



Submission to the
Senate Standing Committee on Environment,
Communications and the Arts'
Inquiry into the effectiveness
of the broadcasting codes of practice

MAY 2008

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Executive Summary

The Australian Christian Lobby (ACL) welcomes the Senate Standing Committee on Environment, Communication and the Arts' decision to examine the effectiveness of the broadcasting codes of practice.

As an organisation with a keen interest in supporting families in their efforts to raise well-adjusted children, ACL has long been concerned about the low standards of television and radio programming, particularly in relation to the prevalence of bad language, violence and sexual themes. It is especially concerning when such material is broadcast with an inappropriate classification at times when children are likely to be watching or listening.

ACL is also concerned about the slow and ineffectual complaints process, which often fails to make any response to a complaint until the whole season of an offending program has aired.

As a result, ACL recommends:

- Abolishing the toothless tiger of self-regulation by broadcasters and replacing this with government regulation;
- Government regulators to closely monitor upcoming programs which are expected to test the boundaries;
- The establishment of more explicit codes of practice which remove vague terminology thus limiting the 'wriggle-room' which broadcasters use to justify screening inappropriate content on artistic grounds;
- Closer attention be paid to commercial radio programs, which seem to include sexual content when children may be listening;
- The creation of a single, independent, complaints body covering all areas of media staffed by experts in complaints management which can ensure that complaints are dealt with swiftly, in time to effect changes during the season of a program if it is found to have breached the code;
- Serious penalties, which genuinely act as a deterrent, to be imposed on broadcasters who shirk their social responsibilities by violating agreed codes of practice;
- This inquiry into broadcasting should be informed by the evidence presented to the concurrent inquiry into the sexualisation of children as these two issues are intertwined.

Terms of reference

The Senate Standing Committee on Environment, Communication and the Arts is conducting an examination into the effectiveness of the broadcasting codes of practice operating within the radio and television industry, with particular reference to:

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

Frequency and use of coarse and foul language in programs

Bad language is increasingly prevalent in programs. Perhaps the most notorious current example is *Ramsay's Kitchen Nightmares* shown at 8.30pm on Tuesdays and Thursdays on Channel 9. Despite this early timeslot, the program is replete with expletives, most commonly the f-word. Indeed, one sometimes wonders whether Ramsay would be capable of expressing himself if this word were removed from his vocabulary. One journalist estimated that Ramsay had used the f-word 80 times in one 45-minute episode screened in March 2008¹.

This program has an M rating. This program is only recommended for people over the age of 15. Even allowing for this, it seems unlikely that this very frequent use of a strong swear word is permitted by the Classification Code, which states that, in an M-rated program:

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 context².

ACL suggests that the level of swearing in *Ramsay's Kitchen Nightmares* breaches the provisions of the M-rating under the Classification Code. The f-word is used frequently, often aggressively, and, whilst such speech may be characteristic of Ramsay, it is hardly

¹ Holly Ife, 'TV and the f-bomb: 80 times in one show is just way too much,' *Adelaide Advertiser*, entertainment section, 18 March 2008.

² *Commercial Television Industry Code of Practice*, July 2004.

'important to the storyline or program context' as failing restaurant owners could easily be given constructive criticism and positive advice without being repeatedly sworn at.

Channel 9's response to concerns about Mr Ramsay's swearing reveal a great deal about the low value of the current classification codes, which are open to too much interpretation. When questioned about the appropriateness of an M-rating for this program, Channel 9's chief classification officer Richard Lyle said he believed that the program was appropriately classified, noting that, "Gordon Ramsay often does not use [the f-word] as swearing necessarily, just as another word, and sometimes even as praise."³

This blatant attempt to ignore the clear meaning of the Classification Codes is made possible by an *Alice in Wonderland* approach to swear words.

'When I use a word,' Humpty Dumpty said, in a rather scornful tone, 'it means just what I choose it to mean, neither more nor less.'

'The question is,' said Alice, 'whether you can make words mean so many different things.'

'The question is,' said Humpty Dumpty, 'which is to be master - that's all.'⁴

Despite Channel 9's attempt at obfuscation, the Code says nothing about whether swear words are being used as swear words or as praise. It simply states that frequent use of aggressive swear words is not compatible with an M-rating and, as such, ACL maintains that *Ramsay's Kitchen Nightmares* has been misclassified.

Indeed, it is easily possible that the very frequent and coarse swearing in this program would exclude it from the higher MA and AV ratings also, meaning it should not have been shown on television at all, or not shown unless Mr Ramsay's expletives were bleeped out. In an MA rated program (as well as an AV program), "the use of very coarse language must be appropriate to the story line or program context and not overly frequent or impactful."⁵

³ *Adelaide Advertiser*, op cit.

⁴ Lewis Carroll, *Through the Looking Glass*, Macmillan 1871

⁵ *Commercial Television Code of Practice*

The issue of swearing is not limited to commercial networks alone. In an episode of *Brat Camp*, shown on the ABC at 8.30pm in March, it is alleged that the program's teenage participants dropped the f- word almost 50 times⁶.

Does frequent coarse swearing on prime time television matter? Adolescent psychologist Michael Carr-Gregg certainly thinks so. Noting that TV standards were slipping, he said, "Constant swearing normalises it and sanitises it, maybe even glamourises it, and it should be discouraged because we should be educating children to express themselves in a more eloquent fashion."⁷ "

Effectiveness of the current classification standards as an accurate reflection of the content contained in the program

ACL does not believe that the current classification standards accurately reflect the content contained in a program. Channel 9's response above to complaints about an M-rating for *Ramsay's Kitchen Nightmares* demonstrates this aptly.

The Classification Code is too easily open to interpretation, containing vague phrases such as:

- "All violence shown must be mild in impact" (PG rating);
- "The use of legal drugs must be handled with care" (PG rating);
- "Visual depiction of nudity must be justified by the story line or program context" (M rating);
- "Intense themes should be handled with care" (M rating);
- "Realistic depictions [of violence] may contain some detail, but should not be prolonged and should not be unduly bloody or horrific" (MA rating)

There is a great deal of leeway available to programmers in these loose guidelines and it is clear that television stations are more than willing to push the boundaries as the following three examples show.

⁶ *Adelaide Advertiser*, op cit.

⁷ 'Parliament's scrutiny of Gordon Ramsay's Kitchen Nightmares' swearing,' *Herald Sun*, 20 March 2008

Underbelly

Underbelly provides a current example of inappropriately rated content. This program, based on Melbourne's underworld organised crime gang wars, is banned in Victoria but shown in other states at the very early time of 8.30pm. This timeslot is unacceptable for a program that includes footage of explicit bloody murders, frequent coarse language, unnecessarily prolonged and explicit sex and nudity scenes (including a discipline fetish not even permitted in X-rated films and an anal rape), detailed snorting of cocaine, and a graphic suicide scene. Such content does not comply with the M rating that Channel 9 has given *Underbelly*. A much stricter classification and a later timeslot are needed for this program.

Underbelly has repeatedly breached the M-rating as the following litany of abuses detailed in four complaints about the program⁸ show:

- Consumer advice from Channel 9 states that the program contained 'frequent, very coarse language' (which has included the use of phrases such as 'c-ck s-cker').
 - The M classification only allows infrequent coarse language and does not allow very coarse language at all;
- The portrayal of sexual violence. A review of previous episodes to bring the viewer up to date before Episode 7 screened on 26th March included scenes of Mark Moran indulging his discipline fetish by hitting his lover's bare buttocks. The episode later showed a woman being anally raped.
 - The sexual discipline and anal rape scenes could perhaps be justified in an AV rating but not an M rating. The AV rating states that violence occurring in a sexual context must not be detailed, and must be brief and infrequent, justified by the story line and not exploitative. It is worth noting that, 'festishes such as...spanking...are not permitted' in X-rated films⁹.
- Episode 3 included a very strong impact sex scene with full-length shots of a naked couple copulating to orgasm.

⁸ Festival of Light Australia's complaints to Channel 9 (27 Feb 2008, 13 March 2008 and 27 March 2008) and to the Australian Communications and Media Authority (7 April 2008)

⁹ *Guidelines for the Classification of Films and Computer Games*, Commonwealth of Australia, compiled 19 March 2008.

- This M guidelines for sex and nudity state that visual depiction of intimate sexual behaviour may only be implied or simulated in a restrained way.
There was no restraint in this scene.
- Episode 7 contains frequent scenes of female frontal nudity, which are not required by the story line, since the strip club environment and sexual encounters can be conveyed without such explicit, often lingering shots. This episode also contained prolonged scenes of a naked Lewis Caine with naked Zarah Garde-Wilson, with the nakedness doing nothing to further the storyline.
 - The M rating states that visual depiction of nudity must be justified by the story line or program context, and must not be detailed if in a sexual context.

The Australian Communications and Media Authority (ACMA) has now announced that it will investigate the allegations that *Underbelly* has repeatedly breached the M rating. Whilst this is a welcome development, it highlights the flaws in the complaints process (discussed further below) as it is highly likely that Channel 9 will have successfully screened the whole season of *Underbelly* before ACMA makes any ruling on whether or not it breached the Code.

Californication

Network Ten's *Californication* provides another example of a program which contained scenes that may well have breached its rating. *Californication*, which was promoted as the filthiest show on television, appeared to be focused on gratuitous sex and nudity, with the obvious aim of attracting ratings, comfortable in the knowledge that the self-regulation of the television industry is a toothless tiger.

Californication opened with the lead character walking into a Catholic church, extinguishing his cigarette in the font then having a sexual encounter with a nun. According to the *Herald Sun*:

The first episode of the racy comedy featured four sex scenes - one involving violence and statutory rape - copious nudity, teenage drug use and constant foul language in its 32 minutes¹⁰.

¹⁰ 'Californication, City Homicide slammed' *Herald Sun*, 29 August 2007

The program was given an MA rating and shown at 9.45pm but may still have breached the Commercial Television Industry Code of Practice classification which states:

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.

It is difficult to see how the program could be anything other than a vehicle for gratuitous sex scenes given that there were four such scenes in just 32 minutes, leaving very little time for story development. The lead character's actions in committing statutory rape were depicted as an acceptable act (later regretted), thus breaching the provision against exploitative portrayal of sexual behaviour.

ACL complained to Network Ten about the show with managing director Jim Wallace stating that:

...I believe the program breaches the Commercial Television Industry Code of Practice through: its gratuitous and exploitative portrayal of sexual behaviour; its frequent and very coarse language; and its depiction of material, which shows contempt for the Christian faith.

Though I cannot find a provision in the Code of Practice on this issue, I am particularly disturbed by the inclusion of a very young girl as the lead character's daughter. This child is exposed to the worst effects of her father's sexual antics, and is shown asking questions such as why his latest bedmate has no hair on her vagina.

I am very disappointed that Channel 10 would screen such a program, which shows appalling parenting practices and depicts women primarily as disposable goods for the lead character's frequent and short-term sexual encounters¹¹.

Network Ten's response was disappointing. They did not deny the show's depiction of sexual content or coarse language but sought to argue the artistic merits of their case on the basis of the 'impact' of the scenes:

I note your specific concern about a dream sequence involving a nun. In this instance, sex or nudity was not depicted onscreen. It was only alluded to, very briefly, off-screen. Sexual

¹¹ Letter from the Australian Christian Lobby to Network Ten complaining about *Californication*, 5th September 2007

references were not used in an overtly descriptive or aggressive manner but rather were in context with the MA classification. The following scene revealed that the encounter was a dream sequence, a revelation that had the effect of mitigating the overall impact. The impact was also reduced by the comical and surreal tone of the scene. Given the nature of the verbal and visual reference, this scene was not likely to provoke or perpetuate dislike, contempt or ridicule against Christians or Christianity.

...the [sex] scenes occur within the context of a storyline about redemption for a disaffected antihero. Given the context, the scenes do not serve largely or wholly as a vehicle for gratuitous, exploitative or demeaning portrayals of sexual behaviour or nudity.

...The encounter between the antihero, Hank, and a woman who is later revealed to be sixteen years old can thematically be accommodated within the MA classification. Hank was not aware of the girl's age at the time of the encounter. Furthermore, Hank condemns his own behaviour after the revelation...

...The coarse language in this program is generally used in a non-aggressive and colloquial manner by particular characters. Given its context, the coarse language is suitable for broadcast within an MA time zone¹².

Californication led to a community outcry, which resulted in numerous advertisers stopping their products being advertised during the program's breaks. These included Bridgestone, Holden, Holeproof, Spotlight, NetAlert, GE Money, Mitre 10 Hardware, WOW Sight & Sound and Aussie Car Loans and numerous others. Towards the end of the season, the advertisement breaks were increasingly filled with trailers for other Network Ten programs.

It is an interesting indictment of the complaints process that many viewers obviously felt they had more chance of impeding the program by directing their complaints to the advertisers, using their own power as purchasers of their products, than by using the official route and complaining to the station and the ACMA, as this takes far too long.

Big Brother

Big Brother is another program found to have breached the classification code. First screened in 2001, *Big Brother* is an infamous reality TV show designed to shock and offend. A mixed group of young contestants is locked up together in the *Big Brother* house. According to one shortlisted contestant, to be chosen, they have gone through a debasing audition process involving simulating orgasms, screaming abuse at one another and kissing

¹² Letter from Network Ten to the Australian Christian Lobby re *Californication*, 14th September 2007

strangers of either sex¹³. Once in the house, they are constantly in one another's company and always on film, sharing beds and showers, imbibing a limitless supply of alcohol and performing various tasks set for them by *Big Brother*. Each week one contestant is evicted following a public vote. The last one left wins a big payout.

Big Brother Uncut (later renamed *Big Brother: Adults Only*) has thankfully been taken off the air. The 2005 season of this late-night edition was found by the ACMA to have breached the industry code of practice on two occasions by broadcasting footage that exceeded the classification. The ACMA found Network Ten had breached the code on two occasions: once when it screened footage of housemate Michael massaging Gianna with his penis exposed, and once when it aired a song about sexual fetishes¹⁴. Despite having breached the code twice, the ACMA did not impose any direct punishment on Network Ten, but chose to provide the Network with requirements for the 2006 season to ensure compliance. One requirement was that Network Ten would compile show footage far enough in advance to allow censors to edit it if necessary.

Unsurprisingly, this very light rap over the knuckles did not achieve a great deal as an alleged sexual assault took place during the 2006 season which was broadcast live over the Internet. On July 1, 2006 two housemates, Michael Cox (using the alias Ashley for the show) and Michael Bric (using the alias John), were removed from the house for allegedly sexually assaulting a female housemate, Camilla Halliwell: Michael Bric held her down on her bed whilst Michael Cox pushed his crotch into her face. Disturbingly, neither man seemed to recognise that this was wrong, maintaining that they were only having fun and that they respected Camilla¹⁵.

Whilst ACMA swung into action fairly quickly on this occasion, the incident highlighted another flaw in the broadcasting codes: ACMA could only rule on television broadcasts, whereas the alleged assault had been live-streamed over the Internet. *Big Brother* itself could not be penalised as the footage was never broadcast by Network Ten but was seen only via web streaming which fell outside ACMA's authority. Websites running the footage were not penalised under other regulations governing web broadcasts as they had removed the footage when requested.

¹³ 'Not quite reality on Big Brother,' *Today Tonight*, Seven Network, 13 July 2006

¹⁴ *Report: Investigations No. 1557, 1558, 1559* Australian Communications and Media Authority. October 5 2005

¹⁵ 'Ash, John speak out over BB ousting', *Ninemsn* Monday July 3, 2006

ACMA recommended that loopholes in broadcasting rules should be closed, and Internet content regulations tightened. As a result, then Communications Minister Helen Coonan announced legislation to broaden the authority's regulatory powers, as the incident reinforced the need for changes to the act to ensure that new services being offered over the internet and mobile devices were subject to the same content restrictions that apply to television broadcasts.

Radio programming

If the television classification standards are not a reliable guide on the content of a program, the situation is far worse for radio.

Commercial radio programming is governed by its own Code of Practice and Guidelines with the ACMA acting as the regulator. The commercial radio code does not include a ratings system, meaning that there are no announcements made as a guide to the likely program content.

The code and guidelines do make many worthwhile suggestions about programming content. One section states that:

Licensees must not broadcast a feature program which has an explicit sexual theme as its core component unless it is broadcast between 9.30pm and 5.00 am and an appropriate warning is made prior to commencement of the program and at hourly intervals during broadcast of the program¹⁶.

It seems that this guideline is not being followed by at least one station. In early April, Perth's Nova featured a discussion with a sex therapist at 7pm. Another top rating show featured a Brazilian bus, touring Perth doing live broadcasts of full Brazilians (complete body wax) on men and women. Canberra radio regularly features advertisements for local sex shops. These would seem to be programs with explicitly sexual themes broadcast well before 9pm and, to the best of our knowledge, without any warning of their content.

Towards the end of the commercial radio code, there is a section focused on the portrayal of women on commercial radio, which makes clear that stations should, "avoid promoting or endorsing inaccurate, demeaning or discriminatory descriptions of women" by certain

¹⁶ 'Codes of Practice and Guidelines,' *Commercial Radio Australia*, September 2004

actions set out in the guidelines such as "ensuring that reporting and on-air discussions respect the dignity of women and are non-exploitive." Stations are told to "avoid the use of overt sexual references in relation to a woman's physical characteristics which have no relevance to the issue under discussion."¹⁷

Sadly the breakfast show presenters on Canberra's Mix 106.3 did not adhere to this limitation. At 8.45am on Tuesday 28th April they were merrily discussing *Big Brother* housemate Bianca's breast size with a caller. This segment of the popular morning show included playing an audio recording of Bianca's *Big Brother* debut where she was asked a series of inappropriate questions regarding her breast size, including whether or not she was able to go jogging and whether she believed having large breasts was an asset or a hindrance. Such 'overt sexual references in relation to a woman's physical characteristics' had no real relevance to the issue under discussion, which was the new season of *Big Brother*. As such, this segment of Mix 106.3's breakfast program arguably breached the guidelines for commercial radio by failing to respect the dignity of women. ACL would also consider it inappropriate that such highly sexual discussions take place during the school run when children are likely to be listening.

One Perth station (with a female presenter) is also happily exploiting women, this time in a competition. The Em and Wippa breakfast show on Perth's 92.9FM is currently running the 'F Cup Cookie Challenge' - a competition to grow bigger breasts by eating cookies. Women are encouraged to 'take up the F Cup challenge' to find ways to make breasts grow. A short song, 'I like boobs-big jigglies' accompanies the competition. Participants measure their breasts each day and explicit photos of their progress can be viewed online at <http://www.929.com.au/shows/emandwippa/galleries/fcupchallenge> (excerpts from the radio show can also be listened to here). Despite the overtly sexual content, this show is broadcast between 6am and 9am on weekdays. So much for the effectiveness of the code!

This appalling sexual objectification of women by some commercial radio stations should be curbed.

ACL notes that the Senate Committee on Environment, Communications and the Arts is currently investigating the sexualisation of children in the media. In its submission to that Inquiry, Commercial Radio Australia (CRA) pleaded against the imposition of 'regulatory burdens or restrictions on the commercial radio industry' arguing that:

¹⁷ Ibid, p28

CRA's members do not broadcast any targeted children's programming. Instead, programs are directed at the adult and young adult demographic. Measures designed to control the content of children's programming – or proximate advertising – should not apply to the commercial radio industry.

ACL sincerely hopes that Senators will not accept this paltry defence at face value. It may be true that radio programs are not *targeted* at children but this certainly does not mean that no children are listening. Parents often tune into radio stations on the school run to catch up on news and weather reports and may easily encounter unexpected and inappropriate content with children in the car. FM radio content often contains sexual references and themes, advertising for condoms and erectile dysfunction, during the school run - content would never be allowed to air on television at that time.

Furthermore, commercial radio is often played in situations where parents have no ability to turn it off such as in shopping malls, change rooms, buses and friends' homes.

In ACL's view, a strict regulation system should be introduced for commercial radio as for television and the self-regulatory system should cease for both.

How could the effectiveness of the classification system be improved?

There is a systemic problem with the regulation of radio and television broadcasting and it is here that attention needs to be focused. The single biggest positive change that could be made to improve the classification system would be to end the toothless tiger of self-regulation.

ACL believes that more robust codes of content are needed for all areas of media (television and radio broadcasting) to require responsible commercial behaviour. This would cover the marketing of products and services, entertainment broadcasting, music, and any other areas that need to respect the developmental needs of children and youth. It would be useful to move away from the vague statements in the current codes which contain easily-exploited loopholes for broadcasters (as evidenced by the previously cited responses of television stations to complaints) to firmer and more precise requirements which leave less 'wriggle room'.

However, in our view, the shortcomings of the current system will not be overcome simply by improving the codes of practice for television and radio. Despite their vagueness in

places, the codes and guidelines already contain many worthy statements but these mean very little in practice because they are not supported by a robust system that has the power to enforce compliance.

The Government has a legitimate role to play in supporting the efforts of parents by taking an active role in the regulation of broadcasting content. The Government has the authority to represent the interests of the public, whereas the current self-regulatory system serves the interests of the broadcasters, not those of families. The Government is also in a position to impose swift penalties on broadcasters which breach agreed codes of practice, hitting them where it hurts for example through fines, taking programs off air, or insisting that programs be moved to a more appropriate timeslot. Such deterrents are sorely needed as, at present, there is really no disincentive against breaking the code.

ACL believes the Government needs to take on board the responsibility for regulating broadcasting, not only for stepping in once complaints have been made. This would be responsible government action to restrain commercial behaviour for the protection of the public.

A government-run regulatory system should also monitor upcoming programs that are expected to test boundaries, such as *Big Brother*, *Californication* and *Underbelly*. Such programs are usually easy to identify based on previous seasons and / or media hype prior to the show being screened. The regulator should be extra careful to ensure an appropriate classification and timeslot for such shows, and to insist that inappropriate content be cut. Where the likely offender is a reality television show, the regulator could insist on seeing each episode before it is screened, with the power to remove inappropriate scenes or content, or to insist that that particular episode is shown at a later time-slot. This system should be supported by a fast-track complaints process to provide a swift and definitive response to complaints about the program, ensuring that it is impossible to screen the entire series of an offending show.

A robust and protective system such as this would better provide parents with the opportunity to limit their child's exposure to media messages and images that they judged inappropriate or harmful.

Operation and effectiveness of the complaints process currently available to members of the public

At present, the complex and unresponsive complaints system may deter people from expressing their concerns about advertisements, television and radio programs. ACL is aware that our own supporters too often find the different systems confusing, frustrating and difficult to access and request our guidance to help them navigate it. There are several different complaints bodies, depending on the issue, and each has different processes, timescales and approaches to handling complaints.

Perhaps the single biggest flaw, however, is that in most cases it takes much too long to get a decision on a complaint, with the result that many television programs have screened their entire season of episodes with impunity, even if they later receive a gentle rap over the knuckles for breaking the rules.

Case study of a 'successful' complaint

In April 2007, SBS screened a documentary entitled *Obscene Machines*, which explored the use of technology to 'spice up' some people's sex lives. The program screened at 10pm with an MA rating.

One viewer complained to SBS and then ultimately to ACMA, which began an investigation. The complainant argued that the program exceeded the MA rating in at least two segments:

[This] segment was of an elderly man demonstrating how he used a life like sex doll. The doll was hung from the ceiling by a series of pulleys and he showed us how he could manoeuvre the doll's legs into all the positions in which he could have sex with it. The doll had the face of his first wife (18 years old) painted on it. I found this extremely offensive..

[The second segment] showed a machine which contained a large, realistic looking penis on the end of a metal rod. This was then shown in action with a woman on all fours having this machine thrusting in and out of her from behind. It's one thing to inform people of the sex machines available but the physical act of showing its use surely contravenes the Code of Practice...¹⁸

¹⁸ ACMA Investigation Report no 1866 *Obscene Machines* broadcast by SBS on 13 April 2007, Australian Communications and Media Authority,

Despite SBS' claim that the sexual content was 'not gratuitous or high impact,' that 'reactions are a matter of taste,' and that 'if a 15 year old is considered to be mature enough to view strong content about drug use, murder and war...then surely they are mature enough to deal with a discussion of legal if slightly distasteful sexual activity,' the ACMA ruled that the program did breach SBS' broadcasting codes.

In ACMA's opinion:

The treatment of the subject matter in *Obscene Machines* is adult in nature and is therefore unsuitable for ordinary 15-year-old audience members...The nature and frequency of nudity and sexual references in *Obscene Machines* had a cumulative intensity greater than strong. ACMA considered that one segment in particular contained depictions of sexual activity with a level of detail and degree of explicitness that exceeded the MA15+ requirement that sexual activity be implied.¹⁹

Whilst ACMA clearly made the right ruling on this program, the failure of the complaints process is shown in two ways. Firstly, there is the fact that the initial ruling did not come until October 2007 and the final ruling came in February 2008, ten months after the program was screened. Whilst the program in question was a one-off documentary, the length of time taken to rule on this complaint demonstrates the fact that those complaining about a TV series that repeatedly breaches the code have no hope that their complaint will effect change before the full season has screened.

Secondly, there was no penalty imposed on SBS, despite being found guilty of breaching the code. The closest thing to a penalty seems to have been a letter to SBS from ACMA, which is hardly an outcome to be feared. *The Australian* simply described SBS as 'embarrassed' by the ruling²⁰. It is hard to see why this delayed ruling without any accompanying penalty would deter SBS or any other broadcaster from repeating the same behaviour in the future.

It is important to remember that this was a successful complaint. There are many, many others where complainants with just cause simply give up part way through because the process is too difficult to navigate, the codes too hard to understand, or because they lack

¹⁹ 'SBS broadcast of *Obscene Machines* breached SBS code of practice,' AMCA Media Release, 25th February 2008

²⁰ Michael Bodey, 'SBS sex show violated code,' *The Australian*, 26th February 2008

faith in the effectiveness or responsiveness of the system. If complaining is seen as futile, then few people will pursue their grievances through the layers of the system, especially if the most 'successful' outcome they can expect is a belated and impotent ruling.

How could the complaints system be improved?

ACL recommends the establishment of a single, independent, complaints system covering all media, a one-stop shop for the public to use for all complaints. This would simplify the complaints process. This independent body should be staffed by complaints process experts who can channel the complaints received, liaise with between the complainants and the broadcasters, provide timely responses and ensure appropriate penalties are swiftly imposed on media outlets that have forsaken their social responsibilities.

Other related matters

Link between broadcasting standards and the sexualisation of children

ACL notes that this Senate committee is holding a concurrent inquiry into the sexualisation of children in the contemporary media environment. This inquiry into the effectiveness of the broadcasting codes of practice should be considered in the light of the evidence presented to the sexualisation inquiry. Broadcasting plays a significant role in the sexualisation of children, exposing them to programs, images, language, and relationship dynamics that emphasise the sexual aspects of life. Programs rated as inappropriate for children often seem to be advertised during children's viewing hours, as these online comments from two parents make clear²¹:

It was about 8.15am and my two children were watching *Saturday Disney* as usual when the ads came on - starting with *That 70's Show* -the ad was most inappropriate and I was extremely annoyed - first it showed Ashton Kutchner in bed with a girl, followed by the 'oldies' talking about the book ' the joy of sex'. I had to turn off the TV. (jper_blue 8/12/2007)

I detest Big Brother being advertised during kids hours '...tune in to see one drunk girl kiss another drunk girl...' it is disgusting. I've seen kids shows interrupted for a news flash of '...the ugly pig who died of a drug overdose on a boat...'. Apart from the disgusting way that woman was repeatedly portrayed by the media with complete disregard for her family in Brisbane, it is also totally inappropriate material for kids. And lets not forget the constant barrage of

²¹ 'Inappropriate ads on Saturday Disney' Yahoo7 general entertainment message boards at <http://au.messages.yahoo.com/entertainment/hot/48107> accessed on 30th April 2008

McDonalds cancer meals and PVC plastic throw-away toys. Do yourself a favour, if they like to watch TV buy some videos instead. (truant_1 10/12/2007)

ACL was pleased to learn that Democrats Senator Lyn Allison had succeeded in establishing a Senate inquiry into the sexualisation of children in the contemporary media environment. Yet when this inquiry into broadcasting codes of practice was announced, Senator Allison reportedly told the *Herald* that, "We just rolled our eyes and said, 'Oh God'.²²"

This is a very disappointing stance, which fails to recognise the role that broadcasting plays in the sexualisation of children in the media. ACL sincerely hopes that the Senate Committee can appreciate the link between these two inquiries and ensure that the recommendations from each inquiry reinforce one another. As ACL argued in our submission on the sexualisation of children, children's interests need to be given priority in a reformed media system. This argument strongly applies to any discussion on broadcasting. One way of giving such priority to children's interests would be to appoint a Federal Children's Commissioner.

Conclusion

ACL welcomes this inquiry and hopes that its recommendations will lead to legislative reform to introduce government regulation of the broadcasting industry and establish a single, independent complaints body.

ACL National Office

May 2008

²² David Marr, 'Carve up in political kitchen,' *Sydney Morning Herald*, 26th April 2008