2011)

The need for adult supervision when engaging with media, especially for younger children, has not changed. In this connection it needs to be noted that children are more likely to engage with ‘old’ media on their own than with ‘new’ media. In brief, many more children have a television set in their bedroom than have internet access there. (Ofcom 2011, Commonsense Media 2011)

Among other things, this observation challenges the notion of technology neutrality. When looked at through the lens of children’s lives, platforms are still quite unequal.

Finally on the question of ‘revolutionary’ change, we question whether it is appropriate, politically, to introduce such change without taking the proposals to a general election.

4.2 *Why regulate*

The advent of ‘new’ media may have challenged the ‘how’ of media regulation, but it has not changed the ‘why’. In ACCM’s view, this issue is more important than the ‘how’.

We outlined a number of key concepts in relation to the ‘why’ in our submission on this Inquiries Terms of Reference, including the need to hold media corporations accountable and to limit their opportunities to abuse their power. Nowhere are these concepts more in focus

than in the area of protection of children from inappropriate or harmful media content. As noted, children are vulnerable, and this means they are vulnerable to corporate abuses. In recent years media corporations have shown themselves to be more and more unscrupulous in exploiting children as audiences and as consumers. There has certainly been no reduction in children's need for protection based on the advent of new platforms.

Traditionally, where children's interests and well-being are concerned, our legal system supports a precautionary approach, where intervention is seen as justified even when the existence or risk of harm is not 100% certain. Such an approach is well-accepted in areas such as family law and child protection, and it is consistent with Article 3(1) of the UN Convention on the Rights of the Child, which states that in a range of actions concerning children, their interests should be a primary consideration. This means that those interests should be given at least equal weight to any principle of freedom of expression. As for the perceived needs of 'old' media corporations for responding to competitive challenges, we suggest that these should be seen as secondary.

4.3 Australians expect media to meet community standards

We note the report of the recent ACMA study "Digital Australians" and the findings quoted by ACMA Chairman Chris Chapman:

'Regardless of delivery platform, familiar media brands are expected by most consumers to meet community standards for taste and decency,'..... 'They also expect news stories from reputable news organisations to meet the same journalistic standards for accuracy and fairness, whether in print, broadcast, or online.'

"Participants in the research had additional concerns for children using digital media and placed a high priority on protecting children. Parents were more concerned about the internet than were other adults. Consumer advice and information about the nature of content was considered important whether the content was broadcast or online. "

In ACCM's view, the regulation of content is expected by the Australian community, especially when it is easily accessed by children, and it continues to be needed.

4.4 Working to reduce risk to children

Difficulty in regulating may be difficult with some platforms, but that is no reason to abandon regulation of those platforms where this can be achieved.

Further, difficulty in regulating is no reason not to research ways of managing or reducing risk associated with children's access to content on more difficult platforms. We commend to you the paper written on this topic by Sonia Livingstone (2011). Livingstone accepts both the vulnerabilities of children to marketing, and their rights to be active participants in new media. She points out that there are growing calls for regulation in areas connected with the internet, such as security, privacy, copyright, and queries whether these commercial reasons for regulation should have any more weight than those for social and ethical reasons, such as risk to children.

Livingstone also queries the oft quoted "solution" of empowerment (which incl remedies such as media education, using filters etc) of individuals to reduce risk, saying that this is burdensome, where many lack the resources to implement such "solutions".

She concludes that where risk is established, there should be no reliance on individual competence.

5. COMMENT ON THE PRINCIPLES

ACCM will only comment in detail on Principles 7 and 8.

Principle 7: Communications and media services available to Australians should reflect community standards and the views and expectations of the Australian public.

The ACCM has no objection to a principle in favour of considering community standards, but it notes that when it comes to children and the media the 'community' does not have a monopoly of wisdom. The community itself, or sections of it, may have been influenced in their views by the very material that the research has identified as harmful. For example, parents may have been desensitised to violence, in which case their 'standards' would accept a higher level of violence in communications than would otherwise be the case.

Moreover, the 'community' may be an artificial construct in many cases, with deeply divided views as to appropriate 'standards'.

Therefore we call for current research on children and the media to be given at least equal billing with community standards. In this connection it needs to be noted that the research community itself does not always speak with one voice; therefore it would be desirable for this review to develop recommendations on principles and processes for extracting the most reliable and cogent evidence from the research. We should welcome the opportunity to comment further on this matter in due course.

Emerging issues for the review

- Should a policy framework seek to apply community standards to all content regardless of origin or method of delivery?

ACCM: yes

- Is it preferable to impose standards (by cooperation or by regulation) when enforcement is limited or impractical?

ACCM: we commend a study of Livingstone's 2011 paper on this issue.

- How should community standards be determined?

ACCM: as above, we think that current research should also inform the making of standards.

- Is self-regulation by content services an effective means of protecting community standards?

ACCM: our long experience indicates that this is not the case. Commercial considerations can outweigh issues of ethics and likely harm. Individuals may not be equipped to protect themselves or their families. There always needs to be some degree of oversight to ensure that individual rights are not overruled (Livingstone p169)

- How can consumer education and awareness initiatives help? Are there practical improvements relevant to a converged media environment?

ACCM: Providing parents with strategies for managing all forms of media and at a time when their children are very young (see www.childrenandmedia.org.au for example) is useful, and such information should be an accepted part of the content of all parenting courses. Such empowerment of individuals is not the complete answer (see Livingstone quoted in section 4.4 above).

- Are consumer complaints a good way to ensure inappropriate content is not shown?

ACCM: our long experience shows this is not an effective method. Complaints have to be directed to many different agencies, the processes are complicated, and time taken to resolve complaints far too long to have much practical effect.

ACCM has set up a Taking Action section on our home page to provide a one-stop portal for parents seeking redress on complaints in all media, so that at least some direction-finding is provided.

- How can children and young people be protected from unsuitable content in a converged media environment?

ACCM: Livingstone 2011 calls for greater oversight of the relationships between provider and recipient, and where the risk is great, ongoing oversight should be maintained between provider and recipient. (Livingstone p169)

- Are there specific areas of content regulation where government intervention is warranted?"

ACCM: where there is a clear or reasonable risk of harm to children and young people, then all steps should be taken by government to ensure that they are protected. These include but are not limited to exposure to glamorised violence, to explicit depictions of s*xual activity; to glamorised depictions of drug taking ; to exploitative marketing and advertising ...

The area of classification of media content requires government intervention, as an effective system of classification depends on governments requiring it to be evidence-based, independently applied and widely publicised. At present, for example, a recent parent survey showed that parents have little knowledge of the meanings of classifications such as P for preschool, C for Children (applicable on commercial TV), and higher classifications such as M, MA15+. (Australian Council on Children and the Media 2011 in publication).

Principle 8: Australians should have access to the broadest possible range of content across platforms, services *and devices*.

The ACCM has reservations about this principle, because historically the need to protect children against harmful content has been required to face off against adults' demands for

access to that same content. This is because it is often impossible to protect children without restricting the freedom of adults to some extent.

We trust that, at the very least, the Committee will take an active interest in developing mechanisms for protecting children from content that might be made available to adults under this principle, and ultimately that it will recognise the possibility that the needs of children might have to win the day.

We are sceptical of terms such as ‘flexible and adaptable’ as we know that in practice, the pressures for flexibility and adaptability are voiced most strongly by those with a vested interest in increasing their profits by making more material more freely available. We hope that the Committee will consider the development of robust gatekeeping structures that provide an equal voice to all interests before any such changes were introduced.”

References:

Australian Communications and Media Authority (2011) *Digital Australians- expectations about media content in a converging media environment*. Sydney ACMA

Australian Council on Children and the Media (in publication 2011) *TV for young children: what experts and parents say about quality, choice and the role of parents*. Perth, Australian Research Alliance on Children and Youth.

Common Sense Media (2011) *Zero to eight: children’s media use in America*. San Francisco, Common Sense Media

Livingstone, Sonia (2011) “Positioning children’s interests within debates over internet governance” in von Feilitzen, Cecilia; Carlsson, Ulla; Bucht, Catharina (2011) *New questions, new insights, new approaches: contributions to the Research Forum at the World Summit on Media for Children and Youth 2010*. Gothenburg, International Clearinghouse on Children youth and media.

Ofcom (2011) *Children and parents: media use and attitudes report: research document*. London, Ofcom.

APPENDIX 1

ABOUT US: THE AUSTRALIAN COUNCIL ON CHILDREN AND THE MEDIA

The **ACCM** is a peak 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.

The ACCM has a national Board representing the states and territories of Australia, and a broad membership of organisations and individuals who support its mission.

ACCM 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), APPA (Australian Primary school Principals Association), Infant Mental Health Association of Australia, Parenting Research Centre, Enough is Enough: anti-violence movement, SAPPA (South Australian Primary Principals Association), Federation of NSW P&C (Parents & Citizens), and the Council of Mothers' Union in Australia.

The 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 evidence based information about media and children (attracting over 1000 visits per day);
- the award-winning, popular *Know before you go* child-friendly movie review service (now with more than 600 movie reviews);
- the development of parent media awareness materials,
- making submissions and participating in media interviews related to media regulation.

The ACCM's current issues include the early s*xualisation of children in and by the media; the impacts of media violence; the marketing of violent entertainment and junk foods to the young; management of screen time and content by the very young, quality of programs for children.

The ACCM's programs are lead by a team of expert volunteers, supported by a small paid staff. Its programs are supported by project grants and much volunteer input.

The ACCM's awards include National Community Crime Prevention awards 2009, 2006; 2001; National Child Protection 2005.

The ACCM is a structured as a company limited by guarantee. Its ABN is 16 005 214 531. The organisation is registered for GST, and has DGR and ITEC status.