



2 April 2015

Mr Harold Mitchell AC
Chairman
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Dear Mr Mitchell

Free TV Australia Proposed Commercial Television Industry Code of Practice 2015

Thank you for the opportunity to comment on the proposed new Code of Practice for the Commercial Television Industry.

This submission is prepared by the Social Issues Committee of the Anglican Church of the Diocese of Sydney. The following comments are advanced to ensure that the Code of Practice under which free-to-air TV operates will continue to protect vulnerable viewers, primarily children, from harmful content.

(a) Free-to-air TV should remain regulated by a Code of Practice

As the Review Package notes, free-to-air TV remains, even acknowledging modern media and technological developments, the first choice for Australian audiences. It plays a vital role in developing our national and cultural identity, and in promoting social cohesion. It therefore follows that such an influential media platform should remain well-regulated to ensure community expectations are met.

(b) Young audiences require protection

It is appreciated that Free TV provides an assurance that commercial broadcasters seek, through the Code, to ensure content on free-to-air TV is in line with community expectations, particularly in regard to children and young audiences. Children and young people are the most vulnerable of viewers, least able to protect themselves from confronting or harmful material. All changes should be considered through this lens of protecting those most vulnerable.

(c) Need for substantive research

It is unclear how the new Code facilitates research into community expectations, or what investigations are undertaken, other than complaints analysis, to enable statements or conclusions in the Review Package such as: "Most Australians are highly satisfied with the standard of content on commercial television" and "Changes proposed to classification zones will mean that networks can show a greater range of programs at a time that viewers want to watch them".

The ACMA Research Paper from October 2011 is quoted confidently to say that the classification system is reflective of broad community standards. Presumably this means the current Code. No justification is offered for the changes proposed in the draft Code of Practice.

We propose therefore that the Code include a requirement for commercial broadcasters to provide a report on all use of exceptions and any breaches of the Code, rather than merely a tabulation of complaints. This will enable the ACMA and other regulatory authorities to undertake surveys and research into customer satisfaction with commercial broadcasters' *fulfilment* of their obligations under the Code, and to complement the ACMA research into the Code's requirements. Such research would better inform future discussions on classification zones and advertising restrictions, to ensure they are truly in accordance with community standards and expectations.

(d) No relaxation of gambling and alcohol advertising restrictions

Noting that the Review Package believes in the power of commercial television to shape national and cultural identity, it is of concern that the draft Code does not seek to better protect children and younger audiences from a normalising of behaviour in relation to gambling and alcohol.

Of particular concern is continued allowance in the draft Code for gambling to be promoted during live sport broadcasts. Clause 6.4.5 provides for the limited, but continued, promotion of live odds during Long Form Live (LFL) Sporting Events. Such events include Test cricket, tennis and motor racing. However, the draft Code also includes a provision for 'Other – as determined by the ACMA', a potential catch-all clause for unspecified LFL Sporting Events. In 2013, public outcry at the proliferation of live odds broadcasting prompted the development by the ACMA of a revised Code of Conduct. Indeed, the ACMA itself reported that '66 per cent of Australians find the promotion of odds during live sporting events unacceptable'.¹ Although the current Code permits promotion of odds only for LFL Sporting Events, we would argue that *any* form of live odds promotion before, during or after any sporting event (with the exception of current Code Clause 8.2 and Clause 6.4.1 of the draft Code) is contrary to community expectations and standards, and should be banned.

Rather, we propose that the potential of digital media platforms for the promotion of gambling during live sporting events be utilised, rather than in the broadcast itself, so as to better protect children and young audiences.

Further, we continue to oppose the promotion of gambling through advertising on free-to-air television. More broadly, it is hard to see any community benefit arising from the advent of gambling on field sporting codes. It has resulted in a degree of corrupt behaviour within the codes themselves. The promotion of gambling on TV assists in fuelling this dark underbelly of sport and is not in the community interest.

Secondly, the gathering of families and communities around free-to-air sporting broadcasts means that particular care should be exercised around the promotion of alcohol. The draft Code proposes that it be advertised from 7.30 pm, the commencement time of the proposed new M classification zone. It is unclear what changes to community expectations have

¹ www.acma.gov.au/Industry/Broadcast/Television/TV-content-regulation/betting-odds-and-gambling-codes-registered accessed 1/4/2015.

occurred to warrant such a change. The evening slot of 7.30 is still prime family viewing time and there is no justification for exposing children to alcohol advertising any earlier than is currently the case.

(e) Revised time for showing M-rated material

Clause 2.2.2 of the draft Code proposes amending the time from which M-rated material (not including films) can be shown from 8.30pm to 7.30pm. Under the Australian Classification Code, M-rated material is considered to contain mature content of ‘moderate impact ... recommended for teenagers aged 15 years and over’, and ‘may include classifiable elements such as violence and nudity of moderate impact that are not recommended for children under 15 years’.² This wording is reflected in the current Code of Practice, with an inclusion for ‘most’ adult themes.

It is unclear what changes to community expectations have occurred to warrant such a change, especially in relation to children. We re-iterate that for most families, 7.30pm is still prime family and children’s viewing time and thus there is no justification for changing the current regulations. Even the ACMA’s own research shows that some of the most popular programs with children in the 0 – 14 age bracket, such as reality shows and live entertainment, are those broadcast in the evening timeslot on commercial free-to-air TV.³ Moreover, under the draft Code, a shift to 7.30pm for M-rated material would have the concomitant undesirable effect of introducing alcohol advertising to this timeslot (draft Code Clause 6.6.1).

More significantly, the Code proposes to change the timeslot for MA15+ material from 9.00pm to 8.30pm. While the draft Code notes that this will bring it into line with SBS, by far the majority of young views watch shows on commercial free-to-air TV, as evidenced by the ACMA’s research. The comparison is not credible. The Australian Classification Code and the current ACMA Code of Conduct describe MA15+ material as suitable *only* for children 15 years of age and over. Such material is described as having ‘strong’ impact nudity and sex scenes, and permit the ‘treatment of strong [adult] themes’ in context. We submit that there is no justification and little good purpose served to bring forward the broadcast of strong impact material to the very edge of family viewing times.

For the same reason, we also strongly oppose the alarming proposal in the draft Code to subsume AV (Adult Violence) classified material into the MA15+ classification (draft Code p. 4). Under the draft Code, removing the AV classification would result in the broadcast of this material from 8.30pm as well. AV material is described as ‘... suitable for viewing only by persons aged 15 years or over. It is unsuitable for MA classification because of the intensity and/or frequency of violence, or because violence is central to the theme’.⁴

(f) Removal of section 2.3.4 (b)

Section 2.3.4 (b) which provides for an exception to compliance with the Classification rules if, in relation to a Program or non-Program matter, “its scheduling is justified by the availability of the target audience” appears, unlike other exceptions in section 2.3, to have no

² www.classification.gov.au/Guidelines/Pages/M.aspx accessed 1/4/2015.

³ *Children’s Television Viewing. Research Overview* (ACMA Research, 2015) pp. 7 – 8. www.acma.gov.au/theACMA/Library/researchacma/Research-reports/childrens-television-viewing-research accessed 2/4/2015.

⁴ www.freetv.com.au/content_common/pg-about-classifications.seo accessed 2/4/2015.

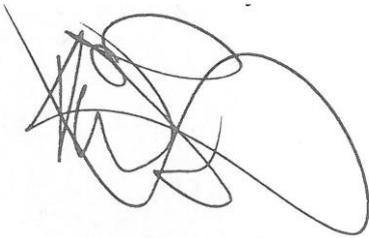
justification other than providing an unrestricted licence to broadcast anything at any time. It should be removed.

(g) Accuracy and fairness

Clause 3.3.5 provides for correction of 'significant and material errors of fact' to be made on program or licensee websites as an alternative to on-air correction. We submit that such a move will be detrimental to justice and fairness. Far fewer people will see a website correction or apology. As a result, under the draft Code the possibility of injustice and lack of re-dress to those aggrieved by poor research and reporting is high. We submit that where a 'significant and material error of fact' has occurred in a broadcast, this should be corrected as soon as practicable in the same media. Sub-clauses (b) and (c) should be deleted.

In summary, we remain concerned about the proposals in the draft Code of Practice. The case for change has not been made. It appears that the proposals are driven by the agenda of advertisers and licensees, rather than community standards and the protection of children. The free-to-air industry has a deep responsibility to this audience. If anything, the underlying direction of the draft Code makes a case for more government regulation of the sector.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Karin Sowada', with a large, sweeping flourish extending to the right.

DR KARIN SOWADA
Chair