

**SPAA Submission to
ACMA Review on Reality Television
Programming**

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SPAA thanks ACMA for the opportunity to comment on the ACMA review of reality television programming.

SPAA

SPAA is the industry body that represents Australian independent film and television producers on all issues affecting the business and creative aspects of screen production.

SPAA members include television, feature film, animation, documentary, TV commercial and interactive media production companies as well as services and facilities providers such as post-production, finance, distribution and legal practices.

Members supply broadcasters with a range of program types including a wide variety of Reality TV programs as described by the ACMA discussion paper.

Key Issue

The fundamental consideration of the review is whether the current commercial television Industry Code of Practice (the Code) provides appropriate community safe-guards with respect to such programming.

SPAA Executive Summary

- Community Standards are fluid. Community Standards are not homogenous. They include amongst other things, Australians' right to freedom of speech and participation.
- Reality TV is not a genre and a concrete definition is problematic, as such it offers little clarity for the purposes of regulation.
- Australian viewers are watching Reality television in large numbers across a range of demographics. These programs receive few audience complaints relative to their popularity.
- Independent Producers are major suppliers of Australian programming in the area of Reality TV.
- As a group, Reality TV programmes have delivered major benefits to both the viewing public and the participants. Producers are motivated to ensure participants are supported in what every way necessary to ensure their health and confidence is maintained so as to stay involved.
- The content of these programs is in line with community standards, controversy should not be considered as evidence of a negative impact in this area. There is no evidence of widespread or systemic concerns.
- The television classification system is comprehensive and detailed to ensure that it covers the full scale of television programming which includes drama, documentary, sport, news and current affairs, light entertainment and variety as well as Reality TV programming
- There is no evidence that the Code cannot deal effectively with any concerns raised around 'Reality TV' programming.
- SPAA recommends that ACMA, in partnership with the industry, develop a professional briefing forum to assist the industry in understanding the nature of all recent programming breaches, and how such breaches inform ongoing practice as well as the outlining how classification guidelines apply in a Reality Television and other programming contexts.

- The existing, co-regulatory complaints process deals effectively with complaints about Reality TV programming.
- The incidence of Code breaches is very low, particularly in the case of reality television. Incentives to adhere to the Code are significant and multifaceted. The industry, in addition to the possibility of ACMA intervention should a breach occur, is keenly aware of the threat such breaches can have on; retaining audiences, retaining ongoing supply contracts (for independent producers) and maintaining overall broadcast image and market position. SPAA also notes ACMA's ability to deal with breaches has been significantly enhanced by the Federal Parliament's decision to give ACMA increased enforcement powers. These powers take effect from 2007.

The Independent Production Sectors

A significant number of the recent 'crop' of programs that fall within the area of Reality TV include *Australian Idol*, *Australian Princess*, *Border Security*, *Forensic Investigators*, *Queer Eye for the Straight Guy*, just to name a few, are produced by Australian independent producers who then supply these programs to the Broadcaster. Whilst the broadcaster has a licensing responsibility with ACMA to adhere to the Television Industry Code, SPAA members as the producers delivering the programs are, in practical terms, dealing with the day-to-day implementation of the code.

To retain their supplier relationship with broadcasters there is a professional expectation that material will be delivered that strives to comply with the Code. To fail to deliver this professional level of program making would necessarily jeopardise the supplier/broadcaster relationship, and in terms of the suppliers, their livelihood.

The independent production sector continues to train employees engaged in programme making, including in the area of Reality TV, in the application of the Code. It is a standard that is understood and has been developed in line with the provisions of the Broadcasting Services Act 1992

Beyond ACMA's own enforceable powers, there exist strong incentives to work within the code to ensure programs meet community standards, attract strong ratings and generate ongoing public support for the broadcaster. For Independent producers, achieving these goals increases the likelihood both of recommissioning or continuation of a series run and greater potential for the development of other program opportunities. Lack of public interest or support can lead to the cancellation of a production, which for the independent producer is the end to that business activity. As such, the independent Producer whose business is program supply is vulnerable and keenly sensitive to the needs of the broadcaster and the public. If either are dissatisfied the production company must either adapt or cease to service that particular broadcasting slot.

In addition to the industry motivational forces of retaining business relationships and audiences, SPAA is also cognisant of ACMA's new additional powers that enable additional intervention in the form of enforceable undertakings and fines etc. Whilst in legislation such intervention is expressed between broadcasters and ACMA. SPAA

members are directly affected and sensitive to any such development and recognise the potential production and business impacts (as outlined in SPAA'S recent submission on the introduction of ACMA's new powers dated 18th January 2007) .

SPAA considers that, in the area of 'Reality TV', the industry has demonstrated ongoing integrity and good faith

Community Standards:

'Community standards' is a difficult term to define and should not be dominated by a single 'moral view'- there is no single winner in this area. Similarly 'controversy' is not the equivalent to undermining such standards.

SPAA shares Free TV's view that community standards in the context of television classification mean a public consensus about content that is so offensive or harmful it can only be shown in limited timeslots or should be banned completely. This is distinct from controversial issues, which may generate debate, division and criticism, but which nonetheless are still suitable to be shown.

Community standards also include community expectations in the area of freedom of expression, including freedom to participation. Australia is a pluralist society where a diversity of media voices and access is supported.

Community standards evolve over time. A major forum for exploring such standards including; ideas, ways of living, trends, shared icons, conflicts and irregularities has been via television. It also offers shared stories, access to shared aspirations and communal enjoyment which in turn provides additional reinforcement of cross community engagement and a forum for expression of community beyond our localised experience.

For the health of our society it remains vital that the government adopt a conservative 'light-touch' approach, avoiding the far extremes i.e. guarding against depraved content yet allowing television to retain its reflective and explorative quality, in all its diversity.

ACMA's role in ensuring on-going support for mechanisms that also empower audiences to shape their own viewing experience are essential. Such mechanisms include;

- clearly understood classification of program material,
- requirements for verbal and audio warnings ahead of particularly sensitive material,
- accessible information for viewers to understand how they can register their concerns or indeed lend their encouragement for certain programs
- existence of a range of quality broadcasting services (public and commercial) to ensure the existence of real consumer choice. Adults can choose to not watch material, a choice more easily made if there are real quality alternatives.

Reality TV: what is it?

There is no genre known as 'Reality TV', rather there are a variety of program genres and areas of programming that involve real people being or 'playing' themselves. Depending on the approach to program interpretation, the term 'Reality TV' could extend to the majority of documentaries, games shows, talk shows and talent quests that appear on television today as well as structured fly-on-the-wall programs. The majority of Australian television excluding news, current affairs, sport, drama and animation, can in different forums be considered to fall within the area of 'Reality TV'. SPAA questions whether the sensitiveness leading to this enquiry might have been better addressed under an alternative approach of 'Live' Programming.

SPAA therefore does not believe a media regulatory approach that seeks to analyse the impact of programs under this banner within the community is particularly meaningful.

Reality TV as a 'special category' within the code

Given Reality TV is not a genre there are a range of programs that might fall into this area, similarly other programmes that whilst featuring real people may arguably not fall under such a category. Programs within what currently might be considered 'Reality TV' are often characterised by the fact that they are labour intensive, employ a large number of crew and early adopters of new technology. The program area is constantly changing and moving across and between different genres.

It is, therefore, problematic and likely to raise ongoing confusion and uncertainty if the approach to address apparent sensitivities that are currently attributed to 'Reality TV' were adopted that then create specific prescriptive codes for 'Reality TV'.

Further no other country has attempted to develop specific codes in relation to 'Reality TV'. Pursuing this route would be counter to the prevailing international trends. Given the imprecise nature of "Reality TV" it would be difficult to administer over time and lead to practitioner uncertainty that could potentially be counter-productive.

There may be a benefit in developing industry education process to examine the potential audience and social impact of programmes featuring real people as themselves as opposed to fictional or dramatised programs so as to ensure the code in this and all areas is understood and the nature of recently upheld complaints understood in context of their possible bearing on future production decisions across all genres.

Q1/Does Reality Television programming raise issues of community concern?

Diversity and Size of Audiences

A large part of commercial broadcasters' prime time schedule is occupied by programmes that would fall under the term 'Reality TV' as described by ACMA in the discussion paper. There are a number of reasons as to why these programs maintain this scheduled position, not the least because of their audience attraction. Different types of 'Reality TV' appeal to different demographics; because it is not a

genre it is many things to many people. *Big Brother* could be considered of particular interest to young adults, *Australian Princess*, young women etc. Diversity of audience appeal necessarily means that some populations may love what others dismiss.

At a macro level the diversity of 'Reality TV' programs on Australian commercial television, appealing successfully to a range of audiences, is in itself a good outcome and reflects the existence of mature and evolved broadcasting environment in this area.

SPAA has been briefed by Free TV as to the level of complaints relating to Reality TV and supports Free TV's conclusion that Reality TV generates relatively few complaints in total number and when adding consideration of audience size and volume of broadcast hours finds the evidence even more compelling in its support of the conclusion the Reality TV programming does not raise significant community concern.

Q 2 Does the code reflect community standards with respect to 'Reality Television'

While it is difficult to accurately define community standards as indicted above there is clear indication that 'Reality TV' does not, as an area of broadcast television directly challenge or ignore such standards. The overwhelming popularity of the programs listed by ACMA, combined with the lack of viewer complaints in total, is evidence that the code in combination with other industry and market forces are effectively working in harmony to deliver programs in the area of 'Reality TV' that do reflect community standards. The fact that some complaints are made demonstrates the complaint process is known and accessible to the public. Further proof is that other genres generate a far greater level of viewer complaints.

Q 3 Are the existing code mechanisms operating effectively to provide appropriate community safeguards with respect to reality television programming, including with respect to classification distinctions and consumer advice requirements?

The Code operates on number of levels including classifications codes, audience education and awareness campaigns/ announcements in relation to complaints process and classifications, various categories of audience warnings or advice and the actual complaints process. The complaints process further informs and progresses the application and/or interpretation of the code over time. These mechanism, combined, have provided an effective safeguard for community standards that also empower audiences to interact and /or make active choices.

SPAA can see no evidence to suggest 'Reality TV' which has an outstanding record in complying with the current code, is a threat to community standards. The fact that this area of television attracts a disproportionately high level of audiences numbers compared to their share of complaints and that in the 2004 code the area of Reality TV attracted little public concern demonstrates that the code, including its classifications and time restrictions, are working effectively.

As ACMA records in its discussion paper, as a group of programs, Reality TV has only attracted 14 complaints from the public. Regardless of how many were upheld this figure alone demonstrates the good standing such programming occupies. Specifically complaints were made against *Big Brother Uncut 2005*- which once upheld led to instant address by the broadcaster and a collaborative development of voluntary undertakings. Their effectiveness, which can be demonstrated by their use in the *Big Brother Uncut 2006* season. There were no complaints for *Big Brother Uncut*. The current system works in the vast majority of cases and has a demonstrated mechanism to address situations as they arise.

- It is important to separate the footage streamed down the Internet, which is outside the scope of this review and that of ACMA's authority under the television code. SPAA understands issues relating to Internet broadcasting will be addressed by a separate classification review currently being undertaken by the minister. SPAA supports this process.

To provide ongoing and current understanding of the code and the nature of the impact of recent rulings ACMA could consider the launching of an industry wide education program to provide clarity and ensuring ongoing industry engagement with ACMA on current issues and developments. Given the code is to be reviewed later this year such a public forum led by ACMA at the time the revised code is issued would be beneficial.

Q 4. Does the Code provide appropriate community safeguards with respect to the broadcast of reality television program excerpts in new and current affairs programs?

In relation to 'Reality TV' being featured in new and current affairs, SPAA has no direct membership involvement in this area but would not recommend any action that barred any or all reality television clips from being featured in news and current affairs, including clips from (M) classifications as long as the appropriate news and current affairs code is adhered to. SPAA does support ongoing adherence to the news and current affairs code and supports mechanisms that address any ongoing breaches. Information supplied to SPAA by Free TV indicates that the few complaints in recent years that involved 'Reality TV' stories did not relate to issues specifically about Reality TV.

Q 5. Is the complaints mechanism in the Code operating effectively and in a timely manner in relation to reality television?

SPAA members do not engage in the complaints process directly however has observed the benefit of viewer complaints being directed firstly to the broadcaster as it enables rapid response and clarification of issues. Further changes or corrections in programming can be introduced quickly. As a mechanism it empowers viewers to directly affect their viewing experience and avoids administrative delays that are difficult to avoid if they are first directed to a third party.

‘Reality TV’ the Legacy

In considering the broad range of projects ACMA has included in the area of ‘Reality TV’, it should also be noted that as a group such programmes have delivered major benefits to both the viewing public and the participants.

It is clear there is much to be celebrated in relation to the contribution of programs in the area of Reality TV. From *Border Security* to *Australian Idol*, all have given to the community and in supported community insight and shared experience, dialogue and reflection. The code has underpinned the development of high quality high rating programs. Complaints have been rare and dealt with swiftly and definitively.

Controversy generated by a program such as *Big Brother* and *Big Brother Uncut*, where debate and discussion has been generated questioning social behaviour and exploring differences, while for some viewers quite challenging, can be considered by others informative and offer meaningful benefits to those viewers.

ACMA has also raised the issue of media attention focussing on the welfare of participants. It should be noted producers are motivated to ensure participants are supported in what every way necessary to ensure their health and confidence is maintained so as to stay involved. Similarly, participants whose behaviour is seen to upset the integrity of the program, the security or ongoing engagement of fellow participants or who appear unable to cope, have, on numerous occasions been taken out of the programs.

In particular it should be noted that;

- that contestants on programs such as *Big Brother*, *Australian Idol*, *Dancing with the Stars* and *The Biggest Loser* are heavily screened and vetted for suitability, (generally and in relation to the specifics of the program) before being selected.
- contestants are often employees, so are protected by employment regulations, laws and Workcover.
- There is at least one designated contestant co-ordinator on shows whose role it is to look after the contestants' needs.
- Most of these contestants based ‘Reality TV’ series, once started need to go the distance if they are to develop the broadcasters' schedule effectively so every effort (more than in other genres) is made to ensure the ongoing, well-being and participation of the contestants.
- There is extensive anecdotal evidence that contestants have gained great positive experiences from their engagement with television production process. Contestants often have formally expressed this to producers after the show is over. ‘Reality TV’ programming regularly offers opportunities to people that may not have otherwise been available to them in areas such as self-improvement, career development and exposure to experiences that bring further opportunities.
- Similarly audiences have been exposed to positive messages about those participants (not just contestants) and offered access to a wider view of particular ‘peer groups’ and their experience of the world.

- It should also be noted in the area of child participation, specifically in relation to children as contestants or participants - that there are strict requirements for engaging children. In NSW for instance, the producer needs to be authorised by and report to the Office of the Children's Guardian as to requirements of the children's engagement and confirmation of activities, transport, safety etc.