

Community Television Broadcasting Codes of Practice

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Introduction

Community television broadcasting services

Community television broadcasting services add to the diversity of broadcasting services that are available to Australians. Community television broadcasting licensees (licensees) contribute to the achievement of objects in the *Broadcasting Services Act 1992* (the BSA), including:

- Promoting the development of an Australian identity and reflecting cultural diversity;
- Promoting the availability of television programs about matters of local significance; and
- Ensuring diversity in broadcasting services in the transition to digital broadcasting.

Licensees are not operated for profit or as part of a profit-making enterprise and provide programs that are freely available to the public.

Legislative provisions

Each licensee has legal obligations and these are detailed at Part 6 of the BSA, as well as the licence conditions at Parts 1, 2 and 5 of Schedule 2 to the BSA.

Section 123 of the BSA provides for industry groups representing a particular broadcasting sector to develop codes of practice that are applicable to the broadcasting operations of that broadcasting sector.

Codes of practice are generally reviewed every three to five years to ensure that they continue to provide appropriate community safeguards. When satisfied of the matters in paragraph 123(4)(b) of the BSA, the Australian Communications and Media Authority includes the codes of practice in the Register of Codes of Practice.

Australian Communications and Media Authority

The Australian Communications and Media Authority (the ACMA) is the regulator of broadcasting, radiocommunications, telecommunications and the internet.

Licensees engage with the ACMA to facilitate compliance and encourage positive outcomes for the sector. The key functions of the ACMA in relation to the community television broadcasting services are to:

- Allocate and renew community broadcasting licences;
- Investigate complaints and take enforcement action, where necessary;

- Approve codes of practice for inclusion in the Register of Codes of Practice; and
- Monitor compliance and develop guidelines to assist licensees, where required.

Complaints about a matter that is covered by a code of practice must be made to the relevant licensee in the first instance. If a complainant has not received a response within 60 days, or a response has been received but is considered to be inadequate, the complainant may then make a complaint to the ACMA about that code matter.

Complaints about a licensee's compliance with licence conditions may be made directly to the ACMA.

Community broadcasting sector organisations

The Australian Community Television Alliance (ACTA) is but one of many community broadcasting sector organisations representing the different needs and interests of their members. These include:

- Australian Indigenous Communications Association (AICA);
- Christian Media Australia (CMA);
- Community Broadcasting Association of Australia (CBAA);
- Indigenous Remote Communications Association (IRCA);
- National Ethnic and Multicultural Broadcasters Council (NEMBC);
- Radio for the Print Handicapped Australia (RPH); and
- Southern Community Media Association (SCMA).

ACTA is the industry group representing community television broadcasting licensees, mainly in the mainland capital cities of Australia.

Code 1: Governance Arrangements

Purpose: Code 1 is intended to ensure that licensees are structured in a way that complies with legislation and have governance arrangements that facilitate the delivery of an efficient and effective community television broadcasting service to the local community.

Under section 81 of the BSA, a licensee must be a company limited by guarantee within the meaning of the *Corporations Act 2001*. This means that a licensee has obligations under the Corporations Act, which is administered by the Australian Securities and Investments Commission (ASIC).

The roles and responsibilities of directors of a licensee include:

- controlling the licensee company's business in the interest of the licensee company;
- ensuring financial records are kept and reports are prepared for audit;
- ensuring directors reports and annual reports are prepared for ASIC and copies are provided to members; and
- maintaining a register of members and establishing committees.

As stated in the ACMA's *Community Broadcasting Participation Guidelines* (the ACMA Guidelines), community television licensees often encourage community participation in many ways, including by:

- holding regular meetings with members;
- establishing committees and having member representation to make recommendations to the licensee board on a range of matters, for example, community engagement and programming;
- developing and providing training for members; and
- identifying communities that are not represented in the program schedule and helping those groups to produce programs for broadcast.

The ACMA Guidelines recognise that:

The greater expense of providing community television means that community television licensees need formal and stable governance structures to attract the high levels of funding they require to operate their services.

The ACMA Guidelines also recognise that community television licensees often have:

- organisational rather than individual membership;
- separation of programming from financial and operational responsibilities; and
- clear operational responsibility for selling sponsorship and airtime and for day-to-day running of the station.

Where a community television licensee has a structure which is based on organisational rather than individual membership, the licensee should have in place provisions in its constitution and policies to ensure that:

- member community organisations have open membership structures to provide opportunities for participation in the selection and provision of programming;
- member community organisations have mechanisms to resolve member complaints before escalation to the licensee;
- member community organisations engage with the licensee in the best interest of the community television service; and
- member community organisations are actively monitored by the licensee for compliance with these requirements.

Community television licensees are recognised as providing scope for individual participation in their services through:

- membership of not-for-profit community or educational organisations, which are members of the community television service;
- volunteering at the community television service;
- invitations for, and consideration of, program proposals from individual and/or organisational members and volunteers;
- the production of programming for broadcast on the community television service; and
- individual and/or organisational representation on committees.

Code 1 aims to achieve this optimum level of business best practice.

Licensees will:

- 1.1 Have a constitution that, among other matters, contains provisions in the following areas –
 - (a) the establishment of a licensee board of directors, including the term of directors;
 - (b) the minimum number of directors to be set at seven and the maximum number of directors to be set at 12;
 - (c) the licensee board having directors with demonstrated expertise in key areas such as finance, law, business management and television broadcasting;
 - (d) the licensee board having a composition which has a balance between directors with demonstrated expertise in the key areas outlined in subclause (c) and directors who are involved in the production and provision of programming;
 - (e) the licensee board having responsibility for compliance, including with company and broadcasting legislation; and
 - (f) the licensee board having the power to establish committees, including determining the number of member representation and the frequency of meetings.
- 1.2 Ensure that their organisation structure and governance arrangements do not present undue barriers to participation by members of the community.
- 1.3 Review their organisation structure and governance arrangements regularly to ensure that they have the capacity to provide the community television broadcasting service efficiently and effectively, and that they meet contemporary business best practice with regard to factors such as the number of directors, the frequency of meetings and the methods of appointment and the terms of directors.
- 1.4 Maintain a register of members and make it available to the ACMA on request.

Code 2: Representing the Community Interest

Purpose: Code 2 is intended to ensure that licensees provide programming to the community in the licence areas that:

- promote the development of an Australian identity and reflect cultural diversity; and
- promote the availability of television programs about matters of local significance.

Licensees will:

- 2.1 Have a written policy and procedure outlining how they will meet the existing and perceived future needs of the community within the licence area.
- 2.2 Have a written policy and procedure on how they will establish the nature and diversity of the interests of the community within the licence area and how they will address the programming needs and community interests that are identified.
- 2.3 Provide programming for entertainment, information and education, ensuring that they give priority to the broadcast of programming of local significance.

Local and Australian Content

“**local content**” means programs generated within a licensee’s licence area.

“**Australian content**” means programs created, performed or produced by an Australian citizen or resident.

Licensees will:

- 2.4 Ensure that a significant proportion of programs broadcast are local and Australian content, with each licensee aiming for the highest practicable level of local content.
- 2.5 Include non-local or non-Australian content only where the material is relevant to identifiable community needs and interests within a licence area.
- 2.6 Initiate or support the development and production of local and Australian content where possible.

Code 3: General Programming Principles

Purpose: Code 3 is intended to ensure that licensees broadcast programs responsibly, in keeping with prevailing community standards and all applicable legislation. It includes provisions intended to help and encourage licensees to understand and be responsive to community concerns regarding matters such as cultural diversity, the portrayal of Aboriginal and Torres Strait Islander people, privacy and the welfare of children.

In broadcasting programs, licensees will:

- 3.1 Prevent the broadcast of material that is likely to:
 - (a) simulate news or events in a way that misleads or alarms the audience;
 - (b) depict the actual process of putting a person into a hypnotic state;
 - (c) induce a hypnotic state in the audience; or
 - (d) use or involve the process known as subliminal perception or any other technique that attempts to convey information to the audience by broadcasting messages below or near the threshold of normal awareness.
- 3.2 Prevent the broadcast of material that is likely to:
 - (a) incite, encourage or present for their own sake violence or brutality;
 - (b) present as desirable the use of drugs including alcohol, narcotics and tobacco; or
 - (c) provoke or perpetuate intense dislike, serious contempt or severe ridicule against a person or group of persons on the grounds of age, gender, sexual preference, nationality, ethnicity, race, physical or mental ability or illness, or religious or political affiliation.
- 3.3 None of the matters in Clause 3.2 will be contrary to this Section if:
 - (a) said or done reasonably and in good faith in broadcasting an artistic work (including comedy or satire); or
 - (b) said or done reasonably and in good faith in the course of any broadcast of a statement, discussion or debate made or held for an academic, artistic or scientific purpose or any other identifiable public interest purpose; or
 - (c) said or done in broadcasting a fair report of, or a fair comment on, any event or matter of identifiable public interest.

Coverage of Indigenous People and Issues

This Clause acknowledges Indigenous peoples as the first Australians and is a way in which licensees can demonstrate respect for Indigenous cultures and customs. It is intended to provide ways in which licensees can avoid encouraging stereotyping of Indigenous people or endorsing prejudice against their traditions.

In broadcasting programs, licensees will:

- 3.4 Take care in the portrayal of Indigenous people and their cultures by:
- (a) seeking appropriate advice, including from Indigenous community broadcasting sector organisations, on Indigenous protocols and practices; and
 - (b) using appropriate language to avoid causing insult or disrespect.

Respect for Privacy

This Clause is intended to provide licensees with guidance on the broadcast of material that may have an impact on persons in vulnerable situations. It is intended to address the issues identified in the ACMA's *Privacy Guidelines for Broadcasters*. As at 1 January 2010, the Guidelines consider two questions:

- when material relates to a person's private affairs, including:
 - the distinction between public and private conduct;
 - the treatment of publicly available personal information;
 - the issue of consent;
 - the position with respect to public figures; and
- when is the public interest served by disclosure of the material.

In broadcasting programs, licensees will:

- 3.5 Not use material relating to a person's personal or private affairs, or which invades an individual's privacy, if the consent of the person (or in the case of a child, the child's parent or guardian) has not been obtained prior to the broadcast of the material, other than where there is an identifiable public interest reason for the material to be broadcast.

3.6 Exercise special care before using material relating to a child's personal or private affairs in the broadcast of a report of a sensitive matter concerning the child. The consent of a parent or guardian should be obtained before naming or visually identifying a child in a report on a criminal matter involving a child or a member of a child's immediate family, or a report which discloses sensitive information concerning the health or welfare of a child, unless there are exceptional circumstances or an identifiable public interest reason not to do so.

"child" means a person under 16 years.

3.7 Exercise special care before broadcasting images of dead or seriously wounded people, including having appropriate regard to the feelings of relatives and viewers.

3.8 Exercise sensitivity in broadcasting images or interviews with bereaved relatives and survivors or witnesses of traumatic incidents.

3.9 Take all reasonable steps to ensure that murder and accident victims are not identified directly or indirectly before their immediate families have been notified by the authorities.

3.10 Only broadcast reports of suicide or attempted suicide where there is an identifiable public interest reason for doing so and should:

- (a) not use language or images that glamorise or sensationalise suicide in any way;
- (b) not be explicit about the method or location by including a description or similar details; and
- (c) include names and phone numbers of 24 hour crisis counselling services (e.g. Lifeline 131114).

News and Current Affairs

This Clause is intended to ensure that licensees:

- present news and current affairs programs with care, having regard to prevailing community standards; and
- present news and current affairs program content accurately and fairly.

In broadcasting news and current affairs programs, including magazine and opinion programs, news updates and news and current affairs promotions, licensees will:

- 3.11 Present factual material accurately and represent viewpoints fairly, not misrepresenting a viewpoint by giving misleading emphasis, editing out of context or withholding relevant available facts.
- 3.12 Clearly distinguish the reporting of factual material from commentary and analysis.
- 3.13 Make reasonable efforts to correct substantial errors of fact at the earliest opportunity.
- 3.14 Provide adequate prior warning before broadcasting visual or aural material which is likely to seriously distress or seriously offend a substantial number of viewers.

Code 4: Classification of Programs

Purpose: Code 4 is intended to ensure that programs broadcast by licensees meet prevailing community standards by broadcasting suitable content at appropriate times.

The *Guidelines for the Classification of Films and Computer Games* are used by the Classification Board to determine the limits of material suitable for the different classification categories (G, PG and so on).

“Classification Guidelines” means the *Guidelines for the Classification of Films and Computer Games*, as amended from time to time, and are incorporated into this Code by reference.

- 4.1 In broadcasting programs, licensees will ensure that all material broadcast is appropriately classified according to the provisions of the Classification Guidelines.
- 4.2 Clause 4.1 does not apply to news and current affairs programs, magazine and opinion programs, news updates and news and current affairs promotions, community information material and broadcasts of sporting events, provided licensees exercise care in selecting and scheduling material for broadcast.
- 4.3 Licensees will broadcast audio and/or visual information at the commencement of a program to advise viewers of a program’s classification. For example, “The following program has been classified PG - parental guidance is recommended for young viewers”.
- 4.4 Licensees will apply the classification zones below to all material required to be classified under the Classification Guidelines.

(a) General (G) classification zones

Weekdays

6.00am – 8.30am

4.00pm – 5.00pm

Weekends

6.00am – 10.00am

In G zones, only material classified G may be broadcast.

(b) Parental guidance recommended (PG) classification zones

Weekdays (schooldays)

5.00am – 6.00am

8.30am – 12.00 noon

3.00pm – 4.00pm

5.00pm – 8.30pm

Weekdays (school holidays)

5.00am – 6.00am

8.30am – 4.00pm

5.00pm – 8.30pm

Weekends

5.00am – 6.00am

10.00am – 8.30pm

In PG zones, only material classified PG and G may be broadcast.

“**school holidays**” mean Government primary school holidays in the State or Territory in which the service operates.

(c) Mature (M) classification zones

Weekdays (schooldays)

8.30pm – 5.00am

12.00 noon – 3.00pm

Weekdays (school holidays) **& Weekends**

8.30pm – 5.00am

In M zones, only material classified M, PG and G may be broadcast.

(d) Mature audience (MA) classification zones

All days between 9.00pm and 5.00am

In MA zones, any material which qualifies for a classification may be broadcast.

Code 5: Children's Programming

Purpose: Code 5 is intended to ensure that licensees broadcast programming that is suitable for children at appropriate times and which does not expose them to harm.

"children" means people younger than 14 years of age.

"preschool children" means children who have not yet started primary school.

Licensees will ensure that:

- 5.1 Any children's programming is broadcast between 7.00am and 8.30pm Monday to Sunday and any preschool children's programming is broadcast between 7.00am and 4.30pm Monday to Friday.
- 5.2 All children's programming is tagged, identifying material that is suitable for preschool children and primary school children.
- 5.3 News flashes or announcements will not be broadcast during children's or preschool children's programming, except for an announcement which cannot, in the public interest, be delayed until the completion of the program.
- 5.4 No prizes are offered or given during preschool children's programming.
- 5.5 A competition during children's programming will include a summary of the rules and not misrepresent the chances of winning.
- 5.6 A prize offered or given during children's programming will not be recommended or endorsed, the price or value of a prize will not be mentioned and children should not be encouraged to buy it.

Code 6: Sponsorship and Other Announcements

Purpose: Code 6 is intended to assist licensees to comply with the licence conditions in Schedule 2 to the BSA. In this regard, Code 6 is to enable licensees to put in place the best practices outlined in the ACMA's *Community Broadcasting Sponsorship Guidelines* and *Community Broadcasting Not-for-Profit Guidelines*.

Licensees will:

- 6.1. Ensure that sponsorship announcements are readily distinguishable from program material by viewers, including community service announcements and information-based programs for which a licensee has or has not received financial and/or in-kind consideration.
- 6.2. Recognise financial and/or in-kind considerations received by a licensee for the service and/or a program by attaching a "tag", as follows:
 - (a) placing a "sponsor" watermark in a corner of the screen for at least 10 seconds at the beginning of a sponsorship announcement; or
 - (b) inserting "pull through" text at the bottom of the screen; or
 - (c) adding the tag, "sponsor of licensee and/or program" as a text and/or vocalised at the beginning or end of a sponsorship announcement.
- 6.3. Retain editorial control and independence in all programming decisions and ensure that sponsorship arrangements are not the sole factor in considerations regarding access to airtime.
- 6.4. Ensure that, as far as practical, all sponsorship announcements are pre-classified to comply with Free TV Australia's Commercials Advice Division Classification Checklist.
- 6.5. Ensure that sponsorship announcements are broadcast within the appropriate classification zones.

Code 7: Handling of Complaints to Licensees

Purpose: Code 7 is intended to ensure that licensees:

- maintain adequate procedures for receiving complaints about matters that are covered by the Code;
- advise complainants of their right to make a written complaint about material broadcast by a licensee which allegedly breaches the Code; and
- respond promptly to written complaints received by a licensee within 30 days of the relevant broadcast and make reasonable efforts to resolve them.

Code 7 enables licensees to provide evidence to the ACMA on how they have dealt with those complaints where complainants take those complaints about code matters to the ACMA.

Code 7 is not intended to cover situations where there is conflict between a licensee and members and/or volunteers, where the goals, values, interests or opinions of one individual or group are incompatible, or perceived to be incompatible, with those of another individual or group. Those individuals or groups should resolve disputes with the licensee and it is not the role of the ACMA to mediate or arbitrate an outcome.

“complaint” means an assertion made in writing (letter, fax or email) by an individual or group to a licensee regarding a matter that is covered by this Code, where the complainant’s name and postal address have been provided. If a complaint is about a matter broadcast, it must include the date and time of the broadcast. There is no obligation on licensees to respond to or record complaints provided anonymously.

Licensees will:

- 7.1 Have a written policy and procedure in place, which outlines mechanisms for handling complaints from members and volunteers.
- 7.2 Not respond to a complaint about a matter that is covered by the Code where a licensee has:
 - (a) received the complaint more than 30 days from the date of the relevant broadcast; or
 - (b) determined that the complaint is frivolous, vexatious or not made in good faith.
- 7.3 Ensure that:
 - (a) the licensee's postal and email addresses, as well as station address and fax number, are easily accessible, including on a licensee's website;
 - (b) complaints are registered, investigated if necessary, and a written response is provided to the complainant as soon as practicable, but no longer than 60 days from the date of receipt of the complaint; and
 - (c) in providing a written response to a complainant, complainants are informed that they have the right to refer their complaint to the ACMA if they are not satisfied with the response.
- 7.4 Maintain a register of complaints for at least two years from the date of a complaint.
- 7.5 Make available the register of complaints, or excerpts where applicable, to the ACMA when requested to do so.

Code 8: Code Administration

Purpose: Code 8 is to provide for public exposure and review of the Code so that it is accessible to the community and to ensure that it reflects prevailing community standards, respectively.

Publicising the Code

Licensees will:

- 8.1 provide a minimum of 50 on-air announcements each year, across all viewing zones, containing information about the Code and how viewers may obtain a copy.

Review of the Code

- 8.2 As the industry group representing community television broadcasting licensees, mainly in the mainland capital cities of Australia, ACTA will:
 - (a) review the Community Television Broadcasting Codes of Practice every three to five years;
 - (b) resolve issues, in consultation with the ACMA and other relevant community television broadcasting sector organisations, to ensure that the draft Code provides appropriate community safeguards;
 - (c) make the draft Code available for endorsement by the majority of community television broadcasting licensees and give members of the public an adequate opportunity to comment on the draft Code; and
 - (d) provide a summary of the main issues raised in submissions and how they have been addressed in the draft Code when the draft Code is provided to the ACMA for inclusion in the Register of Codes of Practice.