

2 May 2008

Mr Elton Humphery
Committee Secretary
Community Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

By Email: community.affairs.sen@aph.gov.au

Dear Mr Humphery

ALCOHOL TOLL REDUCTION BILL 2007

ASTRA writes to you with regard to the Senate Standing Committee on Community Affairs' ('Committee') inquiry into the Alcohol Toll Reduction Bill 2007 ('Inquiry'). ASTRA appreciates the opportunity to contribute to the Inquiry.

ASTRA represents the interests of what are primarily subscription television platforms and channel providers. A list of ASTRA's members can be found at www.astra.org.au/members.asp.

ASTRA's members ensure that broadcasting content is presented in a socially sensitive manner in a way that meets broader community expectations. A very thorough and extensive framework regulates the presentation of content including ASTRA's codes of practice. The Subscription Broadcast Television Code of Practice is available on ASTRA's website.

The careful presentation of advertising content broadcast to young audiences is particularly important to ASTRA and is carefully managed by ASTRA's members. ASTRA's Subscription Broadcast Television Code ensure that the following approach must be taken with regard to **advertising**:

- Licensees must adopt and comply with relevant Australian Association of National Advertisers' Codes including the Alcohol Beverages Advertising Code.
- Licensees must not cause serious offence to the intended audience of a channel.
- Licensees must comply with all State and Federal Law requirements including the *Trade Practices Act 1974*
- Licensees must not discriminate against any individual or group
- Licensees must comply with relevant laws governing the invitation to take part in competitions
- Licensees must give an appropriate television classification to advertisements
- Licensees must take special care when advertising on channels intended for consumption by children including taking the following precautions:

“(a) No products or services may be advertised, or advertising styles deployed, that could place children in physical, mental or moral jeopardy. All Children's Advertising must be clearly distinguishable from the programming in which it appears.

(b) Children's Advertising should not seek to exploit children's innate credulity, loyalty and sense



of fair play.

(c) Each channel that broadcasts Children's Advertising will publish its own code specifically addressing advertising directed at children.

(d) Any advertising directed to children, involving the use of premium rate telephone services will include the basic terms of any competition and information about the cost of the call in a form which children can reasonably understand.”¹

- Licensees must take into account the intellectual and emotional maturity of its intended audience when scheduling advertisements for a variety of products including:
 - when advertising to children;
 - when advertising merchandising particularly associated with children’s programming; and
 - when advertising Alcoholic Beverages.

This coupled with the technological protections that exist on subscription television services (detailed below under the heading ‘*Subscriber Control*’) means that viewers of subscription television programs and services are protected in the most comprehensive manner possible on any content delivery platform from content that is inappropriate.

Background: ASTRA’s Codes

Under the Broadcasting Services Act 1992 (‘**BSA**’), ASTRA is required to develop codes of practice to cover the narrowcast radio and subscription television sectors. The then Australian Broadcasting Authority (‘**ABA**’) ‘registered’ these codes in 1997, 1999 and 2003. The codes were registered again by the now Australian Communication and Media Authority (‘**ACMA**’) in 2007.² On each occasion, registration occurs on the basis that the codes reflect appropriate broadcasting standards, are endorsed by the majority of service providers captured by the code; and upon demonstrating an adequate level of consultation regarding the code with the broader Australian community.

The ASTRA codes cover matters of community concern as set out at section 123 of the BSA. These matters include, the classification of programs, accuracy and fairness in news and current affairs, complaints handling, captioning, advertising and dealings with customers on matters such as billing and fault repair.

A major distinctive feature of subscription television is the direct contractual relationship between the service provider and the subscriber. This voluntary relationship between the provider of a retail service and a subscriber to that service provides subscribers with freedom of choice along with the capability and responsibility to select the programs they wish to receive. In this sense, subscription television is in the nature of an invited guest, brought into the home in the full and prior knowledge of the guest's character.

In light of regulatory policy set out under the BSA, the codes for subscription television recognize the fundamental differences between the mass appeal and mass market target of free to air television and the niche nature of subscription television. The codes are especially sensitive to the expectations of the audience about program and advertising content of particular channels at particular times especially as the audience is paying for the service.

The ASTRA codes are intended to provide clear and consistent information to enable consumers to make informed decisions about the nature of the programming they elect to receive. Embracing the codes, subscription television operators are committed to the protection of subscribers' interests in all aspects of their service provider-subscriber relationships.

¹ Section 6.3 of ASTRA’s Subscription Broadcast Television Code

² There was a delay in registering ASTRA’s Open Narrowcast Television Code of Practice due to the consideration of a late submission in ASTRA’s code review process. ASTRA has been informed that the Open Narrowcast Television Code will be registered shortly.

Subscriber Control

To further delineate service offerings, some operators permit entire channels to be blocked by account holders. Additionally entire classification levels may be blocked meaning that, for example, a household may choose to block content stronger than PG without an additional PIN security code. This is all achieved using what is termed a 'parental control lock-out' or 'disabling devices'.³

This allows subscribers to pick and choose the type of content they receive at every possible point. They are entirely in control of the services they view.

Complaints

ASTRA notes that the vast majority of complaints received by its licensee members largely concern billing or fault repair and are resolved to the customer's satisfaction. There are no patterns of complaint concerning or surrounding any type of content on its services including alcohol product advertising.

Conclusions

Section 4 of the *Broadcasting Services Act (C'th) 1992 (BSA)* states that "*Parliament intends that different levels of regulatory control be applied across the range of broadcasting services ... according to the degree of influence that different types of broadcasting services... are able to exert in shaping community views in Australia*".

Given the level of impact and reach of subscription television services, its 'invited guest' characteristic, the absence of any pattern of complaint and the amount of advertising regulation that exists for alcoholic products on our services, ASTRA is of the view that there is no regulatory failure with regard to the broadcasting of Alcohol advertising on ASTRA's members' services.

Do not hesitate to contact ASTRA if there is anything further that we may be able to provide to assist in the inquiry process.

Yours sincerely



Debra Richards
CEO

³ Note that the use and communication of disabling devices is prescribed in the Subscription Broadcast Code of Practice.