



National Office
4 Campion St
DEAKIN ACT 2600

T 02 6259 0431

F 02 6259 0462

E natoffice@acl.org.au

W www.acl.org.au

ABN 40 075 120 517

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Free TV Australia
44 Avenue Road
Mosman NSW 2088

Re: Review of the Commercial Television Industry Code of Practice

Introduction

Thank you for the opportunity to comment on the draft Commercial Television Industry Code of Practice (the Code).

Free TV Australia has an important responsibility to ensure that its Code reflects community standards, "since commercial television is a freely-accessible medium, open to all Australians".

The Australian Christian Lobby (ACL) wishes to outline a set of specific issues in the draft Code that should be addressed for the Code to become a more credible check on the scheduling and broadcasting activity of Australia's commercial television networks. Issues considered include:

1. Television Classification Guidelines;
2. Children's viewing times;
3. Promotion of 'adult' programming;
4. Mature Audience (MA) classification;
5. Compliance with the Code;
6. Complaints handling; and,
7. Reality television.

At a time when there is widespread community concern about falling television standards, ACL is disappointed that Free TV Australia is proposing to weaken its Code. This is a serious misreading of community and Government sentiment. It is worth registering that on a recent ABC 'Australia Talks' (24 September 2009) programme dedicated to this issue, all those who called in registered their dissatisfaction with current television classification standards.

1. Television Classification Guidelines

The increasing levels of sex and violence on television are unacceptable to a great many people in the community, and clearly show that the current guidelines are not tough enough. There are

numerous examples of explicit sex and violence being screened in unsuitable timeslots, which are clearly not in keeping with community standards. This makes it difficult for parents to control the environment for their children.

Just by way of one example, Channel Nine's *Underbelly* was originally broadcast in an 8:30pm timeslot despite including footage of graphic bloody murder, detailed cocaine snorting and explicit sex scenes, including discipline fetishes and anal rape. This is clearly not appropriate in a timeslot when many young people would be watching television, and may even be in breach of the Code.

ACL requests Free TV Australia strengthen classification guidelines (Appendix 4) by setting clear and specific limits on the depiction of violence, sexual behaviour, language, themes and drugs. The present guidelines permit television stations to liberally interpret the intended limits of acceptable programming for a particular classification standard.

For example, the guideline for M-rated programs that "Visual depiction of nudity must be justified by the storyline or program context" is far too vague, and can easily excuse large amounts of nudity in a program with the story line written to suit it. The guidelines should provide greater certainty for parents and less scope for subjective interpretation by television stations.

ACL recommends that vague phrases in the classification guidelines that are open to interpretation be replaced with clear instructions that place appropriate limits on sex, violence, coarse language and drug use. Given that commercial television is freely available, limits should be objective and certain. Only then can parents have confidence in the classification system as a tool by which they can protect their children.

In particular, the guidelines should clearly articulate what is meant by "impact" at the very mild or mild level. This is consistent with Recommendation 4 from the Senate Committee on Environment, Communications and the Arts Inquiry into the effectiveness of the broadcasting codes of practice, which reads:

Each industry code of practice should clarify terms used for classification and consumer advice as much as is practicable (e.g. 'occasional', 'some' and 'frequent'). Codes should also contain a clear discussion on the principles for classification, such as 'impact', that may be used to determine a program's classification.

This recommendation should be implemented.

2. Children's viewing times

The draft Code proposes a radical departure from current classification zoning guidelines with the introduction of the Multi-Channel Appendix. The Appendix proposes all digital multi-channels be granted the capacity to broadcast PG-rated programs throughout the entire day, instead of the present industry standard of G-rated programs during children's viewing times in the morning and afternoon.

When the switchover to digital television is complete in 2013, the introduction of the Multi-Channel Appendix would cause there to no longer be a time of the day when parents can be sure that only G-rated material will be broadcast on commercial channels. Given that PG-rated programs increasingly contain coarse language and material of a violent or sexualised nature, which are clearly unsuitable

for children, this suggestion represents a serious weakening of television standards. This proposal is particularly reprehensible given the fact that children are heavy consumers of television, with television programs often providing models for social interaction.

The Free TV Australia Explanatory Note for the Code of Practice Review seeks to assure viewers of commercial television that new parental lock mechanisms in digital set top boxes “will provide appropriate community safeguards”. This transfers even greater responsibility for monitoring television content from the networks to already time-poor parents, many of whom have neither the time nor the technical know-how to block programs. Those parents can presently rely on the television stations to broadcast G-rated programs in selected timeslots that they know are suitable for their children. The Multi-Channel Appendix removes the assurance and hinders parental care.

The Multi-Channel Appendix also represents the serious departure of Free TV Australia from its responsibility to provide suitable content for all viewers. The current G-rated programming periods on television should continue to apply to free-to-air digital multi-channels. Parents need to know there will be no unsuitable programs shown on commercial television stations when their children are watching before and after school and early on weekends. This is more important than ever given both parents are increasingly working. The draft Multi-Channel Appendix should not appear in the final registered version of the Code.

3. Promotion of ‘adult’ programming

ACL is opposed to the proposed amendment to clause 3.14 of the Code relating to the promotion of programs classified MA or AV. There should be greater restrictions on the promotion of programs containing ‘adult’ content, not less.

The change to allow MA programs to be promoted at any time except during C- or P-rated programs would attract more young people to view programs with inappropriate content of a sexual or violent nature. It would allow highly sexualised or violent programs with content clearly unsuitable for minors, such as *Californication* or *Underbelly*, to be promoted during G-rated cartoons or PG-rated family shows or movies. This proposal ignores the important responsibility of television networks to shield children from inappropriate content.

ACL wishes to see the section of the Code relating to program promotions (section 3) amended to more closely reflect community standards of acceptable content for advertising during designated and potential children’s viewing times. ACL proposes that:

- M-rated programs only be promoted between 7:30pm and 6:00am, or during M-rated timeslots such as the lunchtime (12-3pm) timeslot on school days; and,
- MA and AV-rated programs should only be promoted between 8:30pm and 5:00am, when there is little possibility of a child watching television.

4. Mature Audience (MA) Classification

The amount of sexual activity on television screens has undoubtedly increased on Australian television screens in recent years. There is also very little doubt that depictions of sexual activity on

television are of an increasingly graphic and explicit nature. Rather than softening guidelines for the depiction of sex scenes in MA-rated programs, Free TV Australia should be working to tighten the rules that govern the portrayal of sexual activity in television programs.

ACL is opposed to the removal of references to the “discreet” presentation of sexual behaviour in the MA classification guidelines. It is also opposed to the proposed new guideline which would allow sexual behaviour to “contain detail”. Free-to-air television, broadcast into every Australian home, is easily accessible and available to all people, including children. It should not contain detailed or indiscreet sexual behaviour.

ACL rejects the proposition in the Explanatory Note that the term “discreet” in the guidelines is “potentially confusing in the context of MA classified content”. The emphasis of the MA guideline that sexual behaviour must be discreet should be retained. The idea that there should be more ‘detail’ in sexual content on television is not supported by the mainstream Australian community, nor is it supported by parents.

5. Compliance with the Code

Section 1.5 outlines a range of circumstances in which a ‘failure to comply’ is not to be considered a ‘breach of the Code’. These circumstances are too broad, and offer commercial television stations too much latitude to avoid repercussions for breaching the Code. Television stations ought to be more accountable for their programming choices, and take greater responsibility for the programs and promotions that they screen.

Section 1.5 of the Code should be amended so that there are fewer grounds for a breach of the Code to be excused as a ‘failure to comply’. An amended Code should clearly detail what is countenanced by terms such as a ‘reasonable mistake’ or ‘reasonable reliance’ in order to ensure objectivity and consistency in the interpretation of the clauses.

6. Complaints handling

Recommendation 12 from the Senate Committee on Environment, Communications and the Arts Inquiry into the effectiveness of the broadcasting codes of practice reads:

All broadcasters should amend their codes of practice and website capabilities to allow viewers to make complaints about the code by email or electronically. Email and electronic complaints about code-related issues should receive the same response as a written complaint.

In its response to the Inquiry, the Government supported this recommendation. ACL believes the complaints handling process should be simplified, not made even more inaccessible to the public as is proposed in the draft Code. Renumbered clause 7.5.1.1 should be removed to allow viewers to simply and conveniently lodge formal complaints via electronic mail or other means of electronic communication. To block consumer complaints lodged from modern means of communication shows disdain to the viewing public. It is difficult to understand why the Government’s recommendation from the Senate Inquiry is not reflected in the draft Code.

Proposed clause 7.3.3, which allows only those people who have actually viewed a program to lodge a complaint, should be removed from the final version of the Code. Likewise revised clause 7.16, which treats a series of complaints made by a body or group to be a single complaint, should not remain in the Code. First-hand experience is not a prerequisite to comment or complain about inappropriate television content. People should have the freedom to express views to television networks based on media reports, or the report of other concerned parents, for instance.

For those who are genuinely interested in commercial television standards the complaints process should be as simple and transparent as possible. The two proposed changes above make that process more complicated, and weight the process too much in favour of stations that breach the Code. They also make all the more difficult an already inadequate response time to inappropriate material, one that seldom sees complaints upheld until after the series is completed. ACL asks that they be removed from the Code.

7. Reality television

ACL is pleased that Free TV Australia has moved to strengthen standards for regulating the broadcast of 'reality' television programs. In particular, ACL is pleased with the reality television advisory note, which outlines specific guidance to producers of such programs on the factors that should be taken into account when presenting participants.

It is positive that Free TV Australia recognises that equipment "may need to be incorporated in broadcasts to censor coarse language, blur vision, or switch vision to render the broadcast suitable for its timeslot". ACL also supports the advice that "some behaviour in a "real" context has more impact than in a fictional setting".

Clause 1.10.7 of the draft Code says that a television station must not broadcast a program, promotion or announcement which is likely to "present participants in reality television programs in a highly demeaning or highly exploitative manner". Whilst it is positive that there is now some substantive protection of participants in reality television programs, ACL argues that the wording of this clause is too loose, and is open to arbitrary interpretation.

The word "highly" (both occurrences) should be removed from the Clause. Participants of reality television programs should not be subjected to demeaning or exploitative conduct of any variety – something the viewing public has repeatedly rejected.

Conclusion

At a time of growing concern about the sexualisation of children at ever younger ages, Free TV Australia has an important responsibility to ensure that its Code complies with community expectations about the quality of television programming. There is no doubt the community has reached a tipping point on this issues, and weakening the Code and making it more difficult for members of the public to dialogue with television stations about the quality and content of television programs avoids that responsibility. The Code should be re-drafted to reflect the wishes of the community and the Australian Government.

Thank you for your consideration of our views.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Lyle Shelton', with a stylized flourish at the end.

Lyle Shelton
National Chief of Staff