



Australian Government
**Australian Communications
and Media Authority**

Australia's regulator for broadcasting, the internet, radiocommunications and telecommunications

www.acma.gov.au

Reality Television Review

Discussion paper

Closing date for submissions: 1 February 2007

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1. Overview

The Minister for Communications, Information Technology and the Arts has directed the Australian Communications and Media Authority (ACMA)¹ to examine whether the code of practice for the commercial free-to-air broadcasting sector provides appropriate community safeguards with respect to reality television programming. The purpose of this review is to examine both whether the code of practice reflects community standards regarding reality television programming and whether it is operating effectively to provide appropriate community safeguards with respect to such programming.

The purpose of this discussion paper is to outline some of the key issues being considered by the review, and to invite stakeholders to provide submissions.

The questions presented for comment in this paper are as follows:

1. Does reality television programming broadcast on Australian commercial free-to-air television give rise to community concerns? (*Section 9* below)
2. Does the *Commercial Television Industry Code of Practice* reflect community standards with respect to reality television programming broadcast on Australian commercial free-to-air television? (*Section 9*)
3. Are the existing mechanisms in the *Commercial Television Industry Code of Practice* operating effectively to provide appropriate community safeguards with respect to reality television programming broadcast on Australian commercial free-to-air television? (*Section 10*)
4. Does the *Commercial Television Industry Code of Practice* provide appropriate community safeguards with respect to the broadcast of reality television programming excerpts in the context of news and current affairs programs broadcast on Australian commercial free-to-air television? (*Section 10*)
5. Is the complaints mechanism in the *Commercial Television Industry Code of Practice* operating effectively and in a timely manner in relation to reality television programming broadcast on Australian commercial free-to-air television? (*Section 10*)

Since ACMA is required to report on its findings by 1 April 2007, strict timing constraints have meant that **the deadline for submissions is 1 February 2007**. ACMA acknowledges that this timing is not ideal for stakeholders, and expresses its appreciation of the efforts of parties making submissions by this date.

¹ References in this paper to ACMA include its predecessor organisation, the Australian Broadcasting Authority (ABA), which became part of ACMA on 1 July 2005.

2. Instructions for submissions

Submissions are invited from interested parties on the questions presented in Part B of this paper, which outlines the key issues to be considered in the public consultation process.

Submissions should be provided by **Thursday 1 February 2007**. Given the 1 April deadline for the review report, extensions of time for submissions will not be feasible.

It would be appreciated if submissions could be provided electronically and preferably in Microsoft Word 2003 or in rich text format (.rtf).

Electronic submissions should be emailed to realitytvreview@acma.gov.au. Alternatively, submissions may be mailed to:

Dr Sarah Strasser
Special Projects Officer
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PUBLICATION OF SUBMISSIONS

In general, ACMA publishes on its website all submissions it receives.

ACMA may also publish extracts of submissions in any report it is directed to publish by the Minister.

ACMA prefers to receive submissions that are not claimed to be confidential. However, ACMA accepts that a submitter may sometimes wish to provide information in confidence. In these circumstances, submitters are asked to identify the material over which confidentiality is claimed and provide a written explanation for confidentiality claims.

ACMA will consider each claim for confidentiality on a case-by-case basis. If ACMA accepts a confidentiality claim, it will not publish the confidential information unless required to do so by law.

WHEN IS ACMA REQUIRED TO RELEASE INFORMATION?

Unless exempt, submissions provided to ACMA may be released under the *Freedom of Information Act 1982*. ACMA may also be required to release submissions for other reasons, including for the purpose of parliamentary processes or where otherwise required by law (for example, a court subpoena). While ACMA seeks to consult submitters of confidential information before that information is provided to another body or agency, ACMA cannot guarantee that confidential information will not be released through these or other legal means.

3. Co-regulatory industry scheme

The *Broadcasting Services Act 1992* (the Act)² establishes a co-regulatory scheme which sets out roles for industry and government with respect to the way program content is to be regulated.

The scheme allows the various broadcasting industry sectors, within certain parameters, to develop and take responsibility for their own programming guidelines, in the form of codes of practice. Section 123 of the Act permits the development of broadcasting industry codes of practice and the broadcasting of programs that do not exceed the MA classification category. Section 123(2) of the Act states that codes may relate to matters including:

- (a) preventing the broadcasting of programs that, in accordance with community standards, are not suitable to be broadcast by that section of the industry; and
- (b) methods of ensuring that the protection of children from exposure to program material which may be harmful to them is a high priority; and
- (c) methods of classifying programs that reflect community standards.

ACMA's role is to register codes of practice developed by the relevant section of the broadcasting industry. Before registering a code, ACMA must be satisfied (amongst other matters) that the code provides appropriate community safeguards.

Within this context, the *Commercial Television Industry Code of Practice* (the Code) has been developed by Free TV Australia and its stakeholders (Australia's commercial free-to-air television licensees). The current version of the Code was registered by ACMA in July 2004.³ The Code contains a mechanism for ongoing review to ensure it continues to reflect community standards, with the next review due to commence in mid 2007. It is anticipated that the results of this current review will be available to inform that process.

The Act provides additional safeguards for those circumstances where there is 'convincing evidence' that existing codes of practice fail to provide appropriate community safeguards, or where no code of practice has been developed, for a matter referred to in section 123(2) of the Act. Under those circumstances, section 125 of the Act empowers ACMA to determine a program standard.

4. Investigation purpose and terms of reference

ACMA announced on 7 November 2006⁴ that it would investigate whether the Code contains adequate community safeguards with respect to reality television programming. The purpose of this review is to examine both whether the Code reflects community concerns regarding reality television programming and if it provides appropriate protections.

The Minister for Communications, Information Technology and the Arts has issued ACMA with the *Broadcasting Services (Commercial Television Industry Code of Practice) Direction No. 1 of 2006* (the Direction) as a result of 'public disquiet about some of the content of the *Big Brother* program in both its 2005 and 2006 seasons.'

² The *Broadcasting Services Act 1992* (Cth) is available at http://www.austlii.edu.au/au/legis/cth/consol_act/bsa1992214/.

³ Copies of the Code are available from Free TV Australia (<http://www.freetvaust.com.au/>) at http://www.freetvaust.com.au/Content_Common/pg-Code-of-Practice.seo or by calling (02) 8968 7100. Excerpts of the Code relevant to this discussion paper are provided at Appendix A.

⁴ ACMA, MR 133/2006, 'Review of commercial television code for reality programming' (7 November 2006).

The Direction, which was issued under section 171 of the Act, instructs ACMA to:

‘(1) investigate whether the Commercial Television Industry Code of Practice (the Code) is operating to provide appropriate community safeguards for a matter referred to in subsection 123(2) of the Act in relation to reality television programming in the commercial free-to-air television sector of the broadcasting industry, including whether:

- (a) the Code provides appropriate methods of classifying reality television programs;
- (b) the Code provides an appropriate mechanism for ensuring that classified matter or matter which if classified would be classified at M or above is not shown at inappropriate times having regard to the likely audience;
- (c) the complaints mechanism in the Code is operating effectively and in a timely matter in relation to reality television programming;
- (d) the Code reflects community standards, taking into account the views of the community and commercial broadcasting licensees;
- (e) there is a basis for ACMA to be satisfied that the Code is not operating to provide appropriate community safeguards for a matter referred to in subsection 123(2); and
- (f) having regard to its investigation into the matters above, further action by ACMA or any other person is necessary; and

- (2) to complete the investigation by such time that the Report on the investigation, required under section 178 of the Act, can be provided to the Minister by 1 April 2007.’

5. Review scope

In accordance with the terms of reference provided in the Direction, this review will examine the effectiveness of current regulation of reality television programming broadcast on commercial free-to-air television. The primary focus of the review is on whether the Code reflects (and is operating to uphold) community standards with respect to reality television, taking into account the views of both the industry and the broader community.

The focus of this public consultation process with respect to reality television broadcast on commercial free-to-air television is on:

1. understanding whether the Code provides appropriate community safeguards, as specified at section (1)(d) of the Direction (*Section 9* below); and
2. identifying whether existing Code mechanisms are operating appropriately and effectively, as specified at sections (1)(a), (1)(b), and (1)(c) of the Direction (*Section 10*).

ACMA will consider the issues raised in section (1)(e) and section (1)(f) of the Direction, having regard to the data and views gathered in both the public consultation and associated research processes.

If ACMA determines that the Code is not operating effectively with respect to reality television programming, it will provide the Minister with recommendations as to what action should be taken and by whom. These recommendations may include, for example, whether a

Code revision is advisable or whether ACMA should move to determine a program standard (*Section 3*). ACMA may determine a standard only where there is convincing evidence that the Code is not operating to provide appropriate community safeguards.

While this review focuses on the effectiveness of regulation of reality television programming by the Code, a wholesale review of the Code is not within the scope of this investigation. The current version of the Code, which was registered in June 2004 by ACMA, is due for review again commencing in 2007.

With respect to the meaning of ‘reality television programming’, ACMA has focused on its typical characteristics. Further details of this approach are set forth in *Section 8* below.

6. Review components

A fundamental component of the review is rigorous research into community attitudes towards reality television programming, through a range of quantitative and qualitative research methodologies including this public consultation process. The quantitative research tools include the analysis of ratings data and the completion of a national survey. The qualitative tools include, in addition to this public consultation process, a series of focus groups.

ACMA is engaging directly with the production industry and with the commercial free-to-air networks themselves to gain a better understanding of the issues involved in creating and airing reality television programming, and to understand how reality television program formats are expected to evolve.

ACMA will apply the findings from these processes to consider whether the Code both reflects community standards, and is operating appropriately to safeguard those standards.

7. Origins and characteristics of reality television programming

‘Reality television programming’ is often thought to have emerged in the twenty-first century and to refer to a distinct genre including programs such as *Survivor* and *Big Brother*. In fact, this type of programming is neither a recent phenomenon, nor a stand-alone genre. Reality television programming has a longer history, and does not represent a single genre, but contains elements of several program types and formats. In addition, the idea of ‘reality’ is often a highly contrived one, with participants in exotic or controlled situations, sometimes coached to act in particular ways, and with footage manipulated through editing and other post-production techniques.

HISTORY OF REALITY TELEVISION

The origins of reality television may be dated back to at least 1989 and the first season of *COPS*, an American program in which hand-held cameras follow police officers on their rounds. This show incorporates neither scripted dialogue nor narration, but simply allows events to unfold on camera. It is possible to find elements of reality television programming as long ago as 1948, when *Candid Camera* first put ordinary people into contrived situations and then portrayed how those people reacted. Home-grown Australian reality television was certainly present by 1992, when *Sylvania Waters* followed the Donaher-Baker family over a

six-month period. The current popularity of programming referred to as ‘reality television’ dates from around 2000.

NOT A SINGLE GENRE

Reality television programs span a variety of program types, but do not form a single independent genre. ‘Reality television’ is best thought of as a label for a wide variety of programming, rather than a genre itself. The range of programs broadcast on Australian commercial free-to-air television that might be considered to be reality television programming contains elements of a number of distinct formats, which often overlap:

- programs that follow people as they do their jobs or go about their lives (documentary-style): *COPS*, *Border Security*, *Medical Emergency*, *Jamie’s Kitchen Australia*, *The Real Seachange*;
- game shows and competitions: *The Amazing Race*, *The Apprentice*, *Big Brother*, *Survivor*, *The Mole*, *The Biggest Loser*;
- talent/variety shows that follow competitors over a number of weeks: *Australian Idol*, *Dancing with the Stars*, *The X Factor*; and
- self-improvement and home-improvement shows: *The Biggest Loser*, *Super Nanny*, *Australian Princess*, *Queer Eye for the Straight Guy*, *The Block*.

This list and the categories suggested are intended to be illustrative only; whether or not a particular show is ‘reality television’ is less important than understanding that this term is a label that may contain elements of multiple program formats.

HOW REAL IS ‘REALITY’?

As has been suggested above, the extent to which so-called reality shows are in fact ‘real’ varies depending on the extent to which the situation is contrived. Even in fairly straightforward situations, where cameras are used to track people as they go through their daily routines at work or at home, the very presence of cameras may alter the behaviour of those people. More commonly, the situation itself is controlled, as when participants are put in special-purpose environments and given special tasks to complete. In all reality television-type programming, footage is edited to a greater or lesser extent, to create plot lines and participant relationships, or to otherwise emphasise the footage containing content that may interest viewers.

REALITY PROGRAM OR DOCUMENTARY?

Reality programs and documentaries share a number of common features. In broad terms, both are likely to involve real people in actual situations, and a number of reality programs may also be considered to be documentaries. ACMA has previously developed guidelines on the meaning of ‘documentary’ for the purposes of the Australian Content Standard, and noted both the overlaps between reality programs and documentaries, and the distinct features of documentaries.⁵

⁵ Australian Broadcasting Authority, *Documentary Guidelines: Interpretation of ‘documentary’ for the Australian Content Standard* (16 December 2004), http://www.acma.gov.au/ACMA/INTER.1507598:STANDARD::pc=PC_91812.

8. Typical characteristics of reality television programming

What, then, is reality television programming? Given the complexity of this area, ACMA has decided to focus on its typical characteristics. This approach will avoid oversimplifying a variety of television programming that includes multiple and evolving format types and thus eludes an accurate definition.

These typical characteristics may include:

- the use of *real people* (not professional actors);
- situations or environments *controlled* by the producers, which, at one extreme, may be highly contrived or manipulated;
- interactions between participants are (or appear to be) *unscripted*;
- direct *competition* between the participants;
- the *editing* of ‘live’ footage to enhance or create story lines; and
- the primary purpose of *entertainment*.

This list is not intended to be definitive, and may change over time as reality television programming models evolve.

Table 1 provides a list of television programs (all of which were recently or are currently broadcast on Australian commercial free-to-air television) that might be considered to be reality television programs, the majority of which are considered by broadcasters as such.⁶

Table 1: Reality television programs

<i>Air Crash Investigation</i>	<i>How Clean is Your House</i>	<i>Survivor</i>
<i>Airline USA</i>	<i>It's Me or the Dog</i>	<i>Suspicious Minds</i>
<i>Airport</i>	<i>Jamie's Kitchen Australia</i>	<i>The Amazing Race</i>
<i>Amazing Medical Stories</i>	<i>Judge Judy</i>	<i>The Apprentice</i>
<i>Australian Idol</i>	<i>Medical Emergency</i>	<i>The Biggest Loser</i>
<i>Australian Princess</i>	<i>My Big Fat Obnoxious Boss</i>	<i>The Force</i>
<i>Australian Survivor</i>	<i>My Restaurant Rules</i>	<i>The Mole</i>
<i>Big Brother</i>	<i>Newlyweds</i>	<i>The Simple Life</i>
<i>Border Security</i>	<i>Paradise Hotel</i>	<i>The Real Seachange</i>
<i>COPS</i>	<i>Queer Eye for the Straight Guy</i>	<i>The X Factor</i>
<i>Dancing With the Stars</i>	<i>Real Crime</i>	<i>Trading Spouses</i>
<i>Forensic Investigators</i>	<i>Super Nanny</i>	<i>You Are What You Eat</i>

⁶ OZTAM Pty Ltd, 2005-2006 ratings data for Australian free-to-air commercial television.

9. Community standards regarding reality television programming

A central issue for this review, identified at section (1)(d) of the Direction, is whether the Code adequately reflects community standards with regard to reality television programming in the commercial free-to-air television sector.

THE NATURE OF COMMUNITY CONCERNS

While a small number of reality television programs have raised community concerns, most programs have not raised any issues at all.

There has been considerable attention paid to the *Big Brother* suite of programs broadcast by Network Ten, particularly during 2005 and 2006. Media coverage has focused on matters such as an incident of alleged sexual harassment, as well as strong sexual themes.

From July 2005 through November 2006, ACMA conducted 14 investigations into reality television programming broadcast on commercial free-to-air television, all of which related to *Big Brother*. Of these, three investigations resulted in breach findings. These breach findings all related to the 2005 series of *Big Brother Uncut*, which was classified at the MA level.⁷ The *Big Brother Uncut* investigations primarily related to complaints regarding the extent and nature of sexual references, adult themes and coarse language.

In making these breach findings, ACMA nonetheless noted that the MA classification category does allow for strong content, and is the highest classification category for material that can be shown on free-to-air television.

Material permitted at the MA level includes the ‘visual depiction of intimate sexual behaviour (which may only be discreetly implied or discreetly simulated), or of nudity where relevant to the story line or program context’, but not for ‘gratuitous, exploitative or demeaning portrayal of sexual behaviour or nudity.’ (s 5.2 of Appendix 4 of the Code)

An area of media attention has been on one of the unique characteristics of reality television programming, namely its use of ordinary people rather than professional actors. Participants may be placed in difficult situations due to interactions with other participants (caused, for example, by competitive tasks or close living situations), or due to the way in which the editing of footage presents them to the public.

Question 1: Does reality television programming broadcast on Australian commercial free-to-air television give rise to concerns? Where concerns exist, submissions might address issues such as:

- (a) the nature of the content giving rise to concern;
- (b) the impact of reality television programming on viewers, including children;
- (c) whether or not the impact of reality television programming content on viewers is different from the impact of similar content in the context of : (1) fictional drama or comedy programming; and/or (2) news and current affairs programming; and
- (d) the effect of reality television programming on participants.

⁷ MR 23/2005, ‘ACMA finds *Big Brother Uncut* in breach of code’ (16 September 2005), http://www.acma.gov.au/ACMAINTER.1507598:STANDARD::pc=PC_100184 (finding breaches in relation to episodes broadcast on 30 May 2005 and 13 June 2005); MR 28/2006, ‘ACMA finds further episode of *Big Brother Uncut* breached TV code’ (21 March 2006), http://www.acma.gov.au/ACMAINTER.1507598:STANDARD::pc=PC_100478 (finding breaches in relation to the episode broadcast on 4 July 2005).

WHETHER THE CODE REFLECTS COMMUNITY STANDARDS

Identifying whether there are any community concerns makes it possible to understand the nature of community standards regarding reality television programming. Section (1)(d) of the Direction instructs ACMA to determine whether ‘the Code reflects community standards, taking into account the views of the community and commercial broadcasting licensees.’

Question 2: Does the *Commercial Television Industry Code of Practice* reflect community standards with respect to reality television programming broadcast on Australian commercial free-to-air television?

10. Current operation of relevant Code mechanisms

The next issue to be addressed is whether the existing regulatory framework for reality television provides adequate safeguards with respect to community standards. These issues are identified in the Direction at sections (1)(a), (1)(b), and (1)(c). The existing regulatory framework is provided by the Code, in the context of the Act, as outlined in *Section 3* above.

CLASSIFICATION MECHANISMS

Section (1)(a) of the Direction instructs ACMA to determine whether the Code ‘provides appropriate methods for classifying reality television programs’.

The television broadcasting classification provisions are set out in section 2 (Classification) and Appendix 4 (Television Classification Guidelines) of the Code.

Section 2 of the Code contains a range of provisions relating to the classification of material for broadcast on free-to-air commercial television (including reality television programming).

Section 2 requires that all programs and non-program matter (with the exception of news and current affairs programs and sporting programs) be classified according to the relevant classification guidelines, and broadcast in the classification zone applicable to that classification.

The Code sets out a classification hierarchy, ranging from the General (G) classification, which is the most restrictive in terms of the level of content, to the Mature Audience (MA) or Adult Violence (AV) classifications, which are the least restrictive.

The classification categories are:

- General (G);
- Parental guidance recommended (PG);
- Mature (M);
- Mature audience (MA); and
- Adult violence (AV).

The content suitable for each classification category varies with respect to a number of classifiable elements, including coarse language, violence, sexual references and scenes, drug references and use, adult themes, and nudity.

The Code also provides that each broadcast day is divided into classification zones, according to the likely majority audience to be viewing at any particular time (s 2.1). Restrictions on content are most restrictive during those times when children are likely to be viewing on their own, and least restrictive at times when adults are likely to be viewing without children present.

The classification zones contained in the Code are, for stronger material, based on the requirements set out at section 123(3C) of the Act, which mandates that:

- ‘(c) those codes require that films classified as ‘M’ may be broadcast only:
 - i. between the hours of 8:30 pm on a day and 5 am on the following day;
or
 - ii. between the hours of noon and 3 pm on any day that is a school day;
and
- (d) films classified as ‘MA 15 +’ may be broadcast only between the hours of 9 pm on a day and 5 am on the following day.’

In addition to displaying classification symbols in advance of broadcast of any program required to be broadcast, the Code also requires that consumer advice be provided to viewers for certain programs. The intent of consumer advice is to alert viewers prior to broadcast as to the nature of the content of a particular program, and allow them to make informed choices about programming suitable for viewing by them or their families.

Consumer advice is mandatory for all MA and AV programs, as well as very short series and single-episode programs (eg, feature films) classified M, all PG films, and PG programs broadcast between 7:00 pm and 8:30 pm weekdays, or when the program ‘contains material of a strength or intensity which the licensee reasonably believes viewers may not expect.’ (s 2.20 of the Code). Consumer advice must be both spoken and written, broadcast at the start of programs in full, and broadcast after breaks in a short form.

Question 3: Are the existing mechanisms in the *Commercial Television Industry Code of Practice* operating effectively to provide appropriate community safeguards with respect to reality television programming broadcast on Australian commercial free-to-air television? Some issues that submissions might address include:

- (a) whether current classification categories are appropriate for reality television programs (Direction, s (1)(a));
- (b) whether reality television programs are shown in appropriate time slots; and
- (c) whether consumer advice requirements are sufficient when applied to reality television programming.

NEWS AND CURRENT AFFAIRS

An exception from the classification zones applies to the broadcast of news and current affairs. These programs do not require classification on the condition that the licensee exercises care when selecting material, having regard to the likely audience of the program and any identifiable public interest for presenting the material (s 2.4.1 of the Code). These programs do not require consumer advice. However, if in the licensee's reasonable opinion the content of such a program, broadcast for an identifiable public interest reason, includes material that is likely to seriously distress or seriously offend a substantial number of viewers, prior warning must be provided to viewers (s 2.25 of the Code). These warnings must be spoken, and may also be written.

The majority of rules applying to news and current affairs programs are contained in section 4 of the Code. These provisions focus on a number of issues, including: the accurate and fair representation of factual material; the provision of warnings when there is an identifiable public interest for broadcasting material that 'may seriously distress or seriously offend a substantial number of viewers'; and prohibitions on the use of 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' (s 4.3 of the Code).

Some incidents of reportage on news and current affairs programs of activities originally screened as part of a reality television program have raised issues of community concern.

Section (1)(b) of the Direction instructs ACMA to consider whether the Code 'provides an appropriate mechanism for ensuring that classified matter or matter which if classified would be classified at M or above is not shown at inappropriate times having regard to the likely audience'.

In Question 4, ACMA seeks comment with regard to situations where excerpts from reality television programs classified at M or above (or which would be so classified if subject to classification provisions) are broadcast during a news and current affairs program, which are not required to be classified. As a result, viewers may be exposed to content classified at M or above when they might not normally expect it.

Question 4: Does the *Commercial Television Industry Code of Practice* provide appropriate community safeguards with respect to the broadcast of reality television programming excerpts in the context of news and current affairs programs broadcast on Australian commercial free-to-air television? Some issues that submissions might address include:

- (a) whether or not excerpts from reality television shows classified at M or above should be allowed to be broadcast on news and current affairs programs during general viewing times; and
- (b) whether the provisions requiring warnings for news and current affairs programming are appropriate for excerpts from reality television programming rated at M or above.

COMPLAINTS MECHANISM

The co-regulatory scheme for commercial free-to-air television broadcasting contains a complaints mechanism. This mechanism is contained in the Code at section 7 (Handling of Complaints to Licensees).

If a complainant wishes to complain to ACMA about a matter that is covered by a code of practice established under the Act, they must have first made their complaint directly to the relevant licensee. The Act specifies that if complainants are dissatisfied with the licensee's response or if the licensee does not answer their complaint within 60 days, they may then make a complaint to ACMA (s 148 of the Act). The Code requires that where a complaint is made to a broadcaster within 30 days of broadcast of the program, a substantive written response must be provided within 30 working days of receipt of the complaint (s 7.10 of the Code).

ACMA may not consider complaints until they have gone through this process. This means that, in some instances, ACMA will not be in a position to investigate a complaint until 60 days after it is first lodged with the licensee. ACMA is also obliged to provide procedural fairness to an affected licensee in broadcasting investigations. This includes providing a reasonable opportunity for representations to be made by the licensee in respect of the substance of the complaint and any proposed enforcement action. In addition, section 180 of the Act requires ACMA to give any person whose interests might be adversely affected by the publication of matter in an investigation report a reasonable period not exceeding 30 days to make representations in relation to publication of the matter.

ACMA's powers to sanction commercial television broadcasters for violations of the Code are currently limited. ACMA can impose an additional license condition directed towards compliance with a Code provision (s 43 of the Act). If a licensee fails to comply with an additional licence condition, ACMA may issue a notice directing compliance with the condition.

ACMA may accept voluntary undertakings from licensees, which have proven to be more flexible and timely than formal sanctions such as the imposition of additional licence conditions. ACMA accepted such voluntary undertakings with respect to the production of the MA program *Big Brother Adults Only* (2006), following findings that three episodes of MA program *Big Brother Uncut* (2005) failed to comply with the Code. ACMA considers that these undertakings were an effective means of addressing the particular issues raised by the breach findings, and were less time-consuming than a formal legal sanctions process.

ACMA's enforcement powers will be extended in early 2007 to include the power to accept enforceable undertakings in respect of compliance with codes of practice.

Section (1)(c) of the Direction instructs ACMA to consider whether 'the complaints mechanism in the Code is operating effectively and in a timely manner in relation to reality television programming'.

Question 5: Is the complaints mechanism in the *Commercial Television Industry Code of Practice* operating effectively and in a timely manner in relation to reality television programming broadcast on Australian commercial free-to-air television?

Appendix A: Excerpts from the Commercial Television Industry Code of Practice (July 2004)

Section 2: Classification

Appendix 4: Television Classification Guidelines

Section 4: News and Current Affairs Programs

Section 7: Handling of Complaints to Licensees

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 Office of Film and Literature Classification, 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 R under the Office of Film and Literature Classification 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 OFLC Guidelines.

2.3.1 Films may be modified by a licensee in accordance with the OFLC 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 MA under the OFLC 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 OFLC.

“**OFLC**” means the Office of Film & Literature Classification.

“**OFLC Guidelines**” means the Guidelines for the Classification of Films and Computer Games current as at 30 March 2003 (reproduced in Appendix 5 to this Section).

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 OFLC Guidelines or the Television Classification Guidelines).

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:

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

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

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

<i>Weekdays & Weekends</i> (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
P, C	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
G	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
PG	Shaded	White	Shaded	Shaded	Shaded	White	White	Shaded	Shaded	Shaded	Shaded	Shaded
M	White	White	White	Shaded	White	White	White	White	Shaded	Shaded	Shaded	Shaded
MA	White	White	White	White	White	White	White	White	White	Shaded	Shaded	Shaded
AV	White	White	White	White	White	White	White	White	White	White	Shaded	Shaded

School Holidays

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

Weekends

	5am	6	8.30	10	12pm	3	4	5	7	8.30	9	9.30	5am
P, C	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
G	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
PG	Shaded	White	White	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
M	White	White	White	White	White	White	White	White	White	Shaded	Shaded	Shaded	Shaded
MA	White	White	White	White	White	White	White	White	White	White	Shaded	Shaded	Shaded
AV	White	White	White	White	White	White	White	White	White	White	White	Shaded	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 R (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*, television licensees may not broadcast a program that has been classified “refused classification” (RC), or has been classified as X, under the Office of Film and Literature Classification 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 Office of Film and Literature Classification 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 3.15, 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: “Suitable only for persons aged 15 years and over ” or such other text as agreed between the OFLC 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 suitable only for persons aged 15 years and over” or such other text as agreed between the OFLC 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:

A	=	adult themes or medical procedures
D	=	drug use/references
H	=	horror or supernatural themes
L	=	coarse language
N	=	nudity
S	=	sexual references/sex scenes
V	=	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').

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.

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 30 March 2003 (reproduced in Appendix 5).

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 Australian Broadcasting Authority'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 behaviour to be acceptable or desirable.
 - 2.2 **Sex and nudity:** Visual depiction of, and verbal references to, sexual behaviour 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 behaviour:** Dangerous imitable behaviour 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 behaviour 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 behaviour 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 behaviour (which may only be discreetly implied or discreetly simulated) or of nudity only where relevant to the story line or program context. However, a program or program segment will not be acceptable where the subject matter serves largely or wholly as a vehicle for gratuitous, exploitative or demeaning portrayal of sexual behaviour or nudity. Exploitative or non-consenting sexual relations must not be depicted as desirable.
 - 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.

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 present factual material accurately and represent viewpoints fairly, having regard to the circumstances at the time of preparing and broadcasting the program;
 - 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 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;
- 4.3.5.2 **“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.
- 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 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;
 - 7.1.4 respond promptly to written complaints of this kind, 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 is in writing (or in some other form specified in Clause 7.3), and adequately identifies the material broadcast, the nature of the complaint, and the identity of the complainant.
 - 7.2.1 The complaint need not refer to this Code, nor specify the Section of the Code to which the complaint relates.
- 7.3 In this Section, a Code complaint means:
 - 7.3.1 a written complaint which satisfies Clause 7.2;
 - 7.3.1.1 this includes a complaint sent by facsimile to the licensee's main facsimile number but, unless a licensee specifically agrees, does not include complaints lodged by electronic mail or on computer disk;
 - 7.3.2 where, by reason of disability, a complainant cannot lodge a written complaint, a telephoned complaint or a complaint on an audio cassette in a common format, provided in each case that it otherwise satisfies Clause 7.2.
- 7.4 If a written complaint is made to a licensee more than 30 days after the broadcast to which the complaint refers, this Section does not oblige the licensee to comply with the requirements of this Section in responding to the complaint.

Publicising of Code

- 7.5 Licensees will provide regular on-air information about the Code and its complaints procedures.
 - 7.5.1 Licensees will broadcast 360 on-air spots each calendar year, across all viewing zones. This information must be closed captioned.

- 7.5.2 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

- 7.6 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.
- 7.7 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.
- 7.7.1 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 7.7.

Complaints About the Content of Commercials

- 7.8 A licensee will accept a written complaint about a television commercial that it has broadcast. The licensee will:
- 7.8.1 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.
- 7.8.2 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 Children's Television Standards 17–23, to the Australian Broadcasting Authority, and advise the complainant of its referral within 10 working days of receipt of the complaint.

Time Limits on Responses to Code Complaints

- 7.9 Where a Code complaint is made about material broadcast by a station within 30 days of its broadcast, the licensee must provide a substantive written response.
- 7.10 That response must be made as soon as practicable, but in any case no longer than 30 working days after receipt of the complaint.
- 7.11 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 for written response direct to the complainant.
- 7.11.1 The licensee will advise the complainant of doing so within 10 working days of receipt of the complaint, and provide the complainant with the name of a contact person at the second licensee.

7.11.2 The second licensee will have 30 working days from receipt of the referred complaint to provide a substantive response to the original complainant.

7.12 In all cases, a licensee's substantive reply will also advise the complainant that he or she may refer the matter to the Australian Broadcasting Authority if not satisfied with the licensee's response.

Resolution of Complaints

7.13 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.

Referral of Code Complaints to the Australian Broadcasting Authority

7.14 If a complainant is not satisfied with a response to a Code complaint, and raises the matter further in writing with the licensee, then the licensee will reply substantively to the further letter, and further advise the complainant that he or she may take the complaint to the Australian Broadcasting Authority.

7.15 If the ABA requests a response concerning a complaint made in accordance with Clause 7.2 and subsequently referred to it by a viewer, the licensee will provide the response within 30 working days of receipt of the request.

7.15.1 Where it is not practicable to respond within this period, the licensee will so advise the Australian Broadcasting Authority, and will respond as soon as practicable.

Licensees to Report Code Complaints to Free TV Australia

7.16 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.

7.17 Free TV Australia will provide a summary of this information to the Australian Broadcasting Authority within 10 working days of receiving it.

Code Administration

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

7.19 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.