

Submission

on the

Effectiveness of the Broadcasting Codes of Practice

to the

Senate Standing Committee on Environment, Communications and the Arts

Department of the Senate

PO Box 6100

Parliament House

Canberra ACT 2600

Phone: (02) 6277 3526

Fax: (02) 6277 5818

Email: eca.sen@aph.gov.au

Website: www.aph.gov.au/senate/committee/eca_ctte

by

Festival of Light Australia

4th Floor, 68 Grenfell St.

Adelaide SA 5000

Phone: 1300 365 965

Fax: 08 8223 5850

Email: office@fol.org.au

Website: www.fol.org.au

1 May 2008

TABLE OF CONTENTS

1. Introduction.....	1
2. Frequency and use of coarse language.....	2
2.1 Coarse language on commercial television.....	2
2.2 Comparison with the United States.....	4
3. Effectiveness of the current classification standards.....	5
3.1 Commercial Radio Codes of Practice & Guidelines.....	7
3.2 R18+ pay TV	7
4. Complaints.....	8
4.1 Penalties	9
5. Classification zones	10
5.1 G classification zone	10
5.2 M classification	11
5.3 MA/AV classifications	11
6. Endnotes.....	12

1. Introduction

The Senate has referred the following matter to the Committee for inquiry and report by the 9 June 2008:

An examination into the effectiveness of the broadcasting codes of practice operating within the radio and television industry, with particular reference to:

- a. the frequency and use of coarse and foul language (swearing) in programs;
- b. the effectiveness of the current classification standards as an accurate reflection of the content contained in the program;
- c. the operation and effectiveness of the complaints process currently available to members of the public; and
- d. any other related matters.

The Committee has invited written submissions from interested individuals and organisations. The closing date for submissions is Friday, 2 May 2008.

There are eleven codes of practice either currently registered by the Australian Communications and Media Authority (ACMA) for each industry sector or notified to ACMA by the national broadcasters (ABC and SBS).

- Commercial Television Industry Code of Practice¹
- Community Television Code of Practice²
- Subscription Narrowcast Television Codes of Practice³
- Subscription Broadcast Television Codes of Practice⁴
- Open Narrowcast Television Codes of Practice⁵
- ABC Codes of Practice⁶
- SBS Codes of Practice⁷
- Commercial Radio Codes of Practice & Guidelines⁸
- Community Broadcasting Codes of Practice⁹
- Subscription Narrowcast radio Codes of Practice¹⁰
- Open Narrowcast Radio Codes of Practice¹¹

A code of practice for datacasting has not yet been submitted for registration.¹²

2. Frequency and use of coarse language

Each of the eleven codes of practice contains provisions dealing with coarse language.

2.1 Coarse language on commercial television

The Commercial Television Industry Code of Practice¹³ provides as follows:

2.17 The following categories indicate material that will invariably be unsuitable for television:

2.17.3 **Language:** Very coarse language that is aggressive and very frequent.

2.21.2 **Consumer advice text:** The advice must specify one or more of the classification elements set out below. Where the frequency of classification elements is not indicated in the listed terms, the adjective “some” or “frequent” should be used (e.g. “some nudity”).

2.21.2.1 Language

- mild coarse language
- some coarse language
- frequent coarse language
- very coarse language
- frequent very coarse language

Specific provisions about the level and frequency of coarse language are given for each of the classification levels. There are two parallel classification schemes. Films are classified according to the Guidelines for the Classification of Films and Computer Games¹⁴ while all other programs are classified according to the provisions in the Code of Practice. The provisions are set out in parallel below.

The General (G) Classification

2.3 **Language:** Very mild coarse language generally considered socially offensive or discriminatory may only be used infrequently when absolutely justified by the story line or program context (*Commercial Television Industry Code of Practice*).

Coarse language should be very mild and infrequent, and be justified by context (*Guidelines for the Classification of Films and Computer Games*).

The Parental Guidance Recommended (PG) Classification

3.3 **Language:** Low-level coarse language may only be used infrequently, when justified by the story line or program context (*Commercial Television Industry Code of Practice*).

Coarse language should be mild and infrequent, and be justified by context (*Guidelines for the Classification of Films and Computer Games*).

The Mature (M) Classification

4.3 **Language:** The use of coarse language must be appropriate to the story line or program context, infrequent and must not be very aggressive. It may be used more than infrequently only in certain justifiable circumstances when it is particularly important to the story line or program context (*Commercial Television Industry Code of Practice*).

Coarse language may be used. Aggressive or strong coarse language should be infrequent and justified by context (*Guidelines for the Classification of Films and Computer Games*).

The Mature Audience (MA) Classification & the Adult Violence (AV) Classification

5.3 **Language:** The use of very coarse language must be appropriate to the story line or program context and not overly frequent or impactful (*Commercial Television Industry Code of Practice*).

Strong coarse language may be used. Aggressive or very strong coarse language should be infrequent (*Guidelines for the Classification of Films and Computer Games*).

It is not clear why there is provision for a language warning for “frequent very coarse language” when the provisions for the highest classifications (MA and AV) for programs other than films insist that “very coarse language” not be “overly frequent” and the film guidelines for MA15+ provide that “very strong coarse language should be infrequent”.

ACMA has recently agreed to investigate complaints from Festival of Light Australia about Channel 9’s classification of the series *Underbelly* as M notwithstanding that some episodes had warnings about “frequent very coarse language” despite the M classification having no provision for “very coarse language” and even the MA and AV classifications requiring that “very coarse language” not be “overly frequent”. Channel 9’s response to these complaints was to rely on the provision that coarse language “may be used more than infrequently only in certain justifiable circumstances when it is particularly important to the story line or program context”. However, while this may be used to justify frequent coarse language it does not apply to frequent *very* coarse language in the M classification. Channel 9 did not dispute that the language in some episodes was “*very* coarse” as it had indicated in the language warnings. [Correspondence relating to these complaints can be provided on request.]

ACMA has considered some earlier complaints about coarse language.

In its Investigation Report No.1890¹⁵ into the broadcast with a M classification and a warning that there was “some coarse language” of the film *Holy Smoke* the investigator found that:

“The term ‘f--k off’ is considered to be coarse language and is used aggressively by characters in several scenes. The aggressive use of this language is very infrequent and justified by the context of the scenes, which illustrate the conflict between the main characters.

“The coarse language is most commonly used to express surprise and mild frustration.

“The impact of the coarse language is no higher than moderate and does not exceed the requirements for an M classification.”

It is hard to reconcile the investigator’s statements that “the term ‘f—k off’ ... is used aggressively ... in *several* scenes” but “the aggressive use of this language is *very infrequent*”. The use of this term in several scenes cannot possibly be considered “very infrequent”!

In 2007 alone ACMA dismissed four complaints about coarse language.¹⁶

The use of the “f---” word over 80 times in a recently broadcast episode of *Ramsay’s Kitchen Nightmares* classified as M has provoked widespread complaints, indicating that ACMA’s interpretation of the guidelines is not in line with public expectations.¹⁷

2.2 Comparison with the United States

In the United States, the Federal Communications Commission (FCC) is charged with civil enforcement of the law which prohibits the utterance of ‘any obscene, indecent or profane language by means of’ free-to-air radio or television broadcast. The Commission’s rules prohibit the broadcast of indecent or profane material during the period of 6 a.m. and 10 p.m.¹⁸

The justification for this approach is set out by the Supreme Court in the 1978 case *FCC v Pacifica Foundation*¹⁹.

Of all forms of communication, broadcasting has the most limited First Amendment protection. Among the reasons for specially treating indecent broadcasting is the uniquely pervasive presence that medium of expression occupies in the lives of our people. Broadcasts extend into the privacy of the home and it is impossible completely to avoid those that are patently offensive. Broadcasting, moreover, is uniquely accessible to children ... even those too young to read.

The government’s interest in the “well-being of its youth” and in supporting “parents’ claim to authority in their own household” justified the regulation of otherwise protected expression. The case with which children may obtain access to broadcast material, amply justify special treatment of indecent broadcasting.

In its 2004 Golden Globe Awards Order²⁰ the FCC warned broadcasters that, depending on the context, it would consider the “F-Word” and those words (or variants thereof) that are as highly offensive as the “F-Word” to be “profane language” that cannot be broadcast between 6 a.m. and 10 p.m. This followed the broadcast of a single use of the word “f---ing” by actor Bono on receiving an award.

This order was set aside in 2007 by a federal appeals court but the Supreme Court agreed on 17 March 2008 to an application from the FCC to hear the case to determine the question “Whether the court of appeals erred in striking down the Federal Communications Commission’s determination that the broadcast of vulgar expletives may violate federal restrictions on the broadcast of ‘any obscene, indecent, or profane language’, when the expletives are not repeated.”²¹

The contrast between a US legal battle over single expletives compared with the occurrence of frequent very coarse language in *Underbelly*, *Ramsay’s Kitchen Nightmares* and *Holy Smoke* is instructive.

The justification by Channel 9 in its response to Festival of Light Australia’s complaints that the use of frequent very coarse language was that it was “particularly important to the story line” which was about criminals, who are known to swear frequently. However, the suite of US crime shows – *Without a Trace*, *Law and Order*, *CSI* – are produced for prime-time free-to-air TV and so have no coarse language. It is very doubtful that these programs would be improved if the criminal characters portrayed routinely used aggressive coarse language.

Recommendation 1:

The rules for coarse language on commercial television should be amended to ensure that:

- ***the G classification is entirely free of all coarse language;***

- *there is no use at all of the most offensive coarse language (the f-word, etc.) outside the MA15+ classification zone; and*
- *programs with frequent very coarse language are not broadcast at any time.*

These provisions should be included in Section 123 of the Broadcasting Act 1992 as mandatory provisions for the codes of practice for commercial broadcasting licensees.

Similar changes should be made to the codes of practice for the ABC and SBS.

3. Effectiveness of the current classification standards

The current classification standards are ineffective in several significant aspects.

The 2003 Guidelines for the Classification of Films and Computer Games²² introduced an impact scale which ranged from “very mild” for G to “very high” for RC. The difficulty with this approach is that the top and bottom impact levels on this scale need to be objectively defined – otherwise the information conveyed by the classification is not very helpful. If an impact is said to be “high”, what does that mean in concrete terms? What does “low” impact mean? Clear indications of what scenes will and will not be permitted are needed.

Parents, in particular, want a G classification which is guaranteed to be free of sex, drug use and nudity rather than being told that any treatment of these elements will have “very mild impact”.

At the top end of the scale it is important to clarify what will not be permitted even in the highest (MA15+/AV15+) classifications.

Provisions in the current Commercial Television Industry Code of Practice²³ dealing with the depiction of sexual behaviour are linked to partial exceptions based on “justification by the story line”. The Code provides in relation to “sex and nudity” in the MA Classification that²⁴:

Visual depiction of intimate sexual behaviour (which may only be discreetly implied or discreetly simulated) or of nudity only where relevant to the story line or program context. However, a program or program segment will not be acceptable where the subject matter serves largely or wholly as a vehicle for gratuitous, exploitative or demeaning portrayal of sexual behaviour or nudity. Exploitative or non-consenting sexual relations must not be depicted as desirable.

The Australian Communications and Media Authority has interpreted this provision as allowing the following depictions of sex and nudity in the *Californication* series, largely on the grounds that this is a “a narrative set in contemporary Californian society”²⁵:

- oral sex between a Catholic nun in her habit and the main male character;
- the main male character’s 12 year old daughter alerting him to the presence of a naked woman in his bedroom;
- the main male character having sex with a 16 year old girl;
- a scene in which a woman asks the main male character whether she should have cosmetic surgery on her breasts and her vagina, he answers that she shouldn’t - while rejecting her by pushing her back through a doorway;

- a woman strips naked in front of the main male character, asking him what he thinks of her body; her pubic area is obscured in the camera shot only by the man's arm - the couple then have sexual intercourse after which they both vomit as a result of imbibing alcohol and smoking cannabis;
- while having sex with another woman, the main male character fantasises about having sex with a 16 year old girl;
- a man masturbates while looking at photographs on a website of his female employee in sexualised poses dressed in her underwear with one nipple exposed;
- a couple have rear-entry intercourse;
- a man smacks the bare bottom and thighs of his young female employee.

This list of incidents of depictions of sexual behaviour is from just three one hour episodes of this series. If this series can pass be judged by ACMA as suitable for free-to-air television, then it is clear that either the Commercial Television Industry Code of Practice is defective, or its interpretation by ACMA is unacceptable. It does seem that ACMA gave too much weight to the question of relevance to the story line. The notion that it is justifiable to serve up endless depictions like these because the story is *about* decadent and meaningless sex in California is wrongheaded. ACMA also seemed to rely on a distorted notion of the word *discreetly*, arguing that various camera angles, shadows, and so forth made *discreet* the scenes in which it was quite clear that details of the sexual activity outlined above were taking place.

There is a contradiction in the current Code which provides in a section on "Using these guidelines" that: "Contextual factors do not permit the inclusion of material which exceeds a program's classification" but then provides within the classification scheme for various otherwise prohibited elements to be allowable if "relevant to the program context".

This ambiguity needs to be resolved in favour of a more objective test.

Recommendation 2:

The Commercial Television Industry Code of Practice should be amended to include a provision that context may not be used to classify a program in a classification category from which it would have otherwise been excluded by an objective test.

All references in the guidelines to "relevance to story line" or "program context" should be reviewed. Where such references could be read as violating this provision, they should be appropriately amended for clarity.

However an examination of ACMA decisions - such as the recent dismissal of complaints against *Californication* - indicates there is also a problem with the judgement of ACMA personnel.

Recommendation 3:

Officers of the Australian Communications and Media Authority should be given appropriate training in the issue of sexualisation of women and girls - so that they are less likely to treat as trivial the kinds of depictions of sexual behaviour prevalent in programs like Californication.

3.1 Commercial Radio Codes of Practice & Guidelines

Commercial radio is governed by Commercial Radio Australia's Codes of Practice & Guidelines.²⁶

Section 1.3 (e) of Code prohibits the broadcast of a program which is "likely to incite or perpetuate hatred against or vilify any person or group on the basis of age, ethnicity, nationality, race, gender, sexual preference, religion or physical or mental disability."²⁷

Section 1.5 (a) provides that "All program content must meet contemporary standards of decency, having regard to the likely characteristics of the audience of the licensee's service."²⁸

The Codes of Practice & Guidelines include "Guidelines and Explanatory Notes on the Portrayal of Women on Commercial Radio"²⁹. These provide that "In the portrayal of women on commercial radio, broadcasters should avoid promoting or endorsing inaccurate, demeaning or discriminatory descriptions of women by ... 5. not broadcasting material which condones or incites violence against women."

Anecdotal evidence³⁰ suggests that music with demeaning song lyrics is nonetheless pervasive on commercial radio.

In May 2007 ACMA dismissed a complaint about offensive song lyrics broadcast in Tasmania on 7JJJ.³¹ This complaint was made under the ABC Code of Practice³² which provides (at 2.3) that "Provided it is handled with integrity, any of the following treatments of sex and sexuality may be appropriate and necessary to a program: it can be discussed and reported in the context of news, current affairs, information or documentary programs; it can be referred to in drama, comedy, lyrics or fictional programs; and it can be depicted, implicitly or explicitly."³³

"Handled with integrity" seems an insufficiently objective or specific criterion for assessing the acceptable boundaries of treatments of sex in song lyrics. It is hardly surprising that complaints are dismissed.

Recommendation 4:

The Commercial Radio Australia's Codes of Practice & Guidelines and the ABC Code of Practice need to be revised and strengthened, in order to limit more effectively the broadcast and distribution of material which demeans women by treating them as sexual objects, including as objects for sexual violence.

3.2 R18+ pay TV

The only form of television broadcasting services currently permitted to broadcast R18+ programs is subscription television narrowcasting services. The legislation and codes of practice for all other television broadcasting services – ABC, SBS, commercial free-to-air and subscription television broadcasting services – currently prohibit the broadcasting of R18+ programs.

The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Emergency Response Consolidation) Bill 2008, the provisions of which are the subject of a reference by the Senate to the Community Affairs Committee, proposes, under certain conditions, to ban the broadcast of R18+ pay television into prescribed areas in the Northern Territory.

Subscription television narrowcasting services to the Northern Territory, was specifically identified in the report, *Little Children are Sacred*,³⁴ as contributing to the problems of sexualisation of Aboriginal youth and the sexual abuse of women and children in their communities.

There is no reason to think that only Aboriginal people are susceptible to the damaging influence of R18+ pay TV.

R18+ pay TV largely consists of pornographic films featuring a series of random sexual encounters with two or more participants, only differing from X18+ films in that the actual penetration shots are not generally shown.

The Adults Only Channel³⁵ describes its offerings as follows:

ADULTS ONLY is Australia's only 24 hour 7 days a week Monthly and Pay-Per-View adult erotic TV service. It's the place for 24/7, "R" rated adult, erotic entertainment on FOXTEL, OPTUS and AUSTAR. Two channels of the hottest TV from around the world. Feature length Movies, Wall to Wall action, All Sex, Girl on Girl and the latest Gonzo programmes where the camera takes you right into the middle of the action!

The programmes on Adults Only are as hot as we can show and are "R" rated for their erotic & sexual content.

The description of the contents of this channel indicates that it contains material which could potentially induce demeaning attitudes and sexually abusive behaviour - not only in indigenous viewers, but also the wider community.

Recommendation 5:

The Broadcasting Act 1992 should be amended to remove any provisions allowing broadcast of programs classified R18+.

4. Complaints

The Reality Television Review³⁶ carried out by ACMA made the following recommendation for improving the complaints procedures under the Commercial Television Industry Code of Practice:

That the complaints handling procedures in the Code be enhanced to expedite the process for handling complaints, and increase viewers' awareness of the process as follows:

- licensees accept electronic complaints via their website, and take steps to promote this process;
- a licensee is to report to ACMA within three days of observing any significant spikes in viewer complaints about a Code matter regarding a particular reality television program, to alert ACMA, as the regulator, to emerging issues of concern; and
- Free TV Australia Limited (Free TV) to provide ACMA with a monthly report on Code complaints, containing sufficient detail to enable ACMA to analyse complaints trends on an ongoing and timely basis.

This recommendation has not yet been acted upon by the licensees or by Free TV Australia.

The recommendation would be improved by:

- allowing electronic complaints by email as well as via licensees' websites as emails, especially with attachments, allow more flexibility in the form of a complaint than a website form;

- requiring licensees to record the content of telephone complaints and to include these in the reports to ACMA, including the proposed reporting of “significant spikes in viewer complaints”;
- extending its application to all programming, not just reality television; and
- extending its application to all the broadcasting codes.

Additionally the turn around time for a licensee to respond to a complaint should be reduced from 30 days to 10 working days. The current timetable creates an unnecessary delay before complainants can refer the matter to ACMA for action. This makes the whole process ineffectual as controversial series are usually concluded before ACMA completes its investigation.

Recommendation 6:

All broadcasting codes of practice should be amended to provide that:

- ***all licensees provide an email address and a website form for electronic complaints and that these complaints are treated in the same way as written complaints;***
- ***the content of all telephone complaints is recorded and a compilation of all telephone complaints received be reported to ACMA by each licensee monthly;***
- ***all licensees must respond to complaints within 10 working days, and if complainants do not receive a response within this timeframe the complaint may be forwarded directly to ACMA which may commence an investigation immediately on receipt of the complaint; and***
- ***all licensees must report to ACMA immediately any significant spike in complaints, including telephone complaints, in relation to a particular program and ACMA may immediately commence an investigation.***

4.1 Penalties

An examination of ACMA findings of breaches³⁷ of the broadcasting codes indicates that most breaches do not result in any penalty for the licensee.

Licensees are enjoying a privilege in being given access to the airwaves. This privilege carries it with the legal and social responsibility to comply with the codes of practice which are developed by the respective industry sectors. There ought to be a financial penalty for *any* breach of the code.

More importantly ACMA should be empowered to impose temporary restraints on broadcasting a particular series in response to prima facie serious breaches of a broadcasting code. For example, if an episode in a series is found to have been wrongly classified, then all future episodes should be presumptively classified according to the higher classification.

ACMA found on 4 October 2007 that there had been three breaches of the G classification by *Home and Away*³⁸ in episodes broadcast on 21 February, 23 March and 26 March 2007. However, by the time this finding was made the licensee had upgraded the default classification for the series to PG.

Recommendation 7:

Penalties for breaches of the code should be increased, in particular:

- *licensees should incur a financial penalty for any breach of a code; and*
- *ACMA should be empowered, based on a preliminary investigation, to order a licensee not to broadcast any further episodes of a program that has breached the code or to impose conditions on any further broadcast of the program.*

5. Classification zones

5.1 G classification zone

As from 1 July 2004, the revised Commercial Television Industry Code of Practice extended the PG time zones so they now run:

- from 7:00pm to 8:30pm on weekdays (rather than from 7:30pm); and
- from 10:00am to 8:30pm on weekends (rather than from 7:30pm to 8:30pm).

The draft code proposed by Free TV Australia would have allowed PG programmes from 5 pm onwards. After receiving a record number of submissions from concerned families, and questioning of the justification for the proposal by the Australian Broadcasting Authority by its then head, Professor David Flint, Free TV Australia had to accept a final code which retained the G classification zone from 4 pm-7 pm.

It is curious that after the change, the Channel 7 children's mascot Fat Cat continued to go bed at 7.30 pm - not the new cut-off of 7.00 pm. However Channel 7 dropped the old voice-over which used to say: "Some of the programs which follow are possibly not suitable for children."

The change in the classification of *Home and Away*, which screens in the 7 pm - 7.30 pm timeslot, from G to PG in June 2007 due to the increased inclusion of material inappropriate for the G classification – such as postcoital, in-bed discussions by a teenage couple after their first sexual experience and raunchy pole dancing³⁹ - is one example of licensees making use of increased PG time.

With the weekend PG classification zone now beginning at 10 am, parents have a challenging task in providing supervision of all their children's weekend television viewing from 10 am onwards.

It would be helpful to restore the pre-1 July 2004 classification zones, and to begin the after school G classification at 3.00 pm.

In many parts of Australia school children will be home from school as early as 3:15 pm. Many will turn on the television immediately. Parents should be confident that this after-school viewing time will only contain material suitable for children.

From 3.00 pm – 7.30 pm is prime children's television viewing time. It may include periods when parents are preparing the evening meal and children are watching television largely unsupervised. It also includes periods of time when the whole family watches television together. This period already allows for news programmes which are unclassified.

The weekend G classification zone should be restored to finish at 7.30 pm rather than 10 am.

The arguments advanced for the 2004 change were misconceived. It was asserted that other viewing options such as DVDs and the internet are not subject to classification time zones. This argument implies the complete abandonment of any classification zones – it ignores the reason for restricting certain types of programs during certain hours. Commercial free-to-air television enjoys the privilege of broadcast licences which give automatic access to every home in a broadcast area with a television. Every child old enough to manage an “on-off” switch can access free-to-air television. It is reasonable for families to be able to have confidence that there will be no unsuitable viewing from after school until 7:30 pm and during the day on weekends.

Free TV Australia also stated that 97% of those surveyed agreed that parents should control what their children watch on television. This result is unsurprising – of course parents should make sure that young children do not watch M and MA programs. However this finding in no way implies that TV stations should be allowed to reduce the time slots for programs suitable for children to watch without close supervision.

Free TV Australia also claimed that “PG level material is by definition suitable for children to watch with parental supervision”⁴⁰. This is inaccurate. “Parental Guidance” means that there are classification elements in the program that exclude it from the G classification. Parents may decide that a particular PG program is in fact not suitable for their children to watch at all, due to age or other personal factors. Parents may also decide that a particular program is suitable for their children to watch with their guidance on some aspects of the program. PG elements include “mild visual depiction of illegal drug use” and “restrained visual depiction of nudity”. There are many parents who would not want their younger children exposed to such viewing at all. It is demanding a lot of such parents to require them to ban all television viewing after 7 pm on weeknights and after 10 am on weekends!

Recommendation 8:

The G classification zone for all free-to-air television, commercial and public, should be expanded as follows:

- ***Weekdays*** ***6 am - 8.30 am and 3 pm - 7.30 pm***
- ***Weekends*** ***6 am - 7.30 pm.***

5.2 M classification

Preschool children and children away from school for various reasons (sickness, “pupil free days”, etc.) should not be exposed to M material during the day. The PG classification should allow for material of sufficient variety and interest to be shown to the daytime audience without offending against the needs of children and families.

Recommendation 9:

The 12 noon - 3 pm M classification zone should be reassigned as a PG classification zone.

5.3 MA/AV classifications

Both MA and AV are described as being suitable for viewing only by persons aged 15 years or over. It is therefore illogical to assign them different classification zones. The classification zones should take into account the needs of families, where parents who wish to preclude their children under 15 from viewing material judged to be unsuitable for viewing by persons under 15.

It is unreasonable to expect parents to enforce a 9:00 pm curfew on television viewing by 14 year olds. 9:30 pm would be more reasonable. In the United States, the time slot when TV programs unsuitable for children can be shown doesn't commence until 10 pm.

While many parents are rightly concerned about the adverse impact of violence on their children, many are equally concerned about the adverse impact of sexual depictions, coarse language, adult themes and drug use. Such parents see no reason to differentiate these elements by separate classifications. The provision of consumer advice meets the needs of those parents who wish to permit their older children to view some but not all material from the adult classification range.

Recommendation 10:

The MA and AV classifications should be combined into a single MA classification with a classification zone from 9:30 pm to 5:00 am.

6. Endnotes

1. www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm_tv_industry_cop-060907.pdf
2. www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/ctvcodeofpractice.pdf
3. www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/sntcodesofpractice2007.pdf
4. www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/stbcodesofpractice2007.pdf
5. www.acma.gov.au/webwr/assets/main/lib100060/revised%20openartv%20codes%20july%2003.pdf
6. www.abc.net.au/corp/pubs/documents/codeprac07.pdf
7. www20.sbs.com.au/sbscorporate/media/documents/8487sbs_codes_of_practice_2006.pdf
8. www.acma.gov.au/webwr/aba/contentreg/codes/radio/documents/cra-codeofpractice.pdf
9. www.acma.gov.au/webwr/aba/contentreg/codes/radio/documents/cbaa_code.pdf
10. www.acma.gov.au/webwr/assets/main/lib100060/rsncodesofpractice2007.pdf
11. www.acma.gov.au/webwr/assets/main/lib100060/anra_open_narrowcast_radio_code.pdf
12. www.acma.gov.au/WEB/STANDARD/pc=PC_90098
13. www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm_tv_industry_cop-060907.pdf
14. [www.comlaw.gov.au/ComLaw/legislation/legislativeinstrumentcompilation1.nsf/0/F0EC030A108C93DDCA2574120004F6B8/\\$file/FCGGuidelines2005.pdf](http://www.comlaw.gov.au/ComLaw/legislation/legislativeinstrumentcompilation1.nsf/0/F0EC030A108C93DDCA2574120004F6B8/$file/FCGGuidelines2005.pdf)
15. www.acma.gov.au/webwr/assets/main/lib310623/qtq-report1890.pdf
16. www.acma.gov.au/WEB/STANDARD/pc=PC_310038
17. Vallejo, Justin Ramsay's f-words called foul, *Daily Telegraph*, 21 March 2008, www.news.com.au/dailytelegraph/story/0,22049,23409598-5006014,00.html

-
18. www.fcc.gov/eb/oip/FAQ.html#TheLaw
 19. caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=438&invol=726
 20. hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-43A1.pdf
 21. www.supremecourt.us/qp/07-00582qp.pdf
 22. [www.comlaw.gov.au/ComLaw/legislation/legislativeinstrumentcompilation1.nsf/0/F0EC030A108C93DDCA2574120004F6B8/\\$file/FCGGuidelines2005.pdf](http://www.comlaw.gov.au/ComLaw/legislation/legislativeinstrumentcompilation1.nsf/0/F0EC030A108C93DDCA2574120004F6B8/$file/FCGGuidelines2005.pdf)
 23. www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/comm_tv_industry_cop-060907.pdf
 24. *Ibid.*, p 25.
 25. See *ACMA Investigation Reports*, nos. 1896-1899, 1923, *Californication: Episode 1*; 1901-1904, 1931, *Californication: Episode 2*; 1900, 1932, *Californication: Episode 3*.
 26. www.acma.gov.au/webwr/aba/contentreg/codes/radio/documents/cra-codeofpractice.pdf.
 27. *Ibid.*, p 4.
 28. *Ibid.*, p 5.
 29. *Ibid.*, p 27-29.
 30. Miller, A., "Claim back the music!", *Online Opinion*, 8 April 2008, www.onlineopinion.com.au/view.asp?article=7206.
 31. www.acma.gov.au/WEB/STANDARD/pc=PC_310036.
 32. www.abc.net.au/corp/pubs/documents/codeprac07.pdf
 33. www.abc.net.au/corp/pubs/codeprac04.htm.
 34. *Little Children are Sacred*, nt.gov.au/dcm/inquirysaac/pdf/bipacsa_final_report.pdf, p. 195, 199
 35. www.aotv.com.au/home/about.asp
 36. www.acma.gov.au/webwr/assets/main/lib310007/acma_realitytvreview_finalreport_voll_30mar07.pdf
 37. www.acma.gov.au/WEB/STANDARD/pc=PC_91717
 38. *ACMA Investigation Reports*. Nos. 1817, 1844 and 1845, available at: www.acma.gov.au/webwr/assets/main/lib101072/hsv7_rep_1817-home_and_away.pdf and www.acma.gov.au/webwr/assets/main/lib101072/hsv7_rep_1844and1845-home_and_away.pdf
 39. *Ibid.*
 40. www.freetv.com.au/SiteMedia/w3svc087/Uploads/Documents/1d752050-d064-4b9a-aa6d-cac66f324089.pdf