

# CODE OF PRACTICE

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# SECTION 1: INTRODUCTION

## *Objectives*

- 1.1 The Code is intended to:
  - 1.1.1 regulate the content of commercial television in accordance with current community standards;
  - 1.1.2 ensure that viewers are assisted in making informed choices about their own and their children's television viewing;
  - 1.1.3 provide uniform, speedy and effective procedures for the handling of viewer complaints about matters covered by the Code;
  - 1.1.4 be subject to periodic public review of its relevance and effectiveness.

## *Regulatory Framework*

- 1.2 The Code covers the matters outlined in s.123 of the *Broadcasting Services Act 1992*, and other program content matters that are of clear concern to the community. It operates alongside:
  - 1.2.1 the Australian Communications and Media Authority's (the ACMA's) standards which regulate programs for children and the Australian content of programs and advertisements;
  - 1.2.2 any Codes of advertising authorised by the Australian Competition and Consumer Commission, which govern the content of television commercials and advertising in other media, and other voluntary advertising codes to which advertisers have regard;
  - 1.2.3 the Commercial Television Industry Advisory Notes, which are designed to help and encourage industry employees to understand and be responsive to community concerns about reality television, privacy, the portrayal of Aboriginal and Torres Strait Islander Peoples, cultural diversity, women and men, people with disabilities and commercials or community service announcements directed to children.
- 1.3 The *Broadcasting Services Act 1992* empowers the ACMA to:
  - 1.3.1 impose a condition on a licensee requiring it to comply with the Code (ss.43 and 44). A licensee which does not comply with such a condition may be subject to a range of penalties under the *Broadcasting Services Act 1992*); or
  - 1.3.2 determine a standard in relation to a matter if it is satisfied that there is convincing evidence that the Code is not operating to provide appropriate community safeguards (s.125).

## ***Scope and Interpretation of the Code***

- 1.4 Where the intent or scope of the Code is in doubt, it must be interpreted in the light of the objectives set out in Clause 1.1.

## ***Compliance with Code***

- 1.5 Licensees must seek to comply fully with the Code, but a failure to comply will not be a breach of the Code if that failure was due to:
- 1.5.1 a reasonable mistake;
  - 1.5.2 reasonable reliance on information supplied by another person;
  - 1.5.3 an act or failure to act of another person, or an accident or some other cause beyond the licensee's control, provided that the licensee took reasonable precautions and exercised due diligence to avoid the failure;
  - 1.5.4 an act or failure to act which, in all the circumstances, was clearly peripheral or incidental, and unlikely to offend or materially mislead viewers.
- 1.6 Where it is possible to remedy a failure to comply with the Code resulting from one or more of the circumstances in Clause 1.5, licensees must do so promptly.
- 1.7 To avoid doubt, Clause 1.6 does not apply to errors of fact in news and current affairs programs, which are subject to Clause 4.3.11.

## ***Introduction and Future Review of the Code***

- 1.8 This Code has been registered by the ACMA and came into effect on 1 January 2010. This Code replaces the Commercial Television Industry Code of Practice 2004. It will be formally reviewed after three years. If any substantive changes to the Code are needed before then, members of the public will be given an adequate opportunity to comment on those changes.
- 1.8.1 For the avoidance of doubt, the Multi-Channel Appendix may be amended pursuant to Clause 2 of that Appendix.

## ***Proscribed Material***

- 1.9 A licensee may not broadcast a program, program promotion, station identification or community service announcement which is likely, in all the circumstances, to:
- 1.9.1 simulate news or events in such a way as to mislead or alarm viewers;
  - 1.9.2 depict the actual process of putting a subject into a hypnotic state;
  - 1.9.3 be designed to induce a hypnotic state in viewers;

- 1.9.4 use or involve any technique which attempts to convey information to the viewer by transmitting messages below or near the threshold of normal awareness;
- 1.9.5 seriously offend the cultural sensitivities of Aboriginal and Torres Strait Islander people or of ethnic groups or racial groups in the Australian community;
- 1.9.6 provoke or perpetuate intense dislike, serious contempt or severe ridicule against a person or group of persons on the grounds of age, colour, gender, national or ethnic origin, disability, race, religion or sexual preference; or
- 1.9.7 present participants in reality television programs in a highly demeaning or highly exploitative manner.

**Demeaning:** A depiction or description, sexual in nature, which is a serious debasement of persons, or a group of persons, within a program.

**Exploitative:** Clearly appearing to purposefully debase or abuse a person, or group of persons, for the enjoyment of others, and lacking moral, artistic or other values.

- 1.10 Except for Clause 1.9.3, none of the matters in Clause 1.9 will be contrary to this Section if:
  - 1.10.1 said or done reasonably and in good faith in broadcasting an artistic work (including comedy or satire); or
  - 1.10.2 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
  - 1.10.3 said or done in broadcasting a fair report of, or a fair comment on, any event or matter of identifiable public interest.

### ***Requirements for Television Commercials***

- 1.11 Television advertisers are expected to ensure that their commercials comply with the Advertiser Code of Ethics and the Code for Advertising and Marketing Communications to Children, as amended from time to time (set out as Appendices 1 and 2 to this Code). Section 5 of this Code sets out restrictions on the amount of advertising and other non-program matter that stations may carry at different times of the day, and Section 6 of this Code sets out placement restrictions on certain types of television advertising which are recognised as being sensitive.
- 1.12 Commercials must not be excessively noisy or strident.
- 1.13 Licensees must do everything reasonably possible to ensure that commercials do not sound louder than adjacent programming.
- 1.14 Studio transmission must not be increased from normal levels during program breaks.

- 1.15 A licensee shall be deemed to have complied with Clauses 1.12 and 1.13 provided it ensures that the relevant requirements of Free TV Australia's Operational Practice Note on Loudness of Advertisements, as amended from time to time, have been met. This requirement is satisfied if a person submitting a commercial certifies to the licensee that all requirements of the Operational Practice Note on Loudness of Advertisements concerning compression, limiting and equalisation have been met.

### ***Presentation of Broadcast Material***

- 1.16 A commercial, community service announcement, program promotion or station promotion must be readily distinguishable by viewers from program material.
- 1.17 Clause 1.16 applies to material broadcast:
- 1.17.1 between programs;
  - 1.17.2 in a commercial break within a program;
  - 1.17.3 as a visual or audio superimposition over a program.
- 1.18 Where a licensee receives payment for material that is presented in a program or segment of a program, that material must be distinguishable from other program material, either because it is clearly promoting a product or service, or because of labelling or some other form of differentiation.

### ***Disclosure of Commercial Arrangements***

- 1.19 For the purposes of Clauses 1.20–1.23 the following definitions apply:
- 1.19.1 **“Commercial arrangement”** means an agreement or arrangement under which a licensee, an independent producer or a presenter agrees with a third party to endorse or feature the third party's products or services in a factual program in exchange for consideration. For the avoidance of doubt, the free provision of a product or service for review is not a commercial arrangement.
  - 1.19.2 **“Factual program”** means a current affairs, documentary or infotainment program broadcast by the licensee.
  - 1.19.3 **“Current affairs program”** has the meaning given in Clause 4.2.
  - 1.19.4 **“Documentary program”** means a documentary program as defined in the Australian Content Standard, as amended from time to time.
  - 1.19.5 **“Infotainment program”** means a program the sole or dominant purpose of which is to present factual information in an entertaining way, and which employs presenters to do so.
- 1.20 If a licensee enters into a commercial arrangement in relation to a factual program, and the third party's products or services are endorsed or featured in the program, the licensee must disclose the existence of that commercial arrangement.

- 1.21 A licensee will require each presenter it employs to appear in a factual program to inform the licensee of any commercial arrangement under which the presenter agrees to endorse or feature a third party's products or services in the program.
- 1.21.1 If a presenter informs the licensee of the existence of such a commercial arrangement and the presenter endorses or features the third party's products or services in the program, the licensee must disclose the existence of that commercial arrangement.
- 1.22 If a licensee commissions the production of a factual program by an independent producer, the licensee will require that, if the independent producer (or any presenter employed by the independent producer to appear in the program) enters into a commercial arrangement in relation to the program, and the third party's products or services are endorsed or featured in the program, the independent producer must disclose the existence of that commercial arrangement.
- 1.23 A disclosure required by this clause must be made either during the program or in the credits of the program and should adequately bring the existence of any such commercial arrangement to the attention of viewers in a way that is readily understandable to a reasonable person.

### ***Closed Captioning for Hearing Impaired and Deaf People***

- 1.24 Licensees will:
- 1.24.1 ensure that closed-captioning is clearly indicated in station program guides, in press advertising, in program promotions and at the start of the program;
- 1.24.2 exercise due care in broadcasting closed captioning, and ensure that there are adequate procedures for monitoring closed captioning transmissions;
- 1.24.3 provide adequate advice to hearing-impaired viewers if scheduled closed captioning cannot be transmitted. If technical problems prevent this advice being provided in closed captioned form, it must be open captioned as soon as reasonably practicable;
- 1.24.4 when broadcasting emergency, disaster or safety announcements, provide the essential information visually, whenever practicable. This should include relevant contact numbers for further information.

### ***Interviews and Telephone Conversations***

- 1.25 Licensees are subject to relevant Federal and State law when broadcasting interviews and telephone conversations.

### ***Premium Charge Telephone Services***

- 1.26 If, during a program or program promotion, a licensee invites viewers to use a premium charge telephone service (eg. 1900, 1901 or 1902 numbers) to obtain information,

register a view on a matter or participate in a competition, the licensee must provide clearly readable information about the cost of the call.

1.26.1 In C programs and program promotions in C viewing periods, and in any G program that has a substantial child audience and commences before 5.00pm:

1.26.1.1 the information about the cost of the call must be in a form which children can understand, and must be presented visually and orally;

1.26.1.2 children must be invited orally to seek parental permission before calling.

### ***Broadcast of Emergency Information***

1.27 The purpose of this section is to ensure licensees have in place adequate procedures to enable the timely and accurate broadcast of emergency information to the licensed community.

1.28 A licensee will:

1.28.1 consult with appropriate emergency and essential service organisations within the licensed area and implement internal procedures to enable the timely and accurate broadcast of warnings and information supplied by such organisations relating to an existing or threatened emergency;

1.28.2 ensure a designated person within the licence area served is identified as the contact officer during business and non-business hours for all matters relative to Clauses 1.27–1.31 and Appendix 3 to this Code; and

1.28.3 comply with the requirements of Appendix 3 to this Code.

1.29 It is recognised that compliance by the licensee with Clause 1.28.1 of this Code is dependent upon the co-operation of the emergency or essential service organisations. A licensee will not be regarded as in breach of this Code if any emergency or essential service organisation declines or fails to respond to the licensee's request to consult or provide relevant information.

1.30 In developing internal procedures pursuant to Clause 1.28.1, a licensee will not be responsible for inaccurate information provided by any emergency or essential service organisation or for the failure of an emergency or essential service organisation to comply with the procedures.

1.31 A licensee will review and, where necessary, update procedures annually in consultation with the appropriate emergency and essential service organisations pursuant to Clause 1.28.1.



## SECTION 2: CLASSIFICATION

### *Objectives*

- 2.1 This Section is intended to ensure, since commercial television is a freely-accessible medium, open to all Australians, and providing a very diverse range of entertainment and information to a wide range of viewers, that:
  - 2.1.1 each broadcast day is divided into classification zones which are based on the majority audience normally viewing at that time, with particular regard to the child component of the audience;
  - 2.1.2 only material which is suitable for a particular classification zone is broadcast in that zone;
  - 2.1.3 the most stringent restrictions apply to the G classification zone, with gradually reducing restrictions applying in each successive zone;
  - 2.1.4 in the least restrictive classification zones (MA and AV), nothing is permitted which was not permitted by the former AO television classification;
  - 2.1.5 viewers are provided with appropriate information about the classification and nature of material to be broadcast;
  - 2.1.6 for the purpose of classifying films (as defined in clause 2.3.3), a licensee must apply the film classification system administered by the National Classification Board, and make any necessary modifications to films classified under that system to ensure that they are suitable for broadcast, or for broadcast at particular times. In particular, any film classified R18+ under the National Classification Board Guidelines must be suitably modified for broadcast on television;
  - 2.1.7 news, commentary on current events, and serious presentations of moral or social issues are permitted in lower classification zones, but must be presented with appropriate sensitivity to the classification zone.

### *Scope*

- 2.2 This Section applies to all programs and to all non-program matter, namely commercials, program promotions, program listings, community service announcements and station identifications. Section 3: Program Promotions and Section 6: Classification and Placement of Commercials apply more stringent restrictions to certain program promotions and commercials, and those Sections take precedence over this Section wherever the requirements differ.
  - 2.2.1 In this Section:
    - 2.2.1.1 words have the normal dictionary meaning suggested by their context;

- 2.2.1.2 material means visual or aural material.

### ***Classification of Films***

- 2.3 ***Films***: are classified according to the National Classification Board Guidelines.
- 2.3.1 Films may be modified by a licensee in accordance with the National Classification Board Guidelines to ensure that they are suitable for broadcast, or for broadcast at particular times.
- 2.3.2 Licensees must ensure that films that are (or if modified, would be) classified MA15+ under the National Classification Board Guidelines, because of the intensity and/or frequency of violence, are classified AV for television or are modified to M level violence or lower.
- 2.3.3 In Clauses 2.1.6, 2.3 and 2.20, and Appendices 4 and 5, the following definitions apply:
- “**Film**” means any feature film, documentary or short film that has had first release in Australia through public exhibition (including cinematic release) or sale/hire and which has been classified by the classification board administered by the National Classification Board.
- “**National Classification Board Guidelines**” means the Guidelines for the Classification of Films and Computer Games current as at 19 March 2008, as amended from time to time. The Guidelines are incorporated into this Code by reference.

### ***Classification of Other Material***

- 2.4 ***All other material for broadcast***: Subject to Clauses 2.3 and 2.4.1, all other material for broadcast must be classified according to the Television Classification Guidelines (set out in Appendix 4) or, where applicable, the stricter requirements of Section 3: Program Promotions and Section 6: Classification and Placement of Commercials.
- 2.4.1 ***Exception for news, current affairs and broadcasts of sporting events***: these programs do not require classification, provided that the licensee exercises care in selecting material for broadcast having regard to:
- 2.4.1.1 the likely audience of the program; and
- 2.4.1.2 any identifiable public interest reason for presenting the program material.
- 2.5 ***Non-program material dealing in a responsible way with important moral or social issues***: A commercial or community service announcement which would normally require an M or PG classification may be classified PG or G, respectively, in the following circumstances:
- 2.5.1 if it deals in a responsible way with important moral or social issues; and

- 2.5.2 if its target audience is unlikely to be available in the classification zone suited to its content; and
- 2.5.3 if it is in the public interest that it reach that target audience.

### ***Classification Zones***

2.6 The following classification zones apply to all material required to be classified (whether under the National Classification Board Guidelines or the Television Classification Guidelines).

2.6.1 The timezones set out in Clause 3 of the Multi-Channel Appendix (Appendix 6) apply to all material required to be classified on a licensee's multi-channel.

### ***Children's (C) and Preschool Children's (P) classification zones***

2.7 C and P classification zones are movable within bands laid down in the Children's Television Standards. These zones overlap other classification zones and have precedence over them.

### ***General (G) classification zones***

2.8 The G classification zones are:

<b><i>Weekdays</i></b>	6.00am	–	8.30am
	4.00pm	–	7.00pm
<b><i>Weekends</i></b>	6.00am	–	10.00am

2.8.1 In G zones, only material classified G, C and P may be broadcast (though note limited exemptions in Clause 2.13.1 and 2.13.2).

### ***Parental guidance recommended (PG) classification zones***

2.9 The PG classification zones are:

<b><i>Weekdays</i></b> ( schooldays)	5.00am	–	6.00am
	8.30am	–	12.00 noon
	3.00pm	–	4.00pm
	7.00pm	–	8.30pm
<b><i>Weekdays</i></b> ( school holidays)	5.00am	–	6.00am
	8.30am	–	4.00pm
	7.00pm	–	8.30pm
<b><i>Weekends</i></b>	5.00am	–	6.00am
	10.00am	–	8.30pm

2.9.1 In PG zones, only material classified PG, G, C and P may be broadcast (though note exemptions in Clause 2.13.2).

2.9.2 School holidays mean Government primary school holidays in the State or Territory in which the service originates.

### ***Mature (M) classification zones***

2.10 The M classification zones are:

<b><i>Weekdays</i></b> ( schooldays)	8.30pm	–	5.00am
	12.00 noon	–	3.00pm (see clause 2.10.3)

<b><i>Weekdays &amp; Weekends</i></b> (school holidays)	8.30pm	–	5.00am
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2.10.1 In M zones, any material which qualifies for a television classification may be broadcast, except that material classified MA and AV is restricted to the times set out in Clauses 2.11 and 2.12 respectively.

2.10.2 School holidays mean Government primary school holidays in the State or Territory in which the service originates.

2.10.3 When the time of reception anywhere in a licence area is more than one hour in advance of the time of origin of the service, the M classification zone on schooldays extends between noon and 2.30pm, rather than 3.00pm.

### ***Mature audience (MA) classification zones***

2.11 The MA classification zone is all days between 9.00pm and 5.00am. In MA zones, any material which qualifies for a television classification may be broadcast, except that material classified AV may only be broadcast after 9.30pm.

### ***Adult violence (AV) classification zones***

2.12 The AV classification zone is all days between 9.30pm and 5.00am. In AV zones, any material that satisfies a television classification may be broadcast.

# Classification Zones Table

## Schooldays

	5am	6	8.30	12pm	3	4	5	7	8.30	9	9.30	5am
<b>P, C</b>	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
<b>G</b>	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
<b>PG</b>	Shaded	White	Shaded	Shaded	Shaded	White	White	Shaded	Shaded	Shaded	Shaded	Shaded
<b>M</b>	White	White	White	Shaded	White	White	White	White	Shaded	Shaded	Shaded	Shaded
<b>MA</b>	White	White	White	White	White	White	White	White	White	Shaded	Shaded	Shaded
<b>AV</b>	White	White	White	White	White	White	White	White	White	White	White	Shaded

## School Holidays

	5am	6	8.30	12pm	3	4	5	7	8.30	9	9.30	5am
<b>P, C</b>	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
<b>G</b>	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
<b>PG</b>	Shaded	White	Shaded	Shaded	Shaded	White	White	Shaded	Shaded	Shaded	Shaded	Shaded
<b>M</b>	White	White	White	White	White	White	White	White	Shaded	Shaded	Shaded	Shaded
<b>MA</b>	White	White	White	White	White	White	White	White	White	Shaded	Shaded	Shaded
<b>AV</b>	White	White	White	White	White	White	White	White	White	White	White	Shaded

## Weekends

	5am	6	8.30	10	12pm	3	4	5	7	8.30	9	9.30	5am
<b>P, C</b>	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
<b>G</b>	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
<b>PG</b>	Shaded	White	White	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
<b>M</b>	White	White	White	White	White	White	White	White	White	Shaded	Shaded	Shaded	Shaded
<b>MA</b>	White	White	White	White	White	White	White	White	White	White	Shaded	Shaded	Shaded
<b>AV</b>	White	White	White	White	White	White	White	White	White	White	White	White	Shaded

## ***Broadcasting of Material***

- 2.13 Material may only be broadcast in the classification zone corresponding to its classification, except in the following circumstances:
- 2.13.1 ***News, current affairs and broadcast of sporting events:*** While not required to be classified, may be broadcast in the G classification zone, provided that care is exercised in the selection and broadcast of all material.
- 2.13.1.1 News material broadcast in the G classification zone outside regular bulletins must be compiled with special care.
- 2.13.2 ***Program material dealing in a responsible way with important moral or social issues:*** A program may be broadcast outside the times appropriate to its classification only if:
- 2.13.2.1 it deals in a responsible way with important moral or social issues; and
- 2.13.2.2 its scheduling is justified by the availability of its target audience; and
- 2.13.2.3 clear advice of its nature and content is given both in promotions for, and at the start of, the program, and that advice avoids detail which may in itself seriously distress or seriously offend viewers; and
- 2.13.2.4 it is not a film classified M, MA or AV.
- 2.13.3 A licensee need not adjust classification zone transition times to comply with this clause (except as required in Clause 2.10.3 for the school day afternoon M zone) if it is:
- 2.13.3.1 a remote area licensee serving a part of its licence area which falls in a different time zone;
- 2.13.3.2 the only licensee serving a part of its licence area which falls in a different time zone.
- 2.14 ***Material which may distress or offend viewers:*** Only if there is an identifiable public interest reason may a licensee broadcast a news or current affairs program containing material which, in the licensee's reasonable opinion, is likely to distress or offend a substantial number of viewers.
- 2.14.1 If such material is likely, in the licensee's reasonable opinion, to seriously distress or seriously offend a substantial number of viewers, then the licensee must provide the adequate prior warning required by Clause 2.26.
- 2.15 ***Excerpts from certain feature films:*** Provided that they are suitable for the time of broadcast, excerpts from feature films classified MA (cinema or television), AV (television) or R18+ (cinema) may be broadcast in a news or current affairs program, in a film review program or a film review segment, in conjunction with an interview directed

at a predominantly adult audience, or in a program which deals in a responsible manner with serious moral or social issues.

2.15.1 Where a locally-produced program or segment contains such an excerpt, the classification of the film from which it is drawn must be shown if that film is in current cinema release locally.

2.15.2 If such excerpts are also used in promoting any news, current affairs or other program specified in this clause, the promotion must comply with the additional restrictions in Clause 3.8–3.12 of the Code.

### ***Material Not Suitable for Television***

2.16 Material which cannot appropriately be classified AV or any lower television classification, because of the matter it contains, or the way that matter is treated, is unsuitable for television and must not be broadcast. In accordance with the *Broadcasting Services Act 1992*, television licensees may not broadcast a program that has been classified “refused classification” (RC), or has been classified as X18+, under the National Classification Board Guidelines.

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

2.17.1 ***Violence:*** Sustained, relished or excessively detailed acts of violence, unduly bloody or horrific depictions, strong violence that has high impact or which is gratuitous or exploitative or depiction of exploitative or non-consensual sexual relations as desirable;

2.17.2 ***Sex and nudity:*** Detailed genital nudity in a sexual context, or explicit depiction of sexual acts;

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

2.17.4 ***Drugs:*** Detailed depiction of intravenous drug use, or instruction or encouragement in illegal drug use;

2.17.5 ***Suicide:*** Realistic depiction of methods of suicide, or promotion or encouragement of suicide.

### ***Display of Classification Symbols***

2.18 For any program required to be classified (whether under the National Classification Board Guidelines or the Television Classification Guidelines), an appropriate classification symbol of at least 32 television lines in height, in a readily legible typeface, must be displayed for at least 3 seconds at the following times:

2.18.1 as close as practicable to the program’s start;

2.18.2 as soon as practicable after each break;

- 2.18.3 subject to Clause 3.16, in any promotion for the program.
- 2.19 Clearly visible classification symbols must accompany all press advertising of programs on behalf of a licensee, and all program listings in program guides produced by a licensee.
- 2.19.1 Program classification advice is not required in radio or outdoor advertising by a licensee.

### ***Consumer Advice for Certain Programs***

- 2.20 Consumer advice provides viewers with information about the principal elements that contribute to a program's classification, and indicates their intensity and/or frequency. It is intended to help people to make informed choices about the programs they choose.
- 2.20.1 Consumer advice is mandatory for all MA and AV programs and for one-off programs classified M and very short series classified M – that is, feature films, telemovies, mini-series, series episodes presented in a feature film format, documentaries and specials.
- 2.20.2 Consumer advice is mandatory for all PG films (as the term film is defined in clause 2.3.3).
- 2.20.3 A licensee must supply consumer advice with any PG classified program broadcast between 7.00pm and 8.30pm on weekdays or between 10.00am and 8.30pm on weekends that contains material of a strength or intensity which the licensee reasonably believes parents or guardians of young children may not expect.
- 2.20.4 A licensee must also supply consumer advice with any other program which contains material of a strength or intensity which the licensee reasonably believes viewers may not expect.
- 2.21 Consumer advice must be broadcast at the start of programs covered by Clause 2.20. It must be both spoken and written. The consumer advice must be in a readily legible typeface, and must remain visible for at least five seconds. It must take the following form:
- 2.21.1 ***Classification text:*** For required programs the PG symbol must be accompanied by the text: “parental guidance is recommended for young viewers”. For required programs, the M symbol must be accompanied by the text: “Recommended for mature audiences”. The MA and AV symbol must be accompanied by the text: “Not suitable for persons under the age of 15” or such other text as agreed between the National Classification Board and Free TV Australia.
- 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
- 2.21.2.2 **Violence**
  - stylised violence
  - mild violence
  - some violence
  - frequent violence
  - realistic violence
  - strong violence
- 2.21.2.3 **Sex**
  - sexual references
  - a sex scene
  - sex scenes
  - strong sex scenes
- 2.21.2.4 **Drugs**
  - drug references
  - drug use
- 2.21.2.5 **Other**
  - adult themes
  - strong adult themes
  - medical procedures
  - supernatural themes
  - horror
  - nudity

### 2.21.3 *Classification and consumer advice voice-over:*

- 2.21.3.1 for required PG programs, the voice over must say: “The following program [or film or movie] is classified PG. It contains [consumer advice corresponding to the graphic]. [This channel] recommends parental guidance for young viewers”.
- 2.21.3.2 for required M programs, the voice-over must say: “The following program [or film or movie] is classified M. It contains [consumer advice corresponding to the graphic]. [This channel] recommends viewing by mature audiences”.
- 2.21.3.3 for all MA and AV programs, the voice-over must say: “The following program [or film or movie] is classified [insert classification]. It contains [consumer advice corresponding to the graphic]. [This channel] advises that it is not suitable for persons under the age of 15” or such other text as agreed between the National Classification Board and Free TV Australia.

2.21.4 Except for programs which now require an AV classification, programs classified before this revised Code came into effect may use the consumer advice required at the time of the original classification.

2.22 **Consumer advice after breaks:** Briefer written consumer advice must be broadcast as soon as is practicable after the resumption of the program at each break. A lower frame graphic or graphics must show (in addition to any station/network logo) the title plus the classification symbol and the consumer advice, abbreviated in letter form, beside the symbol. The letters to be used are one or more of:

<b>A</b>	=	adult themes or medical procedures
<b>D</b>	=	drug use/references
<b>H</b>	=	horror or supernatural themes
<b>L</b>	=	coarse language
<b>N</b>	=	nudity
<b>S</b>	=	sexual references/sex scenes
<b>V</b>	=	violence

2.23 **Press advertising:** Clearly visible consumer advice must accompany:

2.23.1 all press advertisements placed by the licensee of one quarter page by four columns or larger. This must be spelt out (eg 'some coarse language'); and

2.23.2 relevant program listings in any program guides produced by a licensee, unless it is not practical to do so.

2.24 **Radio advertising:** Consumer advice is not required in radio advertising by a licensee.

### ***Warnings Before Certain News, Current Affairs and Other Programs***

2.25 A licensee must provide prior warning to viewers when a news, current affairs, or other program which does not carry consumer advice includes, for an identifiable public interest reason, material which in the licensee's reasonable opinion is likely to seriously distress or seriously offend a substantial number of viewers. The warning must precede the relevant item in a news and current affairs program and precede the program in other cases.

2.26 Warnings before the broadcast of material of this nature must be spoken, and may also be written. They must provide an adequate indication of the nature of the material, while avoiding detail which may itself seriously distress or seriously offend viewers.

2.27 If, in a promotion for a program, a licensee includes advice that the program contains material which may seriously distress or seriously offend viewers, that advice must comply with every requirement for program promotions in the period in which it is broadcast.

## SECTION 3: PROGRAM PROMOTIONS

### *Objectives*

- 3.1 This Section is intended to ensure that:
  - 3.1.1 no program classified higher than PG is promoted in programs directed mainly to children;
  - 3.1.2 higher classified programs are only to be promoted elsewhere in the G and PG viewing periods if the excerpts shown comply in every respect with the classification criteria of those viewing periods and with the more stringent content restrictions specified in Clauses 3.8 and 3.9.

### *Scope*

- 3.2 This Section applies to all material transmitted in breaks within or between programs, or by superimposition on a program, which promotes a program or programs to be broadcast on the station. The only material not subject to these requirements is a program listing (line-up) and voice over announcements during the end credits of a program, provided that:
  - 3.2.1 at times when a promotion for an AV program would not be permitted by this Section such programs may be included in a program listing, provided that no footage from the program or other material unsuitable for the relevant timeslot is shown;
  - 3.2.2 where this material refers to an M or MA program at a time when a promotion for an M or MA program would not be permitted by this Section, no material unsuitable for the relevant timeslot is shown; and
  - 3.2.3 the listing shows the classification of each program it contains.
- 3.3 In this Section, the following definitions apply:
  - 3.3.1 “**cartoon program**” means an animated program aimed predominantly at a children’s audience;
  - 3.3.2 “**children**” means children of or below primary school age;
  - 3.3.3 “**substantial numbers of children**” means that children comprise 30% or more of the program’s total audience or that 20% or more of all children in television homes in the licence area are viewing the program;
  - 3.3.4 “**material**” means visual or aural material.

### ***Promotions Within and Adjacent to P and C Periods***

- 3.4 A promotion for a P, C or G program, or for an unclassified news, current affairs or sporting event that is to be broadcast in the G viewing zone may be broadcast during C programs and the breaks adjacent to C and P periods.
- 3.5 The content of the promotion must comply with Clause 3.8 and the Children's Television Standards.

### ***Promotions in G Programs***

- 3.6 Only a promotion which complies with Clause 3.8 and is for a P, C, G or PG program, or for an unclassified news, current affairs or sporting event, may be broadcast during the following programs:
  - 3.6.1 cartoon programs in G viewing periods on any day;
  - 3.6.2 G programs in weekend G viewing periods that are promoted for viewing by children, or are likely to attract substantial numbers of children (as defined in Clause 3.3.3);
  - 3.6.3 programs between 4.00pm and 6.00pm on any weekday.
    - 3.6.3.1 The exceptions during this period are news, current affairs, sporting events and other programs that are neither promoted to children nor likely to attract substantial numbers of children. In those programs a promotion for an M program may be broadcast, provided that the content of the promotion complies with Clause 3.8.
- 3.7 In G viewing periods other than those referred to in Clause 3.6, a promotion for a P, C, G, PG or M program may be broadcast, provided that the content of the promotion complies with Clause 3.8.

### ***Restrictions in G Viewing Periods and in Certain Other G Programs***

- 3.8 Special restrictions apply to the content of program promotions in G viewing periods, or in G programs which are scheduled to start at 3.30pm on a weekday, or which are broadcast between 7.00pm and 8.30pm on any day. All such program promotions must comply with the G classification requirements set out in paragraph 2 of Appendix 4, and in addition must include no material which involves any of the following:
  - 3.8.1 the use of guns, other weapons or dangerous objects in a manner clearly intended to inflict harm on, or to seriously menace, people or animals;
  - 3.8.2 punches, blows or other physical or psychological violence against people or animals (other than in sequences that clearly depict comedy or slapstick behaviour);
  - 3.8.3 any form of violence or cruelty to children;

- 3.8.4 sequences that involve loss of life;
- 3.8.5 close-up vision of dead or wounded bodies;
- 3.8.6 any visual depiction of suicide or intended means of suicide;
- 3.8.7 anything which has more than a very low sense of threat or menace;
- 3.8.8 visual depiction of nudity or partial nudity;
- 3.8.9 visual depiction of, or verbal reference to, sexual behaviour, except of the most innocuous kind;
- 3.8.10 socially offensive or discriminatory language.

### ***Restrictions in PG Programs in Certain Time Periods***

- 3.9 Special restrictions apply to the content of program promotions in PG programs broadcast between 7.00pm and 8.30pm on weekdays and between 10.00am and 8.30pm on weekends. All such program promotions must comply with the PG classification requirements set out in paragraph 3 in Appendix 4 and in addition must include no material that involves any of the following:
  - 3.9.1 the use of guns, other weapons or dangerous objects against people or animals in the foreground;
  - 3.9.2 violence against people or animals which has more than a very mild impact;
  - 3.9.3 action sequences which include obvious loss of life;
  - 3.9.4 close-up vision of dead or seriously wounded people;
  - 3.9.5 any visual depiction of suicide or intended means of suicide;
  - 3.9.6 sexual behaviour other than of a very restrained kind;
  - 3.9.7 visual depiction of nudity, other than of a very restrained or incidental nature;
  - 3.9.8 coarse language, other than of a very mild nature;
  - 3.9.9 anything which has more than a mild sense of threat or menace.
- 3.10 For the purposes of Clause 3.9, all sporting coverage between 7.00pm and 8.30pm is deemed to be PG.

### ***Restrictions in G or PG Programs at 8.30pm***

- 3.11 In G or PG programs scheduled to start at 8.30pm, or in a station break preceding such programs, program promotions must comply with the requirements of the PG viewing period set out in paragraph 3 in Appendix 4.

- 3.11.1 This clause also applies to any part of a G or PG program that continues past 8.30pm, having started before that time.
- 3.11.2 This clause does not apply to G or PG programs which follow a program which starts at or continues past 8.30pm (e.g. a PG program starting at 9.00pm).
- 3.11.3 Where a program of the kind referred to in this clause continues beyond 10.30pm, these restrictions will cease to apply beyond that time.
- 3.12 For the purposes of Clause 3.11, all sporting coverage broadcast between 8.30pm and 10.30pm is deemed to be PG.

### ***Promotions for News, Current Affairs, Sport and Certain Other Programs***

- 3.13 A promotion for a news, current affairs or sporting event, or for any program that deals in a responsible way with important social or moral issues, must comply in every respect with the requirements for the viewing zone in which it is broadcast (and, as far as is practicable, with the additional restrictions set out in Clauses 3.8 to 3.11).

### ***Promotions for Programs Classified MA or AV***

- 3.14 A promotion for an MA program may be broadcast at any time except during C and P programs, provided the promotion is suitable for the classification zone in which it is broadcast.
- 3.15 A promotion for an AV program may not be broadcast between 5.00am and 7.30pm on any day or in G programs between 7.30pm and 8.30pm on any day.

### ***Display of Classification Symbols***

- 3.16 A promotion for a program other than a news, current affairs or sporting event must display the classification of the program promoted, as required by Clause 2.18.
- 3.16.1 A voice-over program promotion transmitted during the closing credits of a program is not required to comply with this clause.
- 3.16.2 A program promotion need not include consumer advice.

### ***Excerpts from Films Not Yet Classified for Television Included in Composite Station Promotions***

- 3.17 Restrained and very brief excerpts from films that have been classified M or higher for cinema or video or DVD, but have not yet been classified for television, may be included in station promotions featuring a number of films to be broadcast. The content of these promotions must comply with the requirements of the classification zone in which they appear and, where relevant to their placement, with Clauses 3.8, 3.9 and 3.11.

## **SECTION 4: NEWS AND CURRENT AFFAIRS PROGRAMS**

### ***Objectives***

- 4.1 This Section is intended to ensure that:
  - 4.1.1 news and current affairs programs are presented accurately and fairly;
  - 4.1.2 news and current affairs programs are presented with care, having regard to the likely composition of the viewing audience and, in particular, the presence of children;
  - 4.1.3 news and current affairs take account of personal privacy and of cultural differences in the community;
  - 4.1.4 news is presented impartially.

### ***Scope of the Code***

- 4.2 Except where otherwise indicated, this Section applies to news programs, news flashes, news updates and current affairs programs. A “current affairs program” means a program focussing on social, economic or political issues of current relevance to the community.

### ***News and Current Affairs Programs***

- 4.3 In broadcasting news and current affairs programs, licensees:
  - 4.3.1 must broadcast factual material accurately and represent viewpoints fairly, having regard to the circumstances at the time of preparing and broadcasting the program;
    - 4.3.1.1 An assessment of whether the factual material is accurate is to be determined in the context of the segment in its entirety.
  - 4.3.2 must not present material in a manner that creates public panic;
  - 4.3.3 should have appropriate regard to the feelings of relatives and viewers when including images of dead or seriously wounded people. Images of that kind which may seriously distress or seriously offend a substantial number of viewers should be displayed only when there is an identifiable public interest reason for doing so;
  - 4.3.4 must provide the warnings required by Clauses 2.14 and 2.20 of this Code when there is an identifiable public interest reason for selecting and broadcasting visual and/or aural material which may seriously distress or seriously offend a substantial number of viewers;

- 4.3.5 must not use material relating to a person's personal or private affairs, or which invades an individual's privacy, other than where there is an identifiable public interest reason for the material to be broadcast;
- 4.3.5.1 subject to the requirements of clause 4.3.5.2, a licensee will not be in breach of this clause 4.3.5 if the consent of the person (or in the case of a child, the child's parent or guardian) is obtained prior to broadcast of the material;
- 4.3.5.2 for the purpose of this Clause 4.3.5, licensees must 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;
- 4.3.5.3 **"child"** means a person under 16 years.
- 4.3.6 must exercise sensitivity in broadcasting images of or interviews with bereaved relatives and survivors or witnesses of traumatic incidents;
- 4.3.7 should avoid unfairly identifying a single person or business when commenting on the behaviour of a group of persons or businesses;
- 4.3.7.1 when commenting on the behaviour of a group of persons or businesses, it is not unfair to correctly identify an individual person or business as part of that group if;
- 4.3.7.1.1 the licensee can be reasonably satisfied that the individual person or business engages in that behaviour; or
- 4.3.7.1.2 the licensee discloses that the individual person or business does not engage in that behaviour.
- 4.3.8 must take all reasonable steps to ensure that murder or accident victims are not identified directly or, where practicable, indirectly before their immediate families are notified by the authorities;
- 4.3.9 should broadcast reports of suicide or attempted suicide only where there is an identifiable public interest reason to do so, and should exclude any detailed description of the method used. The report must be straightforward and must not include graphic details or images, or glamourise suicide in any way;
- 4.3.10 must not portray any person or group of persons in a negative light by placing gratuitous emphasis on age, colour, gender, national or ethnic origin, physical or mental disability, race, religion or sexual preference. Nevertheless, where it is in the public interest, licensees may report events and broadcast comments in which such matters are raised;



- 4.3.11 must make reasonable efforts to correct significant errors of fact at the earliest opportunity. A failure to comply with the requirement in clause 4.3.1 to broadcast factual material accurately will not be taken to be a breach of the Code if a correction, which is adequate and appropriate in all the circumstances, is made within 30 days of the licensee receiving a complaint or a complaint being referred to the ACMA (whichever is later).
- 4.4 In broadcasting news programs (including news flashes) licensees:
  - 4.4.1 must present news fairly and impartially;
  - 4.4.2 must clearly distinguish the reporting of factual material from commentary and analysis.
- 4.5 In broadcasting a promotion for a news or current affairs program, a licensee must present factual material accurately and represent featured viewpoints fairly, having regard to the circumstances at the time of preparing and broadcasting the program promotion, and its brevity. A licensee is not required by this clause to portray all aspects or themes of a program or program segment in a program promotion, or to represent all viewpoints contained in the program or program segment.

## SECTION 5: TIME OCCUPIED BY NON-PROGRAM MATTER

### *Objectives*

- 5.1 This Section is intended to ensure that:
- 5.1.1 there is a reasonable balance between program and non-program matter broadcast by a licensee, having regard to the interests of viewers in uncluttered program presentation, and the commercial interests of advertisers and stations;
  - 5.1.2 a station may exercise some flexibility in scheduling non-program content, having regard to the needs of advertisers and the artistic integrity of programs;
  - 5.1.3 there are firm limits on the amount of commercial and promotional matter scheduled in any one hour, and lower overall limits between 6.00pm and midnight;
  - 5.1.4 in P and C periods, the limits imposed by the ACMA's Children's Television Standards are observed.

### *Scope*

- 5.2 This Section sets limits for non-program matter scheduled, as distinct from non-program matter actually broadcast. This is because an "as broadcast" clock hour requirement would need complex exemption provisions so that licensees were not obliged to force breaks as a result of unpredictable segment lengths in live programs (and programs broadcast "as live" on short delay), or technical or operational problems.
- 5.2.1 In determining compliance with this Section, the amount of non-program matter indicated on the Final Schedules will be used as the reference point.
- 5.2.1.1 The Final Schedules are the last schedules prepared prior to broadcast, which indicate the scheduled commencement time of each break and identify the items to be broadcast within the break. The Final Schedules are intended to be used in the final presentation of the program.
  - 5.2.2 The amount of non-program matter set out in the Final Schedules for an hour must not exceed the hourly limit in Clause 5.7. The only exception permitted is where non-program matter originally intended to fall in one hour (Hour A) is scheduled in an adjoining hour (Hour B) because of the length of a program segment or segments. This exception is subject to the following conditions:
    - 5.2.2.1 the station's earlier schedule prepared prior to the determination of break start times shows that the non-program matter falling in Hour B was intended to fall in Hour A; and
    - 5.2.2.2 no more than one break intended in the earlier schedule to fall in Hour A is scheduled in Hour B in the Final Schedules; and

- 5.2.2.3 the amount of non-program matter contained in that break in Hour B in the Final Schedules, when combined with the amount of non-program matter contained in Hour A in the Final Schedules, would not have exceeded the relevant limit for Hour A.
- 5.2.3 Clause 5.2.2 does not prevent non-program matter which was intended in the earlier schedule to fall in another adjacent hour to also be scheduled in Hour A or Hour B in the Final Schedules, provided that the scheduling satisfies the conditions set out in Clauses 5.2.2.1–5.2.2.3. In such circumstances, the calculation in Clause 5.2.2.3 would be performed separately in relation to each occurrence.
- 5.3 The provisions in Clause 5.2 are not intended to allow increased levels of non-program matter, and may not be interpreted by licensees in that way.

## ***Definitions***

- 5.4 ***Non-program matter:*** For the purposes of this Section, any of the following material will be counted as non-program matter:
  - 5.4.1 a spot commercial, namely any advertising for a product, service, belief or course of action which is scheduled within a program break or between programs, and for which a licensee receives payment or other valuable consideration;
    - 5.4.1.1 this includes bonus and make-good advertisements;
  - 5.4.2 advertising of the kind specified in Clause 5.4.1 but which takes the form of superimposed text or visual matter occupying all of the screen during a program;
    - 5.4.2.1 this does not include matter which relates to a prize or competition, or which refers to a commercial product or service in an information segment.
  - 5.4.3 a program promotion that is scheduled within a program break or between programs, or in the form of superimposed text or visual matter that occupies all of the screen during a program, except that:
    - 5.4.3.1 this applies only to material greater than 10 seconds in length which promotes a program or programs broadcast by the station; and
    - 5.4.3.2 this does not include any of the matter defined in Clause 5.5.8, or a community service announcement, as defined in Clause 5.5.2.
  - 5.4.4 any matter of the kind set out in Clause 5.5.8 but which contains more than 30 seconds of visual material from any program or programs broadcast by the station.
- 5.5 ***Exempt non-program matter:*** For the purposes of this Section, none of the following will be counted as non-program matter:

- 5.5.1 a prize, competition or information segment which refers to commercial products or services;
- 5.5.2 a community service announcement, namely an announcement which promotes a charitable cause or activity or which constitutes a service to the community, and which is broadcast free of charge by a licensee;
  - 5.5.2.1 **“free of charge”** means without the station’s receiving payment or other valuable consideration;
- 5.5.3 an announcement on behalf of an election authority;
- 5.5.4 a sponsorship announcement, before or after a program or segment, provided that:
  - 5.5.4.1 it is made clear to the viewer that there is a sponsorship relationship between the sponsor and the program;
  - 5.5.4.2 it makes no reference to the price of goods or services;
  - 5.5.4.3 it consists of no more than 10 seconds, in the case of a single sponsor, or 10 seconds per sponsor in the case of multiple sponsors, to a maximum of 30 seconds in any instance;
- 5.5.5 a shopping guide, infomercial or similar material, in which the presentation of advertising and information of general interest is an integral part of the program or segment;
  - 5.5.5.1 this includes a shopping guide within a program break that is clearly distinguishable from other advertising e.g. as a community billboard;
  - 5.5.5.2 such material is subject to the requirements of Clauses 1.18 and 6.2.1;
- 5.5.6 a voice-over program promotion transmitted during the closing credits of a program;
- 5.5.7 superimposed text or visual matter occupying only part of the screen during a program;
- 5.5.8 any matter of the kind set out below, providing that it contains no more than 30 seconds of visual material from any program or programs broadcast by the station:
  - 5.5.8.1 a spoken or visual announcement that a program will not be shown at the advertised time;
  - 5.5.8.2 a spoken or visual listing of programs to be broadcast;
  - 5.5.8.3 a brief announcement of the next program (“next-on”);
  - 5.5.8.4 a movie opener, namely a brief introductory sequence to a feature film which typically identifies the station and the film to be presented;

- 5.5.8.5 a station identification, provided that there is no reference to the day and/or time of broadcast of any program or programs;
- 5.5.9 a plot summary at the start of an episode of a program series or serial;
- 5.5.10 a program trailer at the end of the first or subsequent episode of a program series or serial, provided that it is broadcast before the closing credits;
- 5.5.11 a promotion, announcement, or information segment which is broadcast without charge or consideration by the licensee and which promotes digital television services, provided that no specific product or brand is promoted or endorsed (unless that product or brand is Freeview). Such a digital promotion, announcement or information segment may include reference to or depictions of a specific program, programs or channel broadcast by the licensee, provided that the primary focus of the spot is the promotion of digital television
  - 5.5.11.1 for the purposes of clause 5.5.11 **“Freeview”** means Freeview Australia Pty Limited, the company formed by the Australian free to air television broadcasters to promote the digital free to view platform.

### ***Hourly Limits***

- 5.6 On any day each licensee may in each hour schedule on average no more than the following amounts of non-program matter:
  - 5.6.1 between 6.00pm and midnight outside election periods, 13 minutes;
  - 5.6.2 between 6.00pm and midnight in election periods, 14 minutes, provided that on average no more than 13 minutes per hour comprises non-program matter that is not political matter;
  - 5.6.3 subject to clause 5.6.3.1, at all other times –provided licensees comply with added restrictions in C and P periods – 15 minutes;
    - 5.6.3.1 where the hour includes a news program during an election period, 16 minutes, provided that on average no more than 15 minutes per hour comprises non-program matter that is not political matter.
- 5.7 In any hour, each licensee may (provided that the averages in Clause 5.6 are satisfied) schedule the following amounts of non-program matter:
  - 5.7.1 between 6.00pm and midnight outside election periods – up to 15 minutes per hour, but with no more than 14 minutes scheduled in any four of those hours;
  - 5.7.2 between 6.00pm and midnight in election periods – up to 15 minutes per hour, plus one minute per hour of non-program matter that is political matter;
  - 5.7.3 at all other times outside election periods – up to 16 minutes;

- 5.7.4 at all other times in election periods – up to 16 minutes per hour, plus one minute per hour of non-program matter that is political matter and scheduled in a news program.
- 5.8 A licensee must supply to Free TV Australia for public release an hourly summary of political advertising and other non-program matter in respect of each day in which the additional minute has been utilised under Clause 5.7.2 or 5.7.4.
- 5.9 In P and C periods scheduled in accordance with the Children’s Television Standards:
- 5.9.1 no commercials may be broadcast in any P period;
- 5.9.2 each 30 minutes of a C period may contain no more than 5 minutes of commercials and one minute of G program promotions or station identification.

### ***Non-Program Matter on Licensees’ Multi-Channels***

- 5.10 For the avoidance of doubt, clauses 5.6 – 5.9 inclusive do not apply to non program matter on licensees’ multi-channels.

### ***Non-Program Content Displaced by Policy Speeches or Debates***

- 5.11 If a licensee broadcasts free of charge the policy speech of a political party or a debate between leaders of political parties, and by doing so is unable to broadcast the non-program matter permitted by Clause 5.6 or Clause 5.2 of the Multi-Channel Appendix (Appendix 6), the licensee may schedule additional non-program matter equivalent to the shortfall. That additional matter is to be scheduled elsewhere in the same zone (i.e. 6.00pm to midnight or off-peak) on that day or on other days within 14 days before or after the broadcast.
- 5.11.1 These provisions apply to policy speeches during election campaigns, and to debates between leaders of political parties at any time.
- 5.11.2 The amount of non-program matter made up in other hours may not exceed one minute in total in any one hour, but will not be included in the calculation of the average number of minutes of non-program matter permitted in that hour under clause 5.6.

### ***Make-Up of Non-Program Matter from Certain Broadcasts***

- 5.12 If a licensee broadcasts a program or part of a program of a clearly charitable or community service nature or provides extended coverage of a major news story or public event (for example, disasters, funerals of public figures, events of war) with a reduced amount of non-program matter than permitted by Clause 5.6 or Clause 5.2 of the Multi-Channel Appendix (Appendix 6), the licensee may schedule elsewhere additional non-program matter equivalent to the shortfall. That additional non-program matter is to be scheduled elsewhere in the same zone (i.e. 6.00pm to midnight or off-peak) on that day or on other days within 14 days before or after the broadcast (or such longer period as is agreed between the licensee and the ACMA);

- 5.12.1 programs of a clearly charitable or community service nature include telethons and other programs broadcast on behalf of a charity or community service, or which carry a strong community service message;
- 5.12.2 the amount of non-program matter made up in other hours may not exceed one minute in total in any one hour, but will not be included in the calculation of the average number of minutes of non-program matter permitted in that hour under clause 5.6.
- 5.12.3 Clause 5.12.2 does not apply to non program matter broadcast on licensees' multi-channels.

### ***Make-Up of Non-Program Matter from Broadcast of Live Sporting Event***

- 5.13 Where the amount of non-program matter scheduled during any hour of a broadcast of a live sporting event is less than the average permitted under Clause 5.6 or Clause 5.2 of the Multi-Channel Appendix (Appendix 6), additional non-program matter may be scheduled during breaks from the live action (including pre-match, post match & half-time coverage) or elsewhere in the same zone (i.e. 6:00pm to midnight or off-peak) on that day, provided that:
  - 5.13.1 the amount of non-program matter made up does not exceed one minute in any hour; and
  - 5.13.2 the averages required by Clause 5.6 are maintained.
- 5.14 For the purpose of Clause 5.13, **“live sporting event”** means:
  - 5.14.1 live-to-air sporting broadcasts;
  - 5.14.2 sporting broadcasts delayed for time zone reasons and broadcast as plausible “live”, without reformatting.

## SECTION 6: CLASSIFICATION AND PLACEMENT OF COMMERCIALS AND COMMUNITY SERVICE ANNOUNCEMENTS

### *Objectives*

- 6.1 This Section is intended to ensure that television commercials and community service announcements:
- 6.1.1 are classified and broadcast appropriately, in the light of current community attitudes, the need to limit the exposure of children to material intended for adult viewing, and the fact that such material is typically very brief, and cannot in practice be preceded by a warning;
  - 6.1.2 are subject to appropriate placement restriction when they are for products and services that are of particular concern and sensitivity, but that public health and safety messages are not unreasonably restricted;
  - 6.1.3 comply with Federal and State law and meet the relevant requirements of the ACMA's Children's Television Standards.

### *Scope*

- 6.2 The requirements of this Section apply to commercials and to community service announcements (as defined in Clause 5.5.2) that are broadcast in breaks within or between programs or by visual and/or oral superimposition on a program:
- 6.2.1 information within programs or segments of programs for which licensees are paid must comply with Clauses 6.5, 6.7, 6.14, 6.15 to 6.19 and 6.22.
- 6.3 In this Section, the following definitions apply (unless otherwise stated):
- 6.3.1 “**children**” means children of or below primary school age;
  - 6.3.2 “**substantial numbers of children**” means that children comprise 30% or more of the program's total audience or that 20% or more of all children in television homes in the licence area are viewing the program.

### *Compliance Requirements*

- 6.4 A commercial or community service announcement must comply with:
- 6.4.1 Section 2: Classification;
  - 6.4.2 when broadcast in breaks within or between programs in G viewing periods, the additional requirements of Clause 3.8, and when broadcast in the circumstances set out in Clauses 6.26–6.28, the relevant additional requirements of those clauses;



- 6.4.3 any relevant requirements of the ACMA's Children's Television Standards (as incorporated by reference into this Code).

### ***Approval of Commercials and Community Service Announcements***

- 6.5 The responsibility to ensure that a commercial or community service announcement complies with the requirements set out in Clause 6.4 rests with the licensee.
- 6.5.1 A licensee may meet that responsibility by obtaining the advice of a qualified third party.
- 6.5.2 A commercial relating to therapeutic goods must by law be approved before publication by the Australian Self-Medication Industry.
- 6.5.3 Television advertisers are also expected to ensure that their commercials comply with the Advertiser Code of Ethics and the Code for Advertising and Marketing Communications to Children (set out as Appendices 1 and 2 of this Code as amended from time to time).

### ***Classification of Commercials or Community Service Announcements***

- 6.6 A commercial or community service announcement must be given a television classification appropriate to its content, and subject to Clause 2.5, broadcast at a time that its classification allows.
- 6.6.1 In classifying such material, contextual factors such as brevity, the absence of substantial context, and the inability in practice to precede an item with a warning need to be taken into account.
- 6.6.2 It is not necessary to display the classification of a commercial or community service announcement.

### ***Commercials which Advertise Alcoholic Drinks***

- 6.7 A commercial which is a "direct advertisement for alcoholic drinks" (as defined in Clause 6.11) may be broadcast:
- 6.7.1 only in M, MA or AV classification periods; or
- 6.7.2 as an accompaniment to the live broadcast of a sporting event on weekends and public holidays.
- 6.8 Notwithstanding Clause 6.7, a commercial which is a "direct advertisement for alcoholic drinks" may be broadcast as an accompaniment to the live broadcast of a sporting event if:
- 6.8.1 the sporting event is broadcast simultaneously across a number of licence areas; and

- 6.8.2 Clause 6.7 permits direct advertisements for alcoholic drinks in the licence area in which the event is held or, if the event is held outside Australia, direct advertisements for alcoholic drinks are permitted in a majority of the metropolitan licence areas in which the event is simulcast.
- 6.9 A commercial which is a direct advertisement for an “alcoholic drink” or a “very low alcohol drink” (as both are defined in Clause 6.10) may not be broadcast during a C classification period, as defined in the Children’s Television Standards.
- 6.10 An **“alcoholic drink”** means any beer, wine, spirits, cider, or other spirituous or fermented drinks of an intoxicating nature, and is generally understood to refer to drinks of 1.15% or more alcohol by volume. The view of the Commonwealth Department of Health is that drinks of less than 1.15% alcohol by volume should be classified as **“very low alcohol”** drinks.
- 6.11 **“Direct advertisement for alcoholic drinks”** means a commercial broadcast by a licensee that draws the attention of the public, or a segment of it, to an alcoholic drink in a manner calculated to directly promote its purchase or use. This does not include the following, provided that their contents do not draw attention to an alcoholic drink in a manner calculated to directly promote its purchase or use:
- 6.11.1 a program sponsorship announcement on behalf of a brewing company or other liquor industry company;
- 6.11.2 a commercial for a licensed restaurant; or
- 6.11.3 a commercial for a company whose activities include the manufacture, distribution or sale of alcoholic drinks.
- 6.12 **“Live sporting event”** means:
- 6.12.1 live-to-air sporting broadcasts, including breaks immediately before and after the broadcast;
- 6.12.2 sporting broadcasts delayed for time zone reasons and broadcast as plausible “live”, without reformatting;
- 6.12.3 sporting broadcasts delayed in the licence area in which the event is being held pursuant to a requirement of the relevant sporting organisation (known in the industry as “delay against the gate”);
- 6.12.4 replay material where a scheduled live-to-air sporting broadcast has been temporarily suspended (e.g. during rain breaks in cricket coverage), provided that normal or stand-by programs have not been resumed.
- 6.13 **“Public holidays”** are those days proclaimed, Gazetted, or nominated in a statute as public holidays under the relevant State or Territory legislation. These holidays generally affect either an entire State or Territory (such as the various Queen’s Birthday holidays) or a particular city or region (such as Melbourne Cup Day in Melbourne).
- 6.13.1 Where a licence area covers areas in which different public holidays are observed, the station should schedule according to the public holidays in the area which contains the majority of the licence area population.

### ***Commercials Relating to Betting or Gambling***

6.14 Except for a commercial broadcast in a news, current affairs or sporting program, a commercial relating to betting or gambling must not be broadcast in G classification periods Monday to Friday, nor on weekends between 6.00am and 8.30am, and 4.00pm and 7.30pm.

A commercial relating to betting or gambling does not include:

6.14.1 a commercial relating to such things as Government lotteries, lotto, keno or contests;

6.14.2 a commercial relating to entertainment or dining facilities at places where betting or gambling take place, or a tourism commercial which incidentally depicts betting or gambling, provided in each case that the contents do not draw attention to betting or gambling in a manner calculated to directly promote their use.

### ***Commercials Relating to Products of a Particularly Intimate Nature***

6.15 A commercial for condoms may only be broadcast in PG, M, MA and AV classification periods.

6.15.1 The only exception to this Clause is where a commercial of this kind contains a public health or safety message, and is classified in compliance with Clause 2.5.

6.16 A commercial for a telephone sex-line or similar service must be classified 'MA'. It may only be scheduled after 11.00pm and before 5.00am on any day, and should not be placed within any religious program or sports program or in any drama program with a religious theme.

### ***Commercials for Cinema, Video, Videodisc or Interactive Films and Video, Computer or CD Games***

6.17 Subject to Clause 6.19, a commercial for a cinema film, video film, videodisc film or interactive film, or for a video game, computer game or CD game must be scheduled in accordance with Section 3: Program Promotions.

6.18 All such commercials must display the National Classification Board's cinema classification for the cinema film, video film, videodisc film, interactive film, video game, computer game or CD game advertised.

6.19 A commercial for an R18+ film may only be broadcast after 8.30pm, and a commercial for an X18+ film may not be broadcast.

## ***Commercials or Community Service Announcements Directed to Children***

6.20 Commercials or community service announcements directed to children must exercise special care and judgement, and comply with Children’s Television Standards 30-34.<sup>1</sup>

6.20.1 For the purposes of this Clause, **“children”** means people younger than 14 years of age.

6.21 Only commercials and community service announcements which satisfy G classification requirements and which comply with Children’s Television Standards 25, 30-34 and 35–36 may be broadcast during a C period or in breaks immediately before or after a C or P period.

6.21.1 C and P periods are as defined in the Children’s Television Standards.

6.22 A commercial or community service announcement which is classified at a lower level than its content would normally require, in accordance with Clause 2.5, may be scheduled in programs where children are likely to form a substantial part of the audience only where children are appropriately a target audience.

6.23 Advertisements directed to children for food and/or beverages:

6.23.1 should not encourage or promote an inactive lifestyle;

6.23.2 should not encourage or promote unhealthy eating or drinking habits;

6.23.3 must not contain any misleading or incorrect information about the nutritional value of the product.

6.23.4 For the purposes of this Clause 6.23:

**“children”** means people younger than 14 years of age<sup>2</sup>;

**“inactive lifestyle”** means not engaging in any or much physical activity as a way of life;

**“unhealthy eating or drinking habits”** means excessive or compulsive consumption of food and/or beverages;

**“promote”** means expressly endorse.

## ***Promotion of Products or Services in Programs Directed to Children***

6.24 In any program mainly directed to children:

6.24.1 the host or any other regular presenter or character in the program must not sell or promote products or services; and

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1 Children’s Television Standards 25, 30-34 and 35–36 are incorporated into this Code by reference.

2 Children’s Television Standards 5, definition of “children”

- 6.24.2 products that have names or packaging featuring the host or any other regular presenter or character in the program must not be recommended or promoted within the program; and
- 6.24.3 material in the program which recommends or promotes products or services must be presented as discrete segments, and its sponsorship must be advised to viewers in a way that will be clear to them; and
- 6.24.4 references to prizes for competitions must be brief.

### ***Premium Charge Telephone Services in Certain Commercials***

- 6.25 In any commercial involving the use of premium charge telephone services (e.g. 0055 and 1900 numbers) which is directed to children, or is placed in a G program that has a substantial child audience and commences before 5.00pm:
  - 6.25.1 the basic terms of any competition involved must be presented in a form which children can understand; and
  - 6.25.2 the information about the cost of the call should be in a form which children can understand, and must be presented both in a clearly readable form and orally; and
  - 6.25.3 children must be invited orally to seek parental permission before calling.

### ***Commercials or Community Service Announcements in G Programs Between 7.00pm and 8.30pm***

- 6.26 In breaks within or between G programs broadcast between 7.00pm and 8.30pm, commercials and community service announcements must comply with the requirements of the PG viewing period and with the additional restrictions in Clause 3.9.

### ***Commercials or Community Service Announcements in G or PG Programs at 8.30pm***

- 6.27 In breaks within G or PG programs scheduled to start at 8.30pm, or in a station break preceding such programs, commercials and community service announcements must comply with the requirements of the PG viewing period.
  - 6.27.1 This clause also applies to breaks at or after 8.30pm within a G or PG program which starts before 8.30pm.
  - 6.27.2 This clause does not apply to breaks within G or PG programs which follow a program which starts at or continues past 8.30pm (e.g. a PG program starting at 9.00pm).
  - 6.27.3 Where a program of the kind referred to in this clause continues beyond 10.30pm, these restrictions will cease to apply beyond that time.
- 6.28 For the purposes of Clause 6.27, all sporting coverage between 8.30pm and 10.30pm will be deemed to be PG.

## **SECTION 7: HANDLING OF COMPLAINTS TO LICENSEES**

### ***Objectives***

- 7.1 This Section is intended to ensure that licensees:
  - 7.1.1 publicise the existence of the Code and its complaints procedures;
  - 7.1.2 maintain adequate procedures for receiving oral complaints;
  - 7.1.3 advise complainants of their right to make a written complaint about material broadcast by a licensee which allegedly breaches the Code; and
  - 7.1.4 respond promptly to written complaints which are received by a licensee within 30 days of the relevant broadcast and make every reasonable effort to resolve them.

### ***Scope***

- 7.2 The main requirements of this Section apply to any complaint about a matter covered by the Code which:
  - 7.2.1 is received by a licensee, or lodged in accordance with clause 7.5.3, not more than 30 days after the relevant broadcast;
  - 7.2.2 is in the form specified in Clause 7.5, and
  - 7.2.3 identifies, in sufficient detail:
    - 7.2.3.1 the material broadcast (including by reference, if possible, to the date and time of broadcast of the material, or in the case of a television program series, the particular episode of the series the subject of the complaint);
    - 7.2.3.2 the nature of the complaint; and
    - 7.2.3.3 the identity of the complainant.
- 7.3 The requirements of this Section do not apply to a complaint which:
  - 7.3.1 is received more than 30 days after the relevant broadcast; or
  - 7.3.2 does not otherwise satisfy the requirements in Clause 7.2.
- 7.4 To avoid doubt, a complaint need not refer to this Code, nor specify the Section of the Code to which the complaint relates to satisfy Clause 7.2.
- 7.5 In this Section, a Code complaint is a complaint which satisfies clause 7.2 and which is:
  - 7.5.1 sent by mail to the licensee; or
  - 7.5.2 sent by facsimile to the licensee's main facsimile number; or

7.5.3 from 1 March 2010, made by lodging the electronic form on the Free TV Australia website <sup>3</sup>.

7.6 Where, by reason of disability, a complainant cannot lodge a complaint that satisfies the requirements of clause 7.5, a telephoned complaint or a complaint on an audio cassette in a common format will be a Code complaint, provided in each case that it otherwise satisfies Clause 7.2.

### ***Publicising of Code***

7.7 Licensees will provide regular on-air information about the Code and its complaints procedures.

7.7.1 Licensees will broadcast 360 on-air spots each calendar year, across all viewing zones. This information must be closed captioned.

7.7.2 A reasonable proportion of this on-air information will also explain how viewers may obtain copies of the Code.

### ***Oral Complaints and Advising Callers of the Code Complaint Procedure***

7.8 Licensees will ensure that switchboard staff record the substance of telephoned comments from viewers about matters covered by the Code, and that this is brought to the attention of key staff.

7.9 When a viewer complains by telephone about material covered by the Code, and wishes to pursue the complaint further, the licensee will advise him or her that a written complaint may be made within 30 days of the particular broadcast, and that the licensee is obliged to respond in writing to that complaint.

7.9.1 If a complaint of this nature is made to a licensee by means of a telephone typewriter, it will be treated as an oral complaint but the licensee will write to the complainant within 10 working days to advise him or her of the formal complaint procedures set out in Clause 7.9.

### ***Complaints About the Content of Commercials***

7.10 A licensee will accept a written complaint made in accordance with clause 7.5 about a television commercial that it has broadcast. The licensee will:

7.10.1 deal with a complaint concerning the placement of the commercial, or the amount of non-program matter broadcast, in accordance with the requirements of this Section.

7.10.2 refer a complaint relating to the content of a commercial to the Advertising Standards Board or, in the case of a complaint relating to a matter covered by the

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<sup>3</sup> [www.freetv.com.au](http://www.freetv.com.au). Complaints will be referred on to the relevant licensee.

Children's Television Standards 30-36, to the ACMA, and advise the complainant of its referral within 10 working days of receipt of the complaint.

### ***Time Limits on Responses to Code Complaints***

- 7.11 Subject to clause 7.15, a licensee must provide a substantive written response to a complaint that satisfies the requirements in clause 7.2.
- 7.12 That response must be made as soon as practicable, but in any case no longer than 30 working days after receipt of the complaint.
- 7.13 If the material complained of was provided on broadcast relay by another licensee, or was otherwise the responsibility of another licensee, the first licensee may refer the complaint to that licensee within 10 working days of receipt of the complaint for written response direct to the complainant.
- 7.13.1 The second licensee will have 30 working days from receipt of the referred complaint to provide a substantive response to the original complainant.
- 7.14 In all cases where a complaint complies with the requirements of clause 7.2 (and does not fall within clause 7.3) a licensee's substantive reply will also advise the complainant that he or she may refer the matter to the ACMA if not satisfied with the licensee's response.

### ***Resolution of Complaints***

- 7.15 Licensees will make every reasonable effort to resolve Code complaints promptly, except where a complaint is clearly frivolous, vexatious or an abuse of the Code process.
- 7.16 Where a matter raised by a complainant is or has become the subject of legal proceedings brought against the licensee by the complainant or an associated person, the licensee is not required to provide a substantive written response to the complainant in respect of that matter. If a licensee does not provide a substantive written response to a complainant in respect of a matter raised by the complainant, the licensee must:
- 7.16.1 acknowledge the complaint in writing as soon as practicable, but in any case no longer than 30 working days after the receipt of the complaint; and
- 7.16.2 inform the complainant that they may make a complaint to the ACMA about the matter.

### ***Responding to Subsequent or Campaign complaints***

- 7.17 If a person makes multiple Code complaints about a program or series of programs, the licensee is only obliged to respond to the first complaint, unless the subsequent complaints raise new and distinct issues.
- 7.18 If a licensee receives a series of complaints from a number of people or group of persons about the same broadcast, the licensee may respond with a generic response on the issues



subject always to the obligation in clause 7.11 to provide a substantive written response to all issues raised in the complaint.

### ***Referral of Code Complaints to the ACMA***

7.19 If the ACMA requests a response concerning a complaint made in accordance with Clause 7.2 (and which does not fall within Clause 7.3) and which complaint is subsequently referred to the ACMA, the licensee will provide the response within 30 working days of receipt of the request.

7.19.1 Where it is not practicable to respond within this period, the licensee will so advise the ACMA, and will respond as soon as practicable.

### ***Licensees to Report Code Complaints to Free TV Australia***

7.20 Each licensee will report to Free TV Australia, within 15 working days of the end of each quarter, the number and substance of Code complaints, including for each complaint the date received and date or dates of response, and details of any complaint upheld and of action taken by the licensee. These reports to Free TV Australia will not include the name or address of any complainant.

7.21 Free TV Australia will provide a summary of this information to the ACMA within 10 working days of receiving it.

### ***Code Administration***

7.22 Free TV Australia Code Administration Council will meet as necessary to review administration of the Code. A member of the ACMA will be invited to attend each meeting of the Council as an observer.

7.23 Free TV Australia will publish each year a report on Code administration by licensees. This report will be available to the public and will contain the number and substance of Code complaints received by licensees, and details of each complaint upheld and of action taken by the licensee in each case.

# APPENDIX 1: AANA ADVERTISER CODE OF ETHICS

This Code has been adopted by the AANA as part of advertising and marketing self-regulation. The object of this Code is to ensure that advertisements are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and fair sense of responsibility to competitors.

In this Code, unless the context otherwise requires:

**Advertising or Marketing Communication means:**

- (a) matter which is published or broadcast using any Medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct; or
- (b) any activity which is undertaken by or on behalf of an advertiser or marketer for payment ) or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct, but does not include Excluded Advertising or Marketing Communications.

**Advertising or Marketing Communications to Children** means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.

**Advertising Standards Board** means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communications.

**Children** means persons 14 years old or younger and **Child** means a person 14 years old or younger.

**Excluded Advertising or Marketing Communications** means labels or packaging for Products.

**Medium** means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, telecommunications, television or other direct-to-consumer media including new and emerging technologies.

**Prevailing Community Standards** means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it see fit, in relation to Advertising or Marketing Communications.

**Product** means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

## **1. Section 1**

- 1.1 Advertising or Marketing Communications shall comply with the Commonwealth law and the law of the relevant state or Territory.
- 1.2 Advertising or Marketing Communications shall not be misleading or deceptive or be likely to mislead or deceive.
- 1.3 Advertising to Marketing Communications shall not contain a misrepresentation, which is likely to cause damage to the business or goodwill of a competitor.
- 1.4 Advertising or Marketing Communications shall not exploit community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way in which implies a benefit to the environment which the product or services do not have.
- 1.5 Advertising or Marketing Communications shall not make claims about the Australian origin or content of products advertised in a manner which is misleading.

## **2. Section 2**

- 2.1 Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.
- 2.2 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.
- 2.3 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant program time zone.
- 2.4 Advertising or Marketing Communications to Children shall comply with the AANA's Code of Advertising & Marketing Communications to Children and section 2.6 of this Code shall not apply to advertisements to which AANA's Code of Advertising & Marketing Communications to Children applies.
- 2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.
- 2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.
- 2.7 Advertising or Marketing Communications for motor vehicles shall comply with the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles and section 2.6 of this Code shall not apply to advertising or marketing communications to which the Federal Chamber of Automotive Industries Code of Practice applies.
- 2.8 Advertising or Marketing Communications for food or beverage products shall comply with the AANA Food & Beverages Advertising & Marketing Communications Code as well as to the provisions of this Code.

## APPENDIX 2: AANA CODE FOR ADVERTISING AND MARKETING COMMUNICATIONS TO CHILDREN

This Code has been adopted by the AANA as part of advertising and marketing self-regulation. The object of this Code is to ensure that advertisers and marketers develop and maintain a high sense of social responsibility in advertising to children in Australia.

### 1. DEFINITIONS

In this Code, unless the context otherwise requires:

**Advertising or Marketing Communication means:**

- (a) matter which is published or broadcast using any Medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct; or
- (b) any activity which is undertaken by or on behalf of an advertiser or marketer for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct,

but does not include Excluded Advertising or Marketing Communications.

**Advertising or Marketing Communications to Children** means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.

**Advertising Standards Board** means the board appointed by the Advertising Standards Bureau from time to time, the members of which are representative of the community, to administer a public complaints system in relation to Advertising or Marketing Communications.

**Alcohol Products** means products which have some association with alcohol including alcoholic beverages, food products that contain alcohol or other Products that are associated in some way with alcohol including in the sense of being branded in that way.

**Children** means persons 14 years old or younger and **Child** means a person 14 years old or younger.

**Excluded Advertising or Marketing Communications** means labels or packaging for Products.

**Medium** means any medium whatsoever including without limitation cinema, internet, outdoor media, print, radio, television, telecommunications, or other direct-to-consumer media including new and emerging technologies.

**Premium** means anything offered free or at a reduced price and which is conditional upon the purchase of a regular Product.

**Prevailing Community Standards** means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to Advertising or Marketing Communications to Children.

**Product** means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

## **2. CODE OF PRACTICE**

### **2.1 Prevailing Community Standards**

Advertising or Marketing Communications to Children must not contravene Prevailing Community Standards.

### **2.2 Factual Presentation**

Advertising or Marketing Communications to Children:

- (a) must not mislead or deceive Children;
- (b) must not be ambiguous; and
- (c) must fairly represent, in a manner that is clearly understood by Children:
  - (i) the advertised Product;
  - (ii) any features which are described or depicted or demonstrated in the Advertising or Marketing Communication;
  - (iii) the need for any accessory parts; and
  - (iv) that the Advertising or Marketing Communication is in fact a commercial communication rather than program content, editorial comment or other non-commercial communication.

### **2.3 Placement**

Advertising or Marketing Communications to Children must not be placed in Media where editorial comment or program content, in close proximity to that communication, or directly accessible by Children as a result of the communication, is unsuitable for Children according to Prevailing Community Standards.

### **2.4 Sexualisation**

Advertising or Marketing Communications to Children:

- (a) must not include sexual imagery in contravention of Prevailing Community Standards;
- (b) must not state or imply that Children are sexual beings and that ownership or enjoyment of a Product will enhance their sexuality.

### **2.5 Safety**

Advertising or Marketing Communications to Children:

- (a) must not portray images or events which depict unsafe uses of a Product or unsafe situations

which may encourage Children to engage in dangerous activities or create an unrealistic impression in the minds of Children or their parents or carers about safety; and

- (b) must not advertise Products which have been officially declared unsafe or dangerous by an authorised Australian government authority.

## **2.6 Social Values**

Advertising or Marketing Communications to Children:

- (a) must not portray images or events in a way that is unduly frightening or distressing to Children; and
- (b) must not demean any person or group on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability.

## **2.7 Parental Authority**

Advertising or Marketing Communications to Children:

- (a) must not undermine the authority, responsibility or judgment of parents or carers;
- (b) must not contain an appeal to Children to urge their parents or carers to buy a Product for them;
- (c) must not state or imply that a Product makes Children who own or enjoy it superior to their peers; and
- (d) must not state or imply that persons who buy the Product the subject of the Advertising or Marketing Communication are more generous than those who do not.

## **2.8 Price**

Prices, if mentioned in Advertising or Marketing Communications to Children, must be

- (a) accurately presented in a way which can be clearly understood by Children and must not be minimised by words such as “only” or “just”.
- (b) Advertising or Marketing Communications to Children must not imply that the Product being promoted is immediately within the reach of every family budget.

## **2.9 Qualifying Statements**

Any disclaimers, qualifiers or asterisked or footnoted information used in Advertising or Marketing Communications to Children must be conspicuously displayed and clearly explained to Children.

## **2.10 Competitions**

An Advertising or Marketing Communication to Children which includes a competition must:

- (a) contain a summary of the basic rules for the competition;
- (b) clearly include the closing date for entries; and
- (c) make any statements about the chance of winning clear, fair and accurate.

## **2.11 Popular Personalities**

Advertising or Marketing Communications to Children must not use popular personalities or celebrities (live or animated) to advertise or market Products or Premiums in a manner that obscures the distinction between commercial promotions and program or editorial content.

#### **2.12 Premiums**

Advertising or Marketing Communications to Children, which include or refer to or involve an offer of a Premium:

- (a) should not create a false or misleading impression in the minds of Children about the nature or content of the Product;
- (b) should not create a false or misleading impression in the minds of Children that the product being advertised or marketed is the Premium rather than the Product;
- (c) must make the terms of the offer clear as well as any conditions or limitations; and
- (d) must not use Premiums in a way that promotes irresponsible use or excessive consumption of the Product.

#### **2.13 Alcohol**

Advertising or Marketing Communications to Children must not be for, or relate in any way to, Alcohol Products or draw any association with companies that supply Alcohol Products.

#### **2.14 Privacy**

If an Advertising or Marketing Communication indicates that personal information in relation to a Child will be collected, or if as a result of an Advertising and Marketing Communication, personal information of a Child will or is likely to be collected, then the Advertising or Marketing Communication must include a statement that the Child must obtain parental consent prior to engaging in any activity that will result in the disclosure of such personal information.

#### **2.15 Food and Beverages**

- (a) Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits.
- (b) Advertising or Marketing Communications to Children must comply with the AANA Food & Beverages Advertising & Marketing Communications Code.

#### **2.16 AANA Code of Ethics**

Advertising or Marketing Communications to Children must comply with the AANA Code of Ethics.

## **APPENDIX 3: BROADCAST OF EMERGENCY INFORMATION**

This Appendix is intended to assist licensees in determining what is an emergency and identifying appropriate emergency service organisations.

**Emergencies** are in general regarded as situations in which there is an imminent or actual threat within the community, whereby life or property are at risk and which requires a significant and coordinated response by emergency or essential service organisations.

A number of emergency and essential service organisations will be relevant for each licence area.

As a general guide, emergency or essential service organisations include Police, Fire, Rural Fire, Ambulance, State Emergency Service (SES), Water, Port or Health Authorities and the Bureau of Meteorology. The licensee and appropriate emergency or essential service organisations in the licence area should jointly identify, develop and maintain effective lines of communication.

A licence area may have an Emergency Management Committee/Counter Disaster Council or equivalent organisation formed under State/Territory legislation, which is responsible for issuing guidelines to identify key emergency organisations and procedures for broadcasting emergency information. If such committees/councils exist, the licensee should become familiar with such guidelines and procedures.

A licensee should implement Guidelines for the broadcasting of emergency information for all emergency and essential service organisations operating within the licence area.

A licensee should ensure that all employees are aware of and familiar with the Emergency Guidelines.



## APPENDIX 4: TELEVISION CLASSIFICATION GUIDELINES

*These Guidelines apply to all broadcast material required to be classified, other than films as defined in Clause 2.3.3. Such films are classified according to the Guidelines for the Classification of Films and Computer Games current as at 19 March 2008, as amended from time to time. The Guidelines are incorporated into this Code by reference.*

### USING THESE GUIDELINES: ESSENTIAL PRINCIPLES

The suitability of material for telecast will depend on the frequency and intensity of key elements such as violence, sexual behaviour, nudity and coarse language, and on the time of day at which it is broadcast. It will also depend on such factors as the merit of the production, the purpose of a sequence, the tone, the camera work, the relevance of the material, and the treatment. These factors must be all taken into account and carefully weighed. This means that some actions, depictions, themes, subject matter, treatments or language may meet current community standards of acceptability in one program, but in another program may require a higher classification, or be unsuitable for television. Contextual factors do not permit the inclusion of material which exceeds a program's classification, except in the limited circumstances set out in Clause 2.13 of the Code.

#### *Children's (C) and Preschool Children's (P) Classifications*



1. Material classified C or P must satisfy the requirements of the ACMA's Children's Television Standards.

#### *The General (G) Classification*



2. Material classified G is not necessarily intended for children but it must be very mild in impact and must not contain any matter likely to be unsuitable for children to watch without supervision.
  - 2.1 **Violence:** Visual depiction of physical and psychological violence must be very restrained. The use of weapons, threatening language, sounds or special effects must have a very low sense of threat or menace, must be strictly limited to the story line or program context, must be infrequent and must not show violent activity to be acceptable or desirable.
  - 2.2 **Sex and nudity:** Visual depiction of, and verbal references to, sexual activity must be brief, infrequent, contain little or no detail and be strictly limited to the story line or program context. Restrained, brief and infrequent visual depiction of nudity only when absolutely necessary to the story line or program context.
  - 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.
  - 2.4 **Drugs:** Visual depiction of, or verbal reference to illegal drugs must be absolutely justified by the story line or program context, contain very little detail

and be handled with care. The program must not promote or encourage drug use in any way. The use of legal drugs must also be handled with care.

- 2.5 **Suicide:** Only limited and careful verbal reference to suicide is acceptable, when absolutely justified by the story line or program context, and provided that it is not presented as romantic, heroic, alluring or normal.
- 2.6 **Themes:** Themes dealing with social or domestic conflict must have a very low sense of threat or menace to children and must be justified by the story line or program context.
- 2.7 **Dangerous imitable activity:** Dangerous imitable activity should only be shown when absolutely justified by the story line or program context, and then only in ways which do not encourage dangerous imitation.
- 2.8 **Other:** Where music, special effects and camera work are used to create an atmosphere of tension or fear, care must be taken to minimise distress to children.

### ***The Parental Guidance Recommended (PG) Classification***



3. Material classified PG may contain careful presentations of adult themes or concepts but must be mild in impact and remain suitable for children to watch with supervision.
  - 3.1 **Violence:** Visual depiction of violence must be inexplicit, restrained and justified by the story line or program context. More leeway is permitted when the depiction is stylised rather than realistic, but all violence shown must be mild in impact, taking into account also the language, sounds and special effects used.
  - 3.2 **Sex and nudity:** Visual depiction of and verbal reference to sexual activity must be restrained, mild in impact and justified by the story line or program context. Restrained visual depiction of nudity is permitted, but only where justified by the story line or program context.
  - 3.3 **Language:** Low-level coarse language may only be used infrequently, when justified by the story line or program context.
  - 3.4 **Drugs:** Mild visual depiction of and restrained verbal reference to illegal drug use, if justified by the story line or program context, but the program must not promote or encourage illegal drug use. The use of legal drugs must be handled with care.
  - 3.5 **Suicide:** Visual depiction of and verbal reference to suicide or attempted suicide must be inexplicit and restrained, and be mild in impact. It must not be presented as the means of achieving a desired result or as an appropriate response to stress, depression or other problems.
  - 3.6 **Themes:** The treatment of social and domestic conflict and other themes that are directed to a more adult audience should be carefully handled and mild in impact.
  - 3.7 **Other:** Supernatural or mild horror themes may be included.

## *The Mature (M) Classification*



4. Material classified M is recommended for viewing only by persons aged 15 years or over because of the matter it contains, or of the way this matter is treated.
  - 4.1 **Violence:** May be realistically shown only if it is not frequent or of high impact, and is justified by the story line or program context. Violence should not be presented as desirable in its own right. Any visual depiction of or verbal reference to violence occurring in a sexual context must be infrequent and restrained, and strictly justified by the story line or program context.
  - 4.2 **Sex and nudity:** Visual depiction of intimate sexual activity may only be implied or simulated in a restrained way. It must be justified by the story line or program context. Verbal references to sexual activity should not be detailed. Visual depiction of nudity must be justified by the story line or program context, and must not be detailed if in a sexual context.
  - 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.
  - 4.4 **Drugs:** Intravenous use of illegal drugs may not be shown in detail. The program must not promote or encourage the use of illegal drugs.
  - 4.5 **Suicide:** Suicide must not be promoted or encouraged by the program and methods of suicide must not be shown in realistic detail.
  - 4.6 **Adult themes:** Most themes can be dealt with, but intense themes should be handled with care.

## *The Mature Audience (MA) Classification*



5. Material classified MA is suitable for viewing only by persons aged 15 years or over because of the intensity and/or frequency of sexual depictions, or coarse language, adult themes or drug use.
  - 5.1 **Violence:** The requirements are those set out in Paragraph 4.1 of this Appendix for the M classification.
  - 5.2 **Sex and nudity:** Visual depiction of intimate sexual activity may contain detail but must only be implied. The impact shall not be high (ie no higher than strong). The depiction must be relevant to the story line or program context. Visual depiction of nudity must be relevant to the story line or program context. The impact shall not be high (ie no higher than strong). Verbal references to sexual activity may be detailed but the impact shall not be high (ie no higher than strong). The verbal references must be relevant to the story line or program context. 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 activity or nudity. Exploitative or non-consenting sexual relations must not be depicted as desirable.

- 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.
- 5.4 **Drugs:** No detailed depiction of intravenous use of illegal drugs. The program must not promote or encourage the use of illegal drugs.
- 5.5 **Suicide:** Methods of suicide should not be shown in realistic detail. The program must not promote or encourage suicide.
- 5.6 **Adult themes:** The treatment of strong themes should be justified by the story line or program context.

### ***The Adult Violence (AV) Classification***



- 6. Material classified AV is suitable for viewing only by persons aged 15 years or over. It is unsuitable for MA classification because of the intensity and/or frequency of violence, or because violence is central to the theme. In other respects, the classification's requirements are identical to the MA classification.
  - 6.1 **Violence:** Realistic depictions may contain some detail, but should not be prolonged and should not be unduly bloody or horrific. Such depictions must be justified by the story. Violence occurring in a sexual context must not be detailed, and must be brief and infrequent, justified by the story line and not exploitative.
  - 6.2 **Sex and nudity:** The requirements are those set out in paragraph 5.2 for the MA classification.
  - 6.3 **Language:** The requirements are those set out in paragraph 5.3 for the MA classification.
  - 6.4 **Drugs:** The requirements are those set out in paragraph 5.4 for the MA classification.
  - 6.5 **Suicide:** The requirements are those set out in paragraphs 5.5 for the MA classification.
  - 6.6 **Themes:** The requirements are those set out in paragraphs 5.6 for the MA classification.

## APPENDIX 5: GUIDELINES FOR THE CLASSIFICATION OF FILMS AND COMPUTER GAMES 2008

### *Applying these Guidelines to Films Broadcast on Television*

#### **A. Overview**

The Guidelines for the Classification of Films and Computer Games current as at 19 March 2008, as amended from time to time are incorporated into this Code by reference.

Films (as defined in Clause 2.3.3) are classified according to these Guidelines, subject to B, C and D below. When broadcasting a film, television licensees may modify the film using these Guidelines to ensure that the film is suitable for broadcast on television at particular times.

#### **B. Some classification categories not permitted on television**

The Guidelines incorporated by reference describe R18+ and X18+ (Restricted) classification categories and material which will be classified “refused classification” (RC) under the Guidelines. However, television licensees may not broadcast any film classified X18+ or Refused Classification (RC), and may not broadcast any film classified R18+ unless it is suitably modified.

#### **C. Additional classification categories**

Some additional classification categories apply to material broadcast on television.

- Adult Violence (AV). Films that are (or if modified, would be) classified MA15+ under these Guidelines because of the intensity and/or frequency of violence, must be classified AV for television or modified to M level of violence or lower.
- Children’s (C) and Preschool Children’s (P). Films classified C or P by the ACMA must satisfy the requirements of the ACMA’s Children’s Television Standards.

#### **D. Display of classification symbols**

When broadcasting a film that has been classified under the National Classification Board Guidelines, television licensees will display the “film symbol” for the relevant classification category with the following exceptions:

For films classified C or P, the C or P symbol as relevant



For films classified M under the Guidelines, the M symbol



For films classified AV for television, the AV15+ symbol



15+

The “film symbols” are displayed in these Guidelines and appear on the left hand side of the classification category title. The symbols shown on the right hand side are only relevant to computer games which are also classified under the National Classification Board Guidelines.

## APPENDIX 6: MULTI-CHANNEL APPENDIX

### 1: Introduction

#### Scope

- 1.1 This Multi-Channel Appendix applies to the classification zones and time occupied by non-program matter on a licensee's multi-channel. This Multi-Channel Appendix also sets out the process for review and amendment for all or part of this Appendix which may occur separately to the review of the Code to which it is attached.
- 1.2 The regulation of content on a licensee's multi-channel, other than in relation to classification zones and time occupied by non program matter, is determined by the provisions of the Code.
- 1.3 In this Code, "multi-channels" means:
  - (a) during the simulcast or simulcast-equivalent period for a licensee's licence area, the commercial television broadcasting services authorised by a licensee's commercial television broadcasting licence other than:
    - (i) a licensee's "core commercial television broadcasting service" as that term is defined in the *Broadcasting Services Act 1992*; or
    - (ii) a licensee's primary commercial television broadcasting service declared by the ACMA under clause 41G(1) of Schedule 4 to the *Broadcasting Services Act 1992*; or
  - (b) after the simulcast or simulcast-equivalent period for a licensee's licence area, the commercial television broadcasting services authorised by a licensee's commercial television broadcasting licence other than the primary commercial television broadcasting service declared by the ACMA under clause 41G(2) of Schedule 4 to the *Broadcasting Services Act 1992*.

### 2: Future Review of the Multi-Channel Appendix

- 2.1 This Multi-Channel Appendix, or specific clauses in this Appendix, may be reviewed from time to time as determined by licensees and with agreement of the ACMA.
- 2.2 If any substantive changes to this Multi-Channel Appendix are needed, members of the public will be given an adequate opportunity to comment on those changes.

### 3: Classification Zones

- 3.1 The following classification zones apply to all material required to be classified on a licensee's multi-channel (whether under the National Classification Board Guidelines for the Classification of Film and Computer Games or the Television Classification Guidelines).

#### Parental guidance recommended (PG) classification zones

- 3.2 The PG classification zones are:

<i>Weekdays</i> (schooldays)	5am	-	12noon
	3pm	-	8.30pm

**Weekdays** (school holidays)            5am   -        8:30pm

**Weekends**                                    5am   -        8:30pm

3.3    In PG zones, any material which qualifies for a television classification may be broadcast, except that material classified M, MA and AV is restricted to the times set out in Clauses 2.10 - 2.12 of the Code respectively.

3.4    School holidays mean Government primary school holidays in the State or Territory in which the service originates.

***Mature (M), Mature audience (MA) and Adult violence (AV) classification zones***

3.5    The M, MA and AV classification zones are as set out in clauses 2.10-2.12 respectively of the Code.

***Consumer Advice***

3.6    Licensees must supply consumer advice with any PG classified program broadcast on a digital multi-channel between 6.00am and 8:30am and between 4.00pm and 7.00pm on weekdays or between 6.00am and 10.00am on weekends that contains material of a strength or intensity which the licensee reasonably believes parents or guardians of young children may not expect.

# Multi-channel Classification Zones Table

## Schooldays

	5am	6	8.30	12pm	3	4	5	7	8.30	9	9.30	5am
<b>P, C</b>												
<b>G</b>												
<b>PG</b>												
<b>M</b>												
<b>MA</b>												
<b>AV</b>												

## School Holidays and Weekends

	5am	6	8.30	12pm	3	4	5	7	8.30	9	9.30	5am
<b>P, C</b>												
<b>G</b>												
<b>PG</b>												
<b>M</b>												
<b>MA</b>												
<b>AV</b>												

### 4: Public Education Campaign for PG Timezones on Multi-Channels

For a period of 12 months from the date of registration of this Code, licensees will:

- 4.1 include information on the Free TV website explaining the new Multi-Channel Appendix and the PG timezones;
- 4.2 provide on-air information on a licensee’s digital multi-channels about the Multi-Channel Appendix and in particular the new PG timezones. The on-air information under this clause will count toward the licensee’s requirements under 7.7.1 of the Code to broadcast 360 on-air spots each calendar year.



## **5: *Time Occupied by Non-Program Matter***

- 5.1 Clauses 5.6 -5.8 inclusive of the Code do not apply to licensees' multi-channels. Section 5.2 of this Multi-Channel Appendix replaces clauses 5.6 – 5.8 inclusive of the Code and applies to all non program matter on licensees' multi-channels.

### ***Hourly Limits***

- 5.2 In any hour, each licensee may schedule the following amounts of non-program matter:
- 5.2.1 between 6.00pm and midnight outside election periods – up to 15 minutes per hour;
  - 5.2.2 between 6.00pm and midnight in election periods – up to 15 minutes per hour, plus one minute per hour of non-program matter that is political matter, provided that the licensee supplies to Free TV Australia for public release an hourly summary of political advertising and other non-program matter in respect of each day in which this additional minute has been utilised;
  - 5.2.3 at all other times – up to 16 minutes.

## ADVISORY NOTE

# REALITY TELEVISION

This Advisory Note is intended to provide guidance to program producers on factors to consider in the presentation of participants in reality television broadcasts.

- Classification incorporates distinctions between actors simulating behaviour and real people.
- While participants are real people it is not necessarily 'real life' and behaviour can be contextualised and explored but not necessarily condoned by the program.
- Production guidelines can provide the parameters of behaviour and protocols for intervention when required.
- Classification briefings should occur in the pre-production process so that executives and key production personnel are aware of the parameters within which the program must remain in order to comply with the Code of Practice.
- In a 'live' broadcast equipment may need to be incorporated to censor coarse language, blur vision, or switch vision to render the broadcast suitable for its timeslot. Consumer advice may be added to provide viewers with information on probable content, for example, some level of coarse language.
- In order to comply with the Code of Practice regard should be given to the camera angles that will be most suitable and those not to include. For example, to avoid 'gratuitous, demeaning or exploitative' vision.
- Be aware that some behaviour in a 'real' context has more impact than in a fictional setting. For example, sexual behaviour in a reality context may be 'R' or 'X' rated because it is real activity not actors simulating in a drama. It is always considered that non-simulated material will be more impactful.

ADVISORY NOTE

**THE PORTRAYAL OF ABORIGINAL AND  
TORRES STRAIT ISLANDER PEOPLES**

This Advisory Note is intended to help and encourage reporters and program producers to produce programs which treat the Aboriginal and Torres Strait Islander peoples as an integral and important part of contemporary Australia, and which respect the dignity, traditions, diversity and contemporary achievements of these peoples. It also suggests ways to avoid encouraging or endorsing prejudice, stereotyping or unwarranted generalisation. As such, it will also be of assistance to programmers, program promotion producers and program classifiers. This note should be read with the separate Advisory Note on the Portrayal of Cultural Diversity.

1. In reporting or portraying events or situations concerning Indigenous peoples, you should be conscious of your own preconceptions, avoid stereotyping, and be aware of the cultural norms and experiences of Indigenous peoples.
2. Balanced portrayal is particularly important when the reports or programs deal with negative aspects of the Aboriginal and Torres Strait Islander peoples' lives. Descriptions of problems should, where possible, be balanced by details of efforts being made by the people themselves to resolve them, and should provide an opportunity for the person or group concerned to comment on the issue.
3. To avoid misrepresenting Indigenous peoples' circumstances and traditions, reporters should, wherever practicable, consult local Indigenous groups when preparing news and current affairs. Program makers should encourage Indigenous peoples' involvement in all relevant stages of production of programs relating to them.
4. You should respect local social protocols and codes of behaviour, and obtain any necessary permission before entering Aboriginal and Torres Strait Islander communities.
5. You should be careful not to use language which Indigenous peoples find offensive or discriminatory. This includes terms such as 'Full-blood', 'Half-caste', 'Part-Aboriginal', 'Walkabout' and the use of 'Aboriginal' except as an adjective (i.e. avoid reference to 'an Aboriginal').
6. Aboriginal and Torres Strait Islander paintings and symbols should not be used in programs without seeking appropriate advice or permission.
7. Indigenous religious and cultural beliefs should be respected, particularly the widespread prohibition on displaying images of the deceased or naming them during periods of mourning. When the mourning period cannot readily be ascertained, the use of images of recently deceased Aboriginal persons should be preceded by an appropriate oral warning.
8. In scripting and casting drama and selecting on-air talent, management and producers should be concerned to reflect the place of the Aboriginal and Torres Strait Islander peoples in contemporary Australia.

## ADVISORY NOTE

# THE PORTRAYAL OF CULTURAL DIVERSITY

This Advisory Note is intended to help and encourage reporters and program producers to produce programs which treat all people with equal respect, regardless of their national, ethnic or linguistic background. It also suggests ways to avoid promoting or provoking prejudice, stereotyping or unwarranted generalisation. As such, it will also be of assistance to programmers, program promotion producers and program classifiers. This note should be read with the separate Advisory Note on the Portrayal of Aboriginal and Torres Strait Islander Peoples. This Advisory Note acknowledges that licensees are subject to the *Racial Discrimination Act (Cth) 1975* and equivalent legislation in each State and Territory, and that the Human Rights and Equal Opportunities Commission and equivalent statutory bodies in each State and Territory are responsible respectively for administering those laws.

1. Be sensitive to language and images which people from non-English speaking or minority racial backgrounds may reasonably find offensive or discriminatory. In particular:
  - (a) avoid the unwarranted introduction of race or ethnicity into a story, and particularly the unnecessary use of ethnic-specific labels in reporting on suspected or convicted criminals;
  - (b) avoid references to the ethnic or racial origin of a person or group which imply that only people from English-speaking backgrounds are Australian (e.g. do not automatically refer to an Australian of Chinese background as “a Chinese man”);
  - (c) generally avoid outdated representations of how people from non-English speaking backgrounds speak English or behave.
2. When reporting or portraying events involving people with racial backgrounds which differ from your own, you should be conscious of your own preconceptions and be sensitive to the cultural norms and experiences of those people.
3. Any reports on race-related issues should be well researched, and not based solely on the claims of particular groups.
4. The religious and cultural beliefs and practices of people from non-English speaking or minority racial backgrounds should receive no less respect than those of the English-speaking majority. Editorial comment in these areas should be factually based, and culturally aware.
5. In scripting and casting drama and selecting on-air talent, management and producers should be concerned to reflect Australia’s complex and culturally diverse society.

## ADVISORY NOTE

# THE PORTRAYAL OF PEOPLE WITH DISABILITIES

This Advisory Note is intended to help and encourage reporters and program producers to produce programs which treat people with disabilities fairly and realistically as individuals, and as an integral part of the general community (bearing in mind that as many as 18% of the population fall within this broad category). It also suggests ways to change the emphasis from the disability itself to the individual or individuals concerned, from unduly emotional coverage to normal human empathy and interest, and from a focus on personal suffering to include the community's response to the needs of people with disabilities. As such, it will also be of assistance to programmers, program promotion producers and program classifiers.

### *General Approach*

1. Try to depict people with disabilities in ways which do not stereotype them, or stigmatise them as quite different from the community at large. Common stereotypes to avoid include:
  - disability is a monumental tragedy
  - people with a disability are objects of pity or charity
  - if they do things like getting married and having children they are extraordinary
  - they lead boring, uneventful lives
  - families of people with a disability are exceptionally heroic.
2. Choose phrases and words that individuals with disabilities will not find demeaning (see below for more detailed comments on language and disability).
3. Present people with disabilities as individuals, not just as the sum of their disabilities, nor as necessarily representative of all people with disabilities.
4. Recognise that disabilities affect people in different ways, depending on a host of different factors. Having a disability is for many an unavoidable fact of life, not something to be dramatised.
5. Only draw attention to a person's disability when it is relevant.
6. When a person with disabilities is featured in a story, the human interest angle of the individual overcoming overwhelming odds may sometimes be the appropriate one, but don't automatically choose it.
7. Don't overlook the views of people with disabilities in stories dealing with general interest issues such as public transport, the environment and child care.
8. Introduce people with disabilities by their titles and full names, if this is done for other people in the program or item.

## ***Language and Disability***

There is no universal agreement on how people with disabilities should be described but, in general, words which describe a person's disability or medical condition tend to focus attention on the disability or condition rather than the person. The guide attached to these Notes sets out words which may give offence, and suggests alternatives which will be more acceptable. The guide is not intended to be exhaustive, or definitive. It is advisable to check with a disability-specific organisation (and, of course, with the person being interviewed) to gain an understanding of language currently considered appropriate or inappropriate.

### ***Guide to Appropriate Language***

<b><i>Words to watch</i></b>	<b><i>Generally Acceptable alternatives (though check with person to be interviewed/profiled)</i></b>
Afflicted with (most people with disabilities don't see themselves as afflicted)	"has" (the disability)
Birth defect, congenital defect, deformity	"has had a disability since birth", "has a congenital disability"
Blind (the), visually impaired (the)	"the blind community"; otherwise, "is blind", or "has impaired vision" (for a person with some degree of useful vision)
Confined to a wheelchair; wheelchair-bound (a wheelchair provides mobility not restriction)	"uses a wheelchair"
Cripple, crippled (these terms convey a negative image of a twisted ugly body)	"has a physical disability", "whose physical disabilities restrict (his/her) mobility"
Deaf (The)	Appropriate when referring to the deaf community, or (capitalised) to people who identify as members of the signing Deaf community. Otherwise, someone "who is deaf/hearing impaired/hard of hearing" (depending on the degree of hearing loss)
Deaf and dumb	"profoundly deaf and uses sign language"
Defective, deformed (degrading terms, avoid)	Specify the disability
Disabled (The)	"people with a disability"; the "disabled sector"; the "disability community"
Dwarf	"short", "less than . . .cm", "below average height"
Epileptic	"has epilepsy"
Fit (attack/spell)	"seizure"

<b><i>Words to watch</i></b>	<b><i>Generally Acceptable alternatives (though check with person to be interviewed/profiled)</i></b>
Insane (also lunatic, mental patient, mentally diseased, neurotic, psychotic, schizophrenic, unsound mind, mad, demented, etc)	“has a psychiatric disability”, “psychiatric patient” (in the case of people in hospital, or of a doctor/ patient relationship), or else specify the condition
Invalid	“has” (a disability), or specify the name of the medical condition if the person has one
Mentally retarded, mentally defective	“intellectually disabled”, “has an intellectual disability”
Mongol	“has Down Syndrome”
Physically/intellectually challenged	“has” (a physical/intellectual disability)
Spastic: usually refers to a person with cerebral palsy or someone who has uncontrollable spasms	“has cerebral palsy”
Suffers from, sufferer, stricken with:	“has” (the disability)
Vegetative	“in a coma”, “comatose” or “unconscious”
Victim	“has” (the disability)

ADVISORY NOTE  
**THE PORTRAYAL OF WOMEN AND MEN**

This Advisory Note is designed to help reporters and program producers to understand and be responsive to the concerns of many people about how television portrays women and men. It will also be of assistance to programmers, program promotion producers and program classifiers.

In describing and portraying women and men of any age, you should avoid encouraging or endorsing inaccurate, demeaning or discriminatory references or descriptions, stereotyping or unwarranted generalisation. In particular:

1. Do not place inappropriate or irrelevant emphasis on gender, or on physical characteristics or family status.
2. Avoid language that unnecessarily excludes one sex or gives unequal treatment to women and men.
3. Avoid stereotyped gender portrayals which associate particular roles, ways of behaviour, personal or social attributes or use of products or services with people on the basis of gender.
4. Avoid implying that a person is inferior because of his or her gender, or that either sex is naturally superior at certain tasks or in certain fields.
5. Recognise in reporting and in commentary that women and men nowadays are involved in an equally diverse range of roles.
6. Try to achieve a better balance in the use of women and men as experts and authorities, and give more prominence to the achievements of women in areas such as sport.
7. Take particular care when reporting instances of violence (particularly sexual assault) to:
  - (a) avoid offering explanations which may reasonably be seen to diminish individual responsibility for the violence, or even shift blame to the victim; and
  - (b) avoid gratuitous detail, such as the state of dress or undress of a sexual assault victim, and unnecessarily detailed description of the crime.



## ADVISORY NOTE

# PRIVACY

The media in Australia have a unique and important role in keeping the Australian public informed. In performing this important role, a balance must be struck between the public's 'right to know' and respect for individual privacy.

The Code of Practice requires stations to strike this balance by only using material relating to a person's personal or private affairs, or which invades an individual's privacy, where there is an identifiable public interest reason for the material to be broadcast.

The Code has additional requirements to cover specific circumstances, and there is a range of other laws that provide legal protection for privacy.

This Advisory Note is intended to help reporters, editors and producers to understand the context in which decisions relating to privacy issues must be made. Specific legal advice should be sought wherever necessary to ensure legal requirements are observed.

### *Codes*

#### *Code of Practice*

The key requirement of the Code of Practice concerning use of material relating to a person's personal or private affairs is contained in Clause 4.3.5:

- stations must not use material relating to a person's personal or private affairs, or which invades an individual's privacy, other than where there is an identifiable public interest reason for the material to be broadcast.

The broadcast of material relating to a person's personal or private affairs may be warranted where the broader public interest is served by the disclosure of the material. When making this judgment stations need to consider the public interest in the broadcast of the particular material. Public interest in a story as a whole, may not justify use of particular material that intrudes on the privacy of an individual.

Further guidance on these issues is provided by the ACMA's *Privacy Guidelines for Broadcasters*<sup>4</sup>. 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.

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<sup>4</sup> The ACMA's Privacy Guidelines can be found at <http://www.acma.gov.au>

Particular care should be taken in relation to people in vulnerable circumstances. Provisions of the Code which relate directly to privacy considerations in such circumstances are:

### **Images of dead or seriously wounded people**

- Clause 4.3.3: stations should have appropriate regard to the feelings of relatives and viewers when including images of dead or seriously wounded people. Images of that kind which may seriously distress or seriously offend a substantial number of viewers should be displayed only when there is an identifiable public interest reason for doing so;

### **Bereaved relatives/survivors**

- Clause 4.3.6: stations must exercise sensitivity in broadcasting images of or interviews with bereaved relatives and survivors or witnesses of traumatic incidents;

### **Identification of individuals**

- Clause 4.3.7: stations should avoid unfairly identifying a single person or business when commenting on the behaviour of a group of persons or businesses;

4.3.7.1: when commenting on the behaviour of a group of persons or businesses, it is not unfair to correctly identify an individual person or business as part of that group if;

4.3.7.1.1 the licensee can be reasonably satisfied that the individual person or business engages in that behaviour; or

4.3.7.1.2 the licensee discloses that the individual person or business does not engage in that behaviour.

### **Murder and accident victims**

- Clause 4.3.8: stations must take all reasonable steps to ensure that murder and accident victims are not identified directly or, where practicable, indirectly before their immediate families are notified by the authorities;

### **Suicide**

- Clause 4.3.9: stations should broadcast reports of suicide or attempted suicide only where there is an identifiable public interest reason to do so, and should exclude any detailed description of the method used. The report must be straightforward and must not include graphic details or images, or glamourise suicide in any way;

### ***Standards for the Handling of Personal Information***

Journalists should observe standards for handling of personal information required by their station.

### ***Code of Ethics of the Australian Journalists' Association Section of the Media Entertainment and Arts Alliance***

The current Journalists' Code of Ethics contains a number of provisions relating to privacy. These provisions are binding on journalists who are members of the MEAA.

### ***Legal Framework***

## *Common Law*

While there is no common law right to privacy as such, the following areas of common law nevertheless operate to protect privacy and restrict the obtaining and publication of information:

- Trespass
- Nuisance
- Confidential information
- Defamation
- Malicious falsehood
- Contempt.

In the event of any doubt in relation to any of these matters, legal advice should be sought.

Reporters, editors and producers should seek legal advice wherever necessary to ensure these legal protections and restrictions are observed.

## *Legislation*

The following Commonwealth and State Acts govern access to people, or the publication of information relating to individual privacy. This list is intended to provide reporters, editors and producers with an idea of the range of legislation in this field. It may not be exhaustive and specific legal advice should be sought where appropriate.

- **Legislation protecting use of “personal information”** – *Privacy Act 1988 (Cth)*; *Privacy and Personal Information Protection Act 1998 (NSW)*; *Information Privacy Act 2000 (Vic)*
- **Criminal trespass legislation** – *Public Order (Protection of Persons and Property) Act 1971 (Cth)*; *Inclosed Lands Protection Act 1901 (NSW)*; *Trespass Act 1987 (NT)*; *Invasion of Privacy Act 1971 (Qld)*; *Summary Offences Act 1953 (SA)*; *Police Offences Act 1935 (Tas)*; *Summary Offences Act 1966 (Vic)*
- **Legislative restrictions on the reporting of matters affecting or involving children** – *Family Law Act 1975 (Cth), s.121*; *Children and Young Persons (Care and Protection) Act 1988 (NSW)*; *Children and Young People’s Act 1999 (ACT)*; *Youth Court Act 1993 (SA)*; *Guardianship and Administration Act 1986 (Vic)*; *Children (Care and Protection) Act 1987 (NSW)*; *Children (Criminal Proceedings) Act 1987 (NSW)*; *Guardianship Act 1987 (NSW)*; *Mental Health Act 1990 (NSW)*; *Juvenile Justice Act 1983 (NT)*; *Child Protection Act 1999 (Qld)*; *Children’s Court Act 1992 (Qld)*; *Juvenile Justice Act 1992 (Qld)*; *Children’s Protection Act 1993 (SA)*; *Mental Health Act 1993 (SA)*; *Child Welfare Act 1960 (Tas)*; *Children and Young Persons Act 1989 (Vic)*; *Crimes (Family Violence) Act 1987 (Vic)*; *Victorian Civil and Administrative Tribunal Act 1998 (Vic)*; *Children’s Court of Western Australia Act 1988 (WA)*; *Criminal Code (WA), s.635A*
- **Legislative restrictions on the reporting of matters affecting or involving adoptions** – *Adoption Act 1993 (ACT)*; *Adoption Act 2000 (NSW)*; *Adoption of Children Act 1994 (NT)*; *Adoption of Children Act 1964 (Qld)*; *Adoption Act 1988 (SA)*; *Adoption Act 1988 (Tas)*; *Adoption Act 1984 (Vic)*; *Adoption Act 1994 (WA)*
- **Legislative restrictions on the reporting of matters affecting or involving coronial inquiries** – *Evidence Act 1971 (ACT)*; *Coroners Act 1980 (NSW)*; *Coroners Act 1993 (NT)*;

*Evidence Act 1939 (NT); Coroners Act 1958 (Qld); Coroners Act 1985 (Vic); Coroners Act 1996 (WA)*

- **Legislative restrictions on the reporting of matters affecting or involving sexual offences** – *Evidence Act 1971 (ACT); Crimes Act 1900 (NSW); Evidence Act 1939 (NT); Criminal Law (Sexual Offences) Act 1978 (Qld); Evidence Act 1929 (SA); Summary Offences Act 1953 (SA); Evidence Act 2001 (Tas); Judicial Proceedings Reports Act 1958 (Vic); Supreme Court Act 1986 (Vic); County Court Act 1958 (Vic); Magistrates Court Act 1989 (Vic); Evidence Act 1906 (WA)*
- **Legislative restrictions on the reporting of matters affecting or involving jurors** – *Jury Act 1977 (NSW); Juries Act 2000 (Vic); Juries Act 1957 (WA); Juries Act 1967 (ACT); Juries Act (NT); Juries Act 1995 (Qld)*
- **Legislative restrictions on the reporting of matters affecting or involving communication with prisoners and other detained persons** – *Correctional Centres Act 1952 (NSW); Children (Detention Centres) Act 1987 (NSW); Prisons (Correctional Services) Act 1980 (NT); Corrective Services Act 2000 (Qld); Juvenile Justice Act 1992 (Qld); Correctional Services Act 1982 (SA); Child Welfare Act 1960 (Tas); Corrections Act 1986 (Vic); Children and Young Persons Act 1989 (Vic); Prisons Act 1981 (WA); Child Welfare Act 1947 (WA)*
- **Anti-discrimination and vilification legislation** – *Racial Discrimination Act 1975 (Cth) and equivalent legislation in each State and Territory*
- **Specific statutory provisions empowering courts and tribunals to make suppression orders prohibiting or restricting reporting of court proceedings**
- **Specific provisions which restrict the reporting of particular events or matters, for example, Australian Security Intelligence Organisation Act 1979, s.92(1), Crimes Act 1914 (Cth), ss 3, 79 and 80, Independent Commission Against Corruption Act 1988 (NSW), ss 31 and 112**
- **Listening devices/telecommunications interception legislation** – *Listening Devices Act 1984 (NSW); Invasion of Privacy Act 1971 (QLD); Surveillance Devices Act 1999 (VIC); Surveillance Devices Act 1991 (WA); Listening Devices Act 1972 (SA); Listening Devices Act 1991 (TAS); Listening Devices Act 1992 (ACT); Telecommunications (Interception) Act 1979 (Cth); Surveillance Devices Act 2000 (NT)*
- **Family law legislation** – *Family Law Act 1975 (Cth).*

### ***Additional Considerations when Dealing with Children***

It is important that children have opportunities to participate actively in the media. Many children want to have their say and the way children view an issue or situation can provide valuable insights into, and bring public attention to, issues affecting children. Indeed, in many circumstances, part of a story could be lost or distorted if children are not interviewed.

The requirements of the Codes Legal Framework set out above apply equally, and in some cases specifically, to children.

In addition, Clause 4.3.5.1 of the Code requires, that for the purposes of Clause 4.3.5 (the key requirement of the Code concerning use of material relating to a person's personal or private affairs), licensees must:

4.3.5.1 ...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;

4.3.5.2 "child" means a person under 16 years.

Journalists are encouraged to be aware of the requirements relating to their area of reporting and to seek legal advice where appropriate. Children should not be identified in crime or court reports without legal advice.

In addition to abiding by legal restrictions, journalists should be mindful that children often lack the experience and knowledge of adults and may feel intimidated by media attention.

ADVISORY NOTE

**COMMERCIALS OR COMMUNITY SERVICE  
ANNOUNCEMENTS DIRECTED TO CHILDREN**

This Advisory Note is intended to provide guidance on the factors licensees will consider in assessing *who a commercial is directed to* for the purpose of applying Clause 6.23 of the Code “*Commercials or Community Service Announcements Directed to Children*”.

Licensees will consider the following factors:

- the nature of the product or service, and the persons most likely to be interested in that product or service – is the product or service one for which children are the only users or form a substantial part of the market?;
- the theme of the commercial – are adult or children’s themes used? For example, characters such as monsters, animals and the like;
- the ‘story line’ and the approach taken in selling the product or service – is the story line aimed at children? For example, does the commercial have a simple uncomplicated plot structure such as ‘good’ against ‘evil’?;
- the visuals used in the commercial – are the visuals aimed at children? For example, the commercial uses animation or imaginative visuals which appeal to children;
- the language of the commercial – does the commercial use children’s language?;
- the age of actors appearing in the commercial – are child actors depicted actively using a product or service for which children constitute the market?; and
- the target audience for the commercial – is the target audience children? This is relevant where the other factors set out above indicate that a commercial is intended to appeal to children.